

**Sentencing Council meeting:**  
**Paper number:**  
**Lead Council member:**  
**Lead official:**

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**SC(23)31MAR03 – Immigration**  
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## 1 ISSUE

The Council is invited to consider the first draft of a guideline covering the offences of facilitation.

## 2 RECOMMENDATION

That the Council discuss and agree the content of the draft guideline.

## 3 CONSIDERATION

3.1 This paper provides a first draft of a guideline for the offences of facilitation. This includes both the section 25 and s25A Immigration Act 1971 offences:

### **25 Assisting unlawful immigration to member State[ or the United Kingdom]2**

(1) A person commits an offence if he—

(a) does an act which facilitates the commission of a breach [ or attempted breach]3 of immigration law by an individual who is not [a national of the United Kingdom]4 ,

(b) knows or has reasonable cause for believing that the act facilitates the commission of a breach [ or attempted breach]3 of immigration law by the individual, and

(c) knows or has reasonable cause for believing that the individual is not [a national of the United Kingdom]4 .

(2) In subsection (1) “*immigration law*” means a law which has effect in a member State [ or the United Kingdom]5 and which controls, in respect of some or all persons who are not nationals of the State [ or, as the case may be, of the United Kingdom]6 , entitlement to—

(a) enter [ or arrive in]7 the State [ or the United Kingdom]8 ,

(b) transit across the State [ or the United Kingdom]8 , or

(c) be in the State [ or the United Kingdom]8 .

...

- (6) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to [imprisonment for life]<sup>11</sup> , to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.

### **25A Helping asylum-seeker to enter United Kingdom**

- (1) A person commits an offence if—
- (a) he knowingly [...] <sup>2</sup> facilitates the arrival [ or attempted arrival] <sup>3</sup> in [ , or the entry [ or attempted entry] <sup>5</sup> into, ] <sup>4</sup> the United Kingdom of an individual, and
- (b) he knows or has reasonable cause to believe that the individual is an asylum-seeker.
- (2) In this section “*asylum-seeker*” means a person who intends to claim that to remove him from or require him to leave the United Kingdom would be contrary to the United Kingdom's obligations under—
- (a) the Refugee Convention (within the meaning given by section 167(1) of the Immigration and Asylum Act 1999 (c. 33) (interpretation)), or
- (b) the Human Rights Convention (within the meaning given by that section).
- (3) Subsection (1) does not apply to anything done by a person acting on behalf of an organisation which—
- (a) aims to assist asylum-seekers, and
- (b) does not charge for its services.
- ...

3.2 Both offences now carry a maximum penalty of life imprisonment following a change made by the Nationality and Borders Act 2022. Prior to the amendment the maximum penalty was 14 years imprisonment.

3.3 The main ways in which the facilitation offences are committed are:

- **Assisting illegal entry or arrival, for example by smuggling someone in a small boat or other vehicle or by providing false documents for presentation at a port. (s25)**
- **Harbouring an illegal entrant, a person who stays longer than allowed by their leave, or a person who fails to observe a condition of their leave. (s25)**

- **Assisting someone to remain by deception, for example by entering into a sham marriage or by procuring false documents such as education certificates to obtain a visa. (s25)**
- **Bringing asylum seekers to the UK to enable them to claim asylum. (s25A)**

3.4 Relevant case law can be seen at **Annex A**, and a draft guideline can be seen at **Annex B**.

### Culpability factors

A	<ul style="list-style-type: none"> <li>• Leading role in a commercial activity</li> <li>• Sophisticated nature of offence/ significant planning</li> <li>• Significant financial gain/ expectation of significant financial gain</li> </ul>
B	<ul style="list-style-type: none"> <li>• Significant role in a commercial activity</li> <li>• Some planning</li> <li>• Some financial gain/ expectation of financial gain</li> </ul>
C	<ul style="list-style-type: none"> <li>• Facilitating a breach of immigration law by family members</li> <li>• Humanitarian motivation</li> <li>• Minor role in group activity</li> <li>• Involved due to coercion or pressure</li> </ul>

3.5 From the case law it appears that the types of case currently attracting the highest sentences are those that involve an offender who plays a leading role in a large-scale or sophisticated operation which results in significant profits. Not all of these factors need to be present to attract a high sentence.

3.6 The cases receiving the lowest sentences are those where the offender is either coerced into taking part in an offence or where the offender is acting in an altruistic fashion for the benefit of family/ friends or others in need of assistance. In addition, where the offending is taking place in a group, an offender who plays a minor or peripheral role would also receive a lower sentence.

3.7 As the most and least serious cases seem to have quite specific features it is easier to capture them in terms of culpability factors but, as is often the case, the middle level of seriousness is not so easy. I have attempted to include factors that would fall in between high and low. Alternatively, the Council could simply choose to have the balancing factor that we use in many other guidelines:

Other cases that fall between categories A and 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

**Question 1: Does the Council agree with the proposed culpability factors?**

**Harm factors**

1	<ul style="list-style-type: none"> <li>• Endangerment to life</li> <li>• Facilitating large numbers of individuals to illegally enter/ arrive in the UK</li> <li>• Exploited/ put pressure on others</li> </ul>
2	<ul style="list-style-type: none"> <li>• Assisted individuals to remain unlawfully</li> </ul> <p>Other cases that fall between categories 1 and 3 because:</p> <ul style="list-style-type: none"> <li>• Factors are present in 1 and 3 which balance each other out and/or</li> <li>• The harm caused falls between the factors as described in 1 and 3</li> </ul>
3	<ul style="list-style-type: none"> <li>• Isolated incident</li> <li>• Facilitated the entry/ arrival of asylum seekers</li> </ul>

3.8 It is proposed that the highest harm factors include cases where there is a risk to life which is most likely to arise due to the method of entry/ arrival into the UK. In addition, as is seen in the case law, facilitating entry into the UK, as opposed to facilitating the unlawful extension of a person’s stay in the UK, is considered more serious, and therefore facilitating the entry of large numbers of individuals has been placed into the highest category of harm. This factor is included in harm, rather than culpability, as many cases refer to the harm to the public of such offending, or to the fact that such offending is of ‘grave public concern’.

3.9 Finally, the exploitation of others has also been added to the highest harm category. Examples of this in the case law include instances where the offender has pressured others into sham marriages or set up a false education establishment which enables people to get visas to remain in the country and does so in such a way that the individuals involved do not realise that they are not completing legitimate courses. In addition to exploitation the category includes, putting pressure on others. This might include cases where the offender puts pressure on others to take part in the offending behaviour.

3.10 In the middle category there are just two factors, the balancing factor and, ‘assisted individuals to remain unlawfully’. This means that those committing document offences are likely to fall into the middle category unless they exploit others (move to category 1) or it is an isolated incident (move to category 3).

3.11 The lowest harm category includes ‘isolated incident’. This comes up in numerous cases as a reason for imposing a lower sentence. This seems appropriate in the sham

marriage/ false visa cases but perhaps in a case where an offender facilitates the entry of a large number of individuals into the UK on one occasion this would not be appropriate. The addition of the balancing factor in category 2 will ensure that such cases would not go to the lowest harm category.

3.12 The last factor in the lowest harm category is 'facilitating the entry/ arrival of asylum seekers'. Including this factor in the lowest harm category will result in most section 25A offences falling into harm category 3, but some may end up in category 2 if they are balanced against the category 1 factor 'Facilitating large numbers of individuals to illegally enter/ arrive in the UK'.

## **Question 2: Does the Council agree with the proposed harm factors?**

### **Aggravating factors**

In addition to the standard factors:

- Repeat offending (unless charged as separate offences)
- Offending went on for a lengthy duration
- Abuse of position of trust
- Recruited others to take part in offending (unless already taken into account at step 1)

3.13 The top two proposed aggravating factors are designed to capture those cases where the offender is continuously breaching immigration laws, unless that has already been captured at step 1.

