



Research - user testing of the sentencing guidelines: part 2

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Behavioural Insights Team

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*These figures refer to images illustrating the layout and functionality of the sentencing guidelines for the magistrates' courts and Crown Court, at the time of this report being prepared (March 2023).

1. Summary

Introduction

The Sentencing Council for England and Wales ('the Council') was set up as an independent, non-departmental public body by the Coroners and Justice Act 2009. The Council's main overarching objectives 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.

The sentencing guidelines are a cornerstone of the Council's aim to promote a clear, fair, and consistent approach to sentencing. The guidelines provide information to sentencers about factors which may affect a sentence. They set out different levels of sentence based on the harm caused to the victim and how blameworthy the offender is (referred to in the guidelines as 'culpability'). The guidelines encourage a consistent approach to sentencing by guiding sentencers through a clearly structured step-by-step process, whilst still allowing for judicial discretion. Section 59 of the [Sentencing Code](#) states that courts must follow any relevant sentencing guidelines, unless it is contrary to the interests of justice to do so.

From the time they were first published by the Sentencing Guidelines Council in 2004, sentencing guidelines were distributed to sentencers in hard copy. However, since 2015, the Council has been publishing the guidelines digitally on its website. By November 2018, all existing sentencing guidelines were published in this way and hard copies were no longer available. However, prior to 2022, no formal research project had been undertaken to understand the usability of these digital guidelines.

The Behavioural Insights Team (BIT) was therefore commissioned by the Council to explore how sentencers access, navigate and use the guidelines on the Council's website and whether this could be improved. Through user-testing research, the Council will gain a better understanding of whether its digitally published guidelines are easily accessible and usable to sentencers.

This project focused specifically on the sentencing guidelines listed on the Council's website for the magistrates' court and Crown Court ('the guidelines'), rather than any other part of the website. It covered the offence specific and overarching guidelines and did not undertake user testing of the digital tools available within the guidelines (e.g. the [fine calculator](#), [pronouncement builder](#), [Sentencing ACE tool](#), etc.). Additionally, it explored the usability of the guidelines as accessed via a laptop, rather than through other devices (given that sentencers commonly use laptops to access the guidelines – see '[User testing survey analysis - how do guideline users use and interact with the Sentencing Council's website? Part 1](#)').

Methodology

Three research activities were undertaken to explore how different sentencers engaged with guidelines on the Council's website:

1. In-person observations

Nine magistrates (formed in groups of three to reflect the fact that magistrates' 'benches' are typically comprised of three magistrates) were observed in-person engaging with the sentencing guidelines on the Council's website, whilst making mock sentencing decisions based on paper-based mock scenarios.

2. Virtual usability testing

Researchers observed 17 sentencers (nine magistrates, eight judges) interacting with the digital guidelines whilst undertaking mock sentencing exercises online, and completing tasks related to using the guidelines. Sentencers shared their screen with researchers to demonstrate their interaction with the guidelines.

3. Semi-structured interviews

Researchers interviewed 13 sentencers (10 magistrates, three judges) to gain feedback on their experiences of using and navigating the sentencing guidelines. Of these 13 sentencers, four had also taken part in virtual usability testing sessions. This included exploring what works well and what could be improved about the guidelines.

Overall, a sample of 35 unique sentencers were involved across these three research activities. This covered 26 magistrates, seven circuit judges, one district judge and one deputy district judge. There were four interview participants who were involved in both virtual usability testing sessions and interviews (two magistrates, one deputy district judge and one circuit judge).

Researchers carried out virtual usability testing and in-person observation sessions across December 2022 and January 2023, with interviews held in January 2023.

Recruitment for all three research activities relied on participants opting into the activities. It is acknowledged that this self-selection approach could have introduced bias into the sample. The small purposive sample included here means that findings are indicative only.

Findings and recommendations

Sentencers were generally positive about the guidelines. They valued the layout of offence specific guidelines and reported that having a consistent step-by-step structure made it easy to understand relevant sentencing information for different offences. Sentencers also liked knowing the digital guidelines on the Council's website would be the most up-to-date version.

When sitting on a bench, not all magistrates referred to the guidelines as there might only be one magistrate who would look up information on the guidelines, and relay this to other magistrates. However, this was not a consistent practice and sometimes all magistrates on the bench might look up the guidelines.

Both magistrates and judges primarily referred to steps 1 and 2 of offence specific guidelines when making sentencing decisions. Sentencers noted they may not refer to steps three to nine in the offence specific guidelines for each sentencing decision – as they felt they could appropriately apply these steps from memory, based on their familiarity with the offence and the offence specific guidelines.

Sentencers' confidence in digital literacy impacted on their experience with the guidelines. Individuals with self-reported lower levels of digital literacy were observed experiencing more barriers to interacting with the guidelines (e.g. having difficulty quickly looking between different guidelines when this was needed). Whilst the majority of sentencers who participated in virtual usability testing and interviews self-reported being confident using technology, the degree of digital literacy demonstrated by sentencers during research sessions was quite varied.

Sentencers typically accessed the guidelines through shortcuts available on court laptops. They also stated sometimes using more than one device (such as an additional laptop, iPad, or phone) to look at both the guidelines and case information at the same time.

Difficulty using the search functionality on the offence specific guideline pages was a major theme which was consistently raised by sentencers across all research activities. Other issues included some difficulties in navigating to different guidelines when they were needing to refer to more than one guideline, and navigating to related resources on the Council's website (e.g. different types of [explanatory materials](#) and [Bench Books](#)). Some sentencers raised that the way certain information is presented in the guidelines could be refined to better support their decision making. This included being able to more easily navigate to different sections within offence specific and overarching guidelines, making it clearer whether the aggravating and mitigating factors within offence specific guidelines contained expanded explanations (i.e. additional information when clicked on), and making it clearer which starting point and category range tables sentencers were viewing (when offence specific guidelines contained multiple starting point and category range tables).

Recommendations were rated by BIT in terms of priority of implementation (high, medium, or low), based on the impact these changes will have on the usability of the guidelines for sentencers.

A summary of the findings and recommendations based on the research questions for this project, is presented below.

A. How easy is it for sentencers to use the guidelines with the current search functionality?

Finding A1: There are two search bars available on the Council's website, a site search bar (which searches content across the entire website) and a search bar on the offence specific guidelines search pages (which only searches for offence specific guidelines). Sentencers use the search bar on the offence specific guidelines search pages to find certain guidelines. However, this search bar is not intuitive or easy to use, which takes up sentencers' time. Sentencers had difficulty finding offence specific guidelines, which often required multiple search attempts using different search terms.

Recommendation: Improve the search functionality for offence specific guidelines to provide a greater 'smart searching' capability. This should provide additional search results based on words and phrases related to the search term and partial matches of search terms. For example, returning all offences with the word 'driving' in the title, based on the search term 'drive.' (Priority: high)

Finding A2: Search results for offence specific guidelines are not presented intuitively, which makes it harder to find them. Whilst search results are presented in alphabetical order of offence name, this was not clear to sentencers who generally expected search results to be listed in order of relevance to their search term. This made it harder for sentencers to identify relevant guidelines from search results.

Recommendation: Refine the order of search results to be presented in order of relevance, and refine the layout of search results so sentencers can more easily identify relevant offence specific guidelines. Search results should highlight text related to the search terms, as well as tools to sort and filter search results. (Priority: high)

Finding A3: When attending court, sentencers are provided with court listings (a digital or paper document which informs sentencers which cases they will be hearing, including the offences these cases involve). However, the names of offences in sentencers' court listings, do not always match the name of the offence specific guidelines on the Council's website.

Recommendation: Provide an easy way to locate the correct offence specific guidelines, from the offence names noted in sentencers' court listings. Names of offences within court listings should be aligned with the names of offences listed on offence specific guidelines. Ideally, offences in digital court listings should be hyperlinked to the relevant guidelines - though it is acknowledged that digital court listings are provided by platforms administered by HM Courts and Tribunals Service (HMCTS) and are not the responsibility of the Council. (Priority: high)

Finding A4: The dropdown filter of offence types in the Crown Court guidelines is useful to search for offence specific guidelines, but is not available for the magistrates' court guidelines.

Recommendation: Provide a dropdown filter of offence types (as in the Crown Court guidelines) for the magistrates' court guidelines. (Priority: high)

Finding A5: Not all circuit judges were aware of the dropdown filter of offence types on the Crown Court guidelines.

Recommendation: Provide time-limited prompts about this feature on the Crown Court guidelines. This should include text boxes which are visible only for a set period of time and automatically open the first time the guidelines are accessed. Once these boxes are dismissed, they should not be available again (unless sentencers clear their browser history or internet cookies, on their devices). (Priority: low)

Finding A6: Some sentencers try using the search bar in the offence specific guideline search pages to find explanatory materials (e.g. restraining orders) or other sentencing resources (e.g. the Adult Court Bench Book), but currently need to remember this is only available from a different search bar on the Council's website.

Recommendation: Increase the scope of the search function on the offence specific guideline search pages to include additional sentencing resources on the Council's website. (Priority: medium)

Finding A7: The guideline search function does not let sentencers know if they are searching for an offence which does not have a guideline, resulting in sentencers being unsure if they are using the search function correctly to locate offence specific guidelines.

Recommendation: Provide text prompts to sentencers in the search results of the offence specific search pages, when searching for offence specific guidelines which may not have been developed. This can make sentencers aware they may be searching for an offence specific guideline which does not currently exist. (Priority: medium)

Finding A8: The spell-check function in the search bar for offence specific guidelines does not consistently indicate spelling errors.

Recommendation: Refine the spell-check function to be consistently visible to sentencers and provide suggestions for correct spelling. (Priority: medium)

B. How easy is it for sentencers to use the guidelines given the current layout and format of the guidelines?

Finding B1: Sentencers generally felt the offence specific and overarching guidelines were well laid out, though felt they could be improved to reduce scrolling back and forth between different sections.

Recommendation: Provide a floating contents table linking to different sections of the

guidelines and increase the spacing between different sections of offence specific guidelines. (Priority: high)

Finding B2: Sentencers were not always aware that some aggravating and mitigating factors include expandable boxes with additional information.

Recommendation: Refine the design of aggravating and mitigating factors within offence specific guidelines to be more consistent with how other dropdown functions are generally presented on the website and with other dropdown boxes in the guidelines (e.g. those within offence specific guidelines for applicability, fines, community orders, custodial sentences etc.) (Priority: medium)

Finding B3: Some offence specific guidelines contain multiple starting point and category range tables, which were confusing for sentencers. When looking at these guidelines sentencers did not always know if they were looking at the correct table.

Recommendation: Make it easier to distinguish between the different tables of starting points and category ranges within offence specific guidelines. This includes providing more space between different tables, header rows which remain visible whilst scrolling through a table, and having a contents table within the offence specific guidelines linking to the different tables. (Priority: medium)

C. How easy is it for sentencers to access different guidelines and additional sentencing resources on the Council's website?

Finding C1: For guidelines in both the magistrates' court and Crown Court, there is a blue sidebar on the left side of the page. This expandable blue sidebar contains links to other resources available on the Council's website. While the blue sidebar was a useful shortcut to get to other sentencing resources, it was not always clear to sentencers exactly what resources were available through the sidebar.

Recommendation: Embed the blue sidebar at the top of the guideline pages and clearly label the icons. (Priority: medium)

Finding C2: Not all sentencers are aware of the information available in the explanatory materials linked in the blue sidebar in the magistrates' court guidelines.

Recommendation: Make the explanatory materials icon in the blue sidebar more obvious and provide awareness on the information it contains. (Priority: medium)

Finding C3: Sentencers did not find it intuitive to locate Bench Books on the Council's website. Bench Books are resources developed by the Judicial College and provide information on a range of legal procedures (e.g. there is an Equal Treatment Bench Book and an Adult Court Bench Book).

Recommendation: Add an additional label to a separate icon within the blue bar to make it clearer to sentencers that this will link to the Bench Books. (Priority: low)

Finding C4: Some sentencers with lower levels of digital confidence found it difficult to navigate between multiple guidelines and other sentencing resources available on the Council's website (e.g. overarching guidelines and explanatory materials).

Recommendation: Provide prompts with optional guides, to help sentencers who are less confident in their digital skills better navigate the guidelines. (Priority: Medium)

Finding C5: Some sentencers had difficulty navigating to the table with starting points for compensating physical and mental injuries.

Recommendation: Embed information about compensation within relevant offence specific guidelines. (Priority: low)

D. How do sentencers access the guidelines?

Finding D1: To get to the offence specific guideline search page sentencers generally use shortcuts available on court laptops. Magistrates' court guidelines have a dedicated homepage as well as the offence specific guidelines search page. Magistrates land on either page, depending on which shortcut or link they are following. This can lead to confusion and difficulties getting to the guideline search pages.

Recommendation: Work with HMCTS to ensure all shortcuts or links to the magistrates' guidelines consistently bring sentencers to the offence guideline search page. (Priority: low)

E. How do sentencers use the guidelines when making sentencing decisions?

Finding E1: Sentencers use the content of the offence specific guidelines to inform their decision-making, but don't always physically look at the guidelines in each case (as they reported they are familiar with the content of these guidelines).

Recommendation: Communicate more directly with sentencers (such as sending email alerts to sentencers) when guidelines are revised, and encourage sentencers to review changes more regularly. (Priority: medium)

Additional findings and suggestions

A high-level review of accessibility standards was also undertaken for offence specific guidelines, using an accessibility checker tool ([WAVE](#)). The WAVE tool is designed to identify elements within web pages that might not align with the Web Content Accessibility Guidelines (WCAG). The WCAG provides guidance on how information should be published on the internet to be more easily accessible to people with different levels of ability (e.g. visual, learning or physical abilities).

This identified three additional accessibility-related findings. Suggestions to improve these areas are also noted in this report. A summary of these additional findings and suggestions are provided below.

- **Finding 1:** Icons and links within guidelines were not always labelled.
Suggestion: Embed relevant descriptive text for icons within the blue sidebar and the links within the offence specific guidelines pages.
- **Finding 2:** Icons within the blue sidebar appear to be smaller than recommended by accessibility standards.
Suggestion: Increase the size of icons displayed on the guidelines to at least 44x44 pixels (as recommended by accessibility standards).
- **Finding 3:** Low colour contrast between text and background colours within sections of text in the offence specific guidelines.
Suggestion: Increase the colour contrast of text in the offence specific guidelines, to increase accessible visibility.

2. Introduction

Background

The Sentencing Council ('the Council') was established to promote greater transparency and consistency in sentencing, while maintaining the independence of the judiciary. One of the primary responsibilities of the Council is to develop sentencing guidelines and monitor their use. The [Sentencing Code](#) states that courts must follow any relevant sentencing guidelines, unless it is contrary to the interests of justice to do so.

Since September 2015, sentencing guidelines for use in the magistrates' courts have been published digitally on the Council's website. Guidelines for the Crown Court were digitised in November 2018. Prior to this, guidelines for use in both the magistrates' court and Crown Court were published and distributed in hard copy to sentencers.

In November 2021, the Council published its [strategic objectives 2021-2026](#) in response to a public consultation about its future strategic aims and priorities. In these objectives the Council committed to "commissioning work on user testing of guidelines...the aim of the project is to test how sentencers use, access and experience digital sentencing guidelines" (pg. 45). Prior to 2022, the Council had not undertaken any formal research projects exploring the usability of the guidelines, following the transition to delivering the guidelines digitally.

To meet this commitment and better understand how sentencers use and experience the guidelines online, the Council conducted [a survey of sentencers](#) in 2022 to obtain quantitative information (as well as some qualitative feedback) on sentencers' use and experience of the digital guidelines. It then commissioned the Behavioural Insights Team (BIT) to undertake a qualitative user testing research project with sentencers that was informed by, and complemented, the earlier research.

Objectives

The objectives of this research were to:

- provide the Council with a better understanding of how sentencers engage with the sentencing guidelines on the Council's website
- provide recommendations of aspects where the user experience of the guidelines could be improved

In meeting these objectives, this project explored the following research questions, related to the usability and experience of the guidelines:

- A) searching for guidelines:** how easy is it for sentencers to use the guidelines with the current search functionality?

- B) using the guidelines:** how easy is it for sentencers to use the guidelines given the current layout and format of the guidelines?
- C) navigating the guidelines:** how easy is it for sentencers to navigate to different guidelines and additional sentencing resources, on the Council's website?
- D) accessing the guidelines:** how do sentencers find and access the guidelines?
- E) sentencing with the guidelines:** how do sentencers use the guidelines when making sentencing decisions?

Scope

This research project focused specifically on the sentencing guidelines listed on the Council's website for the magistrates' court and Crown Court ('the guidelines'), rather than any other part of the website. It focused on the usability of the guidelines specifically as accessed via a laptop, which [the survey conducted in phase 1](#) indicated was the most common device used.

While sentencers may access the guidelines via phones, iPads or other devices, the usability of the guidelines on such devices was excluded from this project. Similarly, while the guidelines are also available via an app for use on iPads, this was also outside the scope of this research project.

Additionally, this project focused on the offence specific and overarching guidelines and did not undertake specific user testing of the digital tools available within the guidelines (e.g. the [fines calculator](#), [pronouncement builder](#), [Sentencing ACE tool](#), etc.)

Nonetheless, where feedback was provided to researchers on topics outside the scope of this project, this report has sought to include such comments where appropriate.

3. Methodology

Overview

To answer the research questions for this project, BIT researchers undertook three research activities:

- **In-person observations**

Researchers observed nine magistrates (formed in groups of three to reflect the fact that magistrates' 'benches' are typically comprised of three magistrates) in-person, while they were making sentencing decisions using paper-based mock scenarios.

- **Virtual usability testing**

Researchers observed 17 sentencers (nine magistrates, eight judges) interacting with the digital guidelines whilst undertaking mock sentencing exercises online, and completing tasks related to using the guidelines. Sentencers shared their screen with researchers to demonstrate their interaction with the guidelines during these sessions.

- **Semi-structured interviews**

Researchers interviewed 13 sentencers (10 magistrates, three judges) to gain feedback on their experiences with the guidelines. This included what works well and what could be improved about the guidelines to better meet the needs of sentencers.

Overall, a sample of 35 unique sentencers were involved across these three research activities. This included 26 magistrates, seven circuit judges, one district judge and one deputy district judge. There were four interview participants who were involved in both virtual usability testing sessions and interviews (two magistrates, one deputy district judge and one circuit judge).

Researchers carried out virtual usability testing and in-person observation sessions across December 2022 and January 2023, with interviews held in January 2023. With participants' consent, virtual usability testing and interview sessions were video and audio-recorded, with automatically-generated transcriptions gathered for each of these sessions. In-person observations were also audio-recorded, with participants' consent. Further details on these activities are provided below.

In addition to these research activities, this research project also undertook a high-level review of the layout of the guidelines, based on the [Web Content Accessibility Guidelines](#) (WCAG) principles. The WCAG provide guidance on how information should be published online, to be more easily accessible to people with different levels of ability. This includes differing levels of visual, hearing, physical and learning ability. Improving the accessibility of the sentencing guidelines will help make the guidelines more inclusive by providing people with equal access to this information. The WCAG also informs the UK government's accessibility requirements for digital content.

The results of a survey of sentencers conducted by the Council about the guidelines were also reviewed by researchers. Responses were collected between September and

October 2022 (see the report '[User testing survey analysis - how do guideline users use and interact with the Sentencing Council's website? Part 1](#)').

Participants

Recruitment

Researchers worked with the Council to invite sentencers via email to participate in research activities. Magistrates and judges were recruited using a purposive sampling approach in order to understand their experience of engaging with the guidelines.

For virtual usability testing and interview sessions, the Council sent an email to sentencers outlining these two research activities, which contained a link for them to register their interest in participating in these research activities. Sentencers were informed their participation was entirely voluntary and that no personally identifiable information would be provided to the Council. Within the online registration form, sentencers were asked to indicate their consent to being contacted by BIT and to complete a brief online questionnaire in advance of the session to provide the following information:

- age range
- gender
- judicial role
- confidence in digital literacy
- overall experience of using the guidelines

This information was requested in order to recruit a purposive sample of sentencers with a range of different experiences and circumstances and to help understand how the guidelines support sentencers with a spread of different experiences.

To measure confidence in digital literacy, participants self-reported their confidence on a 5-point Likert-type scale (with 1 being 'not at all confident', and 5 being 'extremely confident'). Similarly, participants self-rated their experience of the guidelines on a 5-point Likert-type scale (with 1 being 'very poor', and 5 being 'very good').

For in-person observation sessions the Council provided BIT with contact details of two London based magistrates' courts interested in facilitating in-person observation sessions.

Participants who registered their interest in the study were provided with an information sheet from BIT which reiterated that participation in these research activities was entirely voluntary and that they would be able to withdraw from the research at any point. Prior to the start of these sessions, BIT researchers provided information sheets to magistrates which again informed them their participation was voluntary, that they were able to withdraw from the session if they wished, and that no personally identifiable information from the session would be provided to the Council. Specific consent was obtained from all participants prior to these sessions taking place.

Recruitment for all three research activities relied on participants opting into the activities. It is acknowledged this self-selection approach could have introduced bias into the sample, as these participants could have been more interested, or felt more strongly about, usability issues for the guidelines.

Sampling

Researchers, in agreement with the Council, sought to obtain a purposive sample of 35 unique participants across research activities. Participants had a mix of key characteristics of interest, including age, gender, and judicial role. The regional location of sentencers was not considered to be a key characteristic of interest for this research project, given that all sentencers across England and Wales have access to the same guidelines.

Table 1 provides a summary of the number of participants who took part in research activities based on their role. Note that there were four interview participants who were participants in two types of research activities (virtual usability testing and interview sessions) sessions: two magistrates, one deputy, one district judge and one circuit judge.

Table 1: Number of participants across research activities by judicial role

Research activity	Magistrates	District/deputy district judges	Circuit judges
In-person observation	9	n/a	n/a
Virtual usability testing	9	2	6
Interviews	10	1	2
Total	28	3	8

It is important to note this research explored the usability of the guidelines with a small sample of self-selecting sentencers who are unlikely to be representative of the population of all sentencers. Given the scope of this research project, the sample was not intended to be representative of all sentencers across England and Wales. This means that the findings are indicative only and may mean that not all sentencers may consider the recommendations set out in this report as improving their usability of the guidelines. Further, it is acknowledged this research project involved relatively few judges, compared to magistrates. This may have impacted on the findings with potentially fewer usability issues identified for guidelines used in the Crown Court (compared to the issues identified for guidelines used in the magistrates' court).

Sample profile

As outlined above, for the virtual usability testing and interview sessions, the online registration form sentencers were asked to complete also asked for some brief advance information. This helped BIT recruit a purposive sample of sentencers with a range of different experiences and circumstances.

This information is presented below. Background information was not collected from participants involved in in-person observation activities, as this research activity focused primarily on exploring how benches of magistrates interacted with guidelines (rather than other characteristics).

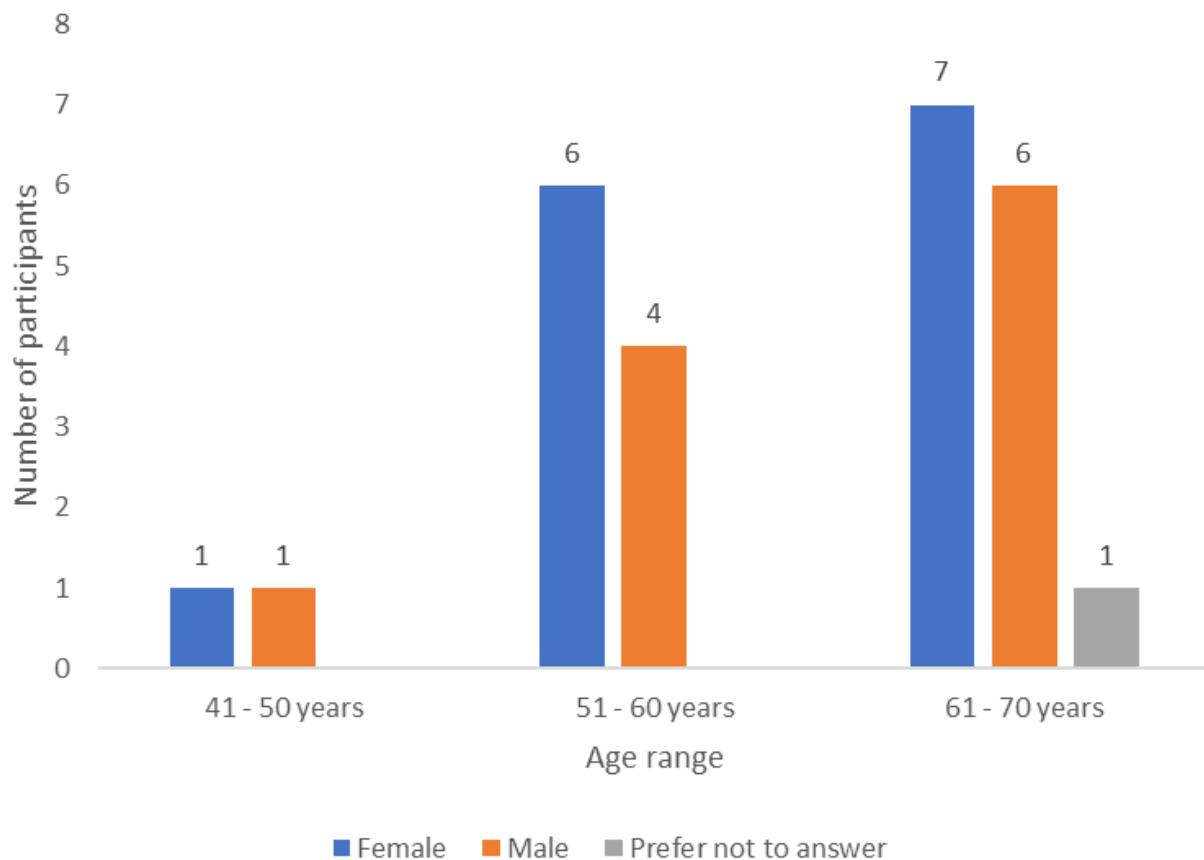
Gender and age range

There was a close split between females (n=14; 54 per cent of participants involved in these activities) and males (n=11; 42 per cent of participants), with one participant preferring not to indicate their gender.

