

**Meeting date:** 24 September 2021  
**Paper number:** SC(21)SEP03 – ‘What Next for the Sentencing Council’ strategy paper  
**Lead official:** Emma Marshall

## **ISSUE**

1.1 The strategy document to be published alongside the consultation response document for the *What Next for the Sentencing Council* (‘Vision’) consultation.

## **RECOMMENDATION**

2.1 That you agree the content and format of the strategy document. We will then continue to work on the full consultation response document and circulate this for comments.

## **CONSIDERATION**

3.1 The Council agreed at the June meeting that in addition to a consultation response document, we would prepare a strategy document that would be published alongside this. The strategy document will provide a high level, easily accessible, summary of the key priorities and actions for the Council for next the five years. It was agreed that this would be focused on a small number of high-level strategic objectives with more specific actions sitting underneath.

3.2 We have now drafted the strategy document attached at Annex A. This has already been discussed with Vision working group and with Elaine Lorimer as the Council’s independent member of the Governance Group. On the basis of those of those discussions, the original draft has been revised and considered again by the Vision working group and the Governance Group.

3.3 We plan to have this formatted and laid out by Design102 and so in order to meet our planned publication date of 4<sup>th</sup> November, we need to have finalised this document by mid-October.

***Question 1: Does the Council have any comments on either the structure or content of the proposed strategy document?***

***Question 2: Is the Council content to agree to publish this document on 4<sup>th</sup> November?***

## **RISKS AND IMPACT**

4.1 It is important that the strategy document is fully aligned with the consultation response document so that we can provide a full and justified explanation for all the decisions that have been made. If not, this may attract criticism that the Council has not fully taken account of the views put forward and is not being responsive to recommendations. This could undermine confidence in the Council and the decisions it takes.

4.2 It is also important that the strategy document is seen to be actioning those areas of work that are flagged in the consultation document as higher priority. We have already placed these on the Office's planning spreadsheet and are currently working on how best to resource these.

# **Sentencing Council strategic objectives 2021–2026**

# Sentencing Council strategic objectives 2021–2026

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# Contents

<b>Foreword</b>	<b>1</b>
<b>Introduction</b>	<b>2</b>
Leadership and governance	2
Resources	3
Background to developing this five-year strategy	3
This strategy document	4
<b>Strategic objectives</b>	<b>5</b>
Strategic objectives 2021–2026	5
<b>Achieving our strategic objectives</b>	<b>6</b>
Strategic objective 1: The Council will promote consistency and transparency in sentencing through the development and revision of sentencing guidelines	6
Strategic objective 2: The Council will ensure that all our work is evidence-based and will work to enhance and strengthen the data and evidence that underpins it	7
Strategic objective 3: The Council will explore and consider issues of equality and diversity relevant to our work and take any necessary action in response	8

Strategic objective 4: The Council will consider and collate evidence on effectiveness of sentencing and seek to enhance the ways in which we raise awareness of the relevant issues

9

Strategic objective 5: The Council will work to strengthen public confidence in sentencing by improving public knowledge and understanding of sentencing and showing the Council to be responsive and transparent

9

# Foreword

I am pleased to introduce the Sentencing Council's strategy for the next five years.

2020 marked the 10th anniversary of the Sentencing Council. On reaching this milestone, we undertook a review of what we had achieved so far and sought views on what our priorities should be for the next five to ten years. On behalf of the Council I would like to thank all those who contributed to this process, which is set out in the consultation response document published alongside this strategy.



It is clear from the responses to the consultation that the Council is seen as an important and integral part of criminal justice system. We are committed to fulfilling the duties set out for us in legislation as well as undertaking other work that helps ensure we have a clear, fair and consistent approach to sentencing and that we are able to promote awareness and understanding of sentencing among victims, witnesses, offenders and the public.

In this document we set out the strategic objectives and supporting priorities and actions for the Council over the next five years, taking into account the statutory duties of the Council, responses to the consultation, and the resources we have at our disposal. We have also responded to consultees' comments by placing a consideration of issues around equality and diversity at the heart of our work and exploring ways in which we can address any concerns that might arise where it is within our power and appropriate for us to do so.

I hope that you will find that this strategy document provides a useful summary of the Council's aims and priorities as we enter our second decade.

A handwritten signature in black ink, which reads "Tim Holroyde". The signature is written in a cursive, slightly stylized font.