3.14 Abuse of position of trust may arise in some document offences, for example, an offender who uses his position as a teacher or examiner to provide false university acceptance letters and certificates. Similar scenarios are also likely to exist with sham marriages, for example a clerical leader facilitating a sham marriage.

3.15 The last factor, 'recruited others to take part in offending' will mean that those offenders who take actions to ensure that offending can be committed on a larger scale receive higher sentences. If the offender has pressured others into taking part this will already be captured at step 1, but if it appears that they have recruited willing participants then this would be a step 2 factor.

## **Question 3: Does the Council agree with the proposed aggravating factors?**

## **Mitigating factors**

In addition to the standard factors:

- Limited understanding of scale of activity

3.16 This one mitigating factor is for those offenders who are part of a large-scale operation but who have little understanding of the scale. Whilst there may be some cross over with the low culpability factor, 'minor role in group activity', it seems possible that some offenders who play a minor role may be aware of the scale of the operation but there may be others who have very little understanding, and it seems appropriate that this second group of offenders receive lower sentences.

### **Question 4: Does the Council agree with the proposed mitigating factors?**

## **Sentence Levels**

3.17 At **Annex C** the statistics show 11 years of sentence data up to 2021. The statistics show almost all offenders sentenced for both the section 25 and section 25A offences received a custodial sentence, and the majority are immediate custodial sentences. In 2021, around 140 offenders were sentenced for s25 offences, of which 99 per cent received a custodial sentence and 87 per cent were given immediate custody.

3.18 The volumes for the s25A offence are extremely low (fewer than 10 offenders are sentenced each year) and so it is hard to draw any conclusions from them. However, the highest sentence received in the eleven-year period fell in the bracket 6-8 years. As this is the final sentence received it is possible that the sentence was reduced following a guilty plea. The highest possible sentence would be 12 years.

3.19 Looking at the section 25 data, the majority of those sentenced to immediate custody each year receive 4 years or less as a final sentence (up to a maximum of 6 years before guilty plea reduction). In 2021, around 81 per cent of immediate custodial outcomes were 4 years or less. It seems that sentences are slowly rising in that prior to 2018 the majority of offenders were receiving less than 2 years and from 2018 onwards the majority receive 2-4 years. The highest sentence received was in the 10-12 year bracket. Taking into account reductions for guilty plea it is possible that these offenders were given the maximum sentence of 14 years.

3.20 As the statutory maximum sentence for both offences has risen to life there may be an expectation that the sentences in the table go higher than the previous statutory

maximum sentence of 14 years. Whilst any increase in sentencing practice will be linked to the change in legislation rather than the guideline, the Council will want to ensure that sentences are appropriate and proportionate to the offending behaviour.

3.21 Looking at the caselaw many cases refer to ‘deterrence’ as being one of the purposes of sentence. This suggests that Judges do consider that a severe sentence is necessary in some cases in the hope that it deters others from such offending behaviour. The Council will, however, be mindful of the conclusions that came out of the literature review on effectiveness that was published last September. The review found that there is little evidence to justify increasing a sentence purely for the purposes of deterrence.

3.22 The Council could look to other similarly serious offences to help reach a suitable highest sentence level. The modern slavery guideline is probably the best comparison, and the new guideline has a highest sentence of 18 years. The modern slavery offences also had a statutory maximum of 14 years which was subsequently changed to life. In addition, the Council is currently working on the death by dangerous driving guideline which again had a statutory maximum of 14 years which was increased to life. At consultation the Council proposed that the highest sentence should be 18 years, and this is looking likely to remain.

3.23 These other offences which involve death, or the serious abuse of victims are potentially more serious than the immigration offences and it is therefore proposed that a top sentence of 16 years might be appropriate.

**Question 5: Does the Council agree with the proposed highest sentence?**

3.24 The Council may consider that the sentence levels currently imposed in courts are acceptable and that there is no desire, in general terms, to inflate sentences. In which case the sentences could reflect current sentencing practice in all but the most serious categories where the sentences could be increased up to and beyond the old statutory maximum.

3.25 The rationale by the government for increasing the statutory maximum from 14 years to life, as set out in the ‘New Plan for Immigration policy statement’, dated March 2021, was that ‘Each attempt at illegal entry risks life and the penalties for those who facilitate illegal entry should reflect that. We will therefore increase the maximum sentence from 14 years to life imprisonment.’ In the explanatory notes to the Bill it also stated:

Section 25 offences currently attract a prison sentence of up to 14 years. This clause increases the penalty to life imprisonment in order to discourage unlawful facilitation of migrants to the UK.

Subsection 1 amends subsection (6)(a) of section 25, increasing the maximum custodial penalty for assisting unlawful immigration from 14 years to life imprisonment. By virtue of section 25A(4), the maximum penalty set out here also applies to the other offence of facilitating the arrival or entry of an asylum seeker to the UK.

3.26 It seems that the main concern is illegal entry, especially in cases where life is at risk. Under the proposals in this paper such offences fall into the highest harm category (category 1). It is therefore proposed that A1 and B1 include sentences up to and above 14 years but that the sentences in the other boxes broadly reflect existing sentencing practice.

3.27 The draft guideline at **Annex B** attempts to achieve that proposal.

**Question 6: Does the Council agree with the proposed sentence levels as set out in the draft guideline at Annex B?**

#### **4 EQUALITIES**

4.1 The demographics of the offenders sentenced for s25 in 2021 can be seen in **Annex C** at tabs 1.5-1.8. For s25A offenders, demographic data is presented for the period 2017 to 2021 at tabs 2.5-2.8. The volume of offenders sentenced for the s25A offence are very low overall so do not assist.

4.2 The volumes for the s25 offence (tab 1.5) are more useful. They show that the majority of offenders sentenced are male (89 per cent in 2021), and from tab 1.6 we can see that for both male and female offenders practically all are sentenced to custody (immediate or suspended). However, for women this is much more likely to be suspended than for men. Note that the volume of female offenders is much smaller than male (around 20 female offenders compared to 130 male offenders in 2021).

4.3 Looking at ethnicity you will note that for around 90 (61 per cent) out of the 140 offenders sentenced, the ethnicity is not recorded or not known, and volumes for ethnicity groups other than white are also very small (fewer than 10). Therefore, conclusions that can be drawn based upon the known ethnicity figures may be unreliable. However, with the information available, looking at tab 1.6 there does not appear to be any disparity in sentence for these offences that would require the Council to take action at this stage.

**Question 7: Does the Council agree that no further action is required as a result of the demographics data for these two offences?**

## **5 IMPACT AND RISKS**

We will consider the impact of the guidelines in the usual way, although existing trends in sentencing volumes may not be indicative of the future because of a change in enforcement strategy because of the new legislation.

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**R v Le (Van Binh) and Stark (Rudi) [1999] 1 Cr. App. R. (S.) 422**

**Nb Stat max at the time of sentencing was 7 years**

In the instant cases, the sentences of V and S would be reduced to two and a half years' imprisonment and three and a half years' imprisonment respectively.

An offence contrary to s.25(1)(a) would, in relation to all but the most minor of offences, inevitably attract an immediate custodial sentence.

Aggravating features were (1) it was a repeat offence; (2) it was committed for financial gain; (3) the defendant took a prominent role; (4) it involved the facilitation of the entry of strangers rather than family members; (5) it involved a large number of illegal entrants; (6) a high degree of organisation and planning was evident, and (7) the defendant proffered a not guilty plea.

**It would often be necessary to impose a deterrent sentence.**

**Attorney General's Reference (Nos 49 and 50 of 2015) [2015] EWCA Crim 1402**

Also known as: R. v Howard (John), R. v Bakht (Kenan)

**Nb Stat max at the time of sentencing was 14 years**

Sentences of two-and-a-half years' and five years' imprisonment imposed on offenders convicted of conspiracy to facilitate a breach of immigration law were increased to **five and eight years** respectively, due to their callous disregard for immigration law and the acute **impact on innocent victims**. [The offenders were convicted after a trial].