The age of participants in virtual usability testing and interview activities (n=26) ranged between 41 and 70 years old, with a majority of participants aged between 61 and 70 years old.

Figure 1 provides an overview of the gender and age ranges of participants.

Figure 1: Age ranges and gender of participants for virtual usability testing and interview activities



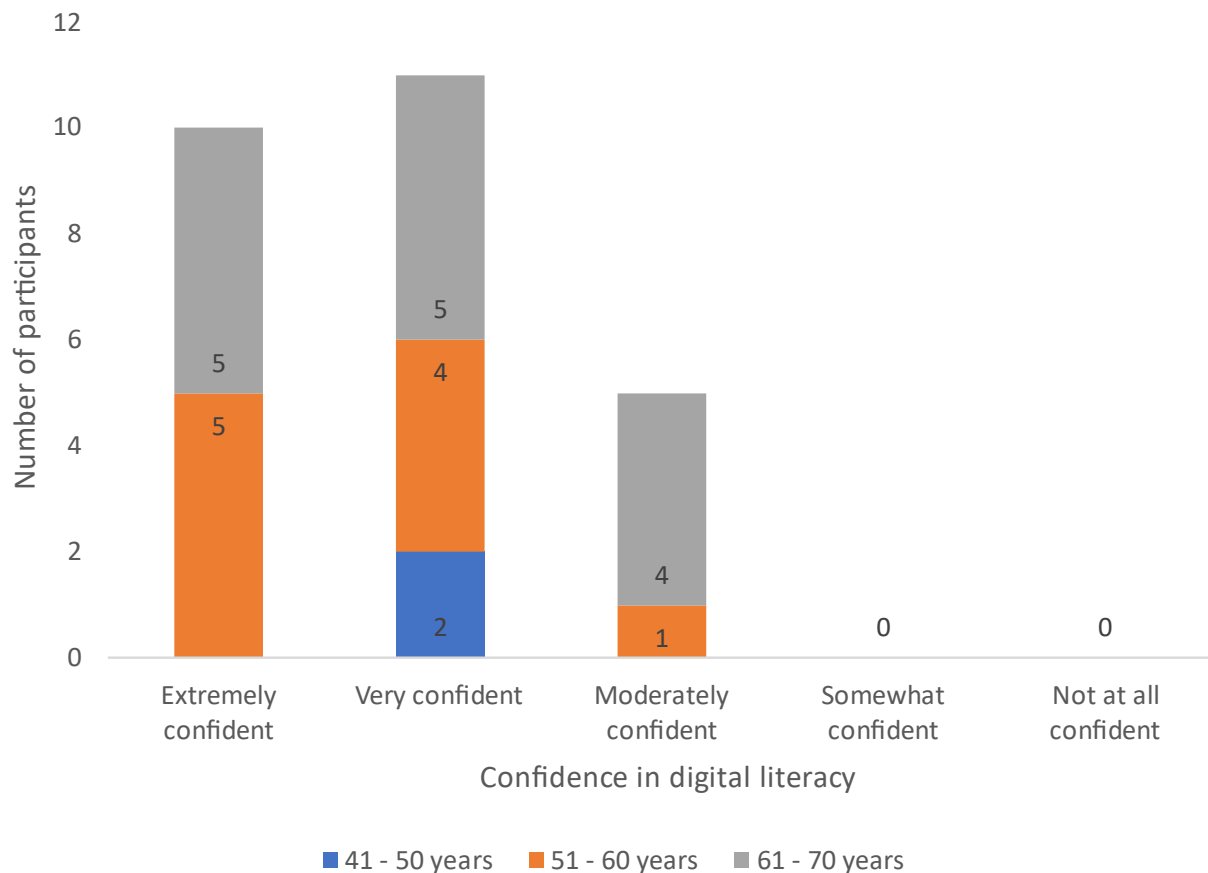
Roles

Virtual usability testing and interview activities involved the following number of different types of sentencers:

- 17 magistrates
- one deputy district judge
- one district judge
- seven circuit judges

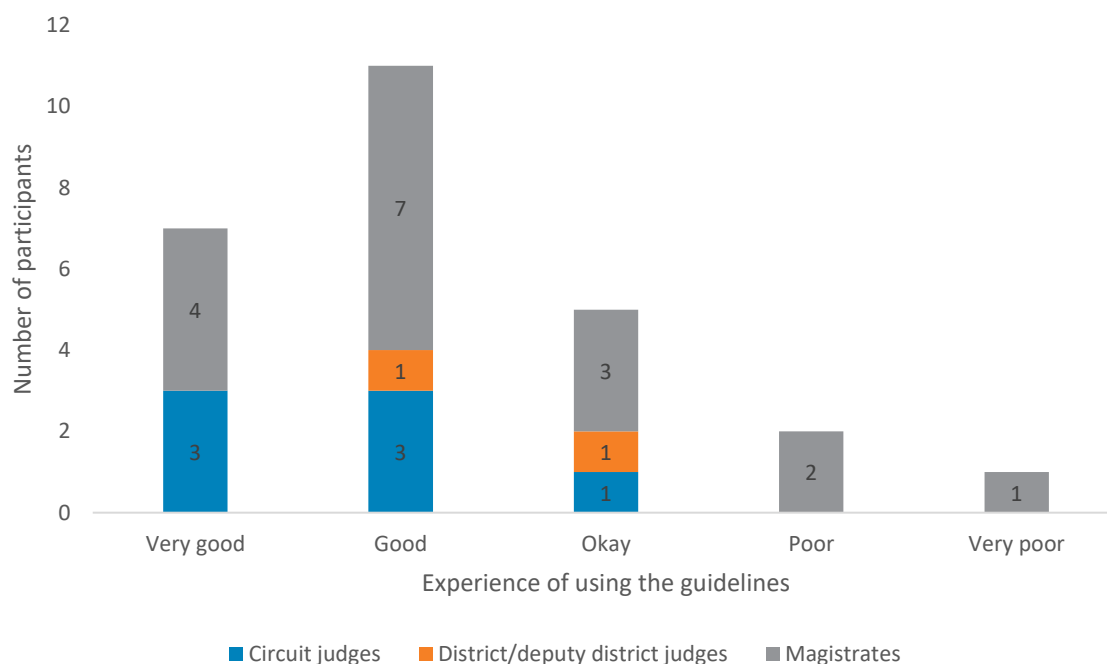
Confidence in digital literacy

Most participants reported having a relatively high level of digital literacy. Around 80 per cent of participants in virtual usability testing and interview activities rated being 'very confident' (n=11) or 'extremely confident' (n=10) in using IT services. The remainder of participants rated being 'moderately confident' (n=5) in their digital literacy. Figure 2 provides an overview of participants' self-reported levels of confidence with IT, across different age ranges.

Figure 2: Participants' ratings of confidence with digital literacy across age ranges

Experience of guidelines

A majority of participants indicated having had a positive experience of using the guidelines. Nearly 70 per cent of participants in virtual usability testing and interview activities rated their experience of using the guidelines as 'good' (n=11) or 'very good' (n=7). Three participants (11 per cent of participants in virtual usability testing and interview activities) rated their experience of the guidelines as 'poor' (n=2) or 'very poor' (n=1). Figure 3 provides an overview of different types of sentencers' ratings of using the guidelines.

Figure 3: Participants' experience of the guidelines across different types of sentencers

Research activities

In-person observations

These sought to understand the context in which magistrates make decisions, as well as how they interact with the guidelines when making sentencing decisions.

Only magistrates were involved in this stage of the research. This is because observations of judges were included in other research activities and researchers wanted to observe how benches of three magistrates (the usual number of magistrates that sit together in a case) interacted with the guidelines. In doing so, it was possible to observe how guidelines are used in a small group setting (as they would be in real cases) and how easily they can be used and navigated to support collective discussion and decision-making.

Magistrates (n=9) were provided with information about hypothetical cases involving different offences and asked to take the researchers through the stages of their sentencing process in a mock sentencing exercise. Each hypothetical case involved more than one offence, to observe how magistrates interacted with multiple guidelines for a single case. Providing a hypothetical case for magistrates helped researchers observe how groups of magistrates might interact with the guidelines during an actual sentencing decision and identify potential friction points with the useability of the guidelines, including any ways in which participants had managed to work around them. An observational approach also avoided having to rely solely on participants' recollection of how they use and engage with the guidelines. Following the completion of these hypothetical cases, a brief collective

discussion was facilitated by researchers to ask follow-up questions regarding how magistrates had interacted with the guidelines.

Two researchers observed these sessions, with one researcher facilitating the session and another taking notes of how magistrates engaged with the guidelines on their laptops. A wide range of offences were chosen to be discussed across four different hypothetical cases, so that observations could be made of how magistrates used a number of different guidelines:

- Breach of a Community Protection Notice (Anti-social Behaviour, Crime and Policing Act 2014, s.48)
- Common assault (Criminal Justice Act 1988; section 1 Assaults on Emergency Workers (Offences) Act 2018, s.39)
- Criminal damage (Criminal Damage Act 1971, s.1)
- Dangerous driving (Road Traffic Act 1988, s.2)
- Drug driving (Road Traffic Act 1988, s.5A)
- Fear or provocation of violence (Public Order Act 1986, s.4)
- Handling stolen goods (Theft Act 1968, s.22)
- Harassment (Protection from Harassment Act 1997, s.2)
- Possession of a controlled drug (Misuse of Drugs Act 1971, s.5)
- Speeding (Road Traffic Regulation Act 1984, s.89(1))
- Vehicle taking without consent (Theft Act 1968, s.12)

Magistrates were not provided with any of these cases prior to the session. Each was presented sequentially for magistrates to work through. Depending on the time taken for each, not all cases were completed in each session.

Each in-person observation session involved a separate bench of magistrates. A total of nine magistrates participated across three sessions, with each session lasting about an hour. For practical reasons, these sessions were held at two magistrates' courts in London.

Virtual usability testing

The virtual usability testing sessions explored how sentencers (magistrates and circuit judges) access, navigate and use the guidelines, when making sentencing decisions.

Virtual usability testing sessions took place over Microsoft Teams, with each session involving one sentencer and one researcher; they lasted around one hour. Sentencers shared their screens with researchers to show their use of the guidelines during the session.

Sentencers took the researchers through the stages of their sentencing process in relation to mock sentencing exercises based on brief hypothetical scenarios, as well as demonstrating how they interacted with the guidelines in more specific ways. Sentencers

were encouraged to 'think out loud' during the session, to help researchers understand their experience and expectations when engaging with the guidelines. Researchers also asked follow-up questions about how they interacted with the guidelines.

Six hypothetical scenarios were presented. Five scenarios involved a single offence, in order to observe how sentencers interacted with a single guideline. However, one scenario involved two offences, to observe how sentencers interacted with multiple guidelines for a single case. Offences were chosen that sentencers might routinely use guidelines for, but where the Council knew users might face difficulties accessing them, for example because of common spelling errors, where a search might produce multiple results, or where several offences were covered by one guideline.

The following offences were presented to magistrates across six scenarios:

- Possession of a controlled drug with intent to supply it to another (Misuse of Drugs Act 1971, s.5(3))
- Harassment (Protection from Harassment Act 1997, s.2)
- Possession of an article with blade/point on education premises, Criminal Justice Act 1988, s.139A(1))
- Careless driving (Road Traffic Act 1988, s.3)
- Going equipped for theft (Theft Act 1968, s.25)
- Breaching a community order (Sentencing Act 2020, sch. 10)
- Voyeurism (Sexual Offences Act 2003, s.67)

The following offences were presented to circuit judges across six scenarios:

- Possession of a controlled drug with intent to supply it to another (Misuse of Drugs Act 1971, s.5(3))
- Inflicting grievous bodily harm (Offences against the Person Act 1861, s.20))
- Possession of an offensive weapon on school premises (Criminal Justice Act 1988 (s.139A(2))
- Arson (Criminal Damage Act 1971, s.1(3))
- Robbery (Theft Act 1968, s.8(1))
- Breaching a community order (Sentencing Act 2020, sch. 10)
- Exposure (Sexual Offences Act 2003, s.66)

A total of 17 participants were involved in these sessions.

Semi-structured interviews

Interviews gathered broader information from sentencers about their experiences using the guidelines.

Questions explored how sentencers use the guidelines, potential barriers to their usability, elements which worked well, and feedback on possible improvements to the guidelines. Interview questions were informed by emerging findings from the in-person observation and virtual usability testing sessions conducted prior to the interviews.

Interviews were conducted over Microsoft Teams, with one researcher interviewing each sentencer in each session. Each interview session lasted around 45 minutes.

A total of 13 sentencers were interviewed. Of these, four had taken part in virtual usability testing sessions. These four sentencers were included in interview sessions in order to further explore their interactions with the guidelines, based on observations researchers had made during their virtual usability testing sessions. They were recruited by taking a convenience sampling approach, whereby researchers asked participants who had taken part in virtual usability testing sessions, if they would also like to take part in interview sessions.

The remaining nine interview participants were not involved in any of the other research activities. This provided feedback on the usability of the guidelines from sentencers who had not participated in any of the research activities so far, so there was no risk of influence of prompts from researchers to consider how they might use the guidelines for specific offences or in specific contexts.

Analysis

Transcriptions and researcher notes from in-person observations, virtual usability testing, and semi-structured interviews, were systematically documented in a structured spreadsheet for analysis. A framework approach was used to triangulate and analyse the qualitative data across all the research activities.

The first step in this approach involved identifying emerging themes through familiarisation with the data. An analytical framework was then created using a series of matrices, each relating to an emergent theme. The columns in each matrix represented the key sub-themes drawn from the findings. The rows represented individual participants who were involved across the different research activities. Data was summarised in the appropriate cell, which resulted in data relevant to a particular theme being easily identifiable. This enabled a systematic approach to analysis that was grounded in participants' accounts.

The next step of the analysis involved working through the charted data to draw out the range of experiences and participants' views, while identifying similarities, differences, and links between them. Thematic analysis (undertaken by reviewing theme-based columns in the framework) identified common concepts and themes. Cross-activity analysis (undertaken by comparing and contrasting rows in the framework) allowed for links within research activities to be established and findings to be compared and contrasted with each other.

Throughout the analysis a balance was maintained between deduction (using existing knowledge and the research questions to guide the analysis) and induction (allowing concepts and ways of interpreting experience to emerge from the data).

Due to the large volume of data, a team of three researchers jointly carried out the analysis. Each researcher was allocated several high-level themes and subsequently

analysed the relevant data across all research activities to produce sub-themes. Regular meetings were scheduled to discuss emerging themes and ensure a consistent approach to analysis.

Data protection and storage

Information gathered by researchers was stored securely on BIT's internal IT system. Raw data (comprising the audio and video recordings as well as resultant transcripts and notes made by researchers during the fieldwork sessions and which includes the personal information of sentencers) were not shared with the Council, and remains securely held by BIT. These data will be stored for six months after this report is provided to the Council, after which time the data will be destroyed to protect the confidentiality of research participants.

BIT's data processing activities were conducted in accordance with BIT's policies and procedures, to ensure compliance with legislative requirements (including processing Personal Data, as set out in the GDPR UK). Further details on data privacy policies for this project can be found on the Council's [privacy notice](#), along with BIT's [privacy policy](#).

4. Findings

General observations

Across all three research activities some more general observations of sentencers' experiences and interactions with the guidelines were captured. These findings do not highlight issues with the usability of the guidelines, but are presented to reflect some of the broader context around how sentencers interact with the guidelines.

Sentencers generally have a relatively positive experience of using the guidelines, though believe it could be improved in some areas

Sentencers are generally satisfied they can locate the information they need to make sentencing decisions. They use the guidelines in their everyday role and so navigating the website feels familiar. This sentiment was expressed by one circuit judge who stated "[the guidelines are] functional, and [are] accurate and reliable".

However, they also recognise the usability of the website could be improved. Sentencers identified that improvements to the website could save them valuable time in their roles, ultimately leading to improved efficiency in sentencing. One magistrate reported "I've probably got a list of 25 cases to get through...so to put it bluntly, if I spend two minutes or even a minute longer [navigating the website], then that's half an hour out of my court time. And that's [equivalent to] two or three cases. So time is of the essence really."

Unlike judges, magistrates sit on a bench in a group of three. When sitting on a bench, not all magistrates look up the guidelines. However, this depends on the preferences of other magistrates on the bench

When magistrates were sitting on a bench with other magistrates, sometimes only one of them might look up information on the sentencing guidelines. These magistrates then provide this information (usually verbally) to other members of the bench (although it was noted this was not a consistent practice and varied depending on the preferences of other magistrates). In some cases, all magistrates on a bench would look up information in the guidelines.

Magistrates who were presiding justices on a bench (i.e. those who chair the bench and oversee the court's proceedings) reported they would generally direct one of their 'wingers' (i.e. one of the other two magistrates on the bench) to look up the relevant guidelines for a case, while they focused on the evidence being presented. However, they might also have to help other magistrates (particularly newer magistrates who were less familiar with the guidelines) with finding relevant guidelines. They also noted that they, or another 'winger', might focus on looking at case information or other resources on the Council's website (e.g. the fine calculator).

Both magistrates and judges were observed generally interacting with the guidelines in a similar manner.

Sentencers primarily referred to steps 1 and 2 of offence specific guidelines when making sentencing decisions

When making a sentencing decision in court, or when preparing for cases, sentencers (both magistrates and judges) almost always referred to steps 1 and 2 of offence specific guidelines. These steps were seen as the key starting point for their decision-making. “If I’m in the guidelines, it’s because I want to see the starting point and category range” (Magistrate). This is mirrored in the [results of the Council’s internal survey](#), which found that a high proportion of sentencers always referred to steps 1 and 2 of the guidelines, though comparatively fewer referred to the remaining steps on a regular basis.

Sentencers generally considered that it was not critical to refer to steps 3 to 9 in the guidelines every time they made a sentencing decision. The reason they gave was that these steps were generally the same across different offences, and felt they knew how to apply these from memory, particularly if they were familiar with an offence or with an offence specific guideline. For example, sentencers commonly expressed they knew the relevant reductions for a guilty plea, so would not need to refer to step 4 in every case.

Nonetheless, sentencers considered it helpful to have all the steps included within the offence specific guidelines, to help remind them of what they should consider. These steps were considered easily available and accessible for sentencers to check or refresh their understanding of these steps.

Sentencers’ familiarity and confidence with IT influences their experience of the guidelines

The majority of sentencers who participated in virtual usability testing and interviews self-reported being confident using technology. However, during in-person observations and virtual usability testing sessions, the degree of digital literacy users demonstrated when using the guidelines was quite varied. This has implications for their experience of the website.

Sentencers who had higher levels of digital literacy, for example those who had experience working with IT, were less satisfied with the usability of the website. They were also more likely to use an alternative platform to access the guidelines (e.g. [UK Court Manager](#) – a website developed by an independent company which provides sentencing information and tools, including the sentencing guidelines). They were able to draw upon their knowledge to identify specific elements of the website that could be changed to improve their user experience.

Sentencers with lower levels of digital literacy tended to be more satisfied with the guidelines. Nonetheless, they still contributed ideas for changes to the website so that it would better meet their needs. Additionally, they experienced barriers to using guidelines

as they were either not aware of, or did not have the capacity to utilise, features and functions which were available (e.g. viewing offence specific guidelines in different tabs.) Some sentencers remarked they had learnt new skills just from participating in research activities.

Sentencer age did not appear to be related to levels of confidence with using technology, with sentencers across different age ranges reporting varying levels of familiarity with using technology and digital devices.

Sentencers tend to use laptops to access the guidelines, with some preferring to use two devices, and a small minority preferring to see the guidelines on paper

Whilst most sentencers indicated they used laptops to access the guidelines, some use two devices (e.g. a laptop and an iPad, two separate laptops, or a laptop and mobile phone). This was generally done to allow them to view the guidelines on one screen and the case details on another screen. They appreciated being able to see all the information they needed at once.

A couple of sentencers preferred to work with paper guidelines. Although they still access the website, they do so only to print off the relevant offence specific guidelines before each case. While these sentencers stated they print off the guidelines as needed for each case (and do not keep the printed guidelines), this may pose a risk that they do not refer to the most up-to-date guidelines. This approach is associated with personal preference, but may also be related to users' confidence in being able to navigate the guidelines using a laptop or other electronic devices.

Magistrates tend to access the guidelines via a shortcut located on the desktop of court laptops, while judges (including district judges) typically have the guidelines bookmarked on their laptop

Sentencers (particularly magistrates) generally use a shortcut icon located on the desktop of court laptops by default. They found this a straightforward way to reach the guidelines. Judges tend to have bookmarked a link to the guidelines on their court-issued laptops.

When using an alternative device (e.g. a personal laptop, smartphone, or iPad), sentencers tended to either login to their eJudiciary account (which provides sentencers with remote access to the judicial intranet system) to access the guidelines or reach the guidelines via a Google search.

These findings echo the results of the [Council's internal survey](#), which found a majority of respondents reported accessing the digital guidelines using a laptop.

Specific findings and recommendations

The following section outlines the more specific findings and recommendations consolidated from all research activities. This section is structured based on the following

research questions for this project addressing the usability and experience of the guidelines.

- A) **Searching for guidelines:** how easy is it for sentencers to use the guidelines with the current search functionality?
- B) **Using the guidelines:** how easy is it for sentencers to use the guidelines given the current layout and format of the guidelines?
- C) **Navigating the guidelines:** how easy is it for sentencers to navigate different guidelines and additional sentencing resources on the Council's website?
- D) **Accessing the guidelines:** how do sentencers access the guidelines?
- E) **Sentencing with the guidelines:** how do sentencers use the guidelines when making sentencing decisions?

BIT have suggested the priority in which recommendations should be implemented, by rating each recommendation. These ratings include:

- high priority recommendations: to address common and critical barriers to sentencers' usability and experience of the guidelines
- medium priority recommendations: to address substantive barriers to the usability of the guidelines, though these may not be consistently faced by all sentencers
- low priority recommendations: to address issues sentencers consider to be less critical to the usability of the guidelines

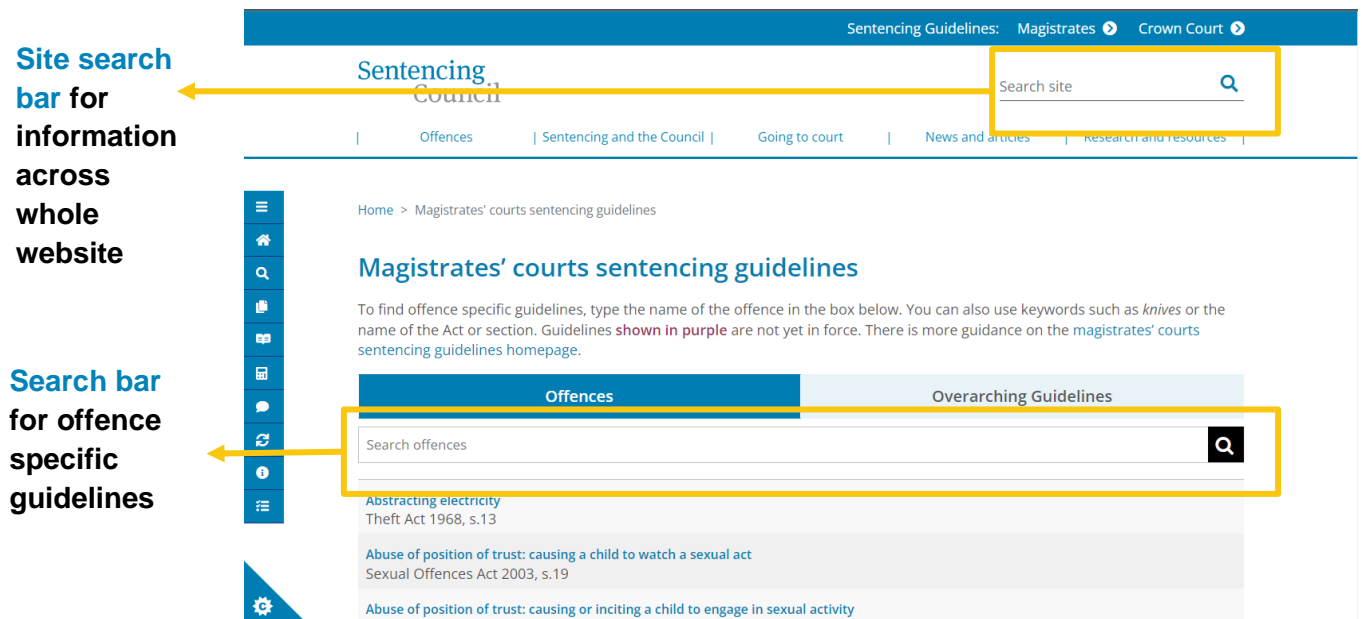
Where possible, we have illustrated how recommendations could be implemented. We would also encourage the Council to consider piloting or testing these recommendations with sentencers, prior to fully implementing these recommendations.

