

Robbery

Response to consultation

January 2016

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Foreword

On behalf of the Sentencing Council I would like to thank all those who responded to the consultation on sentencing guidelines for robbery. I also extend my thanks to the members of the judiciary who gave their time to participate in the research exercises undertaken to inform the development of these guidelines. As with all Sentencing Council consultations, the views put forward by all respondents were carefully considered, and the range of views and expertise were of great value in informing the definitive guidelines.

The guidelines cover a number of different robbery offences including, for the first time, guidelines for professionally planned commercial robberies, and dwelling robberies. Having recently developed the theft offences definitive guideline and, prior to that, the burglary offences definitive guideline, the Council has been able to draw on the similarities, and the approaches used, to ensure that the robbery definitive guidelines are both robust and comprehensive.

As a result of this work, the general approach outlined in the consultation has been maintained, but a number of amendments have been made, principally to the groupings of the guidelines. The Council has re-grouped the guidelines to ensure that sentencers will be clear about which guideline to use in each sentencing scenario. As the offence of robbery covers a wide spectrum of offending it is important to ensure that the offences are grouped so that the sentencing ranges are the most appropriate for each possible offence that could come before the court.



The Council hopes that these guidelines will improve consistency in the approach to sentencing these offences.

**Lord Justice Treacy Chairman,
Sentencing Council**

Introduction

In October 2014 the Sentencing Council published a consultation on draft guidelines on sentencing robbery offences. The Council began the development of a guideline for robbery offences having already completed a guideline for fraud, bribery and money laundering, and after consulting on a guideline on theft. It considered that robbery was the next logical guideline to work on in order to complete the category of acquisitive offences.

The predecessor body of the Sentencing Council, the Sentencing Guidelines Council (SGC), published a definitive guideline for robbery in July 2006. The SGC grouped together street robbery, robberies of small businesses and less sophisticated commercial robberies into one guideline. There was no guidance for professionally planned commercial robberies or robberies in a dwelling.

The main difference between the approach taken by the SGC and that taken by the Council is to ensure that guidance is produced to cover all types of robbery.

In producing the definitive guideline for dwelling robbery the Council has also had regard to the approach taken in the definitive guideline for aggravated burglary published in October 2011, to ensure that the two guidelines are consistent where appropriate.

The Council consulted on draft guidelines for all robbery offences between 21 October 2014 and 23 January 2015. During the consultation period the Council held a consultation event with the Association of British Bookmakers, who had a particular interest in commercial robbery. The Council is grateful to the Association of British Bookmakers for hosting that event.

A Justice Select Committee event was attended by Council representatives and

various interested parties, to discuss the guideline.

During the consultation period, the Council also conducted a second stage of qualitative research with Crown Court Judges and Recorders to test the draft guidelines against case scenarios. Findings from this research are referred to throughout this response paper and a full report may be found on our website.

The definitive guideline will apply to all offenders aged 18 and over who are sentenced on or after 1 April 2016, regardless of the date of the offence. The existing SGC robbery guideline includes a guideline for sentencing young offenders. In addition general principles for sentencing youths are available in the Sentencing Guidelines Council's definitive guideline, *Overarching principles - Sentencing Youths*. Both of these guidelines will continue to be in force pending new guidance which will be included in a forthcoming youth guideline. Check www.sentencingcouncil.org.uk for amendments to guidance for youth offenders.

Summary of responses

The consultation sought views from respondents on four main areas: the principal factors that make the offence more or less serious; the additional factors that should influence the sentence; the approach taken to structuring the draft guidelines and the sentences that should be passed. The consultation also included a number of case studies to obtain detailed responses on the workability of the draft guidelines and whether any difficulties arose.

There were a total of 38 responses to the consultation of which 32 provided email or paper responses and six responded online.

Breakdown of respondents

Type of respondent	Number
Academic	4
Charity/voluntary organisations	2
Government (1 central government response and 1 local government response)	2
Industry (representative bodies)	3
Judiciary (1 representative body and 3 individual responses)	4
Legal professionals (5 collective responses and 2 individual)	7
Magistrates (1 collective response and 2 individual responses)	3
Members of the public	6
Parliament	1
Police (collective responses)	2
Probation (collective responses)	2
Victims' representative groups	2
Total	38

Feedback received from the Council's consultation event and interviews with sentencers during the consultation period is reflected in the responses to individual questions below.