For approximately a year, B had recruited non-EU students seeking post-study work visas to attend lectures at the college where he worked or a university with which the college had links; the students paid him course fees and received false certificates for use in their visa applications. Some were deported as a result, including some who genuinely believed they had completed a university or college course. B possessed false university acceptance letters, certificates and visa letters. H, an external examiner at the university, had handed out the fraudulent certificates. In sentencing, the recorder assessed the value of the fraud at around £300,000. She found that **B had acted in a leading role**, and H's role in providing the required legitimacy was no less important. **The offences were designed to circumvent the immigration rules, which was a matter of grave public concern**. That was the gravamen of the case, not the profit margin or the fraudulent behaviour.

**Attorney General's Reference (No.28 of 2014) [2014] EWCA Crim 1723**

**Nb Stat max at the time of sentencing was 14 years**

A total sentence of four-and-a-half years' imprisonment for conspiracy to facilitate a breach of immigration law and using unlicensed security operatives was unduly lenient where an offender had created false identity documentation, had played a central role in the

conspiracy and had exploited people who were not in a position to bargain. The sentence was increased to **eight years' imprisonment** [the offender was convicted after trial]. The following considerations were taken into account:

- Whether the offence is isolated or repeated
- The duration of offending
- Whether the offender had previous similar convictions
- Whether the offender's motivation was commercial or humanitarian
- The number of individuals involved in the breach of immigration law
- Whether they were strangers or family
- The degree of organisation involved
- Whether the offender recruited others
- The offender's role
- Whether the offender's conduct involved exploitation of or pressure put upon others

### **Regina v Junjie Kao; Khaled Mahmud; Tareq Mahmud; Wei Xing [2010] EWCA Crim 2617**

**Kao, count 1, conspiracy, **7 years' imprisonment** and 4 years for the money laundering, concurrent, giving a total sentence of 7 years; Xing received the same sentence in respect of each count; Tareq Mahmud received 4 years' imprisonment following his trial and Khaled Mahmud received 7 years' imprisonment. The application succeeds in respect of Tareq Mahmud. We grant permission and allow the appeal and reduce the sentence from 4 years to **3 years**. The other applications fail in respect of the other three applicants**

#### **Nb Stat max at the time of sentencing was 14 years**

The applicants entered into a conspiracy to assist persons who were already legally within the United Kingdom for limited periods to extend the time they could lawfully remain here. They did this by providing false documentation to the Home Office which led the Home Office to grant visas so that the individuals in respect of whom the visas were granted were ostensibly allowed to remain in the country to pursue education.

At the heart of the conspiracy was a company known as Thames College London Limited, or Thames College London. The guiding light behind that organisation, and the company secretary, was Khalid Mahmud. The college purported to offer genuine courses of education leading to legitimate qualifications for foreign students. In fact they provided no legitimate teaching courses of any kind. They had very small premises and the whole operation was a sham. For substantial payments of money the applicants provided false documentation to overseas national students in order to obtain these visas.

Another company involved in the sham was Virgil Legal Services, the directors of whom were Kao and Xing, and in fact Khaled Mahmud had been involved in a predecessor of this company at an earlier stage. They processed fraudulent visa applications using false details. They would represent to the Home Office, through the fraudulent documentation, that Thames College was providing a minimum of 15 hours of full-time study per week, which

was the minimum requirement needed to secure further leave to remain in the country. The applicants used false identity documents, certificates from non-existent teaching institutions and official looking stamps and stickers. It was clear from the evidence that these conspirators had worked hand in glove, with the Mahmuds producing the false documentation at the request of Kao and Xing for the use of Virgil.

This was a sophisticated and successful operation. It continued, as the judge found, at least for a period of three and a half years and there were at the minimum 574 applications which were fraudulently made by Virgil to the Home Office on behalf of foreign students, almost all of whom were Chinese nationals. It was made clear to the students who applied for these extensions that they would not have to attend courses, and most, if not all, of them came to realise that the Thames College was bogus. They were not in that sense exploited because they realised that these sham representations were taking place.

The turnover, assessed by the judge, of the whole operation was not less than £3 million. £2.7 million had passed through nine bank accounts in the name of or linked to Xing. Over £1 million passed through bank accounts in the name of or linked to Kao, and £1.1 million passed through bank accounts linked to or in the name of Khalid Mahmud.

Tareq Mahmud played a more limited role. He was involved in this conspiracy for just over 6 months towards the end of the conspiracy. He was brought into it by his brother Khaled. He knew that the Thames College was bogus. The judge found that he worked enthusiastically to help his brother, and was more than a foot soldier, but his role was, the judge found, far less significant than that of his brother. He may have received some small sums with respect to his involvement, but it is clear that they were very small beer indeed compared with the amounts received by the other conspirators.

We bear in mind, as did the judge, that this was not a case, as in Saini, where illegal immigrants were brought into the country, and for the reasons we have given it is right to say that the adverse impact on the public in relation to this conspiracy was less than in the two cases which we have mentioned.

However, this was a conspiracy carried out over many years with a massive number of false documents submitted to the Home Office with very, very considerable profits gained by those who were participating, and with a large number of students obtaining these visas illegally. It was a sophisticated operation and indeed it has almost all the aggravating features that were identified by Lord Bingham in the case of Van Binh Le and Stark . We have little doubt that had these students been brought in from abroad then the sentence in a case of this kind would justifiably have been very close to the maximum of 14 years before the discount permissible for guilty pleas.

We see nothing wrong with this approach and thus refuse the application in respect of those three principal conspirators.

## **R v Oliveira, Oramulu, Cina [2012] EWCA Crim 2279**

**Nb Stat max at the time of sentencing was 14 years**

In the case of Oliveira and Oramulu: 3 and a half years after trial reduced to **2 and a half years** each on appeal

Both these defendants were convicted after a trial of conspiracy to facilitate the breach of immigration law. The essence of the allegation was that they had entered into a sham

marriage. The woman, Oliveira, had Dutch nationality by virtue of her birth in Curacao in the Antilles. Accordingly, she enjoyed as a citizen of an EU Member State free movement within the Union. The man, Oramulu, was Nigerian. He was present in the United Kingdom. There existed no record of his ever having entered lawfully, although he said that he had come originally on a six month visa of which there was no record. Even if he had, it had long since expired, so he was illegally here.

In the case of Cina: 7 and a half years after trial (appeal dismissed)

This defendant is a Czech man living in Bradford. Over a period of about 15 months he recruited five different Czech women, already as we understand it in this country, and arranged for sham marriages to take place between them and Nigerian men who wanted to evade the immigration controls and to acquire the rights of movement, residence and employment which come with marriage to an EU citizen. Cina charged the men substantial sums. All the indications are that his "going rate" was about £4,000 or £4,500, by way of charge to the men, although of course we recognise that individual cases may have varied. So far as it goes, the evidence suggests that he promised the women something of the order of £2,000. However, although that is what he promised, in the two cases where there was evidence of what he had actually paid, it appears to have been half that or less. He paid one of them £500 and the other £900. In other words, this was a commercial operation for gain and it had the added feature that he cheated the women.

There was also in this case a definite element of exploitation of the women in the manner in which he carried on the business. First of all, he recruited them and induced them to commit quite a serious criminal offence which put them in likelihood of imprisonment. However, there was an additional feature because the evidence showed that if they showed signs of second thoughts, Mr Cina did not balk at persuading them. He visited them and certainly in one case there is reasonably clear evidence that he pressured the woman to stick to her original agreement, saying to her among other things that if she did not she might expect trouble from the Nigerian population who might visit her at home.