**Lord Justice Holroyde**  
**Chairman of the Sentencing Council**

# Introduction

## Purpose

The Sentencing Council for England and Wales promotes a clear, fair and consistent approach to sentencing by issuing sentencing guidelines which provide clear structures and processes for judges and magistrates to use in court and promotes awareness and understanding of sentencing among victims, witnesses, offenders and the public.

This purpose is underpinned by the statutory duties for the Council that are set out in the Coroners and Justice Act 2009 (see Annex A for further details).

## Leadership and governance

### The Council

The Lord Chief Justice, the Right Honourable Lord Burnett of Maldon is President of the Council and appoints judicial members, with the agreement of the Lord Chancellor. The Lord Chancellor appoints non-judicial members, with the agreement of the Lord Chief Justice. All appointments are for a period of three years, with the possibility of extending up to a maximum of 10 years.

The Chairman of the Council is Lord Justice Holroyde who was appointed to this role on 1 August 2018. He is supported by seven additional judicial members and six non-judicial members.

The Sentencing Council meets for a full day ten times a year to consider business and is the primary decision-making body. The Council also has three sub-groups to provide oversight in specific areas: analysis and research, confidence and communication, and governance. The sub-groups' roles are mandated by the Council and, although some decision-making responsibilities are delegated to the sub-groups, all key decisions are made by the full membership. The sub-groups are internal rather than public-facing. From February 2020, the Council also set up a dedicated working group to explore and consider issues of equality and diversity as relevant to our work and recommend any necessary actions or further work in response.

### The Office of the Sentencing Council

The Council is supported in delivering its responsibilities by the Office of the Sentencing Council (OSC) The OSC is led by the Head of the Office of the Sentencing Council, Steve Wade who was appointed in October 2016, and staffed by civil servants employed via the Ministry of Justice (MoJ). The Office is funded by the MoJ and its budget is delegated to the Head of the OSC from the Chief Finance Officer MoJ, who is also accountable for ensuring that there are effective arrangements for oversight of the Council in its statutory functions and as one of the Ministry's arm's-length bodies.

The work of the OSC is overseen by a senior management team comprising the Head of Office and senior staff. The role of the team is to monitor and evaluate the progress of the Council's workplan, monitor budgetary expenditure, manage risks and make decisions on



issues relating to the work of the OSC in line with the priorities agreed by the Sentencing Council.

