



House of Commons
Justice Committee

Public opinion and understanding of sentencing

Tenth Report of Session 2022–23



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to the report*

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Justice Committee

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Summary

This report examines public opinion and understanding of sentencing in England and Wales. We launched our inquiry to explore what the public know about sentencing, how information is accessed and how understanding of sentencing might be improved. As well as examining what the public know about the current approach to sentencing, we also wanted to consider public opinion on sentencing and the extent to which it should inform sentencing policy and practice.

As part of this inquiry, we commissioned a public polling exercise. 2,057 adults in England and Wales were asked about their knowledge and views on sentencing. The Committee also worked with Involve, a leading public participation charity, to facilitate a deliberative engagement exercise. 25 adults from England and Wales met over three half-day sessions to discuss the aims of sentencing. The combination of these exercises has provided an invaluable insight into public opinion and understanding of sentencing.

In terms of public understanding, both the polling and the public dialogue indicated that a significant portion of the public do not know which bodies are responsible for deciding sentencing policy. Only 22% of respondents to our poll identified that Parliament was responsible for setting the maximum sentence in law for a criminal offence. The participants in the public dialogue indicated that they were unsure which institutions had responsibility for deciding the framework that sentencers apply in individual cases. We are concerned that this can give rise to an accountability gap, whereby the public is unclear as to the Government's responsibility in relation to sentencing.

It is widely recognised that there has been a perceptible hardening of public opinion towards serious crime since the 1990s. Successive governments have increased the maximum sentences for a number of serious offences, often in response to public campaigns arising from individual cases. The polling we commissioned indicated that there is significant public support for increasing the custodial sentences for murder, rape and domestic burglary. For example, 18% of respondents said that the starting point for the most serious rape cases should be a whole life order (the current starting point is 15 years), and 33% said the starting point for the most serious cases of domestic burglary should be a 10-year custodial sentence (the current starting point is three years custody).

One of the most striking findings from both the polling and the public dialogue was that one of the most important purposes of sentencing should be to provide justice for the victim. 56% of respondents to our poll ranked "ensuring the victim had secured justice" as one of their top three factors that should influence a sentence. In the public dialogue, there was a consensus that "providing justice for victims" should be a purpose of sentencing, and almost half placed it second in order of priority behind protecting the public. Accordingly, we recommend that the Government should review the statutory purposes of sentencing to consider whether greater emphasis should be placed on achieving justice for the victims of crime and their families.

Our overall conclusion is that there is a need for national debate on sentencing. Our inquiry has highlighted that the public debate on sentencing is stuck in a dysfunctional and reactive cycle. There needs to be greater public knowledge and understanding of

current sentencing practice, of evidence on the effectiveness of different sentencing options, and the resource implications of sentences in order to improve the quality of public discourse on sentencing. It is incumbent on all policymakers and opinion-shapers to play a role in shaping a more constructive debate and to seek greater consensus on the issues.

This Government, and its successors, need to think carefully about how to engage with public opinion on sentencing. There are important choices to be made about how to ascertain public opinion and the extent to which policy should be responsive to public pressure. In our view, the Government should seek to actively engage the public on sentencing policy but should do so in a structured and methodologically rigorous fashion. It should ensure that both traditional polling and deliberative methods are used, and that such exercises occur at regular intervals. Finally, policy proposals on sentencing should be subject to independent evaluation, so that the resourcing implications are evaluated before they are enacted. We recommend that the Government establish an independent advisory panel on sentencing to consider proposed changes to sentencing policy and to provide advice to ministers.

1 Introduction

Background

1. This Report examines public opinion and understanding of sentencing in England and Wales. We decided to undertake this inquiry for three reasons.