A. How easy is it for sentencers to use the guidelines with the current search functionality?

Finding A1: the search functionality is not intuitive or easy to use, which takes up sentencers' time

There are currently two different search bars available on the Council's website. The search bar available on the offence specific guidelines search pages is designed to only search for offence specific guidelines. The site search bar is located in the top-right corner of the Council's website and enables individuals to search for content across the whole website. These search bars are shown in Figure 4 below. All sentencers were observed only using the search bar in the offence specific guideline landing pages to search for offence specific guidelines.

Figure 4: Image of the magistrates' court guidelines with the two separate search bars available



Sentencers did not find the search bar in the offence specific guideline landing pages easy to use. Certain keywords were expected to return particular offence specific guidelines – especially when these included either the offence name, the corresponding Act for the offence, or a term commonly used to refer to the offence. However, this often did not provide the results they were expecting. Sentencers reported the search function as being “clunky”, “fiddly”, and “the biggest [downfall]” of the guidelines.

After entering keywords, search results either did not correspond to the keywords, or returned offence specific guidelines related to the keywords, but not the specific guideline sentencers were searching for. On other occasions entering keywords did not return any results at all. As an illustrative example, one sentencer attempted to search for the [Possession of a controlled drug with intent to supply it to another](#) guideline. The following five search terms were entered, with none of these searches returning the relevant guideline:

- ‘possession intent’
- ‘possession with’
- ‘possession drugs’
- ‘s 5(3)’
- ‘Section 5[space]’

The sentencer located the relevant guideline after entering the search term ‘drugs’. Examples of these search results are shown below.

Figure 5: Search results from magistrates' court guidelines based on the keywords 'possession intent'

Search term
'possession intent'
entered into search
bar

No results for this
search are shown
below the search
bar

Magistrates' courts sentencing guidelines

To find offence specific guidelines, type the name of the offence in the box below. You can also use keywords such as *knives* or the name of the Act or section. Guidelines shown in purple are not yet in force. There is more guidance on the [magistrates' courts sentencing guidelines homepage](#).

Offences	Overarching Guidelines
possession intent	

Figure 6: Search results from magistrates' court guidelines based on the keyword 'drugs'

Search term 'drugs'
entered into search
bar

Offence guideline for
'Possession of
controlled drug with
intent to supply it to
another' listed
towards bottom of
search results

Magistrates' courts sentencing guidelines

To find offence specific guidelines, type the name of the offence in the box below. You can also use keywords such as *knives* or the name of the Act or section. Guidelines shown in purple are not yet in force. There is more guidance on the [magistrates' courts sentencing guidelines homepage](#).

Offences	Overarching Guidelines
drugs	
Cultivation of cannabis plant Misuse of Drugs Act 1971, s.6(2)	
Drug driving (guidance only) Road Traffic Act 1988, s.5A	
Drugs - class A - fail to attend/remain for initial assessment Drugs Act 2005, s.12	
Drugs - class A - fail/refuse to provide a sample Police and Criminal Evidence Act 1984, s.63B	
Fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug Misuse of Drugs Act 1971, s.3; Customs and Excise Management Act 1979, s.170(2)	
Permitting premises to be used Misuse of Drugs Act 1971, s.8	
Possession of a controlled drug Misuse of Drugs Act 1971, s.5(2)	
Possession of a controlled drug with intent to supply it to another Misuse of Drugs Act 1971, s.5(3)	
Production of a controlled drug/ Cultivation of cannabis plant Misuse of Drugs Act 1971, s.4(2)(a) or (b), Misuse of Drugs Act 1971, s.6(2)	
Supplying or offering to supply a controlled drug/ Possession of a controlled drug with intent to supply it to another Misuse of Drugs Act 1971 s.4(3), Misuse of Drugs Act 1971, s.5(3)	
Unfit through drink or drugs (drive/ attempt to drive) (Revised 2017) Road Traffic Act 1988, s.4(1)	
Unfit through drink or drugs (in charge) (Revised 2017) Road Traffic Act, 1988, s.4(2)	

Another sentencer reported avoiding using the search functionality altogether, stating it was easier to scroll through the list of all offence specific guidelines to locate a specific guideline. During virtual usability testing and in-person observation activities, a couple of sentencers were observed using Google to find certain offence specific guidelines.

Sentencers reported the following types of offence specific guidelines, as being difficult to find:

- public order offences

- assault offences
- driving offences

Part of this issue appeared to stem from the lack of consistency in how the search function worked. For example, one sentencer was observed searching for the [Dangerous Driving](#) offence specific guideline, and entered the search term 'drive'. The search results did not list the dangerous driving guideline, though did list the [Careless Driving](#) guideline (see Figure 3). The sentencer remarked it seemed like the search function identified guidelines with 'driving' in the title. However, this was contradicted by the 'dangerous driving' guideline not being included in the search results. Therefore it was unclear to the sentencer how the search function actually worked.

Figure 7: Search results from magistrates' court guidelines, based on the keyword 'drive'

Magistrates' courts sentencing guidelines

To find offence specific guidelines, type the name of the offence in the box below. You can also use keywords such as *knives* or the name of the Act or section. Guidelines shown in purple are not yet in force. There is more guidance on the [magistrates' courts sentencing guidelines homepage](#).

Search term 'drive' entered into search bar

No offence guideline for 'Dangerous driving' listed in search results

However, offence guideline for 'Careless driving' listed in guidelines

Offences	Overarching Guidelines
drive	
Careless Driving (drive without due care and attention) (Revised 2017) Road Traffic Act 1988, s.3	
Causing death by driving: unlicensed, disqualified or uninsured drivers Road Traffic Act 1988, s.32B	
Drive in reverse or wrong way on motorway	
Drive in reverse or wrong way on slip road	
Drive off carriageway (central reservation or hard shoulder)	
Drive otherwise than in accordance with licence	
Drive otherwise than in accordance with licence (where could be covered)	
Drive whilst disqualified (Revised 2017) Road Traffic Act 1988, s.103	
Drug driving (guidance only) Road Traffic Act 1988, s.5A	
Excess Alcohol (drive/attempt to drive) (Revised 2017) Road Traffic Act 1988, s.5(1)(a)	
Excess Alcohol (in charge) (Revised 2017) Road Traffic Act 1988, s.5(1)(b)	
Fail to co-operate with preliminary (roadside) breath test	
Fail to give information of driver's identity as required	
Fail to produce insurance certificate	
Fail to produce test certificate	
Fail to provide specimen for analysis (drive/attempt to drive) (Revised 2017) Road Traffic Act 1988, s.7(6)	
Learner driver or excluded vehicle	
Unfit through drink or drugs (drive/attempt to drive) (Revised 2017) Road Traffic Act 1988, s.4(1)	
Unfit through drink or drugs (in charge) (Revised 2017) Road Traffic Act, 1988, s.4(2)	

The impact of these issues is that it takes longer to find relevant guidelines. Sentencers commonly reported that searching for offence specific guidelines took up additional time. This was a concern when needing to find guidelines quickly in court and was noted by both magistrates and judges. Some sentencers also remarked this could risk not focussing on evidence being presented in court, due to difficulties searching for guidelines. Some sentencers stated that whilst they could pause court proceedings, this was not always practical or feasible as it took away from court time.

During in-person observation sessions, magistrates were also observed taking additional time to help other magistrates search for relevant guidelines – even if they had already found the relevant guidelines themselves.

Not all sentencers reported finding the search function difficult to use. However, this was a minority opinion expressed in this project. Moreover, some of these sentencers had memorised which search terms to enter in order to locate specific offence specific guidelines. “[The] search works well...it’s only a problem when you don’t know what to search [for]” (Magistrate).

Despite difficulties with the search function across the different research activities, all but one sentencer, were (eventually) able to locate the guidelines they wanted to view when undertaking the research exercises. This suggests the search function can technically be used to find offence specific guidelines. However, this currently requires additional time, multiple search attempts, and patience, on the part of sentencers.

Recommendation A1: improve the search functionality for offence specific guidelines with a greater ‘smart searching’ capability.

Priority: high

Refine the search functionality to provide a greater ‘smart searching’ capability, which returns relevant search results, even if the exact search term is not included within these results. To achieve this, the Council should consider adapting the search functionality to include alternative search terminology, partial matches and word stems. These adaptations have been informed by reviewing usability design better practice guides.

Alternative search terminology: search results should be responsive to different terms sentencers may use to refer to offences, including less technical or legal terminology. For example the search term ‘marijuana’ should return a result for the [Cultivation of a cannabis plant](#) guideline.

The search bar in the offence specific guidelines search page provides results based on search terms for abbreviations of offence names, and the section number of Acts referring to specific offences. These should be monitored and revised on a regular basis to adapt the search functionality to potential changes of offence names and sections of Acts. Moreover, sentencers should be provided with prompts on similar search terms which have been used, or offence names which are related to the search terms being used. This could include showing words similar to the search term below the search bar, or below the search results (see Figure 8 for an example).

Partial matches: search results should be related to the keywords entered, even if there are grammar or spelling errors within the search term. For example, if there are additional spaces entered between, or after, search results should still be presented for that search term (e.g. ‘section 5[space]’ returning results for ‘section 5’). Another example is not using the exact ordering of keywords to provide relevant search results (e.g. both ‘aggravated

assault' and 'assault aggravated' should return the [Racially/religiously aggravated common assault guideline](#)).

Word stems: search results should be related to both the keywords and its morphological stem (i.e. the keyword without its ending or suffix). As an example, the stem for 'abuse' would be 'abus'. Refining the search result to include this stem would provide results when entering the search terms 'abusing' or 'abused' (which currently do not provide any results in the search bar - while 'abuse' does return results of offence specific guidelines).

The Council could also consider integrating a search analytic capability for the search bar in the offence specific landing pages. This would enable the Council to review search logs and identify common search terms sentencers use, to effectively adapt the search functionality. This search analytic capability would benefit from using geolocation data to obtain search logs from specific geographical areas (e.g. locations of magistrates' courts and Crown Courts) to review search terms which are likely being entered by sentencers or other relevant stakeholders (e.g. prosecutors and solicitors).

These considerations will improve the user's experience of the search functionality as it reduces the cognitive load on sentencers when attempting to search for offence specific guidelines. Cognitive load refers to the amount of mental effort people expend when undertaking different tasks. People's capacity to perform mental work is a limited resource that can be taken up by planning, remembering, worrying, self-control, etc. ([Fiske and Taylor, 1991](#)). The current experience of sentencers likely imposes a cognitive load as it requires sentencers to focus their attention on how they can search for certain offence specific guidelines. However high cognitive load has been shown to impair task performance, increase likelihood of quitting unsolvable problems faster, and make more passive choices ([Baumeister et al., 1998](#)).

Reducing friction points can help reduce the cognitive load experienced by sentencers. Friction points are small details that make a task slightly more effortful (e.g. an extra mouse click). Whilst seemingly irrelevant, these can make the difference between doing something or avoiding doing it ([BIT, 2014](#)). Making the search function more responsive to sentencers' search queries will help reduce the friction in searching for an offence specific guideline. This makes it easier for sentencers to spend more of their attention on other sentencing related tasks.

An example of how this recommendation could be implemented is illustrated in Figure 8.

Figure 8: Mocked up example of recommendation A1

Search term '**drunk**' entered into search bar

Additional offence guideline related to keyword in search

Suggested related search terms

Sentencing Council

Search site

[Offences](#)
[Sentencing and the Council](#)
[Going to court](#)
[News and articles](#)
[Research and resources](#)

[Home](#) > [Magistrates' courts sentencing guidelines](#)

Magistrates' courts sentencing guidelines

To find offence specific guidelines, type the name of the offence in the box below. You can also use keywords such as *knives* or the name of the Act or section. Guidelines **shown in purple** are not yet in force. There is more guidance on the [magistrates' courts sentencing guidelines homepage](#).

Offences

Overarching Guidelines

Alcohol sale offences (Revised 2017)
Licensing Act 2003, s.141 (sale of alcohol to drunk person); s.146 (sale of alcohol to children); s.147 (allowing sale of alcohol to children)

Drunk and disorderly in a public place (Revised 2017)
Criminal Justice Act 1967, s.91

Excess Alcohol (drive/attempt to drive) (Revised 2017)
Road Traffic Act 1988, s.5(1)(a)

Excess Alcohol (in charge) (Revised 2017)
Road Traffic Act 1988, s.5(1)(b)

Fail to co-operate with preliminary (roadside) breath test

Football related offences (Revised 2017)
Criminal Justice and Public Order Act 1994: s.166 (unauthorised sale or attempted sale of tickets); Football Offences Act 1991: s.2 (throwing missile); s.3 (indecent or racist chanting); s.4 (going onto prohibited areas); Sporting Events (Control of Alcohol etc.) Act 1985: s.2(1) (possession of alcohol whilst entering or trying to enter ground); s.2(2) (being drunk in, or whilst trying to enter, ground).

Unfit through drink or drugs (drive/ attempt to drive) (Revised 2017)
Road Traffic Act 1988, s.4(1)

Unfit through drink or drugs (in charge) (Revised 2017)
Road Traffic Act, 1988, s.4(2)

Drug driving (guidance only)
Road Traffic Act 1988, s.5A

Careless Driving (drive without due care and attention) (Revised 2017)
Road Traffic Act 1988, s.3

Causing death by driving: unlicensed, disqualified or uninsured drivers
Road Traffic Act 1988, s.32B

Drive in reverse or wrong way on motorway

Drive in reverse or wrong way on slip road

Drive off carriageway (central reservation or hard shoulder)

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Finding A2: search results are not presented intuitively, which makes it harder to find specific offence specific guidelines

While search results of offence specific guidelines are listed alphabetically, sentencers expressed confusion about the order of search results. They reported that it wasn't clear if these were listed in order of relevance to the search keywords grouped by certain themes, or grouped by similar Acts. It was not clear to sentencers that results were listed alphabetically, with some expressing they didn't understand if there was any order to the search results.

As an illustrative example, one sentencer was observed searching for the [Going equipped for theft or burglary](#) guideline and entering the search term 'theft'. The sentencer was surprised that the first six guidelines in the search results did not contain the word 'theft' in the offence title (see Figure 9). They expected the intended guideline ('Going equipped for theft or burglary') to be higher in the search results. In this case, the other guidelines in the search results included offences from the Theft Act 1968, and other theft-related offences. Therefore, the ordering of these guidelines in the search result list was not intuitive.

Figure 9: Partial search results from magistrates' court guidelines based on the keyword 'theft'

Search term 'theft' entered into search bar.

These search results do not contain the word 'theft' in the name of the offence guideline

Offence guideline for 'Going equipped for theft or burglary' listed towards bottom of search results

Magistrates' courts sentencing guidelines

To find offence specific guidelines, type the name of the offence in the box below. You can also use keywords such as *knives* or the name of the Act or section. Guidelines shown in purple are not yet in force. There is more guidance on the [magistrates' courts sentencing guidelines homepage](#).

Offences	Overarching Guidelines
Abstracting electricity Theft Act 1968, s.13	
Benefit Fraud Common law, Fraud Act 2006, s.1, Social Security Administration Act 1992, s.111A, Social Security Administration Act 1992, s.112, Tax Credits Act 2002, s.35, Theft Act 1968, s.17	
Corporate offenders (fraud) Customs and Excise Management Act 1979 (section 170), Fraud Act 2006, s.1, Fraud Act 2006, s.6, Fraud Act 2006, s.7, Theft Act 1968, s.17, Value Added Tax Act 1994 (section 72)	
Corporate offenders: fraud, bribery and money laundering Bribery Act 2010, s.1, Bribery Act 2010, s.2, Bribery Act 2010, s.6, Bribery Act 2010, s.7, Common law, Customs and Excise Management Act 1979 (section 170), Fraud Act 2006, s.1, Fraud Act 2006, s.6, Fraud Act 2006, s.7, Proceeds of Crime Act 2002, s.327, Proceeds of Crime Act 2002, s.328, Proceeds of Crime Act 2002, s.329, Theft Act 1968, s.17, Value Added Tax Act 1994 (section 72)	
Domestic burglary Theft Act 1968, s.9	
Fraud Common law, Fraud Act 2006, s.1, Theft Act 1968, s.17	
Going equipped for theft or burglary Theft Act 1968, s.25	
Handling stolen goods Theft Act 1968, s.22	
Making Off Without Payment Theft Act 1978, s.3	
Non-domestic burglary Theft Act 1968, s.9	
Railway fare evasion (Revised 2017) Regulation of Railways Act 1889, s.5(3) (travelling on railway without paying fare, with intent to avoid payment); s.5(1) (failing to produce ticket)	

A contributing factor to this issue appeared to be the format and layout of the search results. With the current layout, sentencers were observed scrolling through the search results and missing the offence specific guideline they were looking for. The correct offence specific guideline was found only after having scrolled back and forth through the

search results. This indicates the layout of the search results may not be optimally presented to quickly identify relevant guidelines.

Additionally, it was not always clear to sentencers if the guideline for an offence would be listed as a standalone guideline in search results or contained within a guideline for multiple offences. For example, one sentencer noted when searching for the [Possession of a controlled drug with intent to supply it to another](#) guideline, that there were two separate results for this offence specific guideline (as shown in Figure 10). This also added complexity to understanding how the search results were listed.

Figure 10: Search results based on keywords ‘Possession of a controlled drug with intent to supply it to another’

Magistrates’ courts sentencing guidelines

To find offence specific guidelines, type the name of the offence in the box below. You can also use keywords such as *knives* or the name of the Act or section. Guidelines **shown in purple** are not yet in force. There is more guidance on the [magistrates’ courts sentencing guidelines homepage](#).

Offences	Overarching Guidelines
<input type="text" value="Possession of a controlled drug with intent to supply it to another"/> <input type="button" value="Q"/>	
Possession of a controlled drug with intent to supply it to another Misuse of Drugs Act 1971, s.5(3)	
Supplying or offering to supply a controlled drug Misuse of Drugs Act 1971 s.4(3), Misuse of Drugs Act 1971, s.5(3)	Possession of a controlled drug with intent to supply it to another

Two search results for same offence guideline of ‘[Possession of a controlled drug with intent to supply to another](#)’

In addition to the time taken by sentencers in making multiple attempts to search for an offence specific guideline, extra time is also required to locate the relevant guideline in the search results. This is especially the case when a large number of search results are listed.

Larger lists of search results were presented when sentencers used broad or generic search terms. While more specific search terms could provide shorter search result lists, the search function did not work well using specific terms. This led to sentencers using more generic search terms, resulting in more search results for them to view.

Recommendation A2: refine the order of search results to be presented in order of relevance, and refine the layout of results so sentencers can more easily identify relevant offence specific guidelines.

Priority: high

Search results should be presented in order of relevance – something sentencers expect - with each result being more easily distinguishable from others. Given that most sentencers typically began their search with keywords reflecting the name of offences, the order of search results should be prioritised based on the relevance of keywords within guideline names.

To help make individual search results more easily identifiable, there could be small gaps of white space between each offence specific guideline in the search results. This can help sentencers more easily direct their attention to different search results, to help identify relevant guidelines.

In addition, search results should include highlighted text to help sentencers identify why the results have been listed (e.g. having the search term (or other related terms) highlighted in the search results). Where the search term includes text from content within particular offence specific guidelines (rather than the guideline name), this should also be highlighted within the search results.

Highlighting the search term within the search results makes the results more visually salient, which can help quickly direct sentencers' attention when viewing the search results ([Fisher et al., 1989](#)). This process further helps to reduce the cognitive load sentencers may experience when having to review search results to identify a specific guideline.

Moreover it would be helpful to provide sentencers with the ability to sort and filter search results. This can be achieved by having dropdown boxes, to sort search results by relevance to keywords, or alphabetically by Act or offence name. Providing this functionality can help reduce the potential for choice overload, wherein having too many options can negatively impact people's motivation to make effective decisions ([Lyengar and Lepper, 2000](#)).

As noted in Recommendation A1, the Council could also consider integrating search analytic capabilities for the search bar in the offence specific guideline pages. This could facilitate reviewing search logs for terms entered into the search bar, to identify search terms commonly associated with click-throughs to certain offence specific guidelines. For example, such a review may identify the search term of 'possession' is more frequently associated with click-throughs to drug-related offence specific guidelines, rather than for bladed article guidelines. In this case, drug-related offence specific guidelines containing the keyword 'possession' should be listed higher in the search results than guidelines for bladed articles which also contain the keyword 'possession'.

An example of how this recommendation could be implemented is illustrated in Figure 11.

Figure 11: Mocked up example of recommendation A2

Magistrates' courts sentencing guidelines

To find offence specific guidelines, type the name of the offence in the box below. You can also use keywords such as *knives* or the name of the Act or section. Guidelines **shown in purple** are not yet in force. There is more guidance on the [magistrates' courts sentencing guidelines homepage](#).

drunk

Filter results by

Offence or Act title All offence types

11 results related to "drunk"

Sorted by: Relevancy

OFFENCE GUIDELINES - Effective from 24 April 2017

Alcohol sale offences
Licensing Act 2003, s.141 (sale of alcohol to **drunk** person); s.146 (sale of alcohol to children); s.147 (allowing sale of alcohol to children)

OFFENCE GUIDELINES - Effective from 24 April 2017

Drunk and disorderly in a public place
Criminal Justice Act 1967, s.91

OFFENCE GUIDELINES - Effective from 24 April 2017

Excess Alcohol (drive/attempt to drive)
Road Traffic Act 1988, s.5(1)(a)

OFFENCE GUIDELINES - Effective from 24 April 2017

Excess Alcohol (in charge)
Road Traffic Act 1988, s.5(1)(b)

Example of dropdown tools to filter search results

Example of dropdown tool to sort ordering of search results

Example of how different offence specific guidelines can be more easily identifiable.

Figure 12: Comparison image of search results from current magistrates' court guidelines based on the keyword 'drunk'

Magistrates' courts sentencing guidelines

To find offence specific guidelines, type the name of the offence in the box below. You can also use keywords such as *knives* or the name of the Act or section. Guidelines **shown in purple** are not yet in force. There is more guidance on the [magistrates' courts sentencing guidelines homepage](#).

Offences	Overarching Guidelines
drunk	
Alcohol sale offences (Revised 2017) Licensing Act 2003, s.141 (sale of alcohol to drunk person); s.146 (sale of alcohol to children); s.147 (allowing sale of alcohol to children)	
Drunk and disorderly in a public place (Revised 2017) Criminal Justice Act 1967, s.91	
Excess Alcohol (drive/attempt to drive) (Revised 2017) Road Traffic Act 1988, s.5(1)(a)	
Excess Alcohol (in charge) (Revised 2017) Road Traffic Act 1988, s.5(1)(b)	
Fail to co-operate with preliminary (roadside) breath test	
Football related offences (Revised 2017) Criminal Justice and Public Order Act 1994: s.166 (unauthorised sale or attempted sale of tickets); Football Offences Act 1991: s.2 (throwing missile); s.3 (indecent or racist chanting); s.4 (going onto prohibited areas); Sporting Events (Control of Alcohol etc.) Act 1985: s.2(1) (possession of alcohol whilst entering or trying to enter ground); s.2(2) (being drunk in, or whilst trying to enter, ground).	
Unfit through drink or drugs (drive/ attempt to drive) (Revised 2017) Road Traffic Act 1988, s.4(1)	
Unfit through drink or drugs (in charge) (Revised 2017) Road Traffic Act, 1988, s.4(2)	

Current presentation of search results on the magistrates' court guidelines

Finding A3: the names of offences in sentencers' court listings do not always match the name of the offence specific guidelines on the Council's website

Sentencers (especially magistrates) noted this was a common and consistent problem. The wording of offences within court listings were often used as search terms. For example one sentencer stated 'assault by beating' was the name of an offence in their court listing. They were observed entering the search term 'beating' which provided a result for the [Common assault/Racially or religiously aggravated common assault/ Common assault on emergency worker](#) guideline. However 'assault by beating' was not listed in the name of this offence specific guideline. Sentencers expected that the names of these offences would be the same as those in offence specific guidelines.

As the name of offences did not always match, this required sentencers to double check whether they were looking at the correct guideline. This typically included checking the section and Act of offence specific guidelines and matching these to the offences noted in court listings.

This resulted in even more time and effort required to locate relevant guidelines. This discrepancy "slows things down", with one magistrate stating this "causes me issues because you have to make sure everyone is on the same page before you start". A common feedback point was to have consistency between the names of offences noted in court listings and the offence specific guidelines.

Recommendation A3: provide an easy way to locate the correct offence specific guidelines from the offence names noted in sentencers' court listings.

Priority: high

Provide hyperlinks within offences noted on (digital) court listings to relevant offence specific guidelines. In general, the names of offences within court listings should be aligned with the names of offences listed on the guidelines.

However, it is acknowledged that court listings are provided through digital platforms by HM Courts and Tribunals Service (HMCTS) and are not the responsibility of the Council. Nevertheless, the Council should explore opportunities with HMCTS to provide easy to use links to relevant sentencing guidelines from HMCTS digital platforms.

Finding A4: the dropdown filter of offence types in the Crown Court guidelines is useful to search for offence specific guidelines, but isn't available for the magistrates' court guidelines

Circuit judges found using the dropdown filter of offence types helpful to search for offence specific guidelines. Indeed, some only used the dropdown offence type filter to search for offence specific guidelines (i.e. they did not enter any search terms into the search bar).