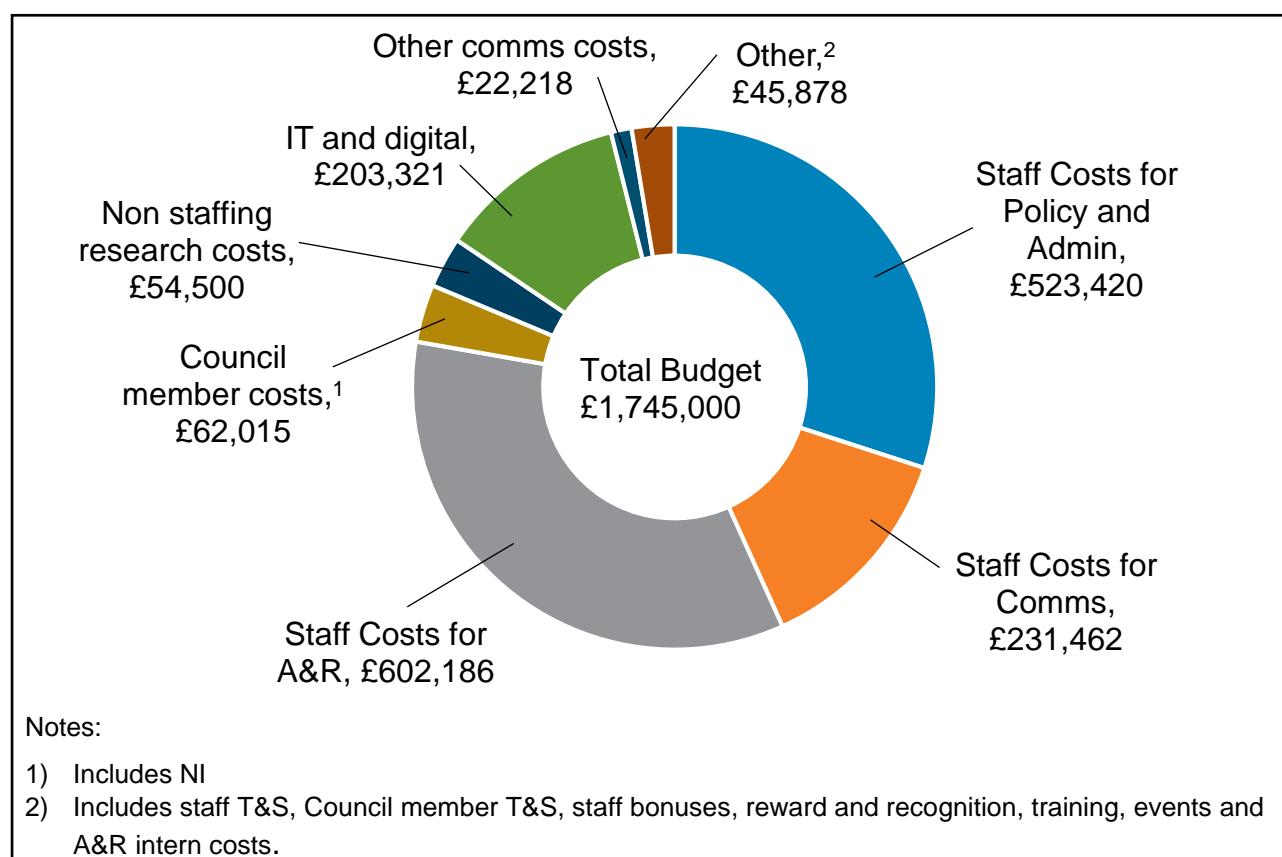
## Resources

The Sentencing Council is supported in its work by a multi-disciplinary team that comprises lawyers, policy officials, analysts, communication specialists and administrative support. As of April 2021, there were 15.1 full-time equivalent (FTE) members of staff.

The Sentencing Council's resources are made available through the Ministry of Justice. In the financial year 2021/22 the Council's budget is £1.745m. The Council's strategic objectives have been set in line with that level of funding.

The majority of the budget is allocated to staffing costs and in 2021/22 this accounted for 91 per cent of expenditure. The majority of the non-staffing budget is allocated to the development and maintenance of our digital resources and tools, with a small amount allocated to external contracts for analysis and research.

**Figure 1: Pie chart of budget breakdown, financial year 2020/2021**



## Background to developing this five-year strategy

The production and revision of guidelines (including analysis, research and communication activities to support guidelines) has formed a large part of the Council's focus. By 2020, we had produced 27 sets of definitive guidelines encompassing 145 separate guidelines covering 227 offences, as well as guidelines on eight overarching topics.

As part of our 10th anniversary year and in consideration of what our priorities should be for the next five to 10 years, we opened a consultation to seek the views of all those with

an interest in our work. The consultation covered what the Council's future objectives and priorities should be.

In anticipation of reviewing our achievements and future priorities at our 10-year point, the Council put in place some early work to consider:

- the statutory duties set out in the Coroners and Justice Act 2009;
- the independent review of the Council, conducted by Professor Sir Anthony Bottoms;
- the report from a Tailored Review undertaken by the Ministry of Justice; and
- commentaries published on the Council's work throughout the last 10 years (for example, from academics or interest groups).

In the autumn of 2019, Sentencing Council officials also undertook a series of informal discussions with internal and external partners in the criminal justice system and those with an interest in the system to discuss a range of issues that could feed into this consultation.

The consultation was published on 10 March 2020 and closed on 9 September 2020.

### **This strategy document**

A full consultation response document accompanies this document and provides further information on the rationale for the strategic objectives and priorities set out here. These priorities and actions will inform the Council's business plans for the next five years, which will be updated annually.

The last business plan published in May 2021 was an interim business plan setting out our aims for the financial years 2020/21 and 2021/22. It included some areas of work covered by this strategy document that the Council was keen to begin work on as soon as possible. The first business plan to focus fully on delivering the objectives set out in this document will be that relating to financial year 2022/23.

Ongoing annual business plans for the period covered by this document will continue to set out in more detail how the individual priorities falling under each strategic objective will be delivered each year.

Given the nature of our work and the increasing volume of legislation relating to sentencing that is being produced, the Council may need to respond flexibly to meet any urgent future demands. We will, therefore, look again at this document at least annually, at the time we publish each year's business plan, to consider whether wider events or priorities may require us to amend any of the dates indicated or to reflect any new priorities that may have arisen as a result of external circumstances.