The Sentencing Council for England and Wales

2. First, the Committee has a close working relationship with the Sentencing Council for England and Wales. The Sentencing Council was established by Parliament through the Coroners and Justice Act 2009 and is responsible for producing sentencing guidelines which courts must use when sentencing offenders. The Committee is a statutory consultee for all draft guidelines proposed by the Sentencing Council. In 2020, the Committee made a contribution to the Council's *What next for the Sentencing Council?* consultation. Our submission emphasised the need for improved data and analysis of sentencing trends and for the Council to do more work to promote public awareness of sentencing and the role of guidelines. In response to the consultation, the Sentencing Council's strategic objectives for 2021–2026 included both a focus on enhancing the data on sentencing and promoting public understanding (see Box 1). Improving public understanding of sentencing is also a statutory function of the Council,¹ and through this inquiry we sought to determine what more could be done by the Council and others to achieve this important objective.

Box 1: Sentencing Council strategic objectives 2021–2026

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

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

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

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

Strategic objective 5: The Council will work to strengthen confidence in sentencing by improving public knowledge and understanding of sentencing, including among victims, witnesses and offenders, as well as the general public

Source: [Sentencing Council strategic objectives 2021–2026](#), November 2021, p6

¹ Section 129 (2) of the Coroners and Justice Act 2009 states that the Council “may promote awareness of matters relating to the sentencing of offenders by courts in England and Wales”. Section 129 (1) provides that the Council must publish information about sentencing practice in local justice areas and Crown Courts. The Council is also under a duty to have regard for the need to promote public confidence in the criminal justice system when preparing and producing sentencing guidelines.

Sentencing Academy Report

3. Secondly, in January 2022 the Sentencing Academy, a research and engagement charitable organisation focused on public understanding of sentencing in England and Wales, published a research report on *Public Knowledge of Sentencing Practice and Trends*.² The report considered findings from a survey commissioned by the Sentencing Academy, which focused on the general public’s knowledge of custody rates and average prison sentence lengths, including trends in sentencing over the period 1996–2021. The findings indicated that the majority of respondents were unaware of the increase in average sentence lengths over this period. For example, over half (56%) of respondents were unaware that the average minimum term for murder had increased since 1996. Similarly, the majority of respondents underestimated custody rates and average prison sentence lengths for the offences of rape and domestic burglary.³ The Sentencing Academy noted that its findings were consistent with those from previous surveys “going back 40 years”.⁴ It also argued that there was a “clear relationship” between knowledge of sentencing and attitudes to sentence severity, in that those who believed sentences were too lenient were “significantly less accurate” when estimating current sentencing practice.⁵ The Sentencing Academy concluded that:

The trends documented in this report underscore the need to improve public knowledge and understanding in this area. Reasonable people may well disagree about the appropriate sentencing response to crime. It is important, however, that views of sentencing rest upon an accurate understanding of current sentencing practices. Information and education campaigns may go some way to achieving this, but it is equally important that political and media debate about crime and punishment should not exploit public misunderstanding.⁶

The Sentencing Academy’s report highlighted a number of concerns around public understanding of sentencing which our inquiry has sought to investigate.

Open Justice: court reporting in the digital age

4. Thirdly, whilst undertaking our inquiry on *Open Justice: court reporting in the digital age*, we found that a decline in court reporting may have affected how the public find out about the courts’ approach to sentencing. That Report made a number of recommendations aimed at improving reporting on the courts and the availability of data on sentencing. In its response to our Report, the Government has launched its own consultation on open justice.⁷ The consultation explains that the Government is committed to ensuring it is

2 Sentencing Academy, [Public Knowledge of Sentencing Practice and Trends](#), January 2022

3 Sentencing Academy, [Public Knowledge of Sentencing Practice and Trends](#), January 2022, pp7–14 “In 2019, 96% of men aged 21 or over convicted of rape received terms of immediate imprisonment. The majority of the public under-estimated the custody rate for this offence, many by a considerable margin: 42% of the sample estimated the custody rate to be 25% or less. [...] Approximately 80% of men aged 21 or over convicted of domestic burglary were sentenced to immediate custody in 2019. The public also under-estimated the custody rate for this offence; three-quarters of the sample estimated the custody rate for burglary to be 50% or less”.