In general, there was a positive response to the proposals. In particular, the majority of respondents found the guidelines easy to use when considering the various case studies. However, the Council was also grateful for constructive criticism and considered suggestions for amending parts of the draft guidelines. The principal substantive themes emerging from responses related to:

- the grouping of the guidelines;
- the distinction to be drawn between use of a weapon, producing a weapon and using it to threaten, and threats to use a weapon without producing it (and potentially not even having a weapon);
- difficulties in assessing the level of physical and psychological harm;
- the consideration of group activity when assessing seriousness; and
- the importance of the value of the item(s) taken when considering harm caused to the victim.

The Council has carefully considered all of the responses it has received from consultation and interviews with sentencers and has made a number of changes in these main areas, alongside some more minor adjustments. This has resulted in:

- a change to the groupings of the guidelines so that street and less sophisticated commercial robbery are combined, and professionally planned commercial robbery and dwelling robbery stand alone;

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- a change to the culpability factors to ensure that threats to use any type of weapon whether produced or not, are clearly covered by the guidelines;
- changes to the categories of harm so that they are more clearly defined;
- changes to ensure that group activity is addressed in all three guidelines in the most appropriate way; and
- a harm model which reflects respondents' overwhelming view that value is less of an important consideration in street robbery or robberies committed in small shops or businesses, where instead the focus should be on harm to the victims or detriment to the business.

Specific Issues

Approach

The robbery guidelines in the consultation paper were grouped into three separate areas:

- Street robbery
- Commercial robbery
- Robbery in a dwelling

The consultation paper did not include any specific questions about these groupings but questions 34 – 79 invited respondents to use the guidelines to sentence example cases via case studies. Responses to these questions revealed that some respondents felt unsure about which guideline they should be using to sentence particular scenarios. For example case study 2 involved the robbery of a taxi driver; some respondents were unclear as to whether this would class as a street robbery or a commercial robbery. This issue also arose in the qualitative research that was carried out with Crown Court Judges and Recorders to test the draft guidelines against case scenarios. Judges were familiar with the structure of the existing SGC guideline which combined street robbery, robberies of small businesses and less sophisticated commercial robberies meaning that such distinctions did not need to be drawn between types of guideline.

When considering the sentencing levels within the commercial robbery guideline the Council also became concerned that combining all types of commercial robbery within one guideline could result in the sentence levels for robberies of small businesses and less sophisticated commercial robberies being inflated. Conversely one respondent was concerned that combining them could devalue the significance of a robbery committed against a small business, as comparatively the loss from a small store will always seem low, even if the loss had a major impact on the business.

“Bringing together both the ‘unsophisticated’ and ‘highly sophisticated’ robberies into one set of sentencing guidelines may devalue the definition of “high value goods” – the size and type of business should be distinguished in guidelines and at the forefront of a [...] courts deliberations. Convenience store owners stock a wide range of general grocery products and the highest value items are likely to be alcohol and tobacco products. There are limited parallels between a convenience store and a jewellers yet the guidance does not include an assessment of business type.” – Association of British Convenience Stores

For these reasons the Council decided to change the groupings of the guidelines into the following three:

- Street and less sophisticated commercial robbery
- Professionally planned commercial robbery
- Dwelling robbery

This structure should ensure that sentencers will not struggle to decide which guideline to use and will ensure that lower level commercial robberies are sentenced appropriately.

Culpability

Questions 1, 13 and 24 of the consultation sought views on the approach to the assessment of culpability within each of the three guidelines. The majority of the respondents agreed with the approach (84 per cent street robbery, 82 per cent commercial robbery and 94 per cent dwelling robbery). Of those that disagreed, the main concern was with the distinction drawn between the production of a knife, firearm or imitation firearm to threaten and the threat of such a weapon that is not produced. Many believed that there should be no such distinction as the fear elicited would likely be the same.

