

Equality Impact Assessment Initial Screening - Relevance to Equality Duties

1. Name of the proposed new or changed legislation, policy, strategy, project or service being assessed.

Draft guideline on theft offences

2. Individual Officer(s) & unit responsible for completing the Equality Impact Assessment.

Mandy Banks, Office of the Sentencing Council

3. What is the main aim or purpose of the proposed new or changed legislation, policy, strategy, project or service and what are the intended outcomes?

Aims/objectives	Outcomes
<p>The Sentencing Council aims to:</p> <ul style="list-style-type: none"> ▪ Promote a clear, fair and consistent approach to sentencing; ▪ Produces analysis and research on sentencing; and ▪ Work to improve public confidence in sentencing. <p>The Council has produced a draft theft offences guideline for consultation to support the achievement of these aims, specifically in relation to these offences.</p> <p>The Council's objective is to produce a definitive theft offences guideline, informed by the consultation process, that will apply to offences sentenced in both the Crown Court and magistrates' court. It will replace the relevant existing Sentencing Guidelines Council (SGC)</p>	<p>In preparing this guideline, the Council has had regard to its statutory duties set out in section 120 of the Coroners and Justice Act 2009.</p> <p>The Council's intention is that the guideline will result in:</p> <ul style="list-style-type: none"> ▪ Relevant guidance for common theft offences within one document ▪ Consistency of approach to the sentencing of theft offences ▪ Increased transparency around the sentencing process for theft offences.

guideline, the guidance in the Magistrates Court Sentencing Guideline (MCSG) and provide guidance for the first time when sentencing common theft offences such as theft of bicycles.

4. What existing sources of information will you use to help you identify the likely equality impacts on different groups of people?

(For example statistics, survey results, complaints analysis, consultation documents, customer feedback, existing briefings, submissions or business reports, comparative policies from external sources and other Government Departments).

A range of information and evidence about sentencing and diversity issues was taken into account during the development of the draft guideline.

Alongside the consultation, resource assessment and this equality impact assessment, the Council is publishing an analysis and research bulletin that sets out key data in relation to the sentencing of theft offences. The bulletin can be found on the Sentencing Council's website: <http://sentencingcouncil.judiciary.gov.uk/facts/research-and-analysis-publications.htm>.

5. Are there gaps in information that make it difficult or impossible to form an opinion on how your proposals might affect different groups of people? If so what are the gaps in the information and how and when do you plan to collect additional information?

Note this information will help you to identify potential equality stakeholders and specific issues that affect them - essential information if you are planning to consult as you can raise specific issues with particular groups as part of the consultation process. EIAs often pause at this stage while additional information is obtained.

N/A

6. Having analysed the initial and additional sources of information including feedback from consultation, is there any evidence that the proposed changes will have a **positive impact** on any of these different groups of people and/or promote equality of opportunity?

Please provide details of which benefits from the positive impacts and the evidence and analysis used to identify them.

The guideline's principle objective is to promote greater consistency in sentencing by giving courts a structured decision making process for theft offences. The Council considers that the increased consistency and transparency in the sentencing process should ensure that there is less scope for any discrimination.

In particular the draft guideline includes the following factors:

- Vulnerable victim targeted (which could include vulnerability because of age or disability) will increase the culpability of the offender

as will the level of impact the offending has on the victim.

- Offenders who have a mental disorder or learning disability which is linked to the commission of the offence, as in theft from a shop, can have this factor considered when their culpability is assessed. Offenders who have a mental disorder or learning disability which is not linked to the commission of the offence, and offenders where age or lack of maturity affects their responsibility can have these factors considered when mitigation is assessed.

7. Is there any feedback or evidence that additional work could be done to promote equality of opportunity?

If the answer is yes, please provide details of whether or not you plan to undertake this work. If not, please say why.

The Sentencing Council has to date received no feedback or evidence to date to suggest that the draft guideline requires amendment on the basis of promoting equality. The Council will be informed by responses to the consultation.

8. Is there any evidence that proposed changes will have **an adverse equality impact** on any of these different groups of people?

Please provide details of who the proposals affect, what the adverse impacts are and the evidence and analysis used to identify them.

The large majority of all offenders sentenced for these offences in 2012 were males of white origin.

Further details on the breakdown of offenders are available in the analysis and research bulletin on theft offences which is available at: <http://sentencingcouncil.judiciary.gov.uk/facts/research-and-analysis-publications.htm>.

Statistics published by the Ministry of Justice show that offences of theft form the most common indictable offence group for which adult males and females were sentenced at all courts. However, between 2002 and 2012, the proportion of total adult female offenders sentenced for theft was higher than it was for males. In 2012, for example, 54 per cent of females sentenced for indictable offences in all courts were for theft and handling stolen goods while for males it was only 34 per cent).

9. Is there any evidence that the proposed changes have **no equality impacts**?

Please provide details of the evidence and analysis used to reach the conclusion that the proposed changes have no impact on any of these different groups of people.

N/A

10. Is a full Equality Impact Assessment Required?

No

If you answered 'No', please explain below why not?

There is currently insufficient evidence that the draft guideline will have any adverse impact on equalities to warrant a full Equality Impact Assessment at this stage. The Council's decision as to whether to complete a full Equality Impact Assessment alongside the definitive guideline will be informed by responses to the consultation.

NOTE - You will need to complete a full EIA if:

- the proposals are likely to have equality impacts and you will need to provide details about how the impacts will be mitigated or justified
- there are likely to be equality impacts plus negative public opinion or media coverage about the proposed changes
- you have missed an opportunity to promote equality of opportunity and need to provide further details of action that can be taken to remedy this

If your proposed new or changed legislation, policy, strategy, project or service involves an Information and Communication Technology (ICT) system and you have identified equality impacts of that system, a focused full EIA for ICT specific impacts should be completed. The ICT Specific Impacts template is available from MoJ ICT or can be downloaded from the Intranet at: <http://intranet.justice.gsi.gov.uk/justice/equdiv/equal-impact.htm>, and should be referenced here.

11. Even if a full EIA is not required, you are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality impacts. Please provide details of how you will monitor evaluate or review your proposals and when the review will take place.

The Council has a statutory duty to monitor new definitive guidelines once they are in place (these are only draft guidelines being consulted on). Once the definitive guidelines are in force, the monitoring will be undertaken through the Crown Court Sentencing Survey which allows the Council to monitor the frequency of the presence of certain aggravating and mitigating factors which could have potential equalities impact. Sentencing in the magistrates' courts will be monitored using existing Ministry of Justice sentencing statistics data.

12. Name of Senior Manager and date approved

The Council has had regard to a wide variety of information and evidence relating to sentencing and equality impact issues. It is expected and intended that the draft theft guideline will help to promote equality of opportunity and will reduce the potential for discrimination as it is designed to promote greater consistency in sentencing. Following its implementation the Council will monitor the impact of the guideline.

Name (must be grade 5 or above): Michelle Crotty

Department: Office of the Sentencing Council

Date 10 March 2014

Note: The EIA should be sent by email to analyticalservices@justice.gsi.gov.uk of the Equality Analytical Programme for publication.