The court indicated that the aggravating factors set out in R v Le and Stark (see above) apply to sham marriage cases, to which the following factors should be added:

- The recruitment of others to assist in the crime.
- Any measure of exploitation or pressure.
- A racket providing services to others for money: it will be necessary to look at the role of the defendant within the organisation.
- At the bottom of the range of offences involving sham marriages were cases of single bogus ceremonies entered into in circumstances which could carry a substantial degree of personal mitigation, such as where one party to the ceremony has been morally blackmailed into doing it.
- There is frequently no distinction to be made between a sham marriage case and a case of the provision of forged or falsified documents for the purposes of evasion of immigration control. The purpose of the marriage is, like the purpose of the forged document, to provide a bogus authentication for presence.
- A very large number of the 'own marriage' cases without organisation or facilitation of others may well fall into the very broad bracket around 18 months to three years.

## R v Bani [2021] EWCA Crim 1958

### Nb Stat max at the time of sentencing was 14 years

A sentence of six years' imprisonment imposed following an asylum seeker's conviction for assisting unlawful immigration to a Member State, after he was intercepted in control of an inflatable boat carrying other adults and a child in the English Channel, was reduced to **five years' imprisonment** after trial. The offender had made no financial gain and the judge had erred in his assessment of harm and culpability. **The court stressed that deterrence remained an important factor in deciding the length of sentence.**

#### Abstract

The appellant, an Iranian national, appealed against a sentence of six years' imprisonment imposed following his conviction for assisting unlawful immigration to a Member State.

The appellant had been in control of an inflatable boat carrying four other men and a nine-year-old child when it was intercepted in the English Channel. The appellant claimed that he was a genuine asylum seeker. The judge concluded that the appellant had bought the boat for the benefit of others and that he was heavily involved in the planning of his own and other expeditions that night. The judge found that the appellant was not going to receive any direct financial reward for what he did. The craft was a rudimentary craft with no safety or navigation equipment and was unsafe to travel across one of the busiest shipping lanes. The judge said that the fact that the appellant was a man of good character and had been planning to seek asylum on arrival, saved him from what otherwise would have been a more serious sentence.

The appellant submitted that the sentencing authorities on which the judge relied were in respect of more serious offending and that greater allowance should have been made for the fact that he would have claimed asylum and that he had not organised the trip for personal profit.

Appeal allowed.

The offence was not committed for financial gain, but to share the costs with fellow Iranian nationals who wanted to make the same trip. However, the offence was **planned, organised and sophisticated** and the appellant played a prominent part in the whole operation, *R. v Le (Van Binh)* [1999] 1 Cr. App. R. (S.) 422, [1998] 10 WLUK 73 applied. The appellant was involved in a **dangerous act, but that had to be weighed against the fact that each person in the boat, and whoever was responsible for the welfare of the child, must have realised the dangers they faced**. The judge erred in concluding that the offending fell into the highest level of harm and at the very highest level of culpability. The sentence was manifestly excessive and was replaced with one of five years' imprisonment. **Deterrence remained an important factor in deciding the length of sentence.**

**NB Bani subsequently sought permission to appeal against his conviction which was granted and his conviction was in fact quashed.**

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# Facilitation

## Assisting unlawful immigration to the United Kingdom

Immigration Act 1971 section 25

## Helping asylum-seeker to enter the United Kingdom

Immigration Act 1971 section 25A

Triable either way

Maximum: life imprisonment

Offence range: high-level community order – 16 years' custody

**STEP ONE****Determining the offence category**

<b>CULPABILITY</b>	
<b>A-</b> High Culpability	<ul style="list-style-type: none"> <li>• Leading role in a commercial activity</li> <li>• Sophisticated nature of offence/ significant planning</li> <li>• Significant financial gain/ expectation of significant financial gain</li> </ul>
<b>B-</b> Medium culpability	<ul style="list-style-type: none"> <li>• Significant role in a commercial activity</li> <li>• Some planning</li> <li>• Some financial gain/ expectation of financial gain</li> </ul>
<b>C-</b> Lower culpability	<ul style="list-style-type: none"> <li>• Facilitating a breach of immigration law by family members</li> <li>• Humanitarian motivation</li> <li>• Minor role in group activity</li> <li>• Involved due to coercion or pressure</li> </ul>

<b>HARM</b>	
Category 1	<ul style="list-style-type: none"> <li>• Endangerment to life</li> <li>• Facilitating large numbers of individuals to illegally enter/ arrive in the UK</li> <li>• Exploited/ put pressure on others</li> </ul>
Category 2	<ul style="list-style-type: none"> <li>• Assisted individuals to remain unlawfully</li> </ul> <p>Other cases that fall between categories 1 and 3 because:</p> <ul style="list-style-type: none"> <li>• Factors are present in 1 and 3 which balance each other out and/or</li> <li>• The harm caused falls between the factors as described in 1 and 3</li> </ul>
Category 3	<ul style="list-style-type: none"> <li>• Isolated incident</li> <li>• Facilitated the entry/ arrival of asylum seekers</li> </ul>

**STEP TWO****Starting point and category range**

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

Harm	Culpability		
	A	B	C
<b>Category 1</b>	<b>Starting Point</b> 14 years' custody <b>Category Range</b> 10 - 16 years' custody	<b>Starting Point</b> 12 years' custody <b>Category Range</b> 9 - 14 years' custody	<b>Starting Point</b> 8 years' custody <b>Category Range</b> 6 - 10 years' custody
<b>Category 2</b>	<b>Starting Point</b> 8 years' custody <b>Category Range</b> 6 - 10 years' custody	<b>Starting Point</b> 5 years' custody <b>Category Range</b> 4 - 7 years' custody	<b>Starting Point</b> 3 years' custody <b>Category Range</b> 2 - 5 years' custody
<b>Category 3</b>	<b>Starting Point</b> 5 years' custody <b>Category Range</b> 4 - 7 years' custody	<b>Starting Point</b> 3 years' custody <b>Category Range</b> 2 - 5 years' custody	<b>Starting Point</b> 18 months' custody <b>Category Range</b> 12 months' custody – 2 years' custody

Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Totality* guideline and step five of this guideline.

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

**Care should be taken to avoid double counting factors already taken into account in assessing culpability**

**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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

*Other aggravating factors:*

- Repeat offending (unless charged as separate offences)
- Offending went on for a lengthy duration
- Abuse of position of trust
- Recruited others to take part in offending (unless already taking into account at step 1)

**Factors reducing seriousness or reflecting personal mitigation**

- No recent or relevant convictions
- Good character and/or exemplary conduct
- Remorse
- Sole or primary carer for dependent relatives
- Age/lack of maturity
- Mental disorder or learning disability
- Physical disability or serious medical condition requiring urgent, intensive or long-term treatment
- Offender co-operated with investigation, made early admissions and/or voluntarily reported offending
- Limited understanding of scale of activity

**STEP THREE**

**Consider any factors which indicate a reduction for assistance to the prosecution**

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

**STEP FOUR**

**Reduction for guilty pleas**

The court should take account of any potential reduction for a guilty plea in accordance with section 73 of the Sentencing Code and the *Reduction in Sentence for a Guilty Plea* guideline.

**STEP FIVE**

**Totality principle**

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the Totality guideline.

**STEP SIX**

**Ancillary orders**

In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

**STEP SEVEN**

**Reasons**

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

**STEP EIGHT**

**Consideration for time spent on bail**

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code.

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## Immigration offences

These data tables provide statistics on the outcomes and demographics of offenders sentenced for offences covered by the Sentencing Council draft guidelines for immigration offences.