# Strategic objectives

## Strategic objectives 2021–2026

The Sentencing Council for England and Wales promotes a clear, fair and consistent approach to sentencing by issuing sentencing guidelines which provide clear structure and processes for judges and magistrates to use in court and promotes awareness and understanding of sentencing among victims, witnesses, offenders and the public.

Based on our role and remit under the Coroners and Justice Act 2009 and as the independent body responsible for producing sentencing guidelines for England and Wales, the Sentencing Council will prioritise the following strategic objectives.

As stated above, the timings outlined in this document are provisional; more precise timings will be provided in the relevant business plan.

### Sentencing Council strategic objectives 2021–2026

- Strategic objective 1: The Council will promote consistency and transparency in sentencing through the development and revision of sentencing guidelines
- Strategic objective 2: The Council will ensure that all our work is evidence-based and will work to enhance and strengthen the data and evidence that underpins it
- Strategic objective 3: The Council will explore and consider issues of equality and diversity relevant to our work and take any necessary action in response
- Strategic objective 4: The Council will consider and collate evidence on effectiveness of sentencing and seek to enhance the ways in which we raise awareness of the relevant issues
- Strategic objective 5: The Council will work to strengthen public confidence in sentencing by improving public knowledge and understanding of sentencing and showing the Council to be responsive and transparent

Further detail on more specific actions that underpin these objectives is provided below, along with estimated timings. Please note that some actions are ongoing, particularly those relating to the core business of producing and evaluating guidelines, or will be undertaken when they become relevant, for example where they are dependent on the completion of a prior action.

# Achieving our strategic objectives

## Strategic objective 1: The Council will promote consistency and transparency in sentencing through the development and revision of sentencing guidelines

In order to achieve this, the Council will:

Actions for strategic objective 1	Provisional timing
Support consistent and transparent sentencing by continuing to produce and revise guidelines in accordance with published criteria. Specific guidelines produced or revised will be a result of the Council's annual discussions on priorities and will be included in annual business plans.	Ongoing
Ensure that all relevant issues are taken into account when considering guidelines for development, or evaluation, by reviewing and updating our guideline development/ revision criteria.	Completed; published in August 2021
Review the Totality guideline in the light of research findings and make any necessary changes	Consult on draft guideline by October 2022
Ensure that we draw fully on all relevant perspectives by formally considering at the outset of each guideline project whether to bring in additional external expertise to support a guideline's development.	Ongoing from June 2021
Ensure guidelines remain relevant and up to date by undertaking an annual consultation on cross-cutting and/ or minor revisions to guidelines.	Consultation to be issued annually from September 2021
Ensure minor uncontentious amendments to guidelines, that do not require consultation, are clear and transparent to all users by publishing a log of these.	Published as changes are made
Enable users to feedback on guidelines by providing a mechanism to report errors or difficulties.	By December 2021

## Strategic objective 2: The Council will ensure that all our work is evidence-based and will work to enhance and strengthen the data and evidence that underpins it

In order to achieve this, the Council will:

Actions for strategic objective 2	Provisional Timing
Support the development and evaluation of guidelines by continuing to access and analyse sentencing data - including on impacts and resources - and ensure this is understood and informs Council decision-making.	Ongoing
Provide evidence and analysis to support the Council's work across all of its statutory duties.	Ongoing
Finalise approach as to how we might access a great volume of data via the Common Platform and explore whether this might bring about efficiencies in the way in which we currently collect data from the courts.	By September 2022
Consider whether enhancements can be made to the way in which we measure and interpret the impact of our guidelines and our approaches to resource assessments by undertaking a review of our current practice.	By June 2022
Explore how the Council's expanded explanations are being interpreted and applied by sentencers in practice by undertaking an evaluation of these.	Start by March 2022
Inform development of Totality guideline by undertaking a small research study with sentencers.	Completed; published in October 2021
Explore the impact and implementation of the intimidatory offences guidelines by undertaking an evaluation.	Start by March 2022
Explore the impact and implementation of the domestic abuse overarching guideline by undertaking an evaluation.	Start by March 2022
Ensure the views of all relevant parties are fully considered in the development and revision of guidelines by considering on a case by case basis whether additional specific qualitative research is required.	Ongoing from June 2021
Collate the relevant evidence on issues related to effectiveness of sentencing and consider this as part of work to develop and revise guidelines by undertaking and publishing a review of the relevant evidence	Biennially from September 2022
Consider what further work in the area of consistency of sentencing is needed by reviewing the updated evidence in this area.	By September 2022