4 *Ibid*, pii

5 *Ibid*, piii

6 *Ibid*, p16

7 Ministry of Justice, *Open Justice, the way forward*, 11 May 2023

“advancing open justice in a way that will meet the rising expectation to access justice in a more modern and digitised way”.⁸ Our inquiry aims to build on that work and contribute to the Government’s development of its approach to open justice.

Our inquiry

5. We launched our inquiry into public opinion and understanding of sentencing in June 2022 to explore what the public know about sentencing, how information is accessed and how understanding of sentencing might be improved. We also wanted to examine how public understanding of sentencing may affect confidence in the criminal justice system. As well as examining what the public know about the current approach to sentencing, we also wanted to consider what the public think and the extent to which public opinion should inform sentencing policy and practice. We have not sought to examine the merits of different approaches to sentencing or the effects of recent policy changes. Rather, we have considered the nature of public discourse on the issues and how public opinion and understanding influences the policy development process.

6. It is fair to ask why the public should be expected to have a certain level of knowledge or understanding about sentencing. In response we would emphasise two points that are specific to sentencing. The first is that the sentencing of a convicted offender by the courts is an act undertaken by the state with a particular public character. The handing down of a sentence by a judge or a magistrate is a measure of justice that is done on behalf of the public in response to an offender being convicted of an offence. It is therefore fundamental that the process of sentencing is a public act, so society as a whole can see that justice is being done. This has been reflected in the decision of Parliament specifically to allow the sentencing remarks of a judge in Crown Court trials to be broadcast live. The second is that, as we heard in evidence, since the 1990s, public and political debate about sentencing has become dominated by demands to increase the severity and particularly the length of prison sentences imposed in respect of certain offences. More recently a series of campaigns to increase the statutory maximum sentence in respect of particular offences have led to legislative changes (see Table 1). The support for, and success of, these campaigns demonstrate the importance of public understanding of current sentencing practice. However, despite the success of these campaigns, the Government does not have a structured programme of engagement with the public or victims on the question of what constitutes effective sentencing.

Table 1: Recent campaigns to increase statutory maximum custodial sentence

Campaign	Aim	Relevant legislative change
Harper’s Law	Mandatory life sentences for those who kill an emergency worker in the course of their duty	Section 3 of the Police, Crime, Sentencing and Courts Act 2022
Tony’s Law	Increase to maximum punishments to a range of child cruelty offences	Section 123 of the Police, Crime, Sentencing and Courts Act 2022
RSPCA sentencing	Increase maximum sentence for a range of animal cruelty offences	Animal Welfare (Sentencing) Act 2021
Violet-Grace’s Law	Increase maximum sentence for a number of driving offences	Section 86 of the Police, Crime, Sentencing and Courts Act 2022

Campaign	Aim	Relevant legislative change
Protect the protectors	Increase the maximum sentences for offence of assault on emergency workers	Section 2 of the Police, Crime, Sentencing and Courts Act 2022

7. The terms of reference for the inquiry were as follows:

- What does the public know about the current approach to sentencing in England and Wales?
- How does the public access information on sentencing?
- What are the barriers to improving public awareness of how sentencing works?
- To what extent does public understanding of sentencing affect public confidence in the criminal justice system?
- What could be done to improve public understanding of sentencing?
- What is public opinion on sentencing, and how can it be ascertained or measured?
- To what extent should public opinion inform sentencing policy and practice?