Figure 13: Dropdown filter of offence types in the Crown Court guidelines

Home > Sentencing Guidelines for use in Crown Court

Sentencing Guidelines for use in Crown Court

How to use these sentencing guidelines

Offences	Overarching Guidelines
Search offences	Select offence type
Abstracting electricity Theft Act 1968, s.13	
Abuse of position of trust: causing a child to watch a sexual act Sexual Offences Act 2003, s.19	
Abuse of position of trust: causing or inciting a child to engage in sexual activity Sexual Offences Act 2003, s.17	
Abuse of position of trust: sexual activity in the presence of a child/ Abuse of position of trust: causing a child to watch a sexual act Sexual Offences Act 2003, s.18, Sexual Offences Act 2003, s.19	
Abuse of position of trust: sexual activity with a child/ Abuse of position of trust: causing or inciting a child to engage in sexual activity Sexual Offences Act 2003, s.16, Sexual Offences Act 2003, s.17	

Dropdown filter
of offence types

Selecting an offence type from the dropdown filter in the Crown Court guidelines typically brings up a relatively short list of offence specific guidelines (usually around or fewer than 10 guidelines). This makes it quick to identify a particular offence specific guideline. The exception to this was the Sexual Offences category, which has 65 offence specific guidelines.

Figure 14: Partial list of offence types included within the dropdown filter in the Crown Court guidelines

Sentencing Guidelines for use in Crown Court

How to use these sentencing guidelines

Offences	Overarching Guidelines
Search offences	Select offence type
Abstracting electricity Theft Act 1968, s.13	
Abuse of position of trust: causing a child to watch a sexual act Sexual Offences Act 2003, s.19	
Abuse of position of trust: causing or inciting a child to engage in sexual activity Sexual Offences Act 2003, s.17	
Abuse of position of trust: sexual activity in the presence of a child/ Abuse of position of trust: causing a child to watch a sexual act Sexual Offences Act 2003, s.18, Sexual Offences Act 2003, s.19	
Abuse of position of trust: sexual activity with a child/ Abuse of position of trust: causing or inciting a child to engage in sexual activity Sexual Offences Act 2003, s.16, Sexual Offences Act 2003, s.17	
Administering a substance with intent Sexual Offences Act 2003, s.61	
Affray Public Order Act 1986, s.3	
Aggravated burglary Theft Act 1968, s.10	
Animal Cruelty - Interim guidance Animal Welfare Act 2006	

Type of offences
included in
dropdown filter

Moreover, when an offence type is selected the resulting guidelines are consistently listed in the same order. This makes it easy to remember where certain guidelines are located in the filtered list. Sentencers also noted this was similar to how the paper-based guidelines were structured (i.e. being grouped together by offence type). That structure had also made it easier to remember where certain offences were located in the paper-based guidelines.

When magistrates were asked by researchers about whether a dropdown filter of offence types (as in the Crown Court guidelines) would be useful for the magistrates' court guidelines, this was considered to be "very helpful" and they would "love that".

Recommendation A4: provide a dropdown filter of offence types for the magistrates' courts guidelines.

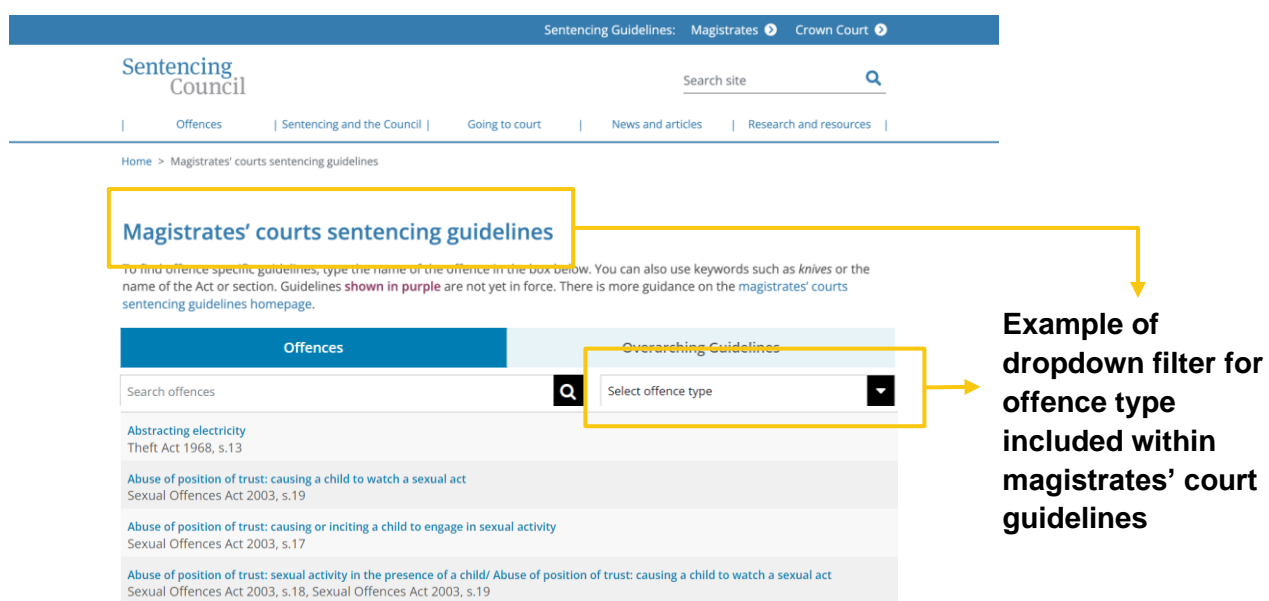
Priority: high

A dropdown filter of offence types (as in the Crown Court guidelines) should be provided for the magistrates' court guidelines.

In addition to providing a dropdown filter, the Council could also consider splitting the Sexual Offences category into two categories, in order to reduce the number of guidelines in this single category. For example, 'Sexual offences (excluding against children),' and 'Sexual offences against children.' This would reduce the number of guidelines in each of these categories, making it easier to review the guidelines listed in these offence categories.

An example of how the recommendation for a filter could be implemented is illustrated in Figure 15.

Figure 15: Mocked up example of recommendation A4



Finding A5: not all circuit judges were aware of the dropdown filter of offence types on the Crown Court guidelines

Some circuit judges were not aware of the dropdown filter of offence types on the Crown Court guidelines until researchers asked them about this. They did not notice this because they were used to entering terms into the search bar. One sentencer stated they “hadn’t used [the filter function] before...you get stuck in your own way of doing things”.

Recommendation A5: provide time-limited prompts about this feature on the Crown Court guidelines.

Priority: low

The Council could provide a small box with brief information about how to use this dropdown filter. This box should automatically open when the Crown Court guidelines are accessed. It should be clearly located close to the dropdown filter.

In order to promote awareness of the feature, while limiting the ‘visual noise’ on the Crown Court guidelines, this prompt should be provided for a limited time (e.g. one month). Additionally, this should be visible only the first time a person accesses the Crown Court guidelines. Given that judges have their own laptops, this provides a non-intrusive way to provide additional information.

This feature could also be used to notify sentencers of new functions and features on the guidelines (for example providing a drop down filter of offence types in the magistrates’ court guidelines, as noted in Recommendation A4: [provide a dropdown filter of offence types for the magistrates’ courts guidelines.](#)).

An example of how this recommendation could be implemented is illustrated in Figure 16.

Figure 16: Mocked up example of recommendation A5

Example of prompt about how to use dropdown filter of offence types

The image shows a screenshot of the Sentencing Council website. The top navigation bar includes 'Sentencing Guidelines', 'Magistrates', and 'Crown Court'. The main heading is 'Magistrates' courts sentencing guidelines'. Below this, there is a search bar and a dropdown menu for 'Select offence type'. A yellow box highlights a prompt that appears when the dropdown menu is open. The prompt asks 'Did you know you can look at certain types of guidelines?' and explains that the filter feature allows users to select between different types of offences. It also includes a link to 'Learn more on our user guide'. Below the prompt, a list of offences is displayed, including 'Abstracting electricity', 'Abuse of position of trust: causing a child to watch a sexual act', and 'Abuse of position of trust: causing or inciting a child to engage in sexual activity'.

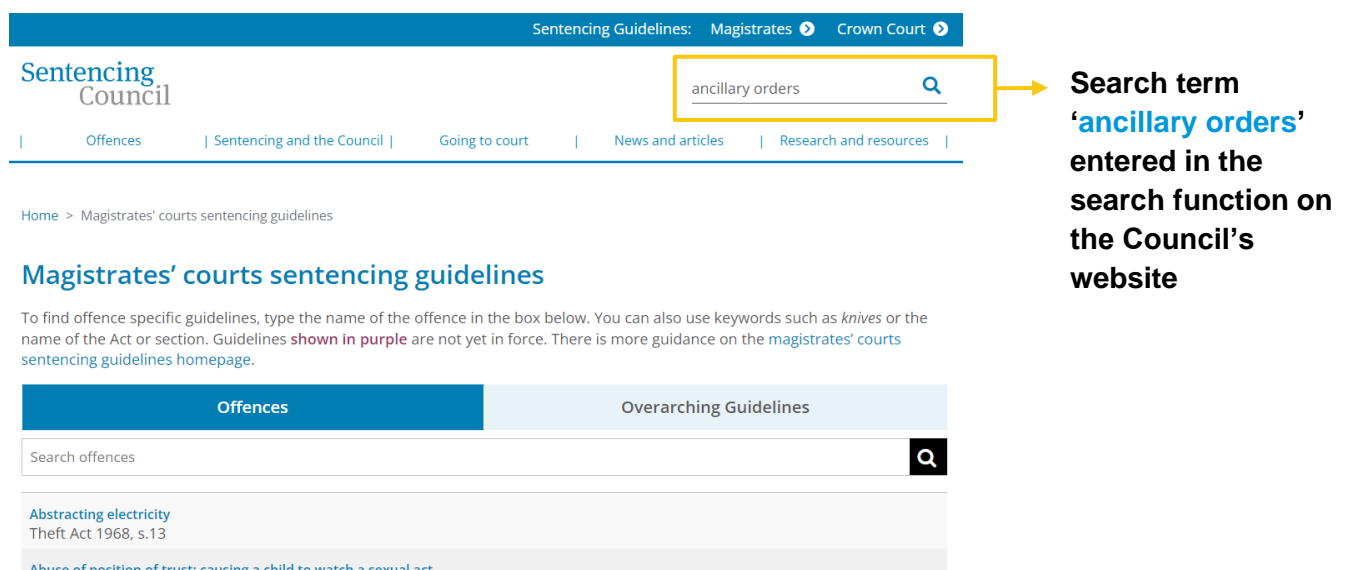
Finding A6: some sentencers try using the guideline search bar to find explanatory materials or other sentencing resources, but currently need to remember this is only available from a different search bar

Some sentencers attempted to use the search function on the offence specific guideline search pages to locate additional sentencing resources. Examples of these types of resources included explanatory materials such as ancillary orders (e.g., restraining order) and fines and financial orders (e.g., suggested starting amounts of compensation for victims who have sustained physical and mental injuries). One magistrate also noted they had tried to search for overarching guidelines using this search function.

While this information is available on the Council's website, it is not searchable through the search bar on the offence specific guideline page. Some sentencers indicated it would be helpful to search for these types of additional information, rather than having to click through links elsewhere on the Council's website (e.g. via the blue sidebar). It was also suggested to be beneficial for the search function to locate information within the text of sentencing-related documents hosted on the Council's website (e.g. bail conditions listed in the Adult Court Bench Book).

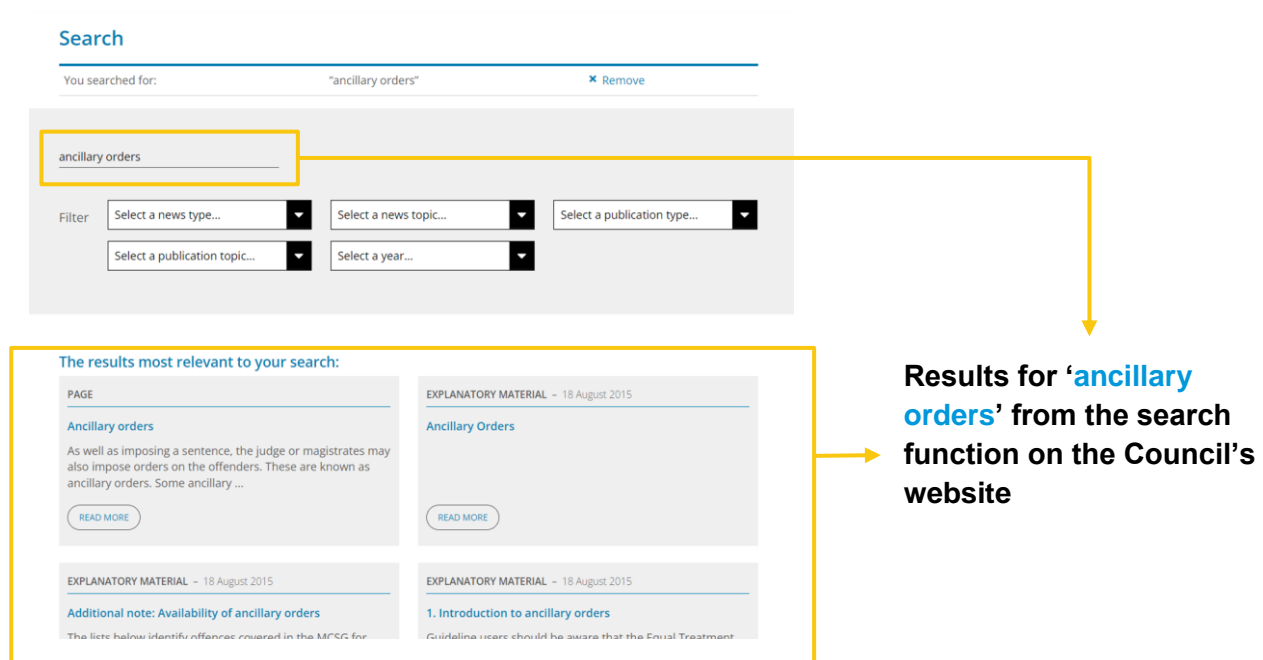
Nonetheless, there were some sentencers who were aware they could use the separate 'site search' function on the Council's website to find additional information (see Figures 17 and 18 for examples). However, they stated they did not use this search function often and primarily used the search bar on the offence specific guideline pages.

Figure 17: Example of entering 'ancillary orders' into the separate 'search site' function on the top-right of the Council's webpages



The screenshot shows the Sentencing Council website. At the top, there is a navigation bar with 'Sentencing Guidelines: Magistrates' and 'Crown Court'. Below this is the 'Sentencing Council' logo and a horizontal menu with links: 'Offences', 'Sentencing and the Council', 'Going to court', 'News and articles', and 'Research and resources'. A search bar is located in the top right corner, containing the text 'ancillary orders'. An arrow points from this search bar to a text box on the right that reads: 'Search term "ancillary orders" entered in the search function on the Council's website'. Below the navigation bar, the page title is 'Magistrates' courts sentencing guidelines'. The main content area has a sub-header 'Magistrates' courts sentencing guidelines' and a paragraph explaining how to find offence specific guidelines. Below this is a search bar with the text 'Search offences' and a magnifying glass icon. The search results show 'Abstracting electricity' and 'Theft Act 1968, s.13'.

Figure 18: Partial search results from keywords ‘ancillary orders’ using the ‘search site’ function on the Council’s website



Recommendation A6: increase the scope of the search function on the offence specific guideline search pages to include additional sentencing resources on the Council’s website.

Priority: medium

While the site search bar in the top right-hand corner of the Council’s website is able to locate additional sentencing information, sentencers were observed almost exclusively using the search bar in the offence specific guidelines page. Increasing the scope of the search bar for the offence specific guidelines would make it easier to find relevant sentencing information. Under the current design of the website, sentencers have to remember which search bars need to be used to find different types of information.

The search functionality for the offence specific guidelines should also be expanded to include additional information such as overarching principles, explanatory materials and the Bench Books.

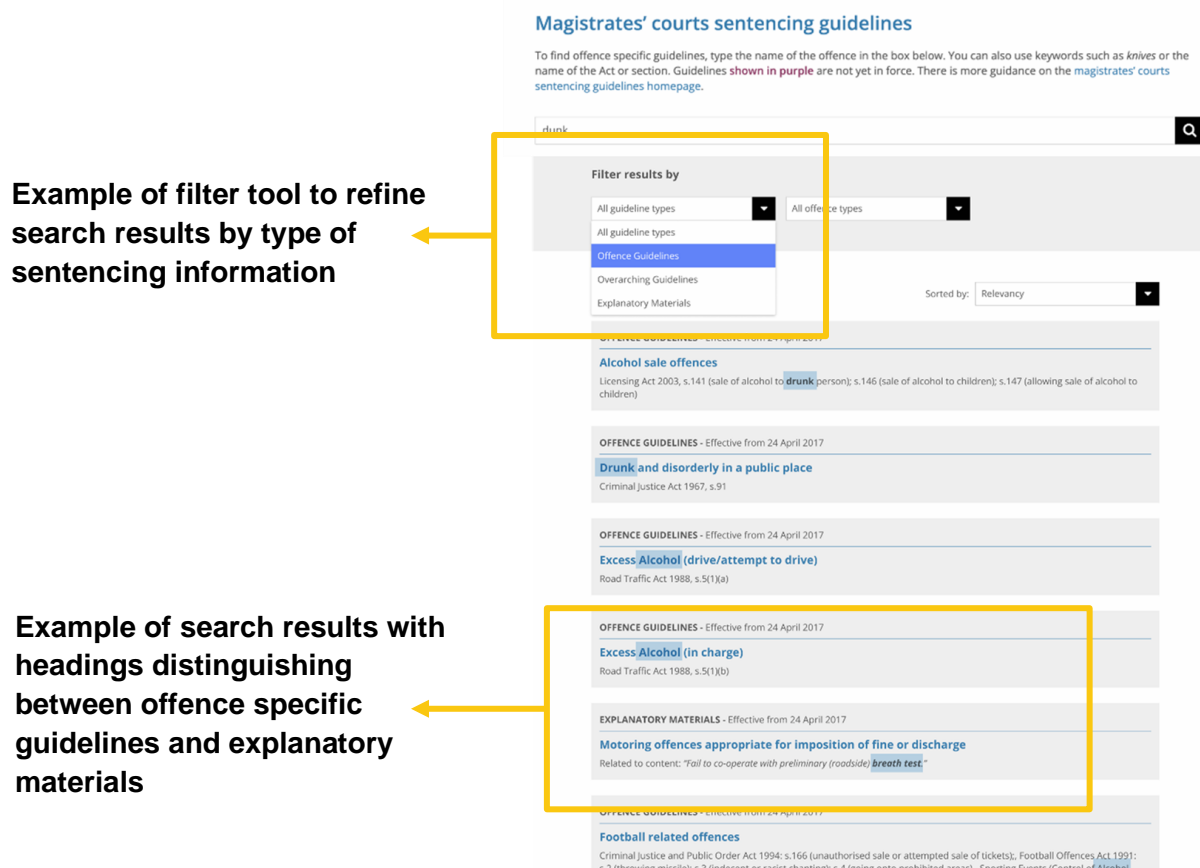
The results should be presented in a similar manner to offence specific guidelines. However, results for additional types of information should be easily distinguished from these. This could be achieved through labelling the type of information within the search results (e.g. offence specific guidelines, explanatory materials, etc.)

This could also be incorporated with Recommendation A2 (refining the layout of search results), where sentencers are provided with a tool to filter search results. This filter should be set to show offence specific guidelines as the default setting. This would avoid

providing too many different types of search results to sentencers using this search function.

An example of how this recommendation could be implemented is illustrated in Figure 19 below.

Figure 19: Mocked up example of recommendation A6



Finding A7: the search function does not let sentencers know if they are searching for an offence which does not have a guideline, resulting in sentencers being unsure if they are using the search function correctly to locate offence specific guidelines

Sentencers both expressed, and were observed to have difficulties with, determining if they were searching for an offence specific guideline which did not exist. When searching for such an offence, typically no search results were presented. However, this did not give a clear indication that the offence specific guideline did not exist or was not in force, or whether the search function had failed to provide a result.

This issue was further compounded by difficulties using the search functionality. For example, one sentencer reported attempting to find a guideline for the offence of 'Impersonating a Police Officer' (Police Act 1996, s.90). Different search terms were used, though each had no results. The sentencer assumed they may not have been entering an

appropriate search term. Only after multiple search attempts had they realised there may not be a guideline for this offence.

Figure 20: Example search for offence of ‘Impersonating a Police Officer’ on the magistrates’ court guidelines

Search term
‘impersonating a police officer’
entered into search bar

No results for this search are shown below the search bar

Magistrates’ courts sentencing guidelines

To find offence specific guidelines, type the name of the offence in the box below. You can also use keywords such as *knives* or the name of the Act or section. Guidelines **shown in purple** are not yet in force. There is more guidance on the [magistrates’ courts sentencing guidelines homepage](#).

Offences	Overarching Guidelines
Impersonating a police officer	

Recommendation A7: provide text prompts to sentencers when searching for guidelines which have not yet been developed.

Priority: medium

Provide prompts when sentencers might be searching for guidelines which do not yet exist. For example, a prompt could be shown when there are no guidelines identified in a search result, suggesting to sentencers that the offence being searched for may not currently have a guideline.

However, an error in search term may also provide no search results. To mitigate against suggesting to sentencers that guidelines may not exist in cases (where these offence specific guidelines are available but have not been listed in the search results), the prompt should also indicate there may be a spelling error in the search term.

This prompt could also indicate that sentencers could refer to the [General guideline: overarching principles](#), where there are no offence specific guidelines are available. For example, this prompt could include the phrase “If there is no offence specific guideline for the offence you are searching for, please use the General guideline.”

An example of how this recommendation could be implemented is illustrated in Figure 21.

Figure 21: Mocked up example of recommendation A7

Example of prompt about guideline not being in force, alongside a reminder to check for spelling errors

Sentencing Guidelines: Magistrates Crown Court

Sentencing Council

Search site

Offences | Sentencing and the Council | Going to court | News and articles | Research and resources

Home > Magistrates' courts sentencing guidelines

Magistrates' courts sentencing guidelines

To find offence specific guidelines, type the name of the offence in the box below. You can also use keywords such as *knives* or the name of the Act or section. There is more guidance on the [magistrates' courts sentencing guidelines homepage](#).

Impersonation of a police officer

0 results related to "Impersonation of a police officer"

A guideline for this offence may not yet be in force.

Please check for any spelling errors in the search bar.

Can't find what you're looking for?
Suggest a guideline

Please tell us about what you were looking for today so we can improve the content available or point to similar resources on our website.

Email *

Comment *

I searched for "Impersonation of a police officer" and there were 0 relevant results on your website.

☐ I'm not a robot

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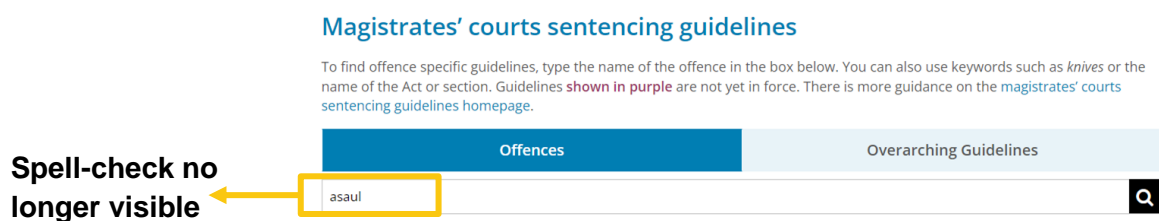
Finding A8: the spell-check function in the search bar for offence specific guidelines does not consistently indicate spelling errors

Sentencers noted certain offence names could be difficult to type into the search bar, especially if they were under time pressure. Most were aware there was a spell-check function (i.e. a red underline beneath spelling errors). An example of this spell-check function in the search bar on the offence guidelines search page, is shown in Figure 22, below. However this remained visible only if sentencers did not click outside of the search bar (including clicking on the search icon).

Figure 22: Spell-check visible in search bar, whilst cursor has clicked on search bar



Figure 23: Spell-check no longer visible, after clicking out of the search bar



Recommendation A8: refine the spell-check function to be consistently visible to sentencers and provide suggestions for correct spelling.

Priority: medium

The search function should be refined to indicate spelling errors, even after sentencers have clicked outside of the search bar. Additionally suggested search terms with accurate spelling should be provided.

An example of how this recommendation could be implemented is illustrated in Figure 24.

Figure 24: Mocked up example of recommendation A8



B. How easy is it for sentencers to use the guidelines given the current layout and format of the guidelines?

Finding B1: sentencers generally felt the guidelines were well laid out, though could be improved to reduce scrolling back and forth between different sections

Sentencers felt the offence specific guidelines followed a logical order and valued having all of the relevant steps included within them. Currently, these types of guidelines include a step-by-step process that sentencers should take when making sentencing decisions.

There are typically nine steps including:

1. determining the offence category
2. starting point and category range
3. consider any factors which indicate a reduction for assistance to the prosecution
4. reduction in sentence for a guilty plea
5. dangerousness
6. totality principle
7. compensation and ancillary orders
8. reasons for the sentence
9. consideration for time spent on bail (tagged curfew)

Additionally, these steps are provided in a consistent manner for most offence specific guidelines, which facilitates sentencers' decision making when dealing with different offences.