### Section 1: Assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25)

<a href="#">Table 1.1</a>	Number of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), all courts, 2011-2021
<a href="#">Table 1.2</a>	Number and proportion of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sentence outcome, 2011-2021
<a href="#">Table 1.3</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), 2011-2021
<a href="#">Table 1.4</a>	Sentence lengths received by adult offenders sentenced to immediate custody for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), 2011-2021
<a href="#">Table 1.5</a>	Demographics of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021
<a href="#">Table 1.6</a>	Number and proportion of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity and sentence outcome, 2021
<a href="#">Table 1.7</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021
<a href="#">Table 1.8</a>	Sentence lengths received by adult offenders sentenced to immediate custody for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021

### Section 2: Facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A)

<a href="#">Table 2.1</a>	Number of adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), Crown Court, 2011-2021
<a href="#">Table 2.2</a>	Number and proportion of adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), by sentence outcome, 2011-2021
<a href="#">Table 2.3</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), 2017-2021
<a href="#">Table 2.4</a>	Sentence lengths received by adult offenders sentenced to immediate custody for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), 2011-2021
<a href="#">Table 2.5</a>	Demographics of adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity, 2017-2021
<a href="#">Table 2.6</a>	Number and proportion of adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity and sentence outcome, 2017-2021
<a href="#">Table 2.7</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity, 2017-2021
<a href="#">Table 2.8</a>	Sentence lengths received by adult offenders sentenced to immediate custody for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity, 2017-2021

## Notes

### Data sources and quality

The Court Proceedings Database (CPD), maintained by the Ministry of Justice (MoJ), is the source of the data for these data tables. Every effort is made by MoJ and the Sentencing Council to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

These data reflect the original sentencing outcome and do not include any changes on appeal from either magistrates' courts or the Crown Court. Sentence outcomes may be reduced, increased, changed or the conviction quashed (resulting in the sentence falling away) on appeal, and so users should note that these statistics might not be accurate when considering, for example, the highest sentence for an offence. Published statistics on the outcome of individual cases referred under the Unduly Lenient Sentence scheme (for appealing certain eligible offences) can be found here:

<https://www.gov.uk/government/publications/unduly-lenient-sentence-annual-case-outcomes-data>

However, there are no available published statistics broken down by offence regarding the appeal outcomes from other routes of appeal, although quarterly volumes of criminal appeals against magistrates' decisions dealt with at the Crown Court are published in table C11 of the MoJ's Criminal Court Statistics Quarterly publication here:

<https://www.gov.uk/government/collections/criminal-court-statistics>

Annual volumes of appeals heard at the Court of Appeal Criminal Division, by type and result, are published in the Royal Courts of Justice Annual Tables within MoJ's Civil Justice Statistics quarterly: January to March publication, which can be found here:

<https://www.gov.uk/government/collections/civil-justice-statistics-quarterly>

Figures presented for 2020 and 2021 include the time period from March 2020 in which restrictions were initially placed on the criminal justice system due to the COVID-19 pandemic, and the ongoing courts' recovery since. These restrictions resulted in reduction of court activity to adhere to new rules on movement and social interaction and the prioritisation of certain types of cases that are more likely to result in custody. Despite these restrictions having now been eased, we have seen a continued impact on the courts as they recover from the impact of the pandemic on processes and prioritisation. This means that the figures presented on an offence specific basis may be reflecting these restrictions and subsequent impacts to varying degrees depending on the offence in question and whether these cases continued to be heard throughout the time period. Therefore, it is important to note that certain trends might mostly reflect the impact of the pandemic on court processes and prioritisation, and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

Summary only offences are almost always sentenced in magistrates' courts, although there are limited circumstances in which they would be sentenced in the Crown Court. Where summary only offences are recorded as being sentenced in the Crown Court we are aware that in some instances this may be due to data recording issues. It is not always possible to investigate individual cases, therefore users should treat such data with caution.

From September 2020, some cases started to be recorded on the new Common Platform (CP) case management system, but could not initially be included in the CPD. Data processing development is now complete and the CPD has been revised to include these cases. As such, volumes for 2020 may not be consistent with figures previously published.

Further details of the processes by which the Ministry of Justice validate the records in the Court Proceedings Database can be found within the guide to their Criminal Justice Statistics publication which can be downloaded via the link:

<https://www.gov.uk/government/collections/criminal-justice-statistics>

### Volumes of sentences

The data presented in this bulletin only include cases where the specified offence was the principal offence committed. When an offender has been found guilty of two or more offences this is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe. Although the offender will receive a sentence for each of the offences that they are convicted of, it is only the sentence for the principal offence that is presented in this bulletin.

### Sentence outcomes

The outcomes presented are the final sentence outcomes, after taking into account all factors of the case, including whether a guilty plea was made. This is because the sentence length information available in the Court Proceedings Database is the final sentence imposed, after any reduction for guilty plea. Sentence outcomes presented in these tables are therefore not directly comparable to outcomes in the sentencing guideline tables, which instead show starting point sentences before a guilty plea has been entered.

The sentence outcome shown is the most severe sentence or order given for the principal offence (i.e. the principal sentence); secondary sentences given for the principal offence are not included in the tables.

### Offender demographics

The proportions reflected amongst those for whom data were provided may not reflect the demographics of the full population sentenced.

Due to the small number of offenders sentenced for some offences, care should be taken when comparing figures across different groups. This is particularly true where there are only a small number of offenders within a specific demographic group, as small numerical changes can present as large percentage changes when they are calculated using small volumes. This should be considered when comparing percentages across groups.

#### Ethnicity

The availability of information relating to ethnicity is constrained by data coverage. For offenders sentenced for less serious offences which are mostly sentenced at magistrates' courts, ethnicity data are less readily available: there are different police processes in place for these offences and often offenders are sentenced without attending a police station or the court, meaning there is little or no opportunity to collect ethnicity data. For offenders sentenced for more serious offences that appear in the Crown Court (triable-either-way and indictable only offences), there are more available data on ethnicity as the likelihood of offenders attending a custody interview is higher. Overall, this means that coverage is inconsistent across different offences. Statistics for offences with lower coverage should also be treated with caution, as it is less likely that the available data on ethnicity are representative of all offenders sentenced for those offences.

Ethnicity is the self-identified ethnicity as defined by the individual. The ethnicity categories used in these data tables for self-identified ethnicity are: 'Asian', 'black', 'mixed', 'other', 'white' and 'not recorded/not known' (referred to as the 5+1 classification). The 'not recorded/not known' category includes all offenders for whom ethnicity information is not available, either because they have chosen not to state their ethnicity or because no information has been recorded. Prior to May 2020, ethnicity was collected using the 16+1 classification which was used in the 2001 census. Since May 2020, this has been replaced by the 18+1 classification used in the 2011 Census. The data collected using the 18+1 format are then aggregated into the 5+1 classification for analysis. This has caused two key changes to the data presented in our publications:

- 1) The data now capture a further two ethnicity classifications: Gypsy or Irish Traveller which falls into the broader category of 'white' and Arab which falls into the broader category of 'other'. These ethnic groups are captured in the data from 2021 onwards.
- 2) The movement of the Chinese ethnicity classification from the broad category of 'Chinese and other' into 'Asian'. Due to the small number of offenders sentenced who identified as Chinese, this change has had little impact on overall trends presented in the data. This change has been applied to the whole timeseries presented, to allow for continued comparison across years. However, it means that the 'Chinese and other' category has been renamed 'other' within our data tables to account for this change.

More information on the 18+1 classification can be found here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691544/self-defined-ethnicity-18plus1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691544/self-defined-ethnicity-18plus1.pdf)

#### Age

In the CPD, prior to 2017, adults of unknown ages were defaulted to 25. From 2017 onwards, the majority of records where the age is unknown have been grouped within an 'age unknown' variable; however, there may still be some cases where the age is unknown and has therefore been defaulted to 25.

The sentencing guidelines only directly apply to adults aged 18 years or over at the date of conviction, although exceptions apply where stated. However, in the CPD, the age of the offender is calculated from the sentence date. Users should be aware this means there could be a small number of offenders aged under 18 included within the published figures as adults for whom the guideline did not apply at sentencing, if they turned 18 between the date of conviction and the date of sentence.

### General conventions

The following conventions have been applied to the data:

- Percentages derived from the data have been provided in the tables to the nearest whole percentage, except when the nearest whole percentage is zero. In some instances, this may mean that percentages shown do not add up to 100 per cent.
- Where the nearest whole per cent is zero, the convention '<0.5' has been used.
- Where totals have been provided, these have been calculated using unrounded data and then rounded.