This was considered by the Council and it was decided that the distinction should remain in

place. The rationale was that although the threat may elicit a high amount of fear there is a fundamental difference in culpability between someone who states they have a bladed article or firearm and someone who is prepared to produce it to assist in the commission of the offence. There is also a greater risk of injury if the weapon is actually produced. The level of fear caused and any psychological effects as a result of this threat will be taken into account in the assessment of harm.

A number of respondents were also concerned that if an offender threatened to use a weapon, other than a bladed article, firearm or imitation firearm, but did not in fact produce that weapon then this scenario would not fall into either culpability A or B. This was not the case as it would fall into category B under '*Factors not present in A or C*' but nevertheless this did raise the question as to whether this scenario should be clearly provided for. The Council considered this comment and as a result amended the factor '*Threat of violence by a bladed article or firearm or imitation firearm (but which is not produced)*' in culpability B to '*Threat of violence by any weapon (but which is not produced)*.'

In order to make the differentiation between bladed articles, firearms or imitation firearms and other weapons clearer the Council also decided to reword '*Production and use of a weapon to threaten violence*' to '*Production of a weapon other than a bladed article or firearm or imitation firearm to threaten violence*' as there were concerns that producing a knife or firearm could be wrongly categorised if the guideline was not read closely.

Question 2 asked respondents whether it was appropriate to distinguish cases involving a bladed article, firearm or imitation firearm from those involving other types of weapons. This was an issue that had been carefully considered by the Council. 56 per cent of respondents agreed with the question and so the distinction has been maintained.

There is clear public concern about knife crime. *R v Monteiro and others*¹ confirmed the guidance given in *R v Povey*² which made clear that sentences passed in cases involving knives, particularly cases involving knives being carried in public places, must focus on reducing this type of crime. Drawing the distinction between these types of weapons within the guidelines ensures that those offences involving knives will fall within the highest brackets of culpability so that the sentence imposed is appropriate, and in line with current case law and sentencing practice.

Road testing raised an issue with the terminology of the phrase '*Production and use of a weapon to inflict violence*' as participants questioned how a weapon could be used if it was not produced and the factor only needs to capture the fact that violence has been inflicted. Based on these comments the Council decided that the factor should be reworded to '*Use of a weapon to inflict violence*.'

Questions 3, 15 and 25 asked respondents whether there were any additional factors that should be considered at step one. Across all three guidelines a minority of respondents answered yes (17 per cent street robbery, 21 per cent commercial robbery and 44 per cent dwelling robbery). Out of those, four respondents (Gloucestershire Bench, West Yorkshire Police, Mayor's Office for Policing and Crime and a magistrate) suggested that group activity should be considered at step one for street robbery.

The positioning of the group activity factor within the street robbery guideline was given great thought and the Council is still content that the original rationale is valid. There is a concern that including this factor at step one could inflate sentences as a couple of friends who commit a very unsophisticated and unplanned 'mugging' could be classed as a group or gang and find themselves in high or

¹ R v Monteiro and others [2014] EWCA Crim 747

² R v Povey [2008] EWCA Crim 1261

medium culpability. The Council's intention in revising this guideline is not significantly to alter current sentencing practice. As there are similar risks when dealing with unplanned and unsophisticated low level commercial robbery it was agreed that the group factor would also be better dealt with as a step two factor for less sophisticated commercial robberies.

Several respondents suggested that planning/organised nature of the offence should be considered at step one for street robbery and dwelling robbery. However the Council considered that this should remain as a step two factor in the street/ less sophisticated commercial robbery guideline but agreed it should be a step one factor in the dwelling robbery guideline and so made the change to the dwelling robbery guideline. The reasoning was that street/less sophisticated commercial robbery offences are, by definition, less planned or organised, and that this factor is not a principal element of the offence, therefore it should be a step two factor. However, a dwelling robbery is far more likely to involve levels of sophistication or planning such as targeting of premises, possibly overcoming security systems, and that presence of such sophistication is a principal element of the offence, showing higher levels of culpability.