While information included within offence specific guidelines was perceived to be helpful, some magistrates reported they were faced with too much information, with one magistrate stating these were "too busy" and had "too many words". They also felt some of the information was not as relevant to them as it was to judges (for example, when the starting points and category ranges for a sentence was beyond the power of magistrates to impose). Some reported feeling overwhelmed by the amount of information, especially when making sentencing decisions sitting in court. This was particularly the case when looking at the overarching guidelines for 'Sentencing offenders with mental disorders, developmental disorders, or neurological impairments', 'Totality' and 'Sentencing Children and Young People'.

Further, the volume of information available led to magistrates spending additional time scrolling through the guidelines to locate relevant sections for their cases. This process was time consuming, especially when magistrates were dealing with multiple cases a day.

Recommendation B1: provide a floating contents table linking to different sections of the guidelines and increase the spacing between different steps of offence specific guidelines.

Priority: high

Guidelines should have a short contents table on the side of the guidelines (similar to the contents tables in overarching guidelines). This table should be presented on either the left or right side of the guidelines, though having this on the left side may make it slightly quicker for sentencers to navigate the guidelines ([Kingsburg and Andre, 2004](#)).

As with the overarching guidelines, the table should be hyperlinked to different steps within the guidelines. Additionally, the different steps of the guidelines should also be spaced further apart, to help reduce the perception of having to navigate through a lot of information.

An example of how this recommendation could be implemented is illustrated in Figure 25.

Figure 25: Mocked up example of recommendation B1

Example of contents table on the side of offence specific guidelines, which remains visible whilst scrolling through guideline

Includes direct links to different steps of the guideline

Guideline Contents	Factors increasing seriousness
Applicability	<p>school premises either when school in use as such or at a time between one hour before and one hour after they are to be used.</p> <ul style="list-style-type: none"> • Offence committed on bail
<p>Step 1</p> <p>Determining the offence category</p>	<p>Other aggravating factors include:</p> <ul style="list-style-type: none"> • Exploitation of children and/or vulnerable persons to assist in drug-related activity • Exercising control over the home of another person for drug-related activity • Targeting of any premises where children or other vulnerable persons are likely to be present • Exposure of drug user to the risk of serious harm over and above that expected by the user, for example, through the method of production or subsequent adulteration of the drug • Exposure of those involved in drug dealing to the risk of serious harm, for example through method of transporting drugs • Exposure of third parties to the risk of serious harm, for example, through the location of the drug-related activity • Attempts to conceal or dispose of evidence, where not charged separately • Presence of others, especially children and/or non-users • Presence of weapons, where not charged separately • Use of violence (where not charged as separate offence or taken into account at step one) • Failure to comply with current court orders • Offending took place in prison (unless already taken into consideration at step 1) • Offender was supplying or involved in the supply of drugs into prison • Offence committed on licence or post sentence supervision • Established evidence of community impact • Use of sophisticated methods or technologies in order to avoid or impede detection
<p>Step 2</p> <p>Starting point and category range</p> <ul style="list-style-type: none"> — Category Class A — Category Class B — Category Class C — Factors increasing seriousness — Factors reducing seriousness or reflecting personal mitigation 	<p>Factors reducing seriousness or reflecting personal mitigation</p> <ul style="list-style-type: none"> • Involvement due to pressure, intimidation or coercion falling short of duress, except where already taken into account at step one. • Supply only of drug to which offender addicted • Mistaken belief of the offender regarding the type of drug, taking into account the reasonableness of such belief in all the circumstances • Isolated incident • No previous convictions or no relevant or recent convictions • Remorse • Good character and/or exemplary conduct • Determination and/or demonstration of steps having been taken to address addiction or offending behaviour • Serious medical conditions requiring urgent, intensive or long-term treatment • Age and/or lack of maturity • Mental disorder or learning disability • Sole or primary carer for dependent relatives • Offender's vulnerability was exploited
<p>Step 3</p> <p>Minimum Terms</p>	
<p>Step 4</p> <p>Consider any factors which indicate a reduction, such as assistance to the prosecution</p>	
<p>Step 5</p> <p>Reduction for guilty pleas</p>	
<p>Step 6</p> <p>Totality principle</p>	
<p>Step 7</p> <p>Confiscation and ancillary orders</p>	
<p>Step 8</p> <p>Reasons</p>	
<p>Step 9</p> <p>Consideration for time spent on bail</p>	

Finding B2: Sentencers were not always aware that some aggravating and mitigating factors included expandable boxes with additional information

Some sentencers were observed clicking on aggravating factors and mitigating factors to reveal additional information within an expandable dropdown box (known as the 'expanded explanations' for guidelines). They liked having the option to access this additional information (rather than this being constantly visible) and adding to the amount of information within the offence specific guidelines.

However, not all sentencers were aware that certain aggravating or mitigating factors had expanded explanations. They remarked they had not considered the dotted line beneath these factors to be indicative of having an expandable box. This was not consistent with how other dropdown boxes were presented in the guidelines (often with a small downwards arrow on the right side of the title). Moreover, some participants also lacked awareness about the existence of other dropdown boxes within offence specific guidelines.

Figure 26: Expanded explanations for the aggravating factor 'Offence was committed as part of a group' for the offence of possession of a prohibited weapon

Current presentation of expanded explanation for an aggravating factor, within an offence guideline

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Firearm modified to make it more dangerous
- Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- Firearm/ammunition kept with multiple weapons and/or substantial quantity of ammunition (See step 6 on totality when sentencing more than one offence.)
- **Offence was committed as part of a group**

Effective from: 01 October 2019

Care should be taken to avoid double counting factors including those already taken into account in assessing culpability or harm or those inherent in the offence

The mere membership of a group (two or more persons) should not be used to increase the sentence, but where the offence was committed as part of a group this will normally make it more serious because:

- the harm caused (both physical or psychological) or the potential for harm may be greater and/or
- the culpability of the offender may be higher (the role of the offender within the group will be a relevant consideration).

- Involvement by the offender of others through coercion, intimidation or exploitation
- Abuse of position as registered firearms dealer, certificate holder or other authorised user
- Commission of offence whilst under the influence of alcohol or drugs
- Offender prohibited from possessing weapon or ammunition because of previous conviction (Care should be taken to avoid double counting matters taken into account when considering previous convictions. See step 6 on totality when sentencing more than one offence.)
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision

Separately, depending on sentencers' familiarity with these factors, certain offences, and extent of their legal knowledge, they felt it was not necessary to access this information. Judges felt these boxes might be more useful for magistrates or less experienced sentencers. Some magistrates noted seeking advice from legal advisers rather than accessing the information within these expandable boxes themselves.

Recommendation B2: refine the design of aggravating and mitigating factors within offence specific guidelines to be more consistent with how other dropdown functions are generally presented online.

Priority: medium

A dropdown icon next to the aggravating and mitigating factors that contain expanded explanations should be provided. This icon should change once it is clicked and the expanded explanation is presented. These expandable dropdown factors should be expanded fully when they are clicked. This would match the way other dropdown boxes within the guidelines operate.

Additionally, the font colour of factors with expanded explanations should also be different to those factors which do not have expanded explanations. The dotted line underneath the factors with expanded explanations should also be removed.

An example of how this recommendation could be implemented is illustrated in Figure 27.

Figure 27: Mocked up example of recommendation B2

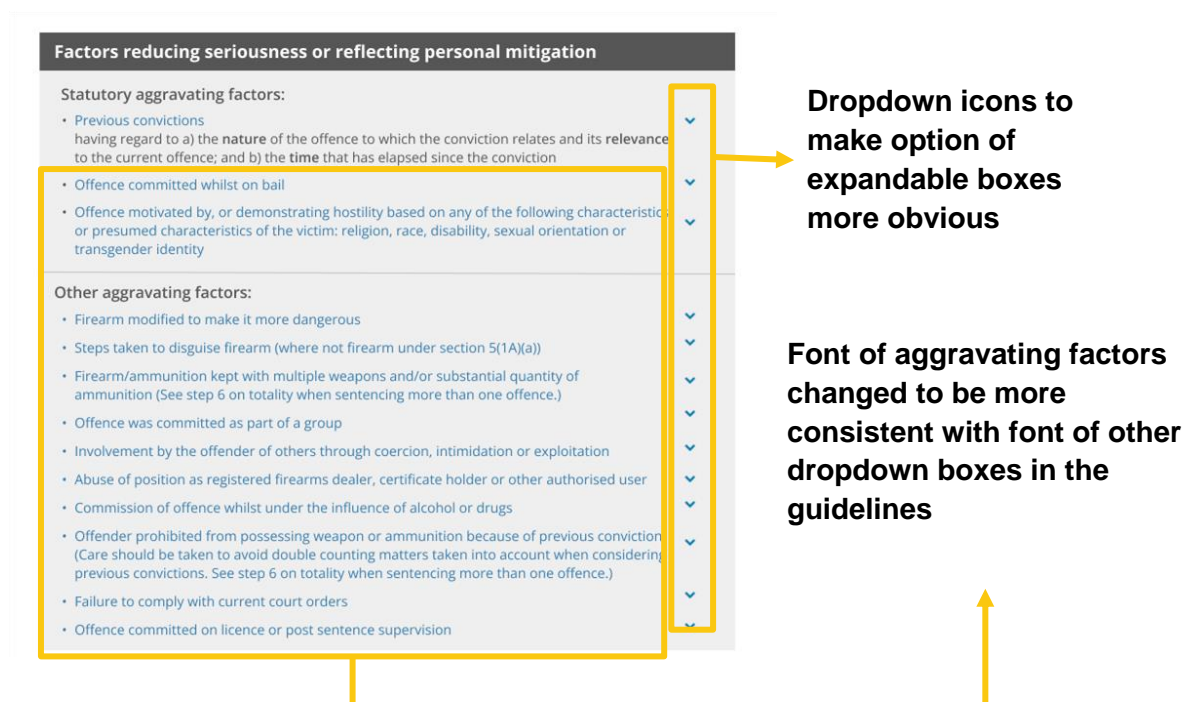


Figure 28: Comparison image of other dropdown boxes currently listed within offence specific guidelines



Finding B3: some offence specific guidelines contain multiple starting point and category range tables, which were sometimes confusing for sentencers

Within certain offence specific guidelines there are multiple tables for the starting point and category ranges (e.g. for drug-related offence specific guidelines, there are multiple tables for different classes of drugs). Sentencers did not always know if they were looking at the correct table. This was due to all tables looking the same, and header rows not being visible when scrolling through these tables. Some magistrates were observed using the incorrect table when making mock sentencing decisions.

Additionally, for drug-related offences sentencers suggested the guidelines should provide information on which substances belong to different classes of drugs.

Figure 29: Partial tables of starting point and category ranges for the ‘Possession of a controlled drug with intent to supply it to another’ guideline

Two different tables of starting point and category ranges within a drug-related offence specific guideline

Both presented close to each other, with similar header rows, making it difficult to distinguish between them

CLASS A			
	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
	Starting point 14 years' custody	Starting point 10 years' custody	Starting point 7 years' custody
Category 1	Category range 12 – 16 years' custody	Category range 9 – 12 years' custody	Category range 6 – 9 years' custody
Category 2	Starting point 11 years' custody	Starting point 8 years' custody	Starting point 5 years' custody
	Category range 9 – 13 years' custody	Category range 6 years 6 months' – 10 years' custody	Category range 3 years 6 months' – 7 years' custody
Category 3	Starting point 8 years 6 months' custody	Starting point 4 years 6 months' custody	Starting point 3 years' custody
	Category range 6 years 6 months' – 10 years' custody	Category range 3 years 6 months' – 7 years' custody	Category range 2 – 4 years 6 months' custody
Category 4	Starting point 5 years 6 months' custody	Starting point 3 years 6 months' custody	Starting point 18 months' custody
	Category range 4 years 6 months' – 7 years 6 months' custody	Category range 2 – 5 years' custody	Category range High level community order – 3 years' custody
CLASS B			
	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
	Starting point 8 years' custody	Starting point 5 years 6 months' custody	Starting point 3 years' custody
Category 1	Category range 7 – 10 years' custody	Category range 5 – 7 years' custody	Category range 2 years 6 months' – 5 years' custody
Category 2	Starting point 6 years' custody	Starting point 4 years' custody	Starting point 1 year's custody
	Category range 4 years 6 months' – 8 years' custody	Category range 2 years 6 months' – 5 years' custody	Category range 26 weeks' – 3 years' custody
Category 3	Starting point 4 years' custody	Starting point 1 year's custody	Starting point High level community order
	Category range 2 years 6 months' – 5 years' custody	Category range 26 weeks' – 3 years' custody	Category range Low level community order – 26 weeks' custody

Recommendation B3: make it easier for users to distinguish between the different tables of starting points and category ranges within offence specific guidelines.

Priority: medium

Provide a brief contents table in these offence specific guidelines (as also noted in Recommendation B1) that links to the different tables. Additionally, the heading of each table should be visible to users while they scroll through the table.

Examples of how this recommendation could be implemented are illustrated in Figure 30 and Figure 31.

Figure 30: Mocked up example of recommendation B3 (illustrating a contents table for the 'Possession of a controlled drug with intent to supply it to another' guideline)

Example of contents table on the side of a drug-related offence guideline

Contents table also has direct links to the different tables for starting points and category ranges

Guideline Contents		Step 2	
Applicability		Starting point and category range	
Step 1		Category	
Determining the offence category		Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.	
Step 2		Where the operation is on the most serious and commercial scale, involving a quantity of drugs significantly higher than category 1, sentences of 20 years and above may be appropriate, depending on the offender's role.	
Starting point and category range		Sentencers should be aware that there is evidence of a disparity in sentence outcomes for this offence which indicates that a higher proportion of Black, Asian and Other ethnicity offenders receive an immediate custodial sentence than White offenders and that for Asian offenders custodial sentence lengths have on average been longer than for White offenders. There may be many reasons for these differences, but in order to apply the guidelines fairly sentencers may find useful information and guidance at chapter 8 paragraphs 186 to 194 of the Equal Treatment Bench Book .	
<ul style="list-style-type: none"> Category Class A Category Class B Category Class C Factors increasing seriousness Factors reducing seriousness or reflecting personal mitigation 			
Step 3			
Minimum Terms			
Step 4			
Consider any factors which indicate a reduction, such as assistance to the prosecution			
Step 5			
Reduction for guilty pleas			
Step 6			
Totality principle			
Step 7			
Confiscation and ancillary orders			
Step 8			
Reasons			
Step 9			
Consideration for time spent on bail			

CLASS A	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	Starting point 14 years' custody	Starting point 10 years' custody	Starting point 7 years' custody
	Category range 12 – 16 years' custody	Category range 9 – 12 years' custody	Category range 6 – 9 years' custody
Category 2	Starting point 11 years' custody	Starting point 8 years' custody	Starting point 5 years' custody
	Category range 9 – 13 years' custody	Category range 6 years 6 months' – 10 years' custody	Category range 3 years 6 months' – 7 years' custody
Category 3	Starting point 8 years 6 months' custody	Starting point 4 years 6 months' custody	Starting point 3 years' custody
	Category range 6 years 6 months' – 10 years' custody	Category range 3 years 6 months' – 7 years' custody	Category range 2 – 4 years 6 months' custody
Category 4	Starting point 5 years 6 months' custody	Starting point 3 years 6 months' custody	Starting point 18 months' custody
	Category range 4 years 6 months' – 7 years 6 months' custody	Category range 2 – 5 years' custody	Category range High level community order – 3 years' custody

Figure 31: Mocked up example of recommendation B3 (illustrating the header row for starting point and category range table being visible whilst users scroll through the guideline)

Example of header row of table still visible whilst scrolling through guideline

Guideline Contents				
Applicability				
Step 1 Determining the offence category				
Step 2 Starting point and category range				
— Category Class A				
— Category Class B				
— Category Class C				
— Factors increasing seriousness				
— Factors reducing seriousness or reflecting personal mitigation				
Step 3 Minimum Terms				
Step 4 Consider any factors which indicate a reduction, such as assistance to the prosecution				
Step 5 Reduction for guilty pleas				
Step 6 Totality principle				
Step 7 Confiscation and ancillary orders				
Step 8 Reasons				
Step 9 Consideration for time spent on bail				
	CLASS B	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
	Category 1	Category range 2 years 6 months' – 5 years' custody	Category range 26 weeks' – 3 years' custody	Category range Low level community order – 26 weeks' custody
	Category 2	Starting point 18 months' custody	Starting point High level community order	Starting point Low level community order
	Category 3	Category range 26 weeks' – 3 years' custody	Category range Medium level community order – 26 weeks' custody	Category range Band B fine – Medium level community order
	Category 4	Starting point 6 years' custody	Starting point 3 years' custody	Starting point 10 months' custody
	CLASS C	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
	Category 1	Category range 4 – 8 years' custody	Category range 2 – 5 years' custody	Category range 1 – 3 years' custody
	Category 2	Starting point 3 years 6 months' custody	Starting point 18 months' custody	Starting point 26 weeks' custody
	Category 3	Category range 2 – 5 years' custody	Category range 1 – 3 years' custody	Category range 12 weeks' – 18 months' custody
	Category 4	Starting point 18 months' custody	Starting point 26 weeks' custody	Starting point High level community order
	Category 5	Category range 1 – 3 years' custody	Category range 12 weeks' – 18 months' custody	Category range Low level community order – 12 weeks' custody
	Category 6	Starting point 26 weeks' custody	Starting point High level community order	Starting point Low level community order
	Category 7	Category range High level community order – 18 months' custody	Category range Low level community order – 12 weeks' custody	Category range Band A fine – Medium level community order

C. How easy is it for sentencers to access different guidelines and additional sentencing resources on the Council's website?

Finding C1: the blue sidebar was a useful shortcut to get to other sentencing resources, though it was not always clear exactly what resources were available through the sidebar

For guidelines in both the magistrates' court and Crown Court, there is a blue sidebar on the left side of the page (as seen in Figure 32 below). This expandable blue sidebar contains links to other resources available on the Council's website. Sentencers felt the blue sidebar on the left of the screen provided a quick shortcut to access frequently used resources. The sidebar was largely used as a mechanism to navigate to three main functions: the offence guideline search page, the [fine calculator](#) (a tool available on the Council's website which can be used to calculate the total financial penalty in a case), and the overarching guidelines. However beyond these functions, sentencers both expressed and were observed having limited use for the sidebar.

In addition, some judges and magistrates were not aware of the blue sidebar, reporting that they hadn't previously noticed it on the page and didn't understand its purpose. Similarly, others stated they didn't use many of the resources in the sidebar, as they were not aware of what resources the sidebar included.

Aside from the fine calculator and search icon, sentencers felt it was unclear what the other icons were for, often having to hold their cursor over an icon to understand what resources these icons referred to.

Recommendation C1: embed the blue sidebar at the top of the guideline pages and clearly label the icons.

Priority: medium

The blue sidebar should be embedded into the top of the webpage of the guidelines to make sentencers more aware of it. This should also remain visible when scrolling through the page. This will prevent users from having to scroll up each time they would like to use the blue bar.

It should be located at the top of the page and should remain here, as the location of the sidebar currently changes from the side of the guidelines to the top of the guidelines when the size of the browser is reduced (see Figures 32 and 33). This will help give sentencers a sense of consistency.

Additionally, the names of icons should be presented next to the icons, to help make it clear what these refer to.

Figure 32: Comparison image of blue sidebar as currently presented in the magistrates' court guidelines

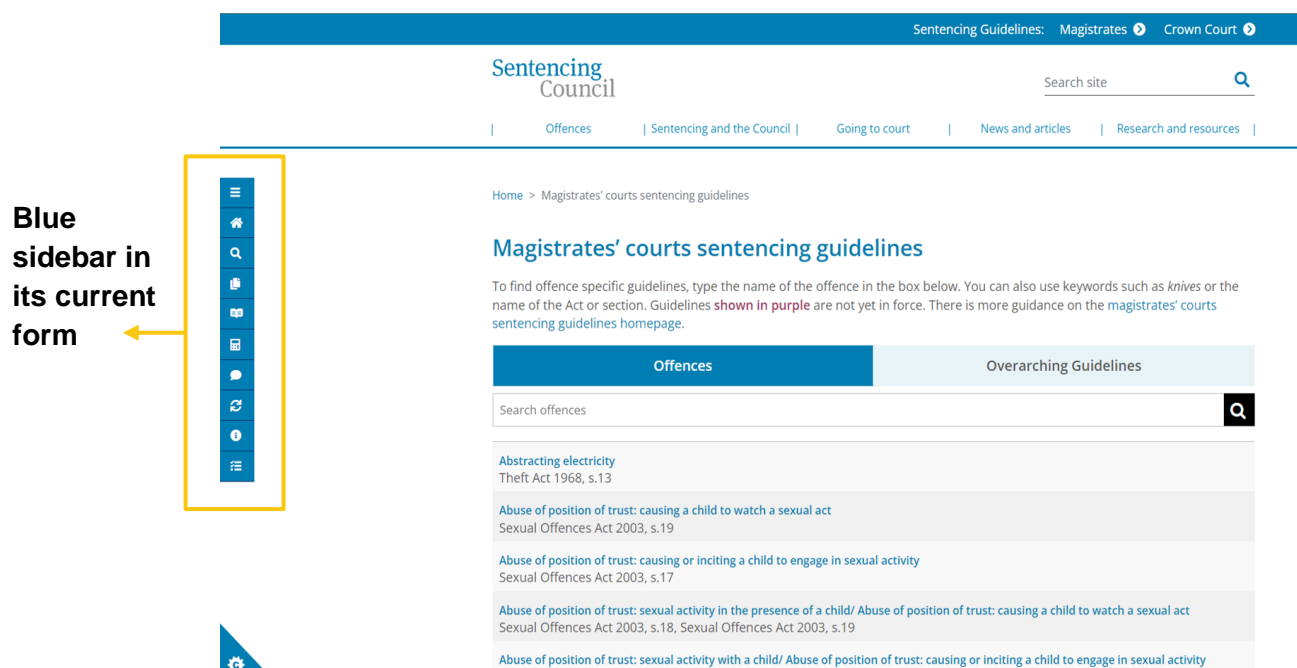
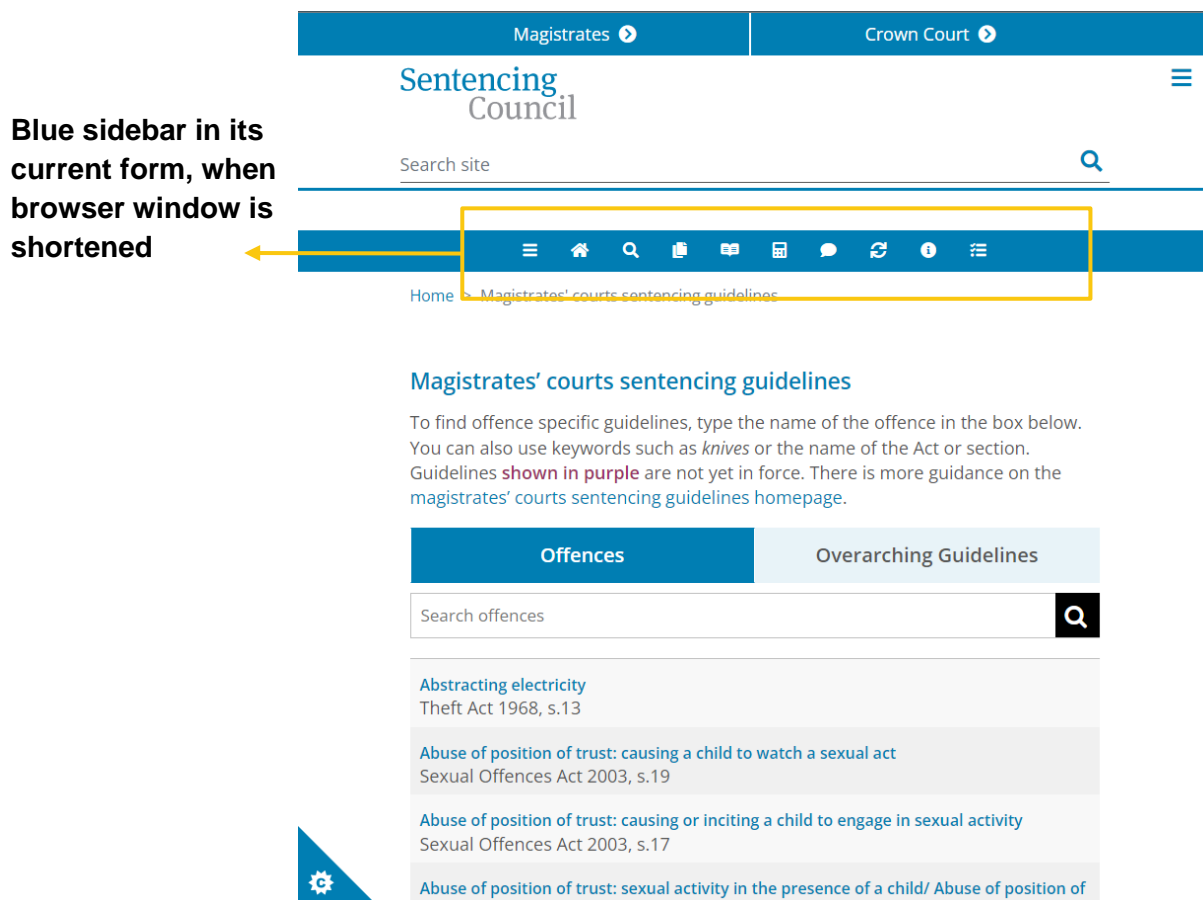


Figure 33: Image of blue sidebar for the sentencing guidelines when browser window is shortened to split-screen display



Examples of how this recommendation could be implemented are illustrated in Figures 34, 35, 36 and 37.