### Uses made of the data

Data provided in the Council's range of statistical bulletins and tables are used to inform public debate of the Council's work.

### Background information

Further information on the Sentencing Council and its work, as well as information on general sentencing practice in England and Wales can be found on the Council's website at:

<https://sentencingcouncil.org.uk>

The Ministry of Justice publishes a quarterly statistical publication, Criminal Justice Statistics, which includes a chapter focusing on sentencing in England and Wales. This chapter includes information on the number of offenders sentenced by offence group and by demographic factors such as age, sex and self-identified ethnicity. The full publication can be accessed via the Ministry of Justice website at:

<https://www.gov.uk/government/collections/criminal-justice-statistics-quarterly>

Detailed sentencing data from the Ministry of Justice's Court Proceedings Database can be accessed via the data tool published alongside the annual Criminal Justice Statistics publication. The latest tool enables data covering the last five years to be viewed by offence, sex, age range and ethnicity, and can be accessed via the following link (for example, see the 'Outcomes by Offence data tool'):

<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2021>

### Contact points for further information

Statistical contact:

Email: [research@sentencingcouncil.gov.uk](mailto:research@sentencingcouncil.gov.uk)

Press Office

enquiries: Kathryn Montague

Tel: 020 7071 5792

**Table 1.1: Number of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), all courts, 2011-2021**

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<b>Court</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>	2021
Magistrates' court	2	0	1	1	0	1	2	0	0	0	1
Crown Court	204	179	208	231	236	263	235	226	184	107	141
<b>Total</b>	<b>206</b>	<b>179</b>	<b>209</b>	<b>232</b>	<b>236</b>	<b>264</b>	<b>237</b>	<b>226</b>	<b>184</b>	<b>107</b>	<b>142</b>

<b>Court</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>	2021
Magistrates' court	1%	0%	<0.5%	<0.5%	0%	<0.5%	1%	0%	0%	0%	1%
Crown Court	99%	100%	100%	100%	100%	100%	99%	100%	100%	100%	99%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

**Table 1.2: Number and proportion of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sentence outcome, 2011-2021**

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<b>Outcome</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>	2021
Absolute and conditional discharge	2	0	0	0	0	0	0	0	0	0	0
Fine	1	0	0	0	3	0	0	0	0	0	0
Community sentence	2	8	0	2	0	1	0	2	2	0	0
Suspended sentence	45	28	32	60	33	41	31	21	20	8	16
Immediate custody	155	143	177	170	200	220	201	203	160	99	124
Otherwise dealt with <sup>2</sup>	1	0	0	0	0	2	5	0	2	0	2
<b>Total</b>	<b>206</b>	<b>179</b>	<b>209</b>	<b>232</b>	<b>236</b>	<b>264</b>	<b>237</b>	<b>226</b>	<b>184</b>	<b>107</b>	<b>142</b>

<b>Outcome</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>	2021
Absolute and conditional discharge	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Fine	<0.5%	0%	0%	0%	1%	0%	0%	0%	0%	0%	0%
Community sentence	1%	4%	0%	1%	0%	<0.5%	0%	1%	1%	0%	0%
Suspended sentence	22%	16%	15%	26%	14%	16%	13%	9%	11%	7%	11%
Immediate custody	75%	80%	85%	73%	85%	83%	85%	90%	87%	93%	87%
Otherwise dealt with <sup>2</sup>	<0.5%	0%	0%	0%	0%	1%	2%	0%	1%	0%	1%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

**Table 1.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971 s25), 2011-2021<sup>1</sup>**

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<b>ACSL (years)<sup>2</sup></b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>	2021
Mean	1.7	1.8	1.9	2.0	2.0	2.5	2.8	3.1	3.3	2.8	3.2
Median	1.3	1.3	1.3	1.5	1.5	2.0	2.1	2.6	2.7	2.5	2.6
Indeterminates as percentage of custodial sentences <sup>4</sup>	-	-	-	-	-	-	-	-	-	-	-

- = not applicable

Source: Court Proceedings Database, Ministry of Justice

Notes:

- 1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.
- 2) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 3) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.
- 4) For 2013 onwards this is calculated as the number of offenders given life sentences, out of the number of offenders given a sentence of immediate custody. For 2011-2012, this is calculated as the number of offenders sentenced to Imprisonment for Public Protection (IPP), Extended Sentences for Public Protection (EPP) and life sentences, out of the number of offenders given a sentence of immediate custody. IPP and EPP sentences were introduced in 2005 and abolished in 2012.

**Table 1.4: Sentence lengths received by adult offenders sentenced to immediate custody for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), 2011-2021<sup>1</sup>**

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Sentence length (years) <sup>2</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>	2021
Less than 2 years	125	114	140	119	142	116	100	77	52	39	32
2 to 4	18	20	24	38	42	73	59	83	68	45	68
4 to 6	11	6	4	11	9	22	25	30	26	12	15
6 to 8	1	2	3	2	2	6	15	9	10	1	7
8 to 10	0	1	6	0	5	3	2	3	4	2	1
10 to 12	0	0	0	0	0	0	0	1	0	0	1
12 to 14	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>155</b>	<b>143</b>	<b>177</b>	<b>170</b>	<b>200</b>	<b>220</b>	<b>201</b>	<b>203</b>	<b>160</b>	<b>99</b>	<b>124</b>

Sentence length (years) <sup>2</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>	2021
Less than 2 years	81%	80%	79%	70%	71%	53%	50%	38%	33%	39%	26%
2 to 4	12%	14%	14%	22%	21%	33%	29%	41%	43%	45%	55%
4 to 6	7%	4%	2%	6%	5%	10%	12%	15%	16%	12%	12%
6 to 8	1%	1%	2%	1%	1%	3%	7%	4%	6%	1%	6%
8 to 10	0%	1%	3%	0%	3%	1%	1%	1%	3%	2%	1%
10 to 12	0%	0%	0%	0%	0%	0%	0%	<0.5%	0%	0%	1%
12 to 14	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.

2) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 2 years' includes sentence lengths less than or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

3) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

DELETE IF NO INDETERMINATES 4) This includes life sentences and, for the period 2011-2012, Imprisonment for Public Protection (IPPs), and Extended Sentences for Public Protection (EPPs). IPP and EPP sentences were introduced in 2005 and abolished in 2012.

**Table 1.5: Demographics of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021**

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<b>Sex</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>1</sup></b>
Female	15	11%
Male	127	89%
Not recorded/not known	0	
<b>Total</b>	<b>142</b>	<b>100%</b>

<b>Age group</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>1</sup></b>
18 to 20	4	3%
21 to 24	14	10%
25 to 29	19	13%
30 to 39	47	33%
40 to 49	37	26%
50 to 59	19	13%
60 to 69	2	1%
70 and over	0	0%
Not recorded/not known	0	
<b>Total</b>	<b>142</b>	<b>100%</b>

<b>Ethnicity<sup>2</sup></b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>1</sup></b>
Asian	7	13%
Black	3	5%
Mixed	4	7%
Other	7	13%
White	35	63%
Not recorded/not known <sup>3</sup>	86	
<b>Total</b>	<b>142</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

Notes:

- 1) Percentage calculations do not include cases where sex, age group or ethnicity was unknown.
- 2) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.
- 3) For a proportion of adults sentenced (61%), their ethnicity was either not recorded or it was not known. Therefore the proportions amongst those for whom data was provided may not reflect the demographics of the full population, and these figures should be treated with caution.