Following on from the new grouping of the guidelines the Council also considered whether it was correct to include planning in the sophisticated commercial robbery guideline. This was an issue that had been raised during road testing exercises with sentencers as it was felt that the sentencing ranges in the commercial robbery guideline were already significantly higher than the other robbery guidelines to account for the very nature of this sophisticated attack. Therefore including planning as a culpability factor could lead to 'double counting' and sentence escalation. The Council agreed with these comments and as such decided to remove planning as a culpability factor for sophisticated commercial robberies.

Questions 4, 16 and 26 asked respondents if any of the factors should be considered at step two; across all three guidelines a minority answered yes (17 per cent street robbery, 21 per cent commercial robbery and 18 per cent dwelling robbery).

There was no consensus across the responses but the London Criminal Courts Solicitors' Association did suggest that '*Deliberately targeting a vulnerable victim*' was better suited to step two. This factor was also a cause for concern following road testing with sentencers. In the consultation version this factor was included as a high culpability factor and there was also an aggravating factor of '*Victim is particularly vulnerable due to factors including but not limited to age, mental or physical disability.*' Some participants felt that this factor was being 'double counted' and could increase sentence lengths. A small sample transcript exercise was conducted and the results of this suggested that the inclusion of this factor in culpability at step one was elevating sentence levels by an average of 1.60 years. It was also felt that if the victim was particularly vulnerable then the harm level is likely to be higher and thus the sentence is being elevated at every step.

It was also recognised by the Council, when deliberating over this factor, that in many robberies the offender will often pick someone who is vulnerable in some way. The Council, therefore, amended the guideline by removing this factor from step one and amending the aggravating factor from '*Victim is particularly vulnerable ...*' to '*Victim is targeted due to vulnerability (or a perceived vulnerability),*' still enabling the factor to influence sentence.

Harm

The street robbery guideline consulted on two versions of the harm model. Harm model A was the preferred model and considered only the physical and/or psychological harm caused to the victim, with the value of the goods being considered at step two. Harm model B considered both the physical and/or

psychological harm caused to the victim and the value of the goods (whether economic, sentimental or personal) at step one.

Question 5 asked respondents if they agreed with the proposed approach to the assessment of harm, as set out in Harm Model A; 87 per cent did so.

“The Victims’ Commissioner welcomes the greater priority given to the harm caused rather than the value of the loss. She also welcomes the reference to assessing the psychological as well as the physical impact of the crime.” – The Victims’ Commissioner’s Office

“We strongly support the emphasis placed on the harm caused to the victim rather than the value of the goods stolen.” – Victim Support

Several respondents, across all three of the guidelines, supported the inclusion of psychological harm in the assessment of harm. However, in response to question 6, which asked whether the levels of harm in the street robbery guideline are simple to interpret, 39 per cent of respondents disagreed. The majority of those in disagreement expressed concern with the factor *‘Above the level of harm inherent in the offence.’* Others felt that assessing the difference between serious or some psychological harm, and serious or some physical harm would be very difficult. These factors are common across all three of the robbery guidelines and the comments were also raised in responses to commercial and dwelling robbery.

The Council discussed the factor *‘Some physical and/or psychological harm caused to the victim above the level of harm inherent in this offence’* and the difficulty that respondents had in interpreting this phrase.

“Robbery can be committed in so many different ways [...] the ‘inherent’ level of harm is therefore very variable.” – Professor of Law

The Council decided to rearrange the harm model so that just the most serious and least serious harm is described. The Council felt that sentencers would find it easier to recognise those levels of harm, thus leaving the middle factor for those cases where *‘factors in categories 1 or 3 are not present.’* This also removes the need for a sentencer to decide what level of harm is ‘inherent’ in the offence of robbery.

A number of respondents felt that the guidelines should give greater consideration to the impact on victims of offences, by specifically requiring consideration of victim personal statements (VPS).

The Council would highlight that it does not include a reference to the VPS in sentencing guidelines. The existence or otherwise of a VPS is not the remit of the sentencer; it is the responsibility of the police. It would be inappropriate for the Council, through its guidelines, to go further than the law or the Victims’ Code in setting an expectation that a VPS will be available to the court or in placing a requirement on the prosecutor to produce a VPS. Courts must facilitate presentation of a VPS, if one exists. The rules for this are set out in the Criminal Practice Directions. It would be inappropriate and outside the Council’s remit to seek to prescribe such elements of criminal procedure.