Consider how best to make use of local area data in our work by undertaking a review of the relevant data sources.	By March 2022
Permit access to data collected by the Council by preparing and publishing our drugs data collection.	By June 2022
Permit access to data collected by the Council by preparing and publishing our robbery offences data collection.	By September 2022
Continue to broaden the range of analytical work we can contribute to and draw on by seeking opportunities to collaborate with academics and external organisations.	Ongoing from June 2021

### **Strategic objective 3: The Council will explore and consider issues of equality and diversity relevant to our work and take any necessary action in response**

In order to achieve this, the Council has set up a dedicated working group and will:

<b>Actions for strategic objective 3</b>	<b>Provisional timing</b>
Explore the potential impact of sentencing guidelines on different demographic groups and groups with protected characteristics by collecting, analysing, and publishing data, where this is available, and undertaking more in-depth analytical work.	Ongoing from December 2020
Draw attention to any relevant issues relating to disparities in sentencing by providing tailored references to relevant information, to the Equal Treatment Bench Book, and to the need to apply guidelines fairly across all groups of offenders after reviewing evidence on disparity in sentencing for each guideline being developed or revised.	Ongoing from December 2020
Explore the potential for the Council's work inadvertently to cause disparity in sentencing across demographic groups by commissioning independent external contractors to undertake a project to review a sample of key guidelines and processes.	By December 2021
Ensure any evidence of disparity in sentencing between different demographic groups is taken into account when deciding whether to develop or review a guideline by including this as a consideration in the Council's criteria for developing and revising guidelines.	Completed; published August 2021
Consider whether separate guidance is needed for female offenders or young adults by conducting an evaluation of the relevant expanded explanations and, if so, add this to our workplan.	To be considered as part of the evaluation of expanded explanations

### **Strategic objective 4: The Council will consider and collate evidence on effectiveness of sentencing and seek to enhance the ways in which we raise awareness of the relevant issues**

In order to achieve this, the Council will:

<b>Actions for strategic objective 4</b>	<b>Provisional timing</b>
Ensure the Council continue to be informed on issues related to effectiveness of sentencing by publishing a research review of the relevant evidence and publishing that review.	Biennially from September 2022
Consider the possibility of future work with offenders to understand which elements of their sentence may have influenced their rehabilitation by undertaking a scoping exercise in this area.	By September 2022
Consider whether any changes are required to highlight to sentencers the need to consider issues relating to effectiveness of sentencing as a result of research work in this area and any work undertaken on the Imposition guideline.	From September 2022

### **Strategic objective 5: The Council will work to strengthen public confidence in sentencing by improving public knowledge and understanding of sentencing and showing the Council to be responsive and transparent**

In order to achieve this, the Council will:

<b>Actions for strategic objective 5</b>	<b>Provisional timing</b>
Ensure sentencers and other practitioners have easy and immediate access to sentencing guidelines by continuing to develop digital tools that meet their needs.	Ongoing
Inform public audiences, including victims, witnesses and offenders, about sentencing and sentencing guidelines by continuing to develop content for our website and seek media coverage relating to key Council activities.	Ongoing
Support the effective development of guidelines by continuing to promote Council consultations to practitioners who use the guidelines and individuals and groups who could potentially be affected by the guidelines.	Ongoing
Elicit a broader and more representative body of consultation responses to inform the development of guidelines by	By December 2021

undertaking a review of our target audiences and how we reach them.	
Teach young people about sentencing by developing sentencing-related materials for use by organisations such as Young Citizens who already engage extensively with schools.	Ongoing
Improve our ability to inform the public about sentencing by identifying relevant organisations willing to help us engage with their stakeholders.	Ongoing
Make our consultations more easily accessible to the Council’s public audiences by developing a template for more simplified introductions to consultation documents and embedding this within the Council’s processes.	Completed May 2021
Illustrate for our audiences the range of issues considered by the Council when developing and revising guidelines and the extent to which guidelines are influenced by consultation responses, by publishing information about the Council’s processes and procedures on our website.	By March 2022
Maintain an up-to-date insight into public confidence in the criminal justice system and its drivers, and explore whether there have been any changes over time, by re-running our previous survey questions and comparing findings to our previous research.	By September 2022
Increase parliamentarians’ knowledge and understanding of our work including by discussing how best to establish regular evidence sessions with the Justice Committee.	Ongoing by December 2021