**Table 1.6: Number and proportion of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, and sentence outcome, 2021**

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Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Female	0	0	0	8	7	0	15
Male	0	0	0	8	117	2	127
Not recorded/not known	0	0	0	0	0	0	0

  

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
18 to 20	0	0	0	1	3	0	4
21 to 24	0	0	0	0	14	0	14
25 to 29	0	0	0	1	18	0	19
30 to 39	0	0	0	7	39	1	47
40 to 49	0	0	0	5	32	0	37
50 to 59	0	0	0	2	16	1	19
60 to 69	0	0	0	0	2	0	2
70 and over	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0

  

Ethnicity <sup>2</sup>	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Asian	0	0	0	0	6	1	7
Black	0	0	0	1	2	0	3
Mixed	0	0	0	0	4	0	4
Other	0	0	0	0	7	0	7
White	0	0	0	3	32	0	35
Not recorded/not known	0	0	0	12	73	1	86

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Female	0%	0%	0%	53%	47%	0%	100%
Male	0%	0%	0%	6%	92%	2%	100%
Not recorded/not known	-	-	-	-	-	-	-

  

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
18 to 20	0%	0%	0%	25%	75%	0%	100%
21 to 24	0%	0%	0%	0%	100%	0%	100%
25 to 29	0%	0%	0%	5%	95%	0%	100%
30 to 39	0%	0%	0%	15%	83%	2%	100%
40 to 49	0%	0%	0%	14%	86%	0%	100%
50 to 59	0%	0%	0%	11%	84%	5%	100%
60 to 69	0%	0%	0%	0%	100%	0%	100%
70 and over	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-

  

Ethnicity <sup>2</sup>	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Asian	0%	0%	0%	0%	86%	14%	100%
Black	0%	0%	0%	33%	67%	0%	100%
Mixed	0%	0%	0%	0%	100%	0%	100%
Other	0%	0%	0%	0%	100%	0%	100%
White	0%	0%	0%	9%	91%	0%	100%
Not recorded/not known	0%	0%	0%	14%	85%	1%	100%

Source: Court Proceedings Database, Ministry of Justice

-- No proportions have been calculated as no offenders were sentenced.

Notes:

1) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volume and proportions should be treated with caution.

2) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

**Table 1.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021**

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Sex	ACSL (years) <sup>2</sup>	
	Mean	Median
Female	2.8	2.0
Male	3.2	2.6
Not recorded/not known	-	-

Age group	Mean	Median
18 to 20	*	*
21 to 24	3.2	3.0
25 to 29	2.5	2.5
30 to 39	3.1	2.6
40 to 49	3.2	2.5
50 to 59	4.1	3.9
60 to 69	*	*
70 and over	-	-
Not recorded/not known	-	-

Ethnicity <sup>3</sup>	Mean	Median
Asian	4.2	4.0
Black	*	*
Mixed	*	*
Other	3.2	2.7
White	3.2	3.0
Not recorded/not known	3.1	2.5

Source: Court Proceedings Database, Ministry of Justice

\* = ACSL has not been calculated where the number of offenders sentenced to a determinate immediate custodial sentence is fewer than 5.

- = No offenders were sentenced to a determinate immediate custodial sentence.

Notes:

1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.

2) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.

3) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

**Table 1.8: Sentence lengths received by adult offenders sentenced to immediate custody for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021<sup>1</sup>**

Sex	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
Female	4	2	1	0	0	0	0	7
Male	28	66	14	7	1	1	0	117
Not recorded/not known	0	0	0	0	0	0	0	0

  

Age group	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
18 to 20	3	0	0	0	0	0	0	3
21 to 24	0	13	0	1	0	0	0	14
25 to 29	6	12	0	0	0	0	0	18
30 to 39	11	19	7	2	0	0	0	39
40 to 49	9	17	3	2	1	0	0	32
50 to 59	3	6	5	2	0	0	0	16
60 to 69	0	1	0	0	0	1	0	2
70 and over	0	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0	0

  

Ethnicity <sup>3</sup>	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
Asian	1	2	2	1	0	0	0	6
Black	1	1	0	0	0	0	0	2
Mixed	0	3	1	0	0	0	0	4
Other	3	1	3	0	0	0	0	7
White	4	22	5	0	1	0	0	32
Not recorded/not known	23	39	4	6	0	1	0	73

- = No proportions have been calculated as no offenders were sentenced to immediate custody.

**Notes:**

- 1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.
- 2) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 2 years' includes sentence lengths less than or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.
- 3) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

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Sex	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
Female	57%	29%	14%	0%	0%	0%	0%	100%
Male	24%	56%	12%	6%	1%	1%	0%	100%
Not recorded/not known	-	-	-	-	-	-	-	-

  

Age group	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
18 to 20	100%	0%	0%	0%	0%	0%	0%	100%
21 to 24	0%	93%	0%	7%	0%	0%	0%	100%
25 to 29	33%	67%	0%	0%	0%	0%	0%	100%
30 to 39	28%	49%	18%	5%	0%	0%	0%	100%
40 to 49	28%	53%	9%	6%	3%	0%	0%	100%
50 to 59	19%	38%	31%	13%	0%	0%	0%	100%
60 to 69	0%	50%	0%	0%	0%	50%	0%	100%
70 and over	-	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-	-

  

Ethnicity <sup>3</sup>	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
Asian	17%	33%	33%	17%	0%	0%	0%	100%
Black	50%	50%	0%	0%	0%	0%	0%	100%
Mixed	0%	75%	25%	0%	0%	0%	0%	100%
Other	43%	14%	43%	0%	0%	0%	0%	100%
White	13%	69%	16%	0%	3%	0%	0%	100%
Not recorded/not known	32%	53%	5%	8%	0%	1%	0%	100%

Source: Court Proceedings Database, Ministry of Justice

**Table 2.1: Number of adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), Crown Court, 2011-2021**

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<b>Court</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>	2021
Crown Court	2	0	2	0	7	2	9	6	3	2	2
<b>Total</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>7</b>	<b>2</b>	<b>9</b>	<b>6</b>	<b>3</b>	<b>2</b>	<b>2</b>

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

**Table 2.2: Number and proportion of adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), by sentence outcome, 2011-2021**

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Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>	2021
Absolute and conditional discharge	0	0	0	0	0	1	0	0	0	0	0
Fine	0	0	0	0	0	0	0	0	0	0	0
Community sentence	0	0	0	0	0	0	0	0	0	0	0
Suspended sentence	0	0	0	0	1	0	0	1	0	0	0
Immediate custody	2	0	2	0	6	1	8	4	3	2	2
Otherwise dealt with <sup>2</sup>	0	0	0	0	0	0	1	1	0	0	0
<b>Total</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>7</b>	<b>2</b>	<b>9</b>	<b>6</b>	<b>3</b>	<b>2</b>	<b>2</b>

Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>	2021
Absolute and conditional discharge	0%	-	0%	-	0%	50%	0%	0%	0%	0%	0%
Fine	0%	-	0%	-	0%	0%	0%	0%	0%	0%	0%
Community sentence	0%	-	0%	-	0%	0%	0%	0%	0%	0%	0%
Suspended sentence	0%	-	0%	-	14%	0%	0%	17%	0%	0%	0%
Immediate custody	100%	-	100%	-	86%	50%	89%	67%	100%	100%	100%
Otherwise dealt with <sup>2</sup>	0%	-	0%	-	0%	0%	11%	17%	0%	0%	0%
<b>Total</b>	<b>100%</b>	<b>-</b>	<b>100%</b>	<b>-</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

**Table 2.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), 2017-2021<sup>1,2,3,4</sup>**

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<b>ACSL (years)</b>	<b>2017-2021</b>
Mean	3.8
Median	3.5
Indeterminates as percentage of custodial sentences <sup>5</sup>	-

- = not applicable

Source: Court Proceedings Database, Ministry of Justice

**Notes:**

- 1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.
- 2) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 3) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.
- 4) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.
- 5) For 2013 onwards this is calculated as the number of offenders given life sentences, out of the number of offenders given a sentence of immediate custody. For 2011-2012, this is calculated as the number of offenders sentenced to Imprisonment for Public Protection (IPP), Extended Sentences for Public Protection (EPP) and life sentences, out of the number of offenders given a sentence of immediate custody. IPP and EPP sentences were introduced in 2005 and abolished in 2012.