All guidelines include consideration of the impact on victims as an integral component of assessing seriousness. This need not be based on a VPS, although where one exists, it will be taken into account by the court.

In response to question 17, for the commercial robbery guideline, 90 per cent of respondents agreed with the assessment of harm. However it should be noted that this question was incorrectly worded in the consultation paper to ask *‘Do you agree with the proposed approach to the assessment of culpability?’* thus mirroring question 14. Some respondents specifically noted that they assumed this was a mistype and were answering with regards to the

assessment of harm; all of those who did so agreed.

Two respondents did state that, in the assessment of harm, the value of goods taken should be relative to the company as the same value taken could have a substantially different impact on companies of a different size with different turnovers. The Council considered this factor but felt this would be encompassed in the other harm factor of ‘*Serious detrimental effect on business.*’

In response to question 27, 79 per cent of respondents agreed with the assessment of harm within the dwelling robbery guideline. There was no consensus amongst those that did not.

At questions 18 and 28 respondents were asked within both the commercial robbery guideline and the dwelling robbery guideline whether value should be considered at step two. 60 per cent of respondents answered yes for commercial robbery and 50 per cent for dwelling robbery. However, across both questions some of the comments appeared contradictory to the answer given and it is suspected that some respondents may have misunderstood this question and not realised that this is *instead* of considering it in the assessment of harm at step one. The fact that the majority of respondents across both guidelines (90 per cent for commercial robbery and 80 per cent for dwelling robbery) also stated that they agreed with the assessment of harm where value is considered at step one, further reinforces the doubt that this question was understood by all.

The Council did deliberate over this point but decided that for professionally planned commercial robbery, businesses are usually targeted due to the belief that there are high value goods available and therefore the factor is key to the offence and better retained at step one. For dwelling robbery it was proposed that value also remains in the assessment of harm at step one as this approach mirrors that in the *Aggravated Burglary Definitive Guideline* where

the impact on the victim, the value of the goods and any damage caused to the dwelling are all part of the assessment of harm.

In the combined street and less sophisticated commercial robbery guideline it was decided that value should be considered at step two as value of the goods taken is often due to chance rather than due to specific targeting. The majority of respondents felt that the real harm in these types of offences was the effect the offence has had on the victim, whether an individual or a business, which is covered by the other harm factors at step one, such as ‘*Serious physical/psychological harm caused to the victim*’ and ‘*Serious detrimental effect on the business*’.

“The Sentencing Council should consider how the operational disruption caused by a robbery can be included in the harm factors. For example the loss of goods or sums of money may be of less value compared to the day(s) the store needs to close or the additional cost incurred by the retailer to cover and support staff after the robbery.” – The Association of British Convenience Stores

Questions 19 and 29 asked respondents if there were any other factors that should be considered in the assessment of harm for commercial robbery and dwelling robbery respectively. 32 per cent of respondents suggested additional factors for the commercial robbery guideline and six per cent for the dwelling robbery guideline. Suggestions for the commercial robbery guideline included operational disruption, effect on employee regarding their future employment prospects and damage caused to the property. The Council felt that these points were all sufficiently captured by the existing harm factors, namely the consideration of psychological harm caused to the victim and the detrimental effect the offence has had on the business.

There was only one suggestion for the dwelling robbery guideline of deliberate vandalism or damage to property and/or threats to children or vulnerable adults that are present. The harm

assessment already includes ‘*Damage caused to the dwelling*’ and ‘*Soiling, ransacking or vandalism of property*’ so the Council felt it was not necessary to incorporate any further factors to capture vandalism or damage to property. Threats to children or vulnerable adults that are present was discussed by the Council but it was felt that this was better suited to remain as an aggravating factor because, although it no doubt increases the seriousness of the offence, it is not necessarily a key element of the offence in most cases, which is what step one is designed to capture.

Aggravating Factors

Questions 9, 20 and 30 asked respondents if they agreed with the list of aggravating factors across the three guidelines. The majority of respondents agreed (58 per cent street robbery, 85 per cent commercial robbery and 74 per cent dwelling robbery).

