



Sir Robert Neill MP
Chair of the Justice Select Committee
House of Commons
London
SW1A 00A

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Dear Sir,

**THE JUSTICE SELECT COMMITTEE'S INQUIRY INTO THE PUBLIC OPINION & UNDERSTANDING
OF SENTENCING**

Thank you for inviting me to give oral evidence to the Justice Select Committee's inquiry into public opinion and understanding of sentencing. There were a few points raised by a number of committee members on which I committed to provide further information in writing.

Delivery of the Sentencing White Paper commitments

The Sentencing White Paper – 'A Smarter Approach to Sentencing' - published in September 2020, set out the department's plans for a system that protects the public, as well as one which can be more easily understood and which the public can have confidence in. The reforms announced in the White Paper were about ensuring that the most serious and dangerous offenders are kept in prison for longer while also tackling the underlying causes of criminal behaviour and improving the rehabilitation and supervision of offenders in the community.

The legislative measures in the White Paper formed the basis of the sentencing measures in the Police, Crime, Sentencing and Courts Act 2022, with most measures having commenced on 28 June 2022.

The White Paper also made several non-legislative commitments. We have made significant progress on these commitments and work on implementation is ongoing. Key areas of progress include the cross-government Action Plan on neurodiversity which we published in June. We will publish an update on progress shortly. We also launched a Pre-Sentence Report Pilot in March 2021, with the initial findings from the process evaluation due to be published in 2023.

Sentencing impacts on the criminal justice system

The Government recognises that shifts in sentencing policy can have an impact on the criminal justice system, including on prison resources. Impacts are generally assessed through the Justice Impact Test (JIT) process, which ensures that these impacts are considered, estimated, and planned for at an early stage.

We also ensure through the JIT process that the wider impacts on the criminal justice system are considered. This includes considering whether a proposed change is consistent with the rest of the

sentencing framework. For example, where there is a proposal from a Government department to create or amend a criminal penalty, officials will seek to ensure that the statutory maximum penalty is similar to one for a comparable offence, unless there is a robust justification for a different approach.

We expect the prison population to rise over the coming years due to the additional recruitment of 20,000 police officers, court recovery and sentencing reforms that look to ensure that serious sexual and violent offenders are kept in prison for longer. The Government remains committed to delivering 20,000 additional, modern prison places.

Community Sentence Treatment Requirements (CSTRs)

In the Committee, Mr Timpson requested further information in relation to CSTRs. The ministry committed, in the Sentencing White Paper, to increasing the availability of CSTRs for offenders with mental health, drug and alcohol needs as an alternative to short custody.

Alcohol Treatment Requirements (ATR), Drug Rehabilitation Requirements (DRR) and secondary Mental Health Treatment Requirements for offenders with serious or complex mental health needs (MHTR) are available to sentencers in every court. New primary MHTRs for people with lower levels of need have been introduced by NHS England and are on track to reach 100% coverage in England by 2024. Work also continues to increase the availability of substance misuse treatments with additional staff and access to provision in every court funded by the Department for Health and Social Care. HMPPS are also recruiting additional probation staff to drug test those with a DRR to give sentencers confidence that they are being robustly monitored.

We want to ensure that everyone who could benefit from the programme is considered for a substance misuse CSTR. HMPPS has developed screening tool to help court probation staff easily identify offenders who may be suitable for a DRR or ATR and refer them on for a full assessment.

Short custodial sentences & Average Custodial Sentence Length (ACSL)

In the Committee, Dr Mullan also asked for further information in relation to the use of short custodial sentences. We are clear that the sentence must match the severity of the crime and public protection is our priority. Judges and magistrates must have the power to impose short custodial sentences where they are appropriate and necessary and, as I suggested during the oral evidence session, there may be circumstances in which a short period in custody is the only realistic option for the court, particularly in the context of repeat offenders where other disposals may have failed to rehabilitate the offender.

However, custody should always be a last resort. There is evidence that short custodial sentences may be less effective than community sentences in terms of rehabilitation and helping some offenders turn their backs on crime. Further information on Ministry research on short custodial sentences on reoffending can be found at: <https://www.gov.uk/government/publications/impact-of-short-custodial-sentences-community-orders-and-suspended-sentence-orders-on-reoffending>. The Sentencing Council has also recently published evidence on the effectiveness of sentencing options on reoffending at: <https://www.sentencingcouncil.org.uk/publications/item/the-effectiveness-of-sentencing-options-on-reoffending/>.