8. We received 22 written submissions to our inquiry, predominantly from organisations working in the criminal justice sector and academics. On 29 November 2022, we took oral evidence from Bishop James Jones KBE and Mark Day on behalf of the Independent Commission into the Experience of Victims and Long-Term Prisoners; Claire Waxman OBE, Victims' Commissioner for London; Professor Julian Roberts, Executive Director of the Sentencing Academy; and Professor Mike Hough, Emeritus Professor at the School of Law, Birkbeck, University of London.⁹ On 13 December 2022, we took evidence from Steve Wade, Chief Executive, and Lord Justice William Davis, Chairman, on behalf of the Sentencing Council, and Claire Fielder, Director of Youth Justice and Offender Policy, and Rt Hon Edward Argar MP, Minister of State, on behalf of the Ministry of Justice.¹⁰ On 7 March 2023, we took evidence specifically on the Sentencing Council's proposed changes to the totality sentencing guideline—the purpose of the session was both to inform the Committee's response to the Council's consultation, and to contribute to public awareness of the principle of totality when determining sentences.¹¹

9. In addition to our oral evidence sessions, throughout November and December 2022 we held a series of private roundtable discussions. This included discussions with representatives of criminal justice sector organisations and with academics. It was important to us that we also spoke with people directly affected by sentencing. Revolving Doors, an organisation that seeks to address the root causes of repeat, low-level offending, facilitated a discussion with one of its lived experience groups. We also met family members of victims of crime who have led campaigns on changes to sentencing law. We recognise the difficulty in recounting and discussing personal experience of the criminal justice system, and are particularly grateful to those individuals for their willingness to contribute to this inquiry.

⁹ [Qq1-73](#)

¹⁰ [Qq74-149](#)

¹¹ [Qq1-39](#)

10. We also undertook wider engagement activities so that members of the public could contribute to our evidence gathering. We commissioned Savanta to carry out a public polling exercise. 2,057 adults in England and Wales were interviewed about their knowledge and views on sentencing online between 24 February and 1 March 2023.¹² Involve, a public participation charity, facilitated a deliberative engagement exercise in the format of a public dialogue.¹³ 25 adults from England and Wales met over three half-day sessions in late February to early March 2023 to explore two focal questions:

- What do you think the aims of sentencing should be?
- What should the Government’s priorities be when setting sentencing policy?

We would like to thank the Sentencing Council, the Sentencing Academy and the Independent Commission into the Experience of Victims and Long-Term Prisoners for their assistance in both the design and the delivery of the polling exercise and the public dialogue. We also thank all of the participants for their contribution to our inquiry. We are grateful to them for giving up their time and making the public dialogue such a successful exercise.

11. In June 2023, we visited Finland and the Netherlands to examine public opinion and understanding of sentencing in other jurisdictions. In each jurisdiction we engaged with officials, judges and experts to gain understanding of their own public debate on sentencing and to examine if there were any policies that could be applied in England and Wales. Both visits were exceptionally well organised by the staff of the British Embassies in Helsinki and The Hague. We also wish to extend special thanks to our contacts in each country for providing their expertise: Dr Paulina Tollroth, Government Counsellor at the Ministry of Justice in the Finnish Government and Dr Lucas Noyon, law clerk of the Supreme Court of the Netherlands and guest researcher at Leiden University.

12. This Report is structured as follows. In Chapter 2, we consider levels of understanding of how sentencing works amongst the general public and how information about sentencing could be made more accessible. In Chapter 3, we explore current public opinion on sentencing and examine how it can be ascertained and measured. In our final Chapter, we consider the relationship between public understanding of sentencing and public confidence in the criminal justice system, and we also consider how the public debate on sentencing might be improved.

12 Public polling commissioned by the Justice Committee ([OUS0025](#))

13 Involve ([OUS0027](#))

2 Public understanding of sentencing

13. One of the core aims of our inquiry was to examine what the public knows about the current approach to sentencing in England and Wales. A number of submissions put forward that public understanding of how sentencing works is low.¹⁴ This Chapter breaks down public understanding of sentencing into a number of different elements: institutional roles and responsibilities, the law and practice of sentencing, and sentencing trends.