For the street robbery guideline six respondents suggested that operating as part of a group or gang should also be an aggravating feature (the consultation version had only ‘*A leading role where offending is part of a group activity*’). The Council considered this point but, as discussed above, was cautious about inflating sentences for unsophisticated offences that are committed by a group of friends as opposed to a planned group activity. Due to this the Council was content that the existing aggravating factor would sufficiently capture the majority of the cases that go beyond the example just described and, as the factors are non-exhaustive, if there is an example where it is not sufficiently captured then sentencers can use their expertise to aggravate based on the circumstances of the case.

Three respondents did express concern regarding the ‘double counting’ or possibly even ‘triple counting’ of a vulnerable victim and suggested removing this aggravating factor. As discussed above, the Council addressed this issue by removing it from the culpability factors across all three guidelines.

Three respondents expressed some concern about the factor ‘*Timing of the offence*’ and two about the factor ‘*Location of the offence*.’ The comments were that it is so broadly drafted that every offence could be made more serious. After careful deliberation the Council decided that these factors should remain as they are present in a number of other definitive guidelines and sentencers are familiar with these considerations and will know how to interpret them.

For the commercial robbery guideline three respondents suggested that the factor ‘*Targeting large sums of money or valuable goods*’ would be ‘double counting’ as value is considered at step one in this guideline and remains a step one consideration for professionally planned commercial robberies in the new offence grouping. The Council agreed with this concern and removed the aggravating factor.

The Justice Select Committee response raised a concern regarding businesses that have dwellings attached.

“For the people who live and work in the same place as a commercial robbery it is particularly frightening; when children or other family members are asleep and vulnerable upstairs it must be terrifying. We believe where the premises robbed are also someone’s home that should be treated as an aggravating factor.” -

Justice Select Committee

The Council considered this point and strongly agreed that this should be added as an aggravating factor for the reasons put forward by the Justice Select Committee.

Within the dwelling robbery guideline three respondents commented on the factor ‘*Child at home (or returns home) when offence committed*’ with a judicial respondent and the Probation Institute suggesting this should be broadened to include other particularly vulnerable persons. The Council agreed that the presence of other vulnerable people could similarly aggravate the offence and so the

factor has been broadened to read '*Child or vulnerable person at home (or returns home) when offence committed.*'

The Justice Select Committee and South East London Bench also queried the reference to domestic violence in the factor '*Victim compelled to leave their home (in particular victims of domestic violence).*' The Council acknowledge that the domestic violence element is not relevant to dwelling robbery and was included in the consultation document in error and as such it has been removed.

Questions 10, 21 and 31 asked respondents whether any of the aggravating factors should, instead, be considered at step one under culpability factors. A minority of respondents felt they should (38 per cent street robbery, 25 per cent commercial robbery and 17 per cent dwelling robbery). Five respondents commented that group activity should be considered at step one for street robbery. As discussed above, the Council decided to retain its original position and this factor is present as an aggravating factor in street and less sophisticated commercial robberies.

Both West Yorkshire Police and the Criminal Bar Association suggested that '*Restraint, detention or additional degradation of the victim*' ought to be considered at step one. The Council concluded that this factor is also present at step two in the other robbery guidelines as an aggravating factor and no respondents raised any concerns with the placement. The Council felt that it would be wrong in principle to suggest that this treatment of a victim is somehow less serious in a public or commercial setting and therefore have retained this factor as an aggravating one.

Mitigating Factors

For the first time the Council explicitly stated in the consultation paper that the mitigating factors were commonplace across definitive guidelines and were not subject to consultation. At questions 11, 22 and 32 respondents were

asked if additional mitigating factors should be included. The majority of respondents did not think additional factors were necessary (80 per cent street robbery, 76 per cent commercial robbery and 87 per cent dwelling robbery). Suggestions from those that thought additional factors were necessary included the offender's background, the offender's motivation to offend (for instance, underlying poverty), co-operation with the police and the recovery of property. As there was no consensus to these suggestions and the list supplied is non-exhaustive the Council decided to retain the list as presented in the consultation document.

Sentence Levels

Questions 12, 23 and 33 of the consultation sought views on the sentencing starting points or ranges across the three guidelines. The majority of respondents did not have any comments or felt that the levels were appropriate.