If we are to break the cycle of reoffending, solutions will often lie in robust and effective community sentences. The Sentencing Council's overarching imposition guideline encourages sentencers to consider whether a custodial sentence is avoidable if a community sentence can provide a sufficient restriction of liberty. That said, it is also important to remember that there are five purposes of sentencing, as set out in

the Sentencing Code, and as I highlighted to the Committee, looking at the effectiveness of sentencing solely through the lens of reoffending outcomes does not provide a complete picture as it overlooks, in particular, the punitive weight of the sentence.

Data on custodial sentences of 6 months or less indicates that their use has markedly decreased since 2010. Last year (2021), there were 30,418 short custodial sentences handed down, while in 2010, there were 58,497 – this represents a decrease of 48%.

I understand the Committee is interested in why the ACSL has also increased over time. This can be attributed to several factors. The Government is committed to ensuring that the most serious offenders are given tough custodial sentences, and has increased maximum penalties to give the courts the tools to deal effectively with those offences which society has increasingly seen as more serious, for example child sex offences. The reduced use of short custodial sentences may also be a factor in pushing up the ACSL.

Information available to the victims of crime and their families

The Government is committed to supporting victims and their families. The Victims' Code (the Code) sets out all the services that victims are entitled to receive from Criminal Justice agencies. Under the Code, all victims are entitled to be told by the Witness Care Unit (a police-led function that provides information and support to victims and witnesses as cases progress through the criminal justice system) the sentence the offender received, including a brief explanation about the meaning and effect of the sentence.

The WCU must inform the victim of the sentence within 1 working day of the WCU receiving the information from the court, which should be within 5 working days of the outcome of the case. If there are questions that the WCU are unable to answer, then the victim and/or their families should be referred to the Crown Prosecution Service (CPS). Bereaved family members are entitled under the Code to a meeting with the CPS following the sentencing hearing to have the sentence explained. This meeting will usually take place at court.

In May this year, we published our landmark draft Victims Bill, alongside a wider package of measures, to improve victims' experiences of the criminal justice system. The draft Victims Bill will place the Victims' Code into law and increase oversight of how criminal justice agencies deliver victims' entitlements through a duty to review local Code compliance led by Police and Crime Commissioners and national joint inspections on victims' issues. This Bill will be introduced to Parliament as soon as parliamentary time allows.

Crown Court proceedings are audio recorded and available on request and a written transcript of these proceedings can be provided for a fee, though bereaved families of murder victims are entitled to this without cost. In high profile cases, sentencing remarks are published on [judiciary.uk](https://www.judiciary.uk) at the discretion of the sentencing judge.

The Government is committed to the principle of open justice, however there are several reasons why not all sentencing remarks are accessible to the public. First, not all court proceedings are recorded, and therefore transcripts are simply not available in all cases. Secondly, many sentencing remarks contain sensitive information and details of hearings which should remain confidential. We continue to work with the independent Judiciary to allow for a larger number of sentencing remarks to be accessible to the public in the future, subject to cost and appropriate safeguards.

Use of public opinion in the Ministry of Justice

In the Committee, Ms Eagle asked how public opinion informs policy. As is normal practice across Government, we use a range of primary and secondary research sources to inform our policy and communications work. This can include insight from publicly available sources, such as the research conducted by the Sentencing Council, as well as independent audience insight conducted by external research partners on our behalf. This is in addition to a range of other routes that can lead to changes in the law and policy with which the Committee will be familiar, including public campaigns, parliament e-petitions and engagement with parliamentarians. Ministers consider this alongside policy and resource implications. It is also of note that many of the changes brought in by the Police, Crime, Sentencing and Courts Act 2022 were manifesto commitments.

Accessible data

Mr Timpson also made a point around the provision of accessible data. The Ministry publishes all its statistical releases in line with the code of practice for statistics, which outlines that statistics data and related guidance should be easily accessible to users. We continually develop our statistical releases in line with user needs, wider demands and most of our statistical outputs are accredited National Statistics.

For example, Criminal Justice Statistics quarterly publishes trends in the use of court disposals, defendants prosecuted, offenders convicted, remand and sentencing decisions in England and Wales every 3 months in an accessible format, where the tables adhere to accessibility guidance by the Cabinet Office and Government Statistical Service. Other products support this publication, including a user guide, technical guide, bulletin, and an annual infographic which displays the data in an easily digestible format. Users can contact the publication team to request further accessible formats via a link on gov.uk.

I hope this additional information is helpful to the Committee and look forward to its final report. I would also like to take this opportunity to acknowledge the important work the Justice Committee has undertaken and offer my thanks to you, the other members, and the clerks.



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