Figure 34: Mocked up example of recommendation C1 (for the magistrates' court guidelines) showing embedded blue bar

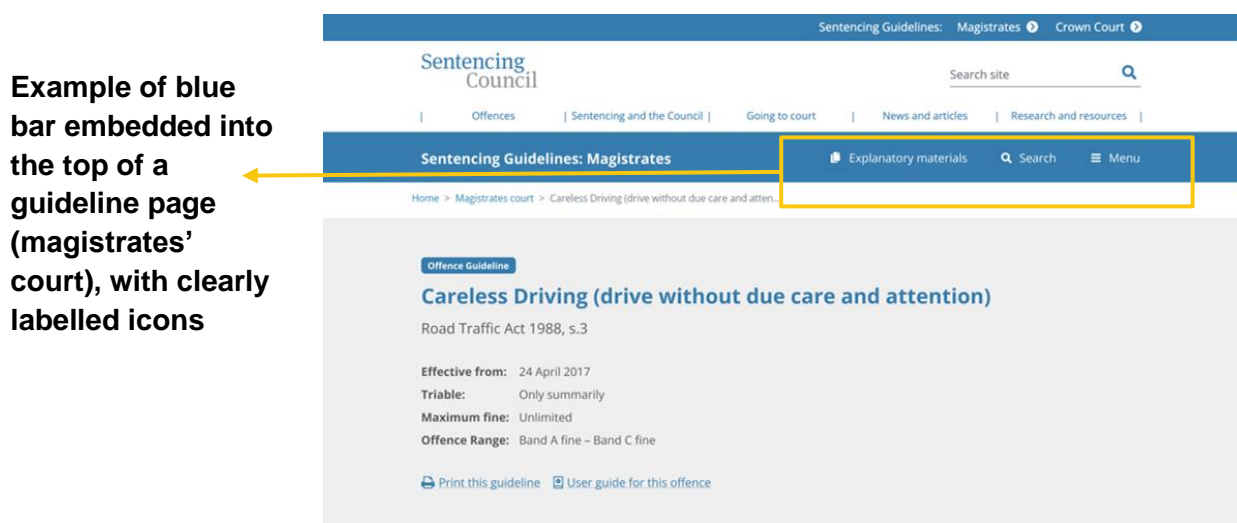


Figure 35: Mocked up example of recommendation C1 (for the magistrates' court guidelines) showing embedded blue bar when expanded

Example of blue bar embedded into the top of a guideline page (magistrates' court), when expanded to show additional icons with clear labels

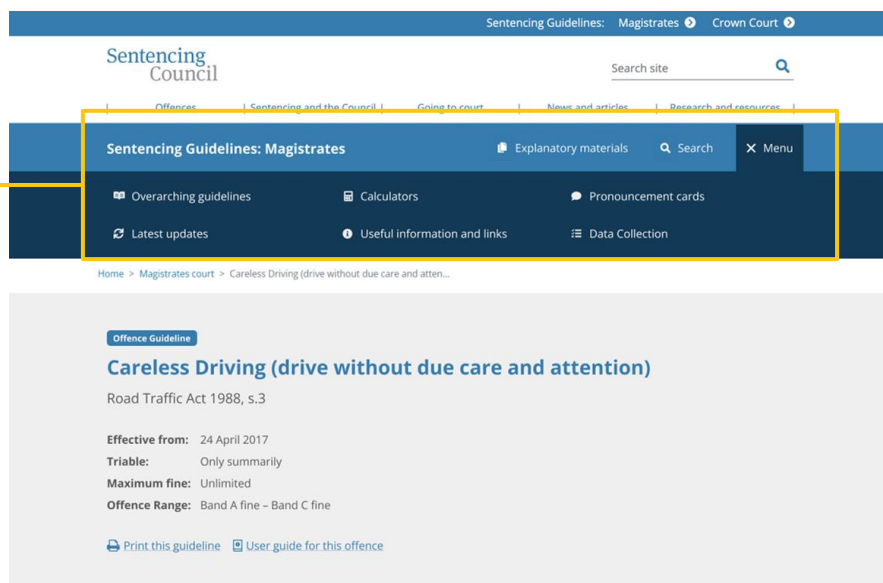


Figure 36: Mocked up example of recommendation C1 (for the Crown Court guidelines) showing embedded blue bar

Example of blue bar embedded into the top of a guideline page (Crown Court), with clearly labelled icons

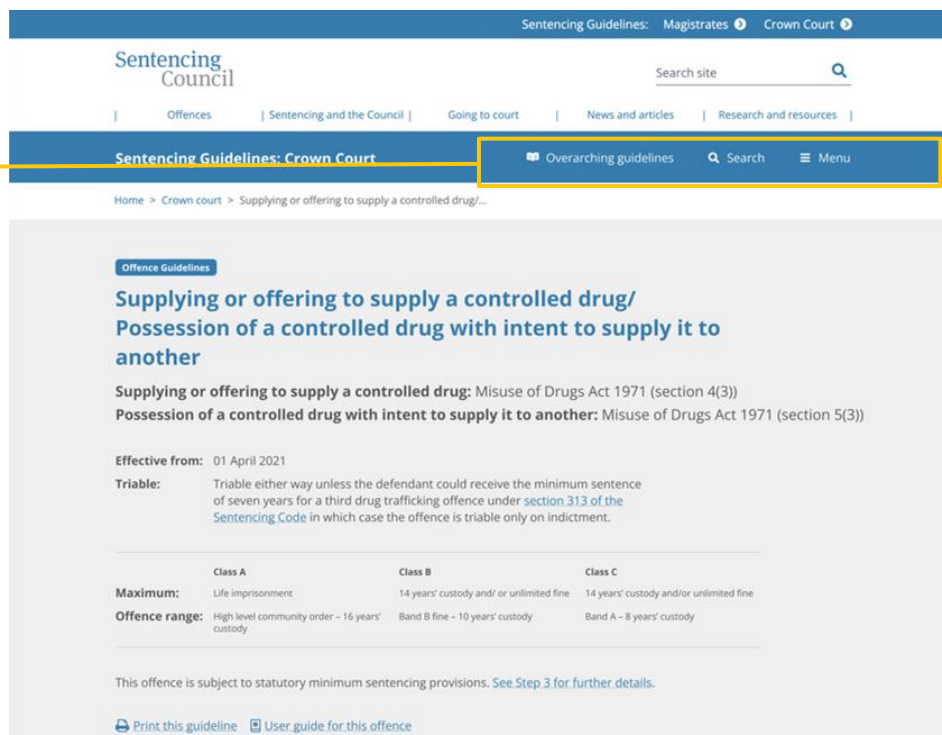
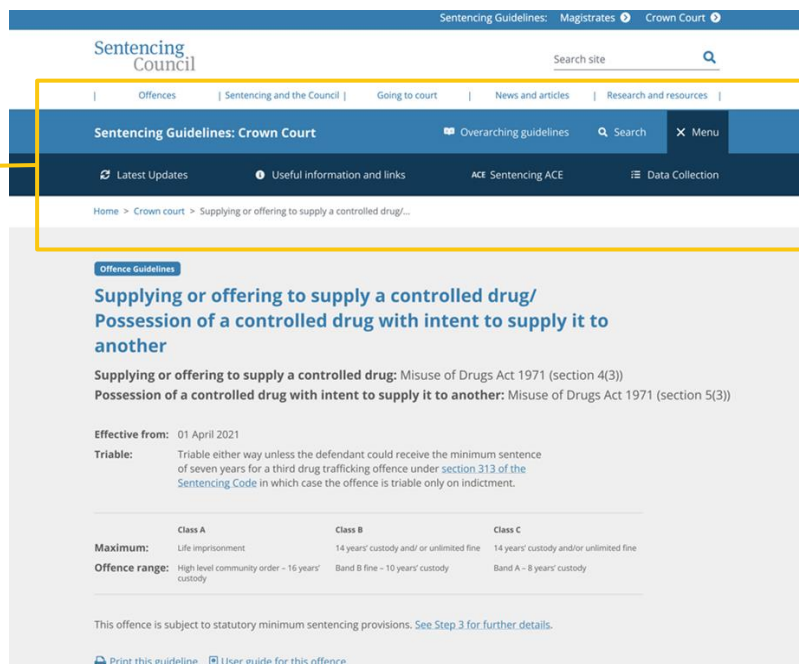


Figure 37: Mocked up example of recommendation C1 (for the Crown Court guidelines) showing embedded blue bar when expanded

Example of blue bar embedded into the top of a guideline page (Crown Court), when expanded to show additional icons with clear labels



Finding C2: not all sentencers are aware of the information available in the explanatory materials

There is a lack of awareness among sentencers around the purpose of explanatory materials. When asked about these materials some sentencers seemed unsure of what constituted explanatory materials, and stated they did not refer to these on a regular basis. It is possible sentencers consider explanatory materials contain non-critical information, thereby discouraging them from referring to these on a regular basis. Moreover, some magistrates refer to their legal adviser rather than finding and reading additional information such as in explanatory materials.

Additionally, sentencers were not very familiar with how and where to find explanatory materials. Researchers observed sentencers undertaking a relatively complex process to locate relevant types of explanatory material they wanted. For example, sentencers spent a lot of time searching for certain explanatory materials (e.g. on restraining orders), but often landed on the wrong page and had to resume their search process.

However, other sentencers stated they were aware of the explanatory materials and found them useful when making sentencing decisions (e.g. when needing to refer to ancillary orders such as deprivation or restraining orders).

Recommendation C2: make the explanatory materials icon in the blue sidebar more obvious and provide awareness on the information it contains.

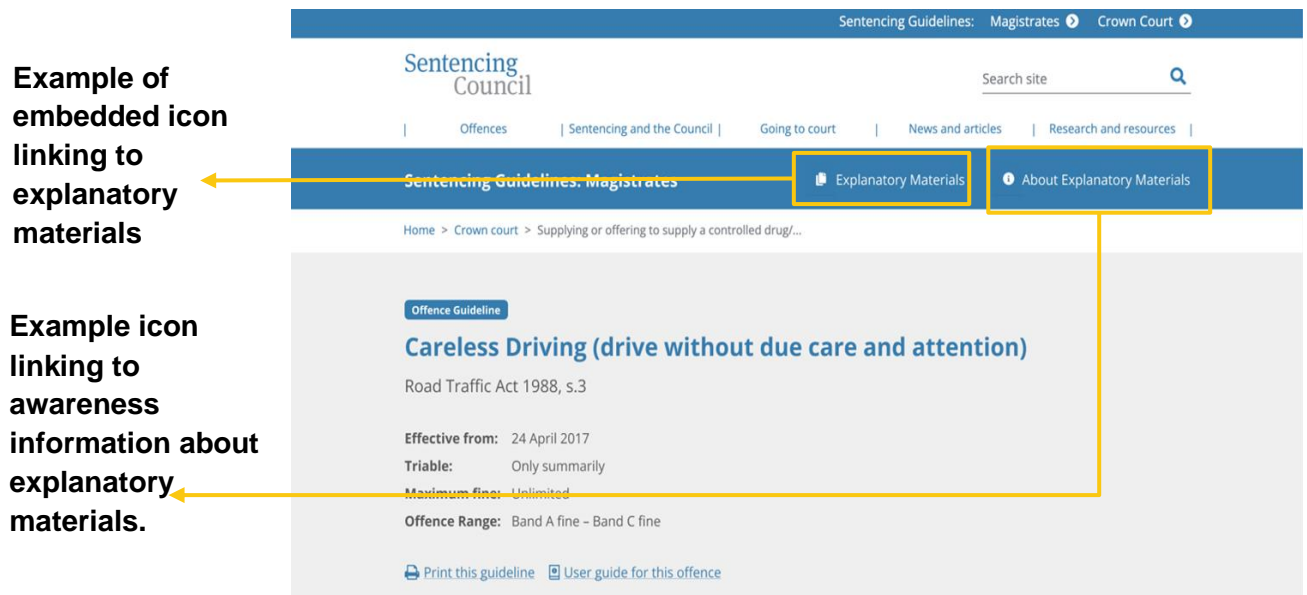
Priority: medium

Similar to Recommendation C1 (embedding the blue sidebar at the top of the guideline page), a clearly labelled icon with a link to the explanatory materials should be embedded at the top of the guideline pages. This icon should always be visible and clearly labelled.

The Council should also have an 'additional information' icon with a link to a page containing information about the explanatory material. This should include a brief explainer video with accompanying text about the explanatory materials.

An example of how this recommendation could be implemented is illustrated in Figure 38.

Figure 38: Mocked up example of recommendation C2



Finding C3: sentencers did not find it intuitive to locate the Bench Books on the Council's website

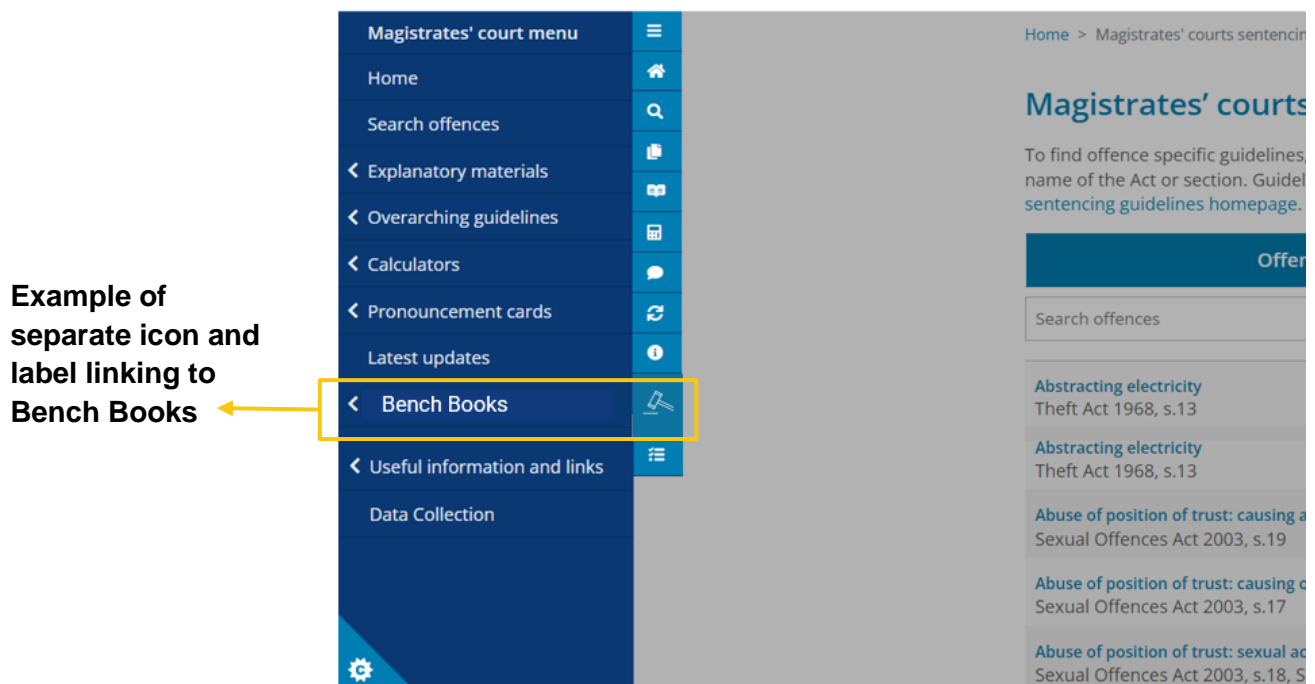
Some sentencers used additional resources on the Council's website such as the Adult Court Bench Book and Equal Treatment Bench Book to inform their sentencing. However, sentencers did not find them easy to locate. For example, the Bench Books can be accessed in the magistrates' court guidelines via the sidebar through the icon 'useful information'. However, when shown, sentencers were surprised to find the Bench Books available through this icon.

Recommendation C3: refine the blue sidebar to include a separate icon which makes it clearer this links to the Bench Books.

Priority: low

Rename the icon in the blue sidebar (which currently links to the adult, youth and Equal Treatment Bench Books) to be more descriptive. For example, this icon should be titled 'Bench Books'. An example of how this recommendation could (partially) be implemented is illustrated in Figure 39.

Figure 39: Mocked up example of recommendation C3

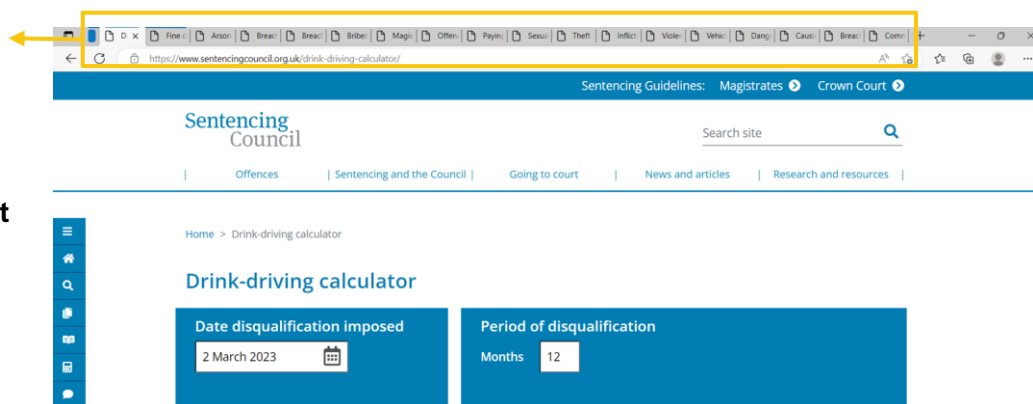


Finding C4: some sentencers, especially those with lower levels of digital confidence, found it difficult to navigate between multiple offence specific guidelines and other resources

Some sentencers found it helpful to open relevant offence specific guidelines ahead of their court sessions. However, this often resulted in multiple tabs being open in the same window if more than one guideline needed to be referenced. Switching between these tabs was reported to be time consuming and often required clicking into a tab to see whether it was the relevant guideline.

Figure 40: Illustrative example of observing sentencers with multiple tabs open of different guidelines and other resources

Illustrative example of observing sentencers with multiple tabs open of different guidelines and other resources

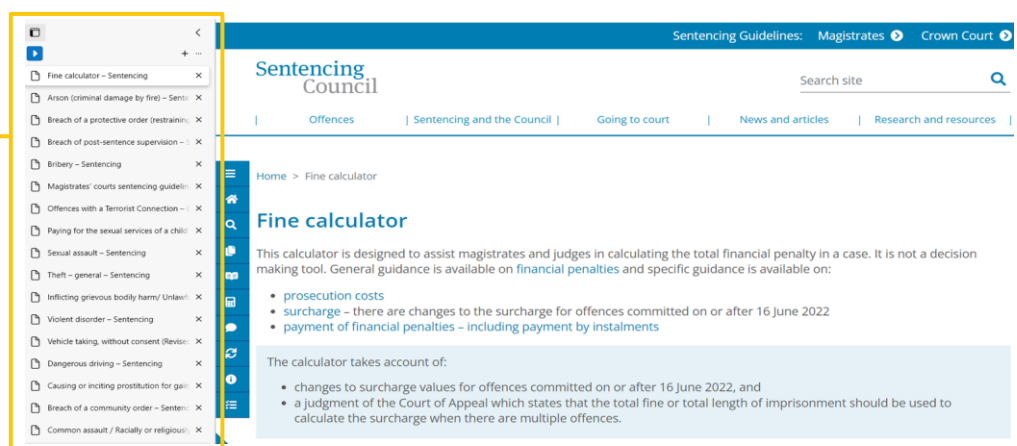


This may have also been influenced by individuals' levels of digital literacy, as some sentencers were not confident using multiple tabs to access different web pages. For example, one sentencer noted they would like to view two separate guidelines side-by-side but did not think this could be done "unless you were a technical whiz". Another sentencer was observed viewing only one guideline at a time, as they did not know how to open different guidelines in separate tabs.

Conversely, some sentencers arranged their tabs vertically in Microsoft Edge. This was observed to more clearly list the names of offence specific guidelines for each opened tab. This appeared to make it easier for them to navigate between multiple tabs.

Figure 41: Illustrative example of observing sentencers using vertical tabs to view and access multiple guidelines and other resources

When multiple tabs displayed vertically in Microsoft Edge, it is easier to switch between different offence specific guidelines



Recommendation C4: provide prompts with optional guides, to help sentencers who are not confident in their digital skills to better navigate the guidelines.

Priority: medium

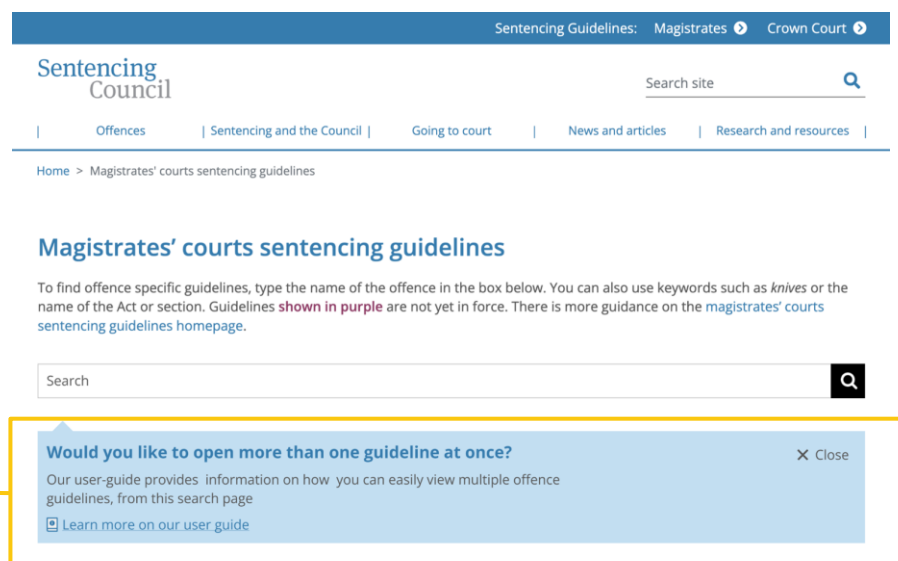
The Council should provide prompts with optional guides at points where sentencers with lower confidence in their digital skills may struggle to use the website intuitively. For example, providing a prompt asking ‘would you like to open guidelines in a new tab?’ when sentencers run a search. This should allow sentencers to view a brief guide on using multiple tabs. The guides should provide specific advice with short video clips and accompanying text where appropriate.

These prompts should be automatically opened when sentencers access the offence specific search page. To avoid being seen as annoying or irrelevant to sentencers, these prompts should only be available for a relatively short time period (e.g. one week), though could also be presented again at a later date (e.g. six months later).

These prompts could also refer to guides about changes made as a result of this research project. This would support a smooth adjustment period for sentencers, as changes are made to the guidelines.

Figure 42: Mocked up example of recommendation C4

Example of prompt offering information on viewing multiple offence specific guidelines, with link to a user guide



Finding C5: some sentencers had difficulty navigating to the table with starting points for compensating physical and mental injuries

Some sentencers described that they found it relatively easy to access other commonly used resources on the Council's website (e.g. the fine calculator and pronouncement cards).

However, there were some who were observed struggling to find the tables with [suggested starting points for compensating physical and mental injuries](#). They also stated they had

difficulty locating this information quickly. These sentencers were also observed being unsure of where this information was located in the Council's website.

Recommendation C5: embed information about compensation within offence specific guidelines.

Priority: low

Similar to how fines are presented within the offence specific guidelines, a separate dropdown box with information about compensation should also be embedded within offence specific guidelines. This information should also provide a hyperlink to the explanatory materials section on compensation, for sentencers to refer to additional information if needed.

If practical, the Council could also consider providing this only in offence specific guidelines which relate to offences in which victims likely suffer physical or mental injury (e.g. common assault).

Alternatively, the Council could consider including a hyperlink directly to the [suggested starting points for physical and mental injuries](#) page within the offence specific guidelines. While some offence specific guidelines currently provide a link to the [Introduction to compensation](#) page, at step 7 of these guidelines, it may be beneficial to have a separate link to the [suggested starting points for physical and mental injuries](#) page.

An example of how this recommendation could be implemented is illustrated in Figure 43.