As a result of the decision to change the offence groupings the sentence levels and starting points for street and less sophisticated commercial robberies and professionally planned commercial robberies have been amended from those consulted on as respectively they are covering a broader and narrower range of offences.

For the dwelling robbery guideline the comments that were received varied. Three respondents questioned whether there should be some community orders available within the ranges, two respondents felt that the starting points and ranges were too low and two respondents felt they were too high. However, the qualitative research established that many sentencers felt these ranges were too low, especially when comparing them to the commercial robbery ranges that were consulted on. As a result, some minor upward adjustments have been made to the starting points and ranges within the upper categories of the dwelling robbery guideline.

Conclusion and Next Steps

The consultation has been an important part of the Council's consideration of this guideline. Responses received from a variety of sources have informed changes made to the definitive guideline.

The definitive guideline will apply to all offenders aged 18 and over who are sentenced on or after 1 April 2016, regardless of the date of the offence.

The Equality Impact Assessment Initial Screening is available on the Sentencing Council website. No evidence was provided during the consultation period which suggested that the guideline would have any adverse impact on equalities issues which would warrant a full Equality Impact Assessment. Following the implementation of the definitive guideline, the Council will monitor the impact of the guideline.

Annex A

Consultation Questions

Section three: Street robbery

- 1) Do you agree with the proposed approach to the assessment of culpability?
- 2) Is it appropriate to distinguish between cases involving a bladed article or firearm or imitation firearm from those involving other types of weapon?
- 3) Are there additional factors that should be included at step one?
- 4) Should any of the factors be considered at step two?
- 5) Do you agree with the proposed approach to the assessment of harm in this preferred model (Harm Model A)?
- 6) Are the levels of harm simple to interpret?
- 7) Should the value of the goods as expressed in categories 1 and 2 in Harm Model B carry the same amount of weight as the physical and/or psychological harm caused? If not, how should they be weighted?
- 8) Does Harm Model B reflect the primary factors that should be taken into account?
- 9) Do you agree with the aggravating factors? Please state which, if any, should be removed or added.
- 10) Should any of the factors be considered at step one?
- 11) Are there any mitigating factors that should be added?
- 12) Do you have any general comments on the sentence ranges and starting points?

Section four: Commercial robbery

- 13) Do you agree with the proposed approach to the assessment of culpability?
- 14) Is it appropriate to distinguish between the roles of offenders involved in group offending?
- 15) Are there additional factors that should be included at step one?
- 16) Should any of the factors be considered at step two?
- 17) Do you agree with the proposed approach to the assessment of culpability?
- 18) Should the value of the goods be considered at step two?
- 19) Are there any additional harm factors that should be added?
- 20) Do you agree with the additional aggravating factors for this offence? Please state which, if any, should be removed or added.
- 21) Should any of the factors be considered at step one? If so, why?
- 22) Are there any mitigating factors that should be added?
- 23) Do you have any general comments on the sentence ranges and starting points?

Section five: Robbery in a dwelling

- 24) Do you agree with the proposed approach to the assessment of culpability?
- 25) Are there additional factors that should be included at step one?
- 26) Should any of the factors be considered at step two?
- 27) Do you agree with the proposed approach to the assessment of harm?
- 28) Should the value of the goods be considered at step two?
- 29) Are there any additional harm factors that should be added?
- 30) Do you agree with the aggravating factors? Please state which, if any, should be removed or added.
- 31) Should any of the factors be considered at step one?
- 32) Are there any mitigating factors that should be added?
- 33) Do you have any general comments on the sentence ranges and starting points?

Section six: Case study 1

- 34) Which guideline would you use to sentence this case?
- 35) What level of culpability applies to this offender? Please give reasons.
- 36) What level of harm applies? Please give reasons.
- 37) What difference, if any, would it make if the phone had not been recovered?
- 38) What difference, if any, would it make if the victim had been shoved to the ground and suffered a broken wrist?
- 39) On the facts as given in the scenario, what would be your starting point for the robbery offence?
- 40) Taking into account any known aggravating or mitigating factors what would be your final sentence for the robbery offence only? (Before and after guilty plea discount)
- 41) Do you have any views on this final sentence that you have come to?
- 42) How easy did you find the guideline to use in sentencing this scenario?