**Table 2.4: Sentence lengths received by adult offenders sentenced to immediate custody for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), 2011-2021<sup>1</sup>**

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Sentence length (years) <sup>2</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>	2021
Less than 2 years	2	0	1	0	2	0	3	0	2	0	0
2 to 4	0	0	1	0	0	1	1	4	1	2	0
4 to 6	0	0	0	0	2	0	2	0	0	0	0
6 to 8	0	0	0	0	2	0	2	0	0	0	2
Greater than 8 years	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>6</b>	<b>1</b>	<b>8</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>2</b>

Sentence length (years) <sup>2</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>	2021
Less than 2 years	100%	-	50%	-	33%	0%	38%	0%	67%	0%	0%
2 to 4	0%	-	50%	-	0%	100%	13%	100%	33%	100%	0%
4 to 6	0%	-	0%	-	33%	0%	25%	0%	0%	0%	0%
6 to 8	0%	-	0%	-	33%	0%	25%	0%	0%	0%	100%
Greater than 8 years	0%	-	0%	-	0%	0%	0%	0%	0%	0%	0%
<b>Total</b>	<b>100%</b>	<b>-</b>	<b>100%</b>	<b>-</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.

2) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 2 years' includes sentence lengths less than or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

3) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

DELETE IF NO INDETERMINATES 4) This includes life sentences and, for the period 2011-2012, Imprisonment for Public Protection (IPPs), and Extended Sentences for Public Protection (EPPs). IPP and EPP sentences were introduced in 2005 and abolished in 2012.

**Table 2.5: Demographics of adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity, 2017-2021<sup>1,2</sup>**

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<b>Sex</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>3</sup></b>
Female	1	5%
Male	21	95%
Not recorded/not known	0	
<b>Total</b>	<b>22</b>	<b>100%</b>

<b>Age group</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>3</sup></b>
18 to 20	0	0%
21 to 24	1	5%
25 to 29	1	5%
30 to 39	8	36%
40 to 49	10	45%
50 to 59	2	9%
60 to 69	0	0%
70 and over	0	0%
Not recorded/not known	0	
<b>Total</b>	<b>22</b>	<b>100%</b>

<b>Ethnicity<sup>4</sup></b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>3</sup></b>
Asian	2	40%
Black	0	0%
Mixed	1	20%
Other	1	20%
White	1	20%
Not recorded/not known <sup>5</sup>	17	
<b>Total</b>	<b>22</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.

3) Percentage calculations do not include cases where sex, age group or ethnicity was unknown.

4) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

5) For a proportion of adults sentenced (77%), their ethnicity was either not recorded or it was not known. Therefore the proportions amongst those for whom data was provided may not reflect the demographics of the full population, and these figures should be treated with caution.

Table 2.6: Number and proportion of adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity, and sentence outcome 2017-2021<sup>1,2</sup>

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Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Female	0	0	0	0	1	0	1
Male	0	0	0	1	18	2	21
Not recorded/not known	0	0	0	0	0	0	0

  

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
18 to 20	0	0	0	0	0	0	0
21 to 24	0	0	0	0	1	0	1
25 to 29	0	0	0	0	1	0	1
30 to 39	0	0	0	0	7	1	8
40 to 49	0	0	0	1	8	1	10
50 to 59	0	0	0	0	2	0	2
60 to 69	0	0	0	0	0	0	0
70 and over	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0

  

Ethnicity <sup>4</sup>	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Asian	0	0	0	0	2	0	2
Black	0	0	0	0	0	0	0
Mixed	0	0	0	1	0	0	1
Other	0	0	0	0	1	0	1
White	0	0	0	0	1	0	1
Not recorded/not known	0	0	0	0	15	2	17

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Female	0%	0%	0%	0%	100%	0%	100%
Male	0%	0%	0%	5%	86%	10%	100%
Not recorded/not known	-	-	-	-	-	-	-

  

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
18 to 20	-	-	-	-	-	-	-
21 to 24	0%	0%	0%	0%	100%	0%	100%
25 to 29	0%	0%	0%	0%	100%	0%	100%
30 to 39	0%	0%	0%	0%	88%	13%	100%
40 to 49	0%	0%	0%	10%	80%	10%	100%
50 to 59	0%	0%	0%	0%	100%	0%	100%
60 to 69	-	-	-	-	-	-	-
70 and over	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-

  

Ethnicity <sup>4</sup>	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Asian	0%	0%	0%	0%	100%	0%	100%
Black	-	-	-	-	-	-	-
Mixed	0%	0%	0%	100%	0%	0%	100%
Other	0%	0%	0%	0%	100%	0%	100%
White	0%	0%	0%	0%	100%	0%	100%
Not recorded/not known	0%	0%	0%	0%	88%	12%	100%

Source: Court Proceedings Database, Ministry of Justice

- = No proportions have been calculated as no offenders were sentenced.

Notes:

- 1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.
- 2) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.
- 3) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volume and proportions should be treated with caution.
- 4) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

**Table 2.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity, 2017-2021<sup>1,2,3,4</sup>**

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Sex	ACSL (years)	
	Mean	Median
Female	*	*
Male	3.9	3.5
Not recorded/not known	-	-

  

Age group	Mean	Median
18 to 20	-	-
21 to 24	*	*
25 to 29	*	*
30 to 39	2.6	3.0
40 to 49	5.2	6.5
50 to 59	*	*
60 to 69	-	-
70 and over	-	-
Not recorded/not known	-	-

  

Ethnicity <sup>5</sup>	Mean	Median
Asian	*	*
Black	-	-
Mixed	-	-
Other	*	*
White	*	*
Not recorded/not known	4.0	3.6

Source: Court Proceedings Database, Ministry of Justice

\* = ACSL has not been calculated where the number of offenders sentenced to a determinate immediate custodial sentence is fewer than 5.

- = No offenders were sentenced to a determinate immediate custodial sentence.

Notes:

1) The statutory maximum sentence for this offence is XXX.

2) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.

3) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

4) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.

5) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

**Table 2.8: Sentence lengths received by adult offenders sentenced to immediate custody for facilitating entry by asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity, 2017-2021**<sup>1,2,3</sup>

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Sex	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
Female	1	0	0	0	0	1
Male	4	8	2	4	0	18
Not recorded/not known	0	0	0	0	0	0

Age group	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
18 to 20	0	0	0	0	0	0
21 to 24	1	0	0	0	0	1
25 to 29	0	1	0	0	0	1
30 to 39	2	5	0	0	0	7
40 to 49	2	0	2	4	0	8
50 to 59	0	2	0	0	0	2
60 to 69	0	0	0	0	0	0
70 and over	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0

Ethnicity <sup>5</sup>	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
Asian	0	2	0	0	0	2
Black	0	0	0	0	0	0
Mixed	0	0	0	0	0	0
Other	0	1	0	0	0	1
White	1	0	0	0	0	1
Not recorded/not known	4	5	2	4	0	15

Sex	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
Female	100%	0%	0%	0%	0%	100%
Male	22%	44%	11%	22%	0%	100%
Not recorded/not known	-	-	-	-	-	-

Age group	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
18 to 20	-	-	-	-	-	-
21 to 24	100%	0%	0%	0%	0%	100%
25 to 29	0%	100%	0%	0%	0%	100%
30 to 39	29%	71%	0%	0%	0%	100%
40 to 49	25%	0%	25%	50%	0%	100%
50 to 59	0%	100%	0%	0%	0%	100%
60 to 69	-	-	-	-	-	-
70 and over	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-

Ethnicity <sup>5</sup>	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
Asian	0%	100%	0%	0%	0%	100%
Black	-	-	-	-	-	-
Mixed	-	-	-	-	-	-
Other	0%	100%	0%	0%	0%	100%
White	100%	0%	0%	0%	0%	100%
Not recorded/not known	27%	33%	13%	27%	0%	100%

Source: Court Proceedings Database, Ministry of Justice

- = No proportions have been calculated as no offenders were sentenced to immediate custody.

Notes:

1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.

2) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

3) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.

4) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 2 years' includes sentence lengths less than or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

5) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.