**Lord Justice Holroyde**

**4<sup>th</sup> November 2021**

**Steve Wade**

**4<sup>th</sup> November 2021**



**Annex A: Sentencing Council statutory duties**

<b>Duty under Coroners' and Justice Act 2009</b>	<b>Description</b>
s.119	Publish report on the exercise of the Council's functions during the year
s.120(3)(a)	Prepare sentencing guidelines about guilty pleas
S.120(3)(b)	Prepare guidelines about the rule of law as to the totality of sentences
S.120(4)	(May) prepare other guidelines
s.120(5),(6a-d), (7), (8)	Must publish draft guidelines and consult when preparing guidelines (including the Lord Chancellor and Justice Select Committee); must then publish definitive guidelines after making necessary amendments
s.120(11a-f)	<p>When exercising the function of preparing guidelines, the Council should have regard to:</p> <ul style="list-style-type: none"> <li>- The sentences imposed by courts</li> <li>- The need to promote consistency</li> <li>- The impact of sentencing on victims</li> <li>- The need to promote public confidence in the CJS</li> <li>- The cost of different sentences and their relative effectiveness in preventing re-offending</li> <li>- The results of monitoring</li> </ul>
S121 (2), (3a-c)	Guidelines should illustrate varying degrees of seriousness with which offences are committed with factors relating to culpability, harm, and other relevant factors
s.121(4a,b), (5a,b), (6a-c)	Guidelines should provide an offence range, category range, starting point, aggravating and mitigating factors and criteria for determining the weight to be given to previous convictions.
s.121(7a-c)	Additional to mitigating factors are factors relating to guilty plea reductions, discounts for assistance to the prosecution, totality and these should be reflected in guidelines
s.121(10a, bii)	Starting points should relate to sentences that assume an offender has pleaded not guilty
s.122(2), (3), (4), (5), (6)	The Council must prepare allocation guidelines, issue them as draft, consult on them and then publish them as definitive guidelines; they may from time to time review the allocation guidelines; they should have regard to need to promote consistency and the results of monitoring.

s.123	The Council may prepare or revise guidelines and if urgent may dispense with the need to publish in draft and to consult (other than with the Lord Chancellor)
s.124 (1), (3), (5)	The Council may be asked to prepare guidelines by the Lord Chancellor or the Court of Appeal and it should consider doing so
s.127(1), (2)	The Council must prepare and publish resource assessments for both draft and definitive guidelines
s.127(3a-c)	Resource assessments must assess the resources required for the provision of prison places, probation provision and youth justice services
s.128(1), (2)	The Council must monitor the operation of its guidelines and consider what conclusions can be drawn, including: <ul style="list-style-type: none"> <li>- The frequency with which, and extent to which, courts depart from sentencing guidelines</li> <li>- Factors which influence the sentences imposed by the courts</li> <li>- The effect of guidelines in promoting consistency</li> <li>- The effect of guidelines on the promotion of public confidence in the criminal justice system</li> </ul>
s.128(3)	The Council should include in its Annual Report a summary of monitoring work undertaken and any conclusions drawn from this
s.129(1)	The Council must publish information regarding the sentencing practice of magistrates in relation to each local justice area; and information regarding the practice of the Crown Court in relation to each location at which the Crown Court sits
s.129(2)	The Council may also promote awareness of matters in relation to the sentencing of offenders, in particular the sentences imposed, the costs of different sentences and their relative effectiveness in preventing reoffending, and the operation and effect of guidelines
s.130(1), (2)	The Annual Report must contain a sentencing factors report which contains an assessment of the effect which any changes in sentencing practice is having on the resources required for: the provision of prison places; probation provisions; the provision of youth justice services
s.131(1),(2), (3), (4)	The Annual Report must contain a non-sentencing factors report (and at other times the Council may publish this type of information having provided it to the Lord Chancellor). The report should cover which non-sentencing factors are having/likely to have a significant quantitative effect on resources. These factors include prison recall, breach of orders, patterns of re-offending, Parole Board release decisions, remand issues etc
s.132(1)(3)	The Council has a duty to assess the effect, and prepare a report, where the Lord Chancellor refers any government policy or proposals

	likely to have a significant effect on resources for prison, probation or youth justice services
Schedule 15	This outlines the constitution of the Council and the experience members need to have to be appointed