Section six: Case study 2

- 43) Which guideline would you use to sentence this case?
- 44) What level of culpability applies to this offender? Please give reasons.
- 45) What level of harm applies? Please give reasons.
- 46) On the facts as given in the scenario, what would be your starting point for the robbery offence?
- 47) Taking into account any known aggravating or mitigating factors what would be your final sentence for the robbery offence only? (Before and after guilty plea discount)
- 48) Do you have any views on this final sentence that you have come to?
- 49) How easy did you find the guideline to use in sentencing this scenario?

Section six: Case study 3

- 50) Which guideline would you use to sentence this case?
- 51) What level of culpability applies to this offender? Please give reasons.
- 52) What level of harm applies? Please give reasons.
- 53) What difference, if any, would it make if T had not produced the knife but had said 'give me your phone or I'll shank you'?
- 54) What difference, if any, would it make if the victim did not have a disability?
- 55) On the facts as given in the scenario, what would be your starting point for the robbery offence?
- 56) Taking into account any known aggravating or mitigating factors what would be your final sentence for the robbery?
- 57) Do you have any views on this final sentence that you have come to?
- 58) How easy did you find the guideline to use in sentencing this scenario?

Section six: Case study 4

- 59) Which guideline would you use to sentence this case?
- 60) What level of culpability applies to this offender? Please give reasons.
- 61) What level of harm applies? Please give reasons.
- 62) On the facts as given in the scenario, what would be your starting point for the robbery offence?
- 63) Taking into account any known aggravating or mitigating factors what would be your final sentence for the robbery? (Before and after guilty plea discount)
- 64) Do you have any views on this final sentence that you have come to?
- 65) How easy did you find the guideline to use in sentencing this scenario?

Section six: Case study 5

- 66) Which guideline would you use to sentence this case?
- 67) What level of culpability applies to the offenders? (Assume that they are sentenced on the basis that they are equally culpable). Please give reasons.
- 68) What level of harm applies? Please give reasons.
- 69) On the facts as given in the scenario, what would be your starting point for the robbery offence?
- 70) Taking into account any known aggravating or mitigating factors (and assuming that there were no separate charges for weapons offences) what would be your final sentence for the robbery? (Before and after guilty plea discount)
- 71) Do you have any views on this final sentence that you have come to?
- 72) How easy did you find the guideline to use in sentencing this scenario?

Section six: Case study 6

73) Which guideline would you use to sentence this case?

74) What level of culpability applies? Please give reasons.

75) What level of harm applies? Please give reasons.

76) On the facts as given in the scenario, what would be your starting point for the robbery offence?

77) Taking into account any known aggravating or mitigating factors what would be your final sentence for the robbery? (Before and after guilty plea discount)

78) Do you have any views on this final sentence that you have come to?

79) How easy did you find the guideline to use in sentencing this scenario?

Annex B

Consultation Respondents

Responses were received from the following:

Mike Airton	London Criminal Courts Solicitors' Association
Professor Andrew Ashworth	Mayor's Office for Policing and Crime
Association of Bookmakers	Marc McMorran
Association of Convenience Stores	Rodney Moxham
Andrew W Baker QC	National Federation of Retail Newsagents
British Transport Police	Office of the Victims' Commissioner
Chris Nicholls Solicitors	The Prison Reform Trust & Transition to Adulthood Alliance (joint response)
The City Law School	Probation Institute
The Criminal Bar Association	Quaker Peace & Social Witness Crime, Community & Justice Sub Committee
Criminal Committee of the Council of H.M Circuit	HHJ Alice Robinson
Criminal Law Solicitors' Association	Secretary of State for Justice on behalf of the Government
Gloucestershire Bench	Neil Shaw
Lyndon Harris	South East London Bench
Judge Advocate General (HHJ Jeff Blackett)	Neil Thomas
Justices' Clerks' Society	University of Cambridge
Justice Select Committee	Victim Support
Janette Killip	Wales Community Rehabilitation Company
Kobre & Kim LLP	West Yorkshire Police
Garry Langford	
The Law Society	