Figure 43: Comparison image of dropdowns for fines, community orders and custodial sentences, currently listed on offence specific guidelines

Current dropdowns listed in offence specific guidelines

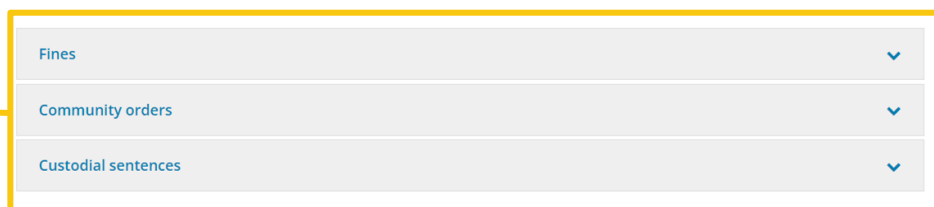
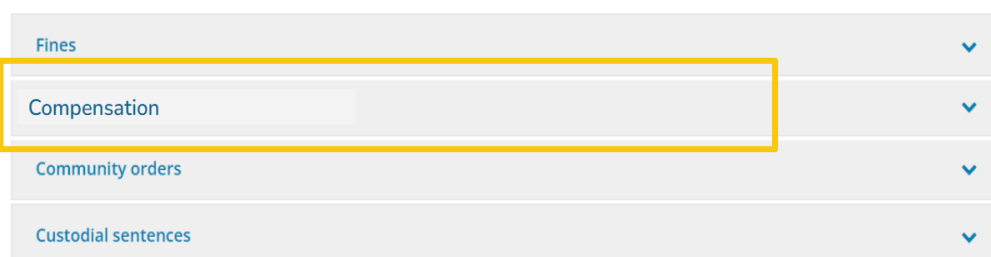


Figure 44: Mocked up example of recommendation C5

Example of additional dropdown box with information on compensation



D. How do sentencers access the guidelines?

Finding D1: The landing page varies for magistrates depending on how they reach the guidelines

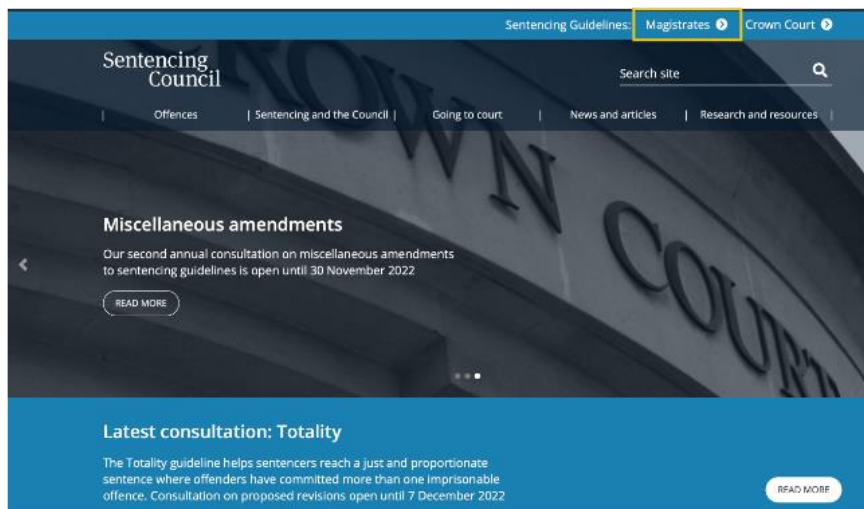
Routes to the sentencing guidelines for the magistrates' court can take magistrates to one of two pages.

The magistrates' court guidelines have a dedicated landing page as well as the offence specific guidelines search page. Magistrates land on either page, depending on which shortcut or link they are following. The offence specific guidelines search page was consistently considered to be the main page magistrates wanted to get to in order to access the guidelines.

When accessing the guidelines from the desktop shortcut on a court laptop, magistrates reached the offence specific guideline search page. However, when accessing the guidelines from the shortcut on the eJudiciary homepage, or through a link on the home page of the Council's website, magistrates reached the magistrates' sentencing guidelines homepage. This required an additional click for magistrates to reach the offence specific guidelines search page, as illustrated in Figure 45. Magistrates suggested they would prefer that all shortcuts to the guidelines landed on the offence specific guideline search page. **Figure 45: User journey to access magistrates' court guidelines search page, via landing page**

Arrives at the Council's website

Clicks on link in top-right corner

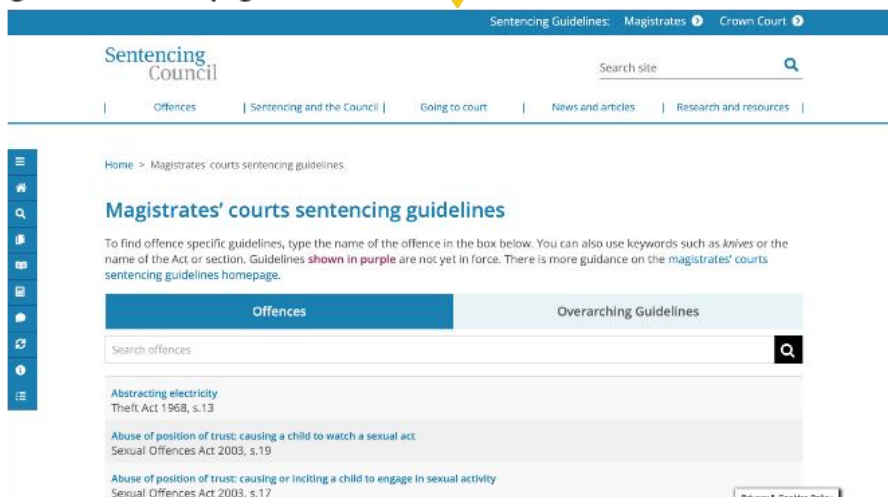


Arrives at landing page

Clicks on link in paragraph



Arrives at offence guideline search page



Recommendation D1: work with HMCTS to ensure all shortcuts or links to the magistrates' guidelines consistently bring sentencers to the offence guideline search page.

Priority: low

All icons and shortcuts to the sentencing guidelines for the magistrates' court should link directly to the offence specific guidelines search page (for the magistrates' court).

E. How do sentencers use the guidelines when making sentencing decisions?

Finding E1: sentencers use the offence specific guidelines to inform their decision-making, but do not always physically look at the guidelines in each case (as they report they are familiar with the content of these guidelines)

Under the Sentencing Code, courts are bound to follow sentencing guidelines that are relevant to the case before them unless it is contrary to the interests of justice to do so. How sentencers use the Council's website is therefore important to those making sentencing decisions, but how sentencers use the guidelines can vary.

When sentencers were familiar with the offences in a case, they did not always look at the corresponding guidelines, and would rely on their understanding and recollection of the information within the guidelines. They expressed confidence about knowing the information contained in the guidelines, to allow them to make an appropriate sentencing decision. While they were more likely to refer to guidelines when dealing with offences that they were less familiar with, this does pose a risk that they may not be aware of updates to offence specific guidelines.

Sentencers (particularly magistrates) reported that they tended to prepare for their working day by opening the offence specific guidelines that were relevant to all their upcoming cases for that day. Magistrates said that they generally did not have time to review these guidelines before sitting in court but would have them open on their court laptops to be able to refer to these when dealing with cases. Magistrates also referred to some explanatory materials (particularly the fine calculator), when making sentencing decisions whilst sitting in court.

Although magistrates typically did not review the overarching guidelines when sitting in court, mostly due to time constraints, they did state they would look at the information in overarching guidelines if they were dealing with a more complex case. This usually involves taking time to deliberate the case in retiring rooms, where they would be able to review offence specific and overarching guidelines. In addition, most magistrates noted they were generally aware of the information contained within the overarching guidelines.

Judges were more likely than magistrates to review the guidelines before sitting in court to form a view about their sentencing decision. This was partially due to having more time

available before sitting in court to deal with cases. Similarly, judges were more likely than magistrates to refer to the overarching guidelines, given they may have more time to prepare for a case. Additionally, judges may be dealing with more complex cases which requires referring to the overarching guidelines more frequently. Judges would also refer to the sentencing guidelines whilst sitting in court. They also referred to other professional judicial resources (e.g. Archbold, Sentencing Referencer) to seek additional sentencing information, more than the information on the Council's website.

Recommendation E1: communicate more directly with sentencers when guidelines are revised and encourage sentencers to review changes

Priority: medium

The Council should send an email alert to all sentencers when the contents of an offence specific guideline is updated or changed.

Additional findings and suggestions

A high-level review of the offence specific guideline pages was conducted, using the [Web Accessibility Evaluation Tool \(WAVE\)](#). The WAVE tool is designed to identify elements within web pages that might not align with the Web Content Accessibility Guidelines (WCAG). The WCAG provide guidance on how information should be published on the internet, to be more easily accessible to people with different levels of ability (e.g. visual, learning or physical abilities).

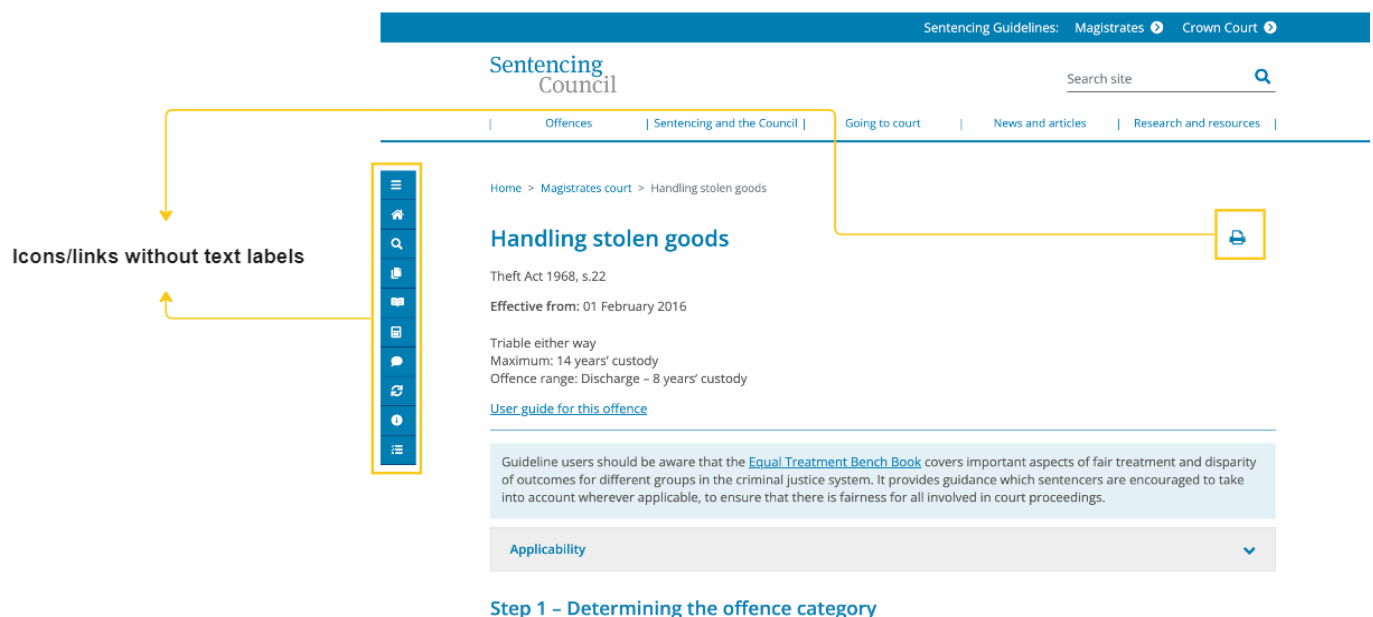
Three main findings were identified, relating to the way icons and colour contrast was presented within offence specific guidelines. These findings may also be applicable to other guidelines and pages on the Council's website which have the same design features as the offence specific guidelines.

Icons

Finding 1: icons and links within the guidelines were not always labelled

Links or icons which do not have accompanying text can introduce confusion for keyboard and screen-reader users. The blue sidebar in the offence specific guidelines does not automatically present with accompanying text to users of the guidelines (see Figure 46).

Figure 46: Examples of icons in blue sidebar and link to print guideline, without accompanying text labels



Suggestion: embed relevant descriptive text for icons and links within the offence specific guidelines pages.

For icons in the blue sidebar, this suggestion could be incorporated within Recommendation C1 (embedding the blue sidebar at the top of the guidelines page).

Finding 2: icons within the blue sidebar appear to be smaller than recommended by accessibility standards

The size of icons within the blue sidebar appear to be smaller than the recommended size for icons (44 x 44 pixels), as suggested by the [WCAG 2.1](#).

Suggestion: increase the size of icons displayed on the guidelines, to at least 44x44 pixels.

Colour contrast

Finding 1: low colour contrast exists between text and background colours in sections of text within the offence specific guidelines

Text that has low colour contrast with its background colour can make it difficult for people with colour sensitivity or other visual conditions to read information. Text (or other elements) within a webpage should be sufficiently distinguishable in contrast to the background.

Figure 47: Examples of low colour contrast within the offence specific guidelines, as identified by WAVE

Handling stolen goods

Theft Act 1968, s.22

Effective from: 01 February 2016

Triable either way

Maximum: 14 years' custody

Offence range: Discharge – 8 years' custody

[User guide for this offence](#)

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

Applicability

Step 1 – Determining the offence category

The court should determine the offence category with reference only to the factors identified in the following tables. In order to determine the category the court should assess culpability and harm. The level of culpability is determined by weighing up all the factors of the case to determine the offender's role and the extent to which the offending was planned and the sophistication with which it was carried out.

Culpability demonstrated by one or more of the following

A – High culpability

- A leading role where offending is part of a group activity
- Involvement of others through coercion, intimidation or exploitation
- Abuse of position of power or trust or responsibility
- Professional and sophisticated offence
- Advance knowledge of the primary offence
- Possession of very recently stolen goods from a domestic burglary or robbery

B – Medium culpability

- A significant role where offending is part of a group activity
- Offender acquires goods for resale
- 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

C – Lesser culpability

- Performed limited function under direction
- Involved through coercion, intimidation or exploitation
- Little or no planning
- Limited awareness or understanding of offence
- Goods acquired for offender's personal use

Low contrast between text and background colours.

Suggestion: increase the colour contrast of text in the offence specific guidelines, to increase accessible visibility.

The colour contrast of offence specific guidelines should be increased. This can be achieved by using darker font colours and maintaining the current background colours (see Figure 48). Alternatively, a lighter background colour could be used, in addition to making the font colour slightly darker (see Figure 49).

Figure 48: Examples of higher colour contrast using existing background colours

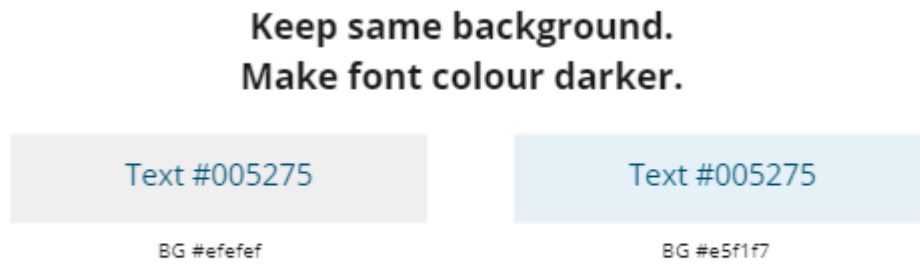
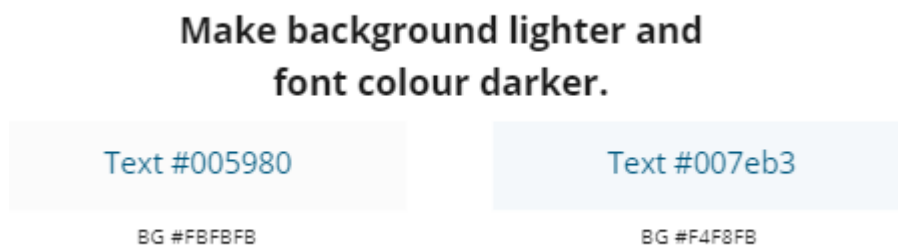


Figure 49: Examples of higher colour contrast, with different background and font colours



5. Conclusion

Sentencers are generally satisfied with the usability of the guidelines, with the exception of the search function. Difficulties and frustrations with the search function on the offence specific guidelines page was a common barrier to the usability of the guidelines. These difficulties take up sentencers' time and can distract them from engaging in other tasks in a timely manner. Almost all of the high-priority recommendations made in this report relate to improving the search function.

A total of 18 recommendations have been made in this report, of which there are:

- five high-priority recommendations
- nine medium-priority recommendations
- four low-priority recommendations

In addition to improving the search function, these recommendations aim to support sentencers by making it easier to navigate the guidelines and access different kinds of information. This includes presenting the guidelines in a more intuitive manner, aligning with how sentencers use the guidelines on a daily basis. It also involves providing ways to support sentencers finding and understanding sentencing information in a smooth and user-friendly manner.

The sentencing guidelines support sentencers with a consistent approach to sentencing. The benefit of a clear and consistent structure for the guidelines was commended by many sentencers in this project. Continuing to improve the usability of the guidelines will further help both sentencers and the Council strive towards a transparent and consistent approach to sentencing.

6. Acknowledgements

We would like to thank the sentencers who volunteered their time and effort to provide their feedback to inform this research project.

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8. Annexes

Annex A: Case study scenarios used during in-person observation sessions

Scenario 1

Charges

- 1 x Harassment (section 2 of the Protection from Harassment Act 1997)
- 1 x Breach of a Community Protection Notice (section 48 of the Anti-social Behaviour, Crime and Policing Act 2014)
- 1 x Criminal damage (section 1 of the Criminal Damage Act 1971)

Plea

D (male, aged 34) pleaded guilty to the above three days before a trial was due to go ahead. After his arrest he was released on bail with a tagged curfew, which he has been on for 6 weeks.

The prosecution case

“D and his partner (V) had lived together on and off for five years and had a son who was coming up to his third birthday. They were known to be going through a rough patch, with D getting increasingly volatile and angry, accusing V of being unfaithful and failing to look after their child. Their rows could escalate loudly at any hour of night or day, and the police were called on a previous occasion when V alleged he had hit her repeatedly. The Police gave him a warning on that occasion. Further loud rows spilling out into the communal gardens led to them both receiving a Community Protection Warning last spring. While V abided by its terms, D’s ongoing loud behaviour (directed both to V and to neighbours) led to the imposition of a Community Protection Notice in July, requiring D to keep quiet within the vicinity of their address, and not to drink outside their block of flats.

As a result of yet another confrontation, D had gone to live temporarily with a friend, but he and V had kept in constant contact via WhatsApp. Some of those messages continued to make angry allegations, but at other times they spoke of their love for one another and for their son. At these times, both seemed to want a reconciliation.

However, one day last September, D sent a series of texts to V in which he again angrily accused her of infidelity and insisted that he was going to come home, whether she liked it or not. She told him to “get lost”, but later that evening he arrived outside the flat drunkenly shouting, calling her a “worthless f*cking slut” and threatening to kick the doors down. Their son was awoken by the shouting and saw V visibly upset, crying and shaking as she phoned the police. D managed to kick in the downstairs doors of the apartment block, just as the Police arrived. Upon arrest D was found with an empty whiskey bottle.

V has had the locks changed on their flat and moved in with her parents since the night of the incident and has only recently returned to her home. This has meant she has lost some cleaning work near to where they live.

The offender has a history of offending. He has two previous convictions for common assault in 2009 and 2014 for which he received a fine and a community order respectively. He also has a conviction for criminal damage for breaking the windscreen of a former partner in 2016 for which he received a community order. He has a previous conviction for possession of cannabis dating from 2012, for which he received a conditional discharge.

This is a category B2 offence, because the link between the offender's mental state and his offending (on which the Defence will give more detail) cannot be convincingly demonstrated, and a B1 criminal damage offence because it caused serious distress to V. We urge the Bench to consider very carefully D's history and the prospect that he may cause further harm and distress to V. Regardless of the decision on custody, we apply for compensation for the landlord's doors amounting to £300."

The defence case

"D understands the severity of what he has done and wants to change. We have evidence from friends and family that D's alcoholism had intensified in recent months (he had been drinking all day on the day of the offending) and this was exacerbating a recurring condition of delirium. This led him to be paranoid, believing that others were plotting against him and trying to steal V and his son from him. He sometimes claimed to hear voices. He has developed Post Traumatic Stress Disorder (PTSD) from an incident two years ago when he was involved in a fight. An independent psychiatric report provided to the court confirms D meets the criteria for PTSD.

Since starting his relationship with V, he has not been convicted of any offence. This is a category C2 harassment offence, and a C2 criminal damage case, particularly by reason of the offender's responsibility being substantially reduced by a mental disorder. His tendency to delirium means that he was not in his right mind at the time of the offending, and he has shown that he has the potential to be a loving partner and a caring father. Despite his behaviour, his son is close to him, is financially dependent on him, and would miss him were he to be sent to prison. V herself has withdrawn from the prosecution and has not given a victim personal statement. However, she now says that despite everything she wants him to return to the family home and help look after their son.

D wants to do his best to become sober and have some sort of relationship with his son and his partner."

The pre-sentence report

D suffers a personality disorder and has delusions and dramatic mood swings. These are made worse by his drinking. He does have the potential to turn his life around with suitable support from family and friends.

Given his condition, even a very short custodial sentence could do more harm than good, and a community order with an alcohol treatment requirement attached is recommended.

Scenario 2

Charges

- 1 x Fear or provocation of violence (Section 4, Public Order Act 1986; section 31 Crime and Disorder Act 1998)
- 1 x Common assault (section 39, Criminal Justice Act 1988; section 1 Assaults on Emergency Workers (Offences) Act 2018)
- 1 x Possession of a controlled drug (section 5, Misuse of Drugs Act 1971)

Plea

Defendant ('C'), aged 35, pleaded guilty at the earliest opportunity to the above.

The prosecution case

"C was drunk after attending the funeral of a close friend from the army. On his way home he visited a newsagent's to purchase some cigarettes. Having paid for them he believed he had been short changed and began to argue with the shopkeeper. He became more and more aggressive as the shopkeeper insisted his change was correct and threatened to "smash [the shopkeeper's] f*cking head in".

He kicked a display and swept magazines and papers from the counter as he leant across it while calling the shopkeeper [racial slurs]. The shopkeeper feared for his physical safety and tried as hard as he could to barricade himself behind the counter. There were five or six other customers in the shop, including two young children, and they were all extremely frightened for their safety. The man continued to knock down stands, magazines, jars, bottles and cans for nearly five minutes. The incident was only stopped when the Police arrived, having been called by a customer. When a police officer tried to restrain him he punched him square in the face, causing some bruising and a split lip. After his arrest, police found a small packet of cannabis (later confirmed to be for his personal use) which he had quickly attempted to hide behind some cereal packets.

The victim's personal statement from the shopkeeper told how he had since been very nervous of being in the shop on his own in the evenings. The incident has made him think of employing a security guard which he could not afford.

We ask for compensation to be paid to the victim for the damage to his shop and the stock which was ruined, amounting to £500.

The defence case

"C expressed remorse after the incident and has written to the shopkeeper to apologise, stating that his emotions had been 'all over the place' that day. He has no previous convictions. C's employer has written a character reference stating that they were

completely surprised and shocked to hear of the incident as C is usually very quiet and well mannered, and has never demonstrated any hostility to colleagues and friends from ethnic minorities.

This is a B1 disorderly behaviour case as it was spontaneous, he did not throw any objects and the incident was not particularly sustained. This is a B3 assault case, albeit aggravated by being committed towards a police officer.

C earns £2,000 per calendar month, from which he pays private rent.

The pre-sentence report

Since leaving the army three years ago, he has suffered flashbacks and nightmares, and his experiences have resulted in occasional inexplicable outbursts, though never any as bad as this and never to the point of requiring police intervention. He has self-medicated with alcohol and cannabis for a long time but is now seeking help for his substance abuse issues with a counsellor. A community order with an alcohol treatment programme would be appropriate.

Scenario 3

Charges

- 1 x Vehicle taking without consent (Section 12, Theft Act 1968)
- 1 x Handling stolen goods (Section 22, Theft Act 1968)

Plea

J (male, aged 22 years old) initially pled not guilty to both charges at the plea and trial preparation hearing. However, two days before the trial J changed his plea to guilty.

The prosecution case

On the evening of Saturday 18th November 2021 at around 1900, J was alone and bored at his father's property. He received a text message from a friend who he knew from school, asking to meet with other individuals for the evening, to drive around and "just cruise". J got dressed and rode his bicycle to meet his friend (male, aged 21) and two other adult males (aged 31, and 27 years old). It is unclear how well J knew these two other individuals.

Upon arrival, J got into the back of a car with the three other males, and they drove around for some time, before driving past a service station around 2200. One of the other males stated "he's on his own" (referring to the attendant in the service station), and that they should "give it a go".

J and his accomplices parked around the corner from the service station and masked their faces whilst in the car. One of the accomplices had a hammer and masked his face with a balaclava. J and the other two males hid their faces using jumpers they had been wearing.

J and his accomplices walked up to the service station. J stayed outside the service to act as a “lookout”, whilst the other three males entered the service station.

When J accomplices entered the store, they shouted at the service attendant, “Where is the safe? Give me the key!”. When the attendant advised them that he could not access the safe, he was kicked in the leg and had his pockets turned out before being grappled to the office and told to sit down. The victim was forced to open up the cigarette kiosk and put cigarettes into two black bags. One of the masked individuals also took the victim’s car keys.

When J’s accomplices exited the service station, one of them threw the victim’s car keys at J. The jumper J was wearing around his face, fell to the ground when he caught the car keys, which was captured by CCTV. J then used the alarm button to locate and open the victims’ car which was parked close to the service entrance.

J and one other accomplice carrying a black bag with stolen cigarettes, got into the victim’s car and drove off. The other two accomplices fled the scene using the car they had driven to the service station.

J and his accomplice drove around in the victim’s car, before abandoning the car near a train station. J then walked back alone to where he had left his bike earlier in the evening, carrying a bag with the stolen cigarettes. Whilst walking, he was stopped by police, who arrested him after inspecting his bag. The value of the stolen cigarettes was estimated to be around £1,500.

J has a history of acquisitive and motoring offences, including as a juvenile. At age 17, J was convicted of theft of a cycle in 2017, for which he received a caution. J was also convicted of shoplifting in 2018, for which he was given a youth supervision order. As an adult, J has been convicted of two counts of driving a motor vehicle taken without consent (2019 and 2020) and going equipped for theft (2021). J received fines and community orders for these offences.

J does not have any offences or convictions for serious or violent offences. However, when J was 16 years old, he was arrested for criminal property damage, at his mother’s home. At the time, J was living at his mother’s home with his step-father (at the time) and four younger siblings. J had an argument with his then step-father, which escalated into him “smashing up” furniture and breaking two windows. After this, J lived at his grandparents’ residence, and then later with this biological father.

J’s offences indicate an ongoing pattern of criminal behaviour and an escalation into involvement in more serious and violent offending. The bench is urged to consider the risk of future harm that J presents to the public.

The defence case

J acknowledges his offences and has expressed remorse for the offences he has been charged with, as well as the crimes of his accomplices on the night of 18th November 2021.

J was not involved in any violent behaviour, which was carried out by other individuals. Additionally, J was not the leader of the group involved in the crimes committed on the night in question. J did not know what he would be getting involved in when he initially met the other males in question. J's offences were partially a result of the influences of other peers (two of whom were older than J), to engage in these offences.

J also had a difficult upbringing including financial hardship. His parents separated when he was around 5 years old. Since he was a child, J had been helping to look after his four younger siblings, as his mother has chronic mental health conditions (depression and anxiety). His mother has not been employed in over 15 years and has relied primarily on state benefits to provide for J and his siblings. J has attempted to support his siblings financially. This has led to him being influenced by anti-social peers, to engage in acquisitive offending, as means to help provide for his siblings.

J has also reported that he and his siblings had been physically and verbally abused by their step-father on multiple occasions, when he was a teenager. This is important context, and played a role in the altercation when police arrested J for criminal damage, at age 16.

J does not present an imminent risk of harm to other individuals, and incarceration may do more harm than good, as it further exposes J to anti-social individuals and deprives him of the opportunities to engage in pro-social behaviours. J would benefit from community or supervision order to distance himself from any anti-social individuals, and to help desist from future offending.

The pre-sentence report

J accepts responsibility for his offending behaviour and described his actions as "bad" and stupid. He stated he committed these offences as he wanted to "join in" with his mates, and he liked the "rush".

Concerningly, he also described committing the offences felt "normal" to him. He also displays limited understanding of the impact of stealing the victim's car. His current offences represent a concerning pattern of similar offending, demonstrating reckless and risk-taking behaviour.

Scenario 4

Charges

- 1 x Speeding (Road Traffic Regulation Act 1984, s.89(1))
- 1 x Dangerous driving (Road Traffic Act 1988, s.2)
- 1 x Drug driving (Road Traffic Act 1988, s5A)

Plea

M (male, aged 32 years old) pled guilty to all offences at the earliest possible opportunity.

The prosecution case

On Friday 13th January 2022 around 1400, M had driven to a friend's place with three other adult friends. M had been drinking alcohol and had also been smoking marijuana at the premises.

At around 1900, M received a call from an NHS emergency number informing him his mother had been taken to A&E following a fall at her home. M's mother was not in a critical condition at the time. M told his friends he was going to leave to see his mother, though he was discouraged from doing so after his friends raised concerns he was not fit to drive. As his friends had also been drinking alcohol and consuming marijuana, they were also not fit to drive him.

M began driving towards the hospital his mother had been admitted to. M's visibility was likely also limited by the fact it was raining that night. Nonetheless, M began speeding through residential roads and when on the motorway. On the motorway, M drove past a speed camera which identified he had been driving 22 mph over the motorway speed limit (70 mph).

Just after M turned off the motorway, he nearly crashed into a car in the lane next to him. The other driver had to swerve to avoid being hit by M, and narrowly avoided crashing into a barrier on the side of the road. A police officer happened to be driving past and became concerned at M's driving behaviour.

The police officer signalled to M to pull over, and M complied. When the officer approached M and began talking to him, he suspected M was under the influence of substances. M denied being under the influence and informed the officer his mother had been in an accident and he needed to get to hospital, as he was her sole emergency contact.

The police officer administered a breath test to M, who complied. M was found to be over the legal limit for alcohol (37 micrograms of alcohol per 100 millilitres of breath). M was taken to a local police station and charged with dangerous driving.

M also provided a blood sample to test for alcohol or substances. The results later confirmed cannabis had been identified in M's sample. However, M was just under the legal blood alcohol limit (79 milligrams of alcohol per 100 millilitres of blood).

M has two previous convictions. In 2016 M was convicted of driving whilst uninsured, for which he received a fine. In 2019 he was found guilty of possessing a controlled substance – class B (cannabis).

The defence case

M understands and accepts responsibility for his offences, as evidenced by entering a guilty plea at the earliest opportunity. M's offences were partially a result of his genuine concern for his mother's wellbeing. When M was initially informed about his mother being taken to A&E, the NHS staff member was not able to say whether M's mother was in a critical condition – this was only confirmed later. M believed the situation to be a medical emergency and wanted to help his mother, being her only child, and having no other close relatives.

M had admitted to having consumed alcohol and cannabis on the night of the offence. However, he was found to be under the legal blood alcohol limit. M also did not consume a significant amount of cannabis in the night in question, and states he infrequently consumes marijuana, and only in "social" settings.

M's offences were due to the unique and concerning health situation regarding his mother, and does not form part of a pattern of serious offending. M is willing to undertake mandatory drug and alcohol treatment courses, and be subject to drug and alcohol monitoring, to help prevent any such offences occurring again.

The pre-sentence report

M was open in discussing this offence in detail. He evidenced what appeared to be genuine remorse for his actions and a good awareness around why the offence occurred and how his behaviours, including drinking alcohol and taking substances, contributed to his offending.

M did not demonstrate immaturity which would mitigate his thinking around the offence. Rather, he seems to have engaged in reckless and dangerous driving behaviours, partially due to being disinhibited by consuming substances. M appears to have been aware at the time of the offence, that his judgement may have been affected by the substances he had consumed – and chose to drive anyway.

Given M's previous offences, a community order, with attending drug and alcohol interventions programmes may be appropriate to manage his risk.

Annex B: Case study scenarios used with circuit judges during virtual usability testing sessions

Activity 1

Imagine that you are making a sentencing decision for a case involving one count of Possession of a controlled drug with intent to supply it to another.

The case involves a 37 year old woman, who was found to be in possession of 150g of MDMA. She pleaded guilty at the earliest opportunity.

The evidence suggests that she was being pressured by her cousin to sell the MDMA to her friends. Her cousin expected to receive money in return, but there was no evidence to suggest that the woman herself would profit from the sale. It appeared to be an isolated incident and the woman has no previous convictions.

Activity 2

Imagine you are going to make a sentencing decision for a 31 year old male for one count of inflicting grievous bodily harm/unlawful wounding without intent (Section 20, GBH). The offender pleaded guilty at the first available opportunity and has no prior convictions.

In this case, the offender had been drinking at a pub with some friends watching a football match. Whilst smoking a cigarette outside the pub, he got into an argument with another patron, initially about which team the other patron supported. The argument escalated, and at one point the offender called the other patron a [racial slur]. The offender threw his glass at the other patron which caused him to fall over and hit his head against the sidewalk.

This resulted in the victim having a fractured skull, requiring extensive surgery. The victim has sustained long-term injuries to his mobility and cognitive functioning, however, is expected to be able to function comfortably on a day-to-day basis, after completing a full rehabilitation programme, lasting over a year.

Activity 3

You are now making a sentencing decision for another case involving one count of possession of an offensive weapon on education premises.

In this case a 19 year old male student was found to have a 6 inch serrated machete in his possession, whilst at school. The knife was found on his person but there was no evidence of intent to harm. The offender was 18 years old at the time of the offence.

The offender has no previous convictions and pleaded guilty at the first available opportunity. The pre-sentence report has suggested imposing a community order for the offender.

Activity 4

I'd like you to imagine you're sentencing another case involving one count of Arson/criminal damage, reckless as to whether life endangered.

This case involves a 34 year old male, who initially entered a plea of not guilty at the pre-trial stage. He later changed his plea to guilty, after the first hearing of the trial.

The offender was found guilty of setting fire to an empty stable, connected to the house of his current partner - with her, and her child (aged four years old), inside the house. The offender and his partner had been going through a "rough patch", with the offender temporarily living with a friend. However, he had still been in regular contact with his partner. Earlier on the day of the offence, he had argued with his partner, accusing her of infidelity.

The offender had previously received a community protection warning last year, as a result of arguing with his partner. The offender also has a previous conviction for harassment and criminal damage, received three years ago.

Activity 5

You are making a sentencing decision about a 22 year old male found guilty of one count of robbery, and one count of breaching of a community order.

The offender and three other accomplices robbed a convenience store, whilst wearing face coverings. There were four or five other customers in the shop, including a young child (aged six), and they were all extremely frightened for their safety. The offender had been holding a hammer which he used to threaten the cashier, though he did not harm anyone in the shop. The offender did not appear to be the leader within his group of accomplices.

The offender has two previous convictions. In 2019 he was convicted of taking a vehicle without consent, for which he received a community order. In August 2022 he was also convicted of shoplifting, for which he received a fine and community order (26 weeks) which is still in effect.

The offender pleaded not guilty throughout the trial and continues to maintain his innocence.

Activity 6

You are making a sentencing decision for a 47 year old male convicted of one count of indecent exposure.

The offender had been in his car near a park and had exposed his genitals to adult women walking past. The offender had also been masturbating in the car, though he did not appear to have followed or deliberately targeted any specific victims. The park area has playgrounds for children, though no children were present at the time of the offence.

The offender pleaded guilty to the offence at the earliest opportunity. The offender had one previous conviction received in 2009 for driving whilst uninsured, for which he received a fine and 6 penalty points.

Annex C: Case study scenarios used with magistrates during virtual usability testing sessions

Activity 1

Imagine you are making a sentencing decision for a 27 year old woman who has been charged with possession of a controlled drug with intent to supply it to another (Misuse of Drugs Act 1971, s.5(3)).

She was found to be in possession of 100g of cannabis.

The woman's statements and corresponding text message evidence suggest that she was being pressured by her cousin to sell the cannabis to her friends. Her cousin expected to receive money in return, but there was no evidence to suggest that the woman herself would profit from the sale. It appeared to be an isolated incident and the woman has no previous convictions.

She pleaded guilty to possession of cannabis with intent to supply, at the earliest opportunity.

Activity 2

Imagine you are making a sentencing decision for a man, aged 34, who has been charged with harassment (section 2 of the Protection from Harassment Act 1997).

The man has lived with his partner for years and their relationship had become increasingly volatile. The man began accusing his partner of cheating which led to them fighting. As a result of the relationship breakdown, the man temporarily went to live with a friend.

One evening, the man returned to his house and stood outside drunkenly sweating and calling his partner names. She told him to leave but he stayed and attempted to kick down the front door. His partner called the police and was visibly upset and shaken when they arrived. Upon arrest, the man was found with an empty whiskey bottle. The victim has since changed the locks.

The man does not have a history of offending. In this incident, the man pleaded guilty to the charge of harassment, at the earliest opportunity.

Activity 3

You are now making a sentencing decision for another case.

In this case a 19 year old female student has been charged with possession of an article with blade/point on education premises, Criminal Justice Act 1988 (section 139A(1)).

The student told a friend that she had brought a knife to school. The friend reported this to a teacher and the teacher located the knife. It was a 4 inch kitchen knife and was found in the student's bag. The student had not made any threats or suggestions that they intended to use the knife as a weapon.

They have no previous convictions. The offender initially entered a plea of not guilty at the pre-trial stage, though later changed her plea to guilty, after the first hearing of the trial.

Activity 4

You are making a sentencing decision about an 18 year old male who has been charged with careless driving (Road Traffic Act 1988, s.3) due to excessive speed.

The incident occurred at 3pm on a weekday. The man was pulled over by police in a residential area after they noticed he was driving above the speed limit and they saw him knock off the wing mirror of a parked car. He admitted to using his phone whilst driving.

The man pleaded guilty to this charge of careless driving at the earliest opportunity. He has had a driving licence for 1 year but already has 4 penalty points on his licence from a previous incident of speeding.

Activity 5

You are making a sentencing decision about a 38 year old male who has been charged with one count of going equipped for theft.

The man was reported to the police by a family member. Their conversations with the male led them to believe that he was planning on breaking into a neighbour's house to steal jewellery. Police found him near the neighbour's property with a crowbar in his possession.

The offender has three previous convictions: one for theft of a cycle received in 2017, for which he received a caution. In 2019, he was convicted of taking a vehicle without consent, for which he received a community order. In July 2022, he was also convicted of shoplifting, for which he received a fine and community order (26 weeks) which is still in effect.

The offender pleaded not guilty throughout the trial and continues to maintain his innocence.

Activity 6

You are making a sentencing decision about a 47 year old male convicted of voyeurism. The offender was arrested after police were called to a park, following reports a male in a nearby parked car, was exposing his genitals to adult women walking past. The male had been masturbating in the car, though he did not appear to have followed or deliberately targeted any specific victims. The park area has playgrounds for children, though no children were reported to be present at the time of the offence.

An independent psychiatric report identified the offender had a “borderline” IQ level, but was unable to conclude if the offender met the criteria for Intellectual Disability, given he had mixed levels of cognitive abilities. No other mental health conditions were identified for the offender.

The offender pleaded guilty to the offence at the earliest opportunity. The offender had one previous conviction received in 2009 for driving whilst uninsured, for which he received a fine and 6 penalty points.

Annex D: Interview schedule for participants who were not involved in virtual usability testing sessions

Introduction

My name is [Facilitator name] and I'm a researcher from the Behavioural Insights Team (aka BIT).

We are working together with the Sentencing Council, to explore how judges and magistrates use the sentencing guidelines, on the Sentencing Council's website.

The Sentencing Council is interested in understanding how sentencers use the online version when making sentencing decisions, and how they can work to improve your experience of the guidelines.

Background

I'd like to ask you about your thoughts and experiences around how you interact with the online version of the sentencing guidelines, within your day-to-day role

We're not looking to see how well you know the guidelines - rather, how well the layout and functionality of the guidelines, on the Sentencing Council's website, best meets your needs in making sentencing decisions.

We'll broadly be asking questions about your views on a few different areas on the sentencing guidelines. This includes:

- Access - how you get to the guidelines
- Searching & navigation - how you find relevant guidelines, and the information within the guidelines
- Use - how you generally use the guidelines

We have already run some user testing sessions on the guidelines with magistrates and judges, who have suggested some changes to improve the website. We will talk through some of the suggested changes to get your thoughts on these.

Before starting the session, I'd like to reiterate a few key points:

- The interview will be 45 minutes long
- Your participation is completely voluntary and you are welcome to stop at any time
- Your responses will not be identifiable to anyone outside of our research team - only the BIT research team will have access to raw data and personal information.
- Are you happy for me to record the interview?

Starting Recording of Session:

- Do you have any questions before we get started?
- I am going to start recording now
[Facilitator to begin recording]
- For the sake of the recording, can you please state your name and confirm that you are happy to participate in the interview?

Rapport-building questions:

To start off with, I'd like to get you know you a bit better:

1. Could you tell me how long you've been a magistrate/judge?
2. Have you enjoyed working as a magistrate/judge?

Accessing guidelines

1. How do you get to the sentencing guidelines on the sentencing council's website?
 - a. Are there any issues with this?
 - b. Is there anything you think could be improved to make it easier to get to the sentencing guidelines?
2. How easy is it for you to get to the explanatory materials and other resources on the Sentencing Council's website?

Suggested improvements

1. [Magistrates Only]
What do you think about whether the link to the offence specific guidelines for the magistrates' court on the Sentencing Council's homepage, went directly to the offence specific guidelines, rather than the 'Sentencing guidelines for use in magistrates' courts' page?

Searching guidelines

1. [Magistrates only]
How do you generally search for the offence specific guidelines you're looking for, on the sentencing council website?
 - a. Do you search for the Act?
 - b. Do you search for any particular keywords?
 - c. Do you use whole words/phrases, or part of a word?

[Circuit judges only]

Do you use the drop down box for offence types to search for guidelines?

- d. If not, why not? (awareness, ease etc)
- e. Do you also use the search function?
 - i. If so, do you search by Act, or keywords?
- 2. How do you find the process of identifying the guideline you want, from the search results?
 - a. What works well/ less well? Why?
- 3. What do you think works well about the current search function?
 - a. Why?
- 4. What do you think could be improved about the search function?
 - a. Why?
- 5. Have you ever tried to search for overarching guidelines/principles or other materials (e.g. explanatory materials, fine calculators, pronouncement cards)
 - a. If so, how did you do this?

Suggested Improvements

- 1. What do you think about having the search results listed with separate columns showing the offence title, the corresponding Act and, and section of the Act?
- 2. What do you think about having a spell-check in the search bar?
- 3. Would you like to be able to search for explanatory materials, or other resources (e.g. pronouncement cards, fine calculators), similar to searching for offence specific guidelines?

Navigating guidelines

- 1. Is it easy for you to have multiple guidelines open at the same time?
 - a. Are there any challenges with navigating between different guidelines and/or explanatory materials?
 - b. Is there anything you think would make it easier for you to navigate between different guidelines and/or explanatory materials?

2. Do you use the 'collections' feature of the website to save and later access offence pages?
 - a. What do you like about it?
 - b. Is there anything about it that could be improved?
3. Do you know how to find specific information from the explanatory materials?
 - a. Could you give me an example?
4. Have you previously used the blue sidebar on the website?
 - a. Is it clear what the icons in the sidebar are?
 - b. How easy is it for you to get to the resources you want to access, using the blue sidebar?
 - c. Is there anything which might help make the links in the blue sidebar easier to navigate?

Suggested Improvements

1. What would using offence specific guidelines be like, if there was a small menu/contents table on the side of the page, which linked to different sections/steps of the guideline?

Using guidelines

1. When do you look at the relevant sentencing guidelines?
 - a. Ahead of a court session?
 - b. During court?
2. Are there any specific guidelines which you tend to use more, or would always like to have open to refer to, when sentencing?
 - a. Which guidelines?
3. Apart from the offence specific guidelines, what guidelines, or other resources on the sentencing guidelines webpage, do you look for the most?
4. Which steps within the offence specific guidelines do you use the most?
5. Which steps within the offence specific guidelines do you use the least?
6. Do you think the layout of offence specific guidelines are easy to use?

7. Is there anything you think would make it easier to find information within these guidelines?
8. Do you use the 'drop down' information listed in the aggravating/mitigating factors of the offence specific guidelines?
 - a. If not, why not?
 - b. Would you suggest changing anything about the dropdowns?
9. On a typical sitting day, how often would you say you refer to the overarching principles/guidelines?
10. Are there any overarching principles/guidelines you refer to, more than others?
11. Do you think the layout of overarching guidelines is easy to find the information you want?
12. Is there anything you think would make it easier to find information within these guidelines?
13. On a typical sitting day, how often would you refer to the explanatory materials?
 - a. Are there any explanatory materials you refer to commonly?
14. Do you think the layout of the explanatory materials is easy to find the information you want?

Suggested Improvements

1. For the offence specific guidelines, would you use a split-screen function, to see certain sections of an offence specific guidelines (e.g. culpability and harm factors, or the category tables)?
2. If the offence specific guidelines could automatically give you a category range, based on selecting specific harm and culpability levels, how would this change the way you use the guidelines?
3. How would it change using the guidelines, if you could select (or in some way note/highlight) which culpability, harm or aggravating/mitigating factors are relevant within an offence specific guideline?
4. If you could search for information *within* the offence specific or overarching guidelines (e.g. aggravating factors), would that make things easier or harder to find within a guideline?
 - a. What do you think about using "ctrl +F" to find keywords/phrases in the guidelines?

5. Would you like to be able to find specific information *within* the explanatory materials? (e.g. factors indicating whether it's appropriate to suspend a custodial sentence)?
 - a. What do you think about using "ctrl +F" to find keywords/phrases in the guidelines?

Close

Overall, do you feel that the sentencing guidelines website meets your needs for making sentencing decisions?

- Why/why not?
- What works well/less well?

Before we finish, do you have anything else to add that we haven't discussed?

Thank you for your time today, that's all the questions we'd like to discuss for today's session.

Please feel free to contact us via email, if you have any other feedback or suggestions which come to mind, or if you have any other questions about our research project.

Annex E: Interview schedule for participants who had previously taken part in virtual usability testing sessions

Introduction

My name is [Facilitator name] and I'm a researcher from the Behavioural Insights Team (aka BIT).

Today's session is part of our work with the Sentencing Council, to explore how judges and magistrates use the online version of sentencing guidelines.

Background

For today, I'd like to ask you about your thoughts and experiences around how you interact with the online version of the sentencing guidelines, within your day-to-day role

We're not looking to see how well you know the guidelines - rather, how well the layout and functionality of the guidelines, on the Sentencing Council's website, best meets your needs in making sentencing decisions.

We'll broadly be asking questions about your views on a few different areas on the sentencing guidelines. This includes

- Access - how you get to the guidelines
- Searching & navigation - how you find relevant guidelines, and the information within the guidelines
- Use - how you generally use the guidelines

We have already run some user testing sessions on the guidelines with magistrates and judges, who have suggested some changes to improve the website. We will talk through some of the suggested changes to get your thoughts on these.

Before starting the session, I'd like to reiterate a few key points:

- The interview will be 45 minutes long
- Your participation is completely voluntary and you are welcome to stop at any time
- Your responses will not be identifiable to anyone outside of our research team - only the BIT research team will have access to raw data and personal information.
- Are you happy for me to record the interview?

Starting Recording of Session:

- Do you have any questions before we get started?

- I am going to start recording now
[Facilitate to begin recording]
- For the sake of the recording, can you please state your name and confirm that you are happy to participate in the interview?

Rapport-building questions:

To start off with, I'd like to get to know you a bit better :

1. Could you tell me how long you've been a magistrate/judge?
2. Have you enjoyed working as a magistrate/judge?

Accessing guidelines

I know we've previously looked at how you would get to the guidelines, but I'd like to ask a couple of quick questions about accessing the guidelines

1. Do you have any challenges with accessing the sentencing guidelines, when you need to make a sentencing decision?
 - a. What about when preparing for a sentencing case/court?

Suggested Improvements

1. [Magistrates Only]
What do you think about whether the link to the offence specific guidelines for the magistrates' court on the Sentencing Council's homepage, went directly to the offence specific guidelines, rather than the 'Sentencing guidelines for use in magistrates' courts' page?

Searching guidelines

1. What do you think works well about the current search function?
 - a. Why?
2. What do you think could be done to improve the search function?
 - a. Why?
3. Have you ever tried to search for overarching guidelines/principles or other materials (e.g. explanatory materials, fine calculators, pronouncement cards)
 - a. If so, how did you do this?
 - b. What do you think works well/less well when searching for other materials?

- c. What if anything, do you think could be done to improve the process of searching for overarching guidelines/principles or other materials (e.g. explanatory materials, fine calculators, pronouncement cards)

Suggested Improvements

1. What do you think about having the search results listed with separate columns showing the offence title, the corresponding Act and, and section of the Act?
2. What do you think about having a spell-check in the search bar?
3. Would you like to be able to search for explanatory materials, or other resources (e.g. pronouncement cards, fine calculators), similar to searching for offence specific guidelines?

Navigating guidelines

1. Is it easy for you to open multiple different guidelines?
2. Are there any challenges with navigating between different guidelines and/or explanatory materials ?
3. Is there anything you think would make it easier for you to navigate between different guidelines and/or explanatory materials?
4. Have you previously used the blue sidebar on the website?
 - a. Is it clear what the icons in the sidebar are?
 - b. How easy is it for you to get to the resources you want to access, using the blue sidebar?
 - c. Is there anything which might help make the links in the blue sidebar easier to navigate?

Suggested Improvements

1. What would using offence specific guidelines be like, if there was a small menu/contents table on the side of the page, which linked to different sections/steps of the guideline?

Using guidelines

1. Are there any specific guidelines which you tend to use more, or would always like to have open to refer to, when sentencing?
 - a. Which guidelines?

2. Apart from the offence specific guidelines, what guidelines, or other resources on the sentencing guidelines webpage, do you look for the most?
3. Which steps of the offence specific guidelines do you use the most? Why?
4. Which steps of the offence specific guidelines do you use the least? Why?
5. Do you think the layout of offence specific guidelines are easy to use?
6. Is there anything you think would make it easier to find information within these guidelines?
7. Would you suggest changing anything about the dropdowns?
8. On a typical sitting day, how often would you say you refer to the overarching principles/guidelines?
9. Are there any overarching principles/guidelines you refer to more than others?
10. Do you think the layout of overarching guidelines is easy to find the information you want?
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12. On a typical sitting day, how often would you refer to the explanatory materials?
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Suggested Improvements

1. For the offence specific guidelines, would you use a split-screen function, to see certain sections of an offence specific guidelines (e.g. culpability and harm factors, or the category tables)?
2. If the offence specific guidelines could automatically give you a category range, based on selecting specific harm and culpability levels, how would this change the way you use the guidelines?
3. How would it change using the guidelines, if you could select (or in some way note/highlight) which culpability, harm or aggravating/mitigating factors are relevant within an offence specific guideline?

4. If you could search for information *within* the offence specific or overarching guidelines (e.g. aggravating factors), would that make things easier or harder to find within a guideline?
 - a. What do you think about using “ctrl +F” to find keywords/phrases in the guidelines?
5. Would you like to be able to find specific information *within* the explanatory materials? (e.g. factors indicating whether it’s appropriate to suspend a custodial sentence)?
 - a. What do you think about using “ctrl +F” to find keywords/phrases in the guidelines?

Close

Overall, do you feel that the sentencing guidelines website meets your needs for making sentencing decisions?

- Why/why not?
- What works well/less well?

Before we finish, do you have anything else to add that we haven’t discussed?

Thank you for your time today, that’s all the questions we’d like to discuss for today’s session.

Please feel free to contact us via email, if you have any other feedback or suggestions which come to mind, or if you have any other questions about our research project.