Sentencing: who does what

14. In order to understand sentencing it is necessary to have a grasp of the role played by different institutions in sentencing policy and practice. The Government is responsible for the development of policy and legislative proposals on sentencing in England and Wales. Parliament is responsible for scrutinising and enacting proposals to change the law governing sentencing. For example, the Ministry of Justice's written evidence explained that proposals in the Conservative manifesto in the 2019 General Election went on to form the basis of the White Paper, *A Smarter Approach to Sentencing*, and were enacted by Parliament through the Police, Crime, Sentencing and Courts Act 2022.¹⁵ In practice, one of the principal means of changing sentencing policy through legislation is through the setting of maximum and minimum sentences for particular offences. For example, the Police, Crime, Sentencing and Courts Act 2022 increased the maximum sentences for causing death by dangerous driving and causing death by careless driving when under the influence of alcohol or drugs from 14 years to life. Parliament has also legislated to create the Unduly Lenient Sentence Scheme (ULS). This enables members of the public to ask the Attorney General to review a sentence imposed in respect of certain offences by the Crown Court if it is believed to be unduly lenient. The Attorney may then apply to the Court of Appeal (Criminal Division) to review the sentence.

15. The Sentencing Council of England and Wales is responsible for producing and updating sentencing guidelines for particular offences, and overarching guidelines. The guidelines are designed to ensure that judges and magistrates take a consistent approach to sentencing. Since it was created, the Council has produced guidelines for most of the significant offences that are sentenced in the magistrates' court and in the Crown Court. The Council can decide to revise a guideline for a number of reasons, for example if the Lord Chancellor or the Court of Appeal requests a review of a guideline. One of the most common is if Parliament introduces new offences or changes the law on sentencing for particular offences. When a change to a maximum or minimum sentence for an offence is enacted by Parliament, it is then the responsibility of the Sentencing Council to update the sentencing guideline for the relevant criminal offence or offences. For example, in 2021 Parliament enacted the Animal Welfare (Sentencing) Act 2021, which raised the statutory maximum penalty for a number of animal cruelty offences from six months to five years. Then in 2022 the Sentencing Council consulted on its proposed changes to the animal cruelty guidelines, which this Committee contributed to, and the definitive guideline was

14 See, for example, Sentencing Academy ([OUS0002](#)), Howard League for Penal Reform ([OUS0008](#)), Professor Martina Y Feilzer, Professor of Criminology and Criminal Justice, Bangor University ([OUS0012](#)), Transform Justice ([OUS0013](#)), Prison Reform Trust ([OUS0014](#)), Traveller Movement ([OUS0015](#)), Criminal Justice Alliance ([OUS0016](#)) and Sentencing Council for England and Wales ([OUS0020](#))

15 Ministry of Justice ([OUS0021](#))

published in May 2023.¹⁶ The Sentencing Council decided that in light of the increase of the statutory maximum to five years, the top of the category range for the most serious cases should be set at three years and six months custody.

16. In relation to the overarching guidelines, for example on sentencing children and young people and for reduction on sentence for a guilty plea, there are fewer of these than the offence specific guidelines; however, they can apply across all offences. In October 2022, the Council launched a consultation on revisions to its totality guideline.¹⁷ Totality is the principle applied by sentencers when sentencing an offender for more than one offence or when an offender is already serving an existing sentence. It is therefore relevant in a significant proportion of criminal cases; the 2015 Crown Court survey showed that 47% of Crown Court cases were multiple offence cases.¹⁸ The original guideline came into effect in 2012, and the Council decided to consult on changes to that guideline in response to its own research on the views of sentencers on the original guideline. The Committee held an evidence session on the changes proposed by the Council, which informed the Committee's response to the consultation.¹⁹ The Council made a number of revisions to its proposals based on the consultation responses and the revised guideline came into force on 1 July 2023.²⁰

17. In England and Wales, judges and magistrates are solely responsible for deciding the sentence to be handed down in individual cases. Judges decide on the appropriate sentence for each offender based on the facts of the relevant case, taking into account the harm done to the victim(s) and how blameworthy the offender is. The judge or the magistrate can only sentence according to the law but must also have regard to any relevant sentencing guidelines produced by the Sentencing Council. Judges and magistrates have discretion as to how to apply the relevant law and the guidelines to the facts of the case when deciding on the appropriate sentence. The guidelines set out factors the court should take into account that may affect the sentence. Section 59 of the Sentencing Act 2020 provides that judges and magistrates must sentence according to the guidelines, unless it would be unjust to do so. Finally, judges and magistrates must also take into account the five statutory purposes of sentencing when deciding on a sentence:

- the punishment of offenders,
- the reduction of crime (including its reduction by deterrence),
- the reform and rehabilitation of offenders,
- the protection of the public, and
- the making of reparation by offenders to persons affected by their offences.²¹

16 Sentencing Council, [Animal cruelty offences – New sentencing guidelines published](#), May 2023

17 Sentencing Council, [Totality: Consultation](#), October 2022

18 Sentencing Council, Definitive Stage Resource Assessment, Totality, 1 June 2023

19 [Qq1–39](#)

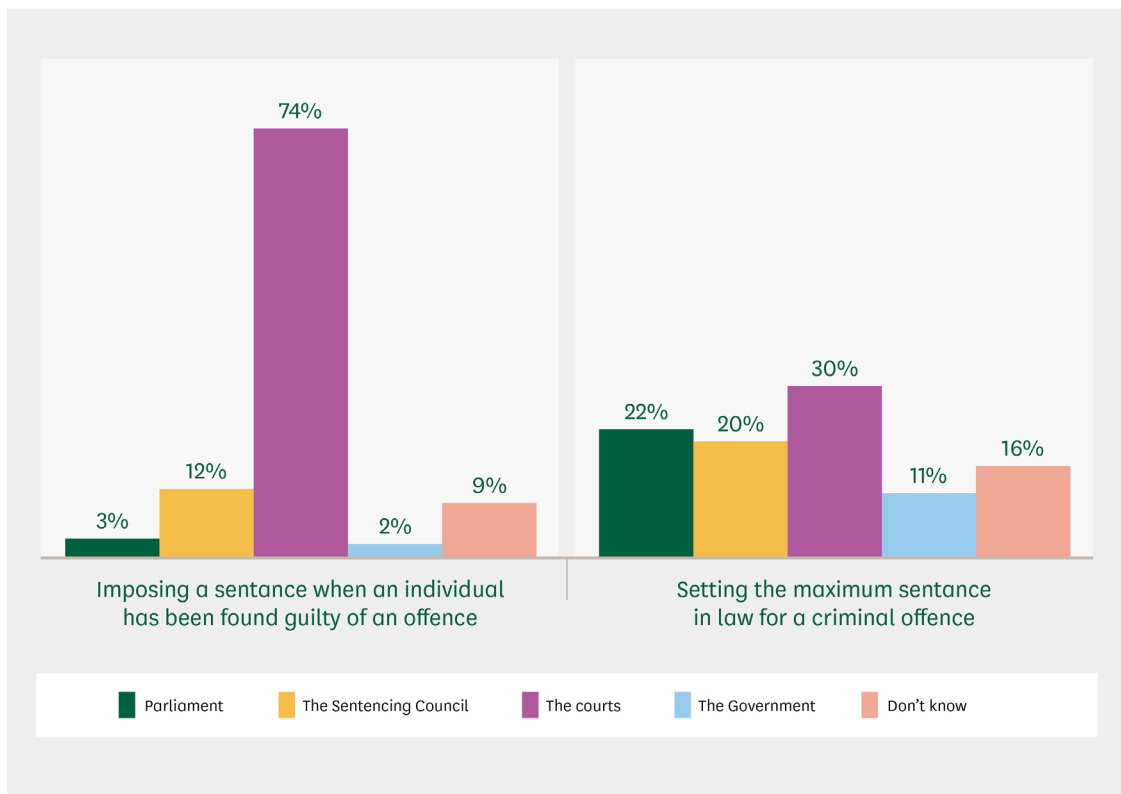
20 Sentencing Council, [Revised Totality guideline published](#) June 2023

21 Section 57 of the Sentencing Act 2020

What the public understands about the institutional roles and responsibilities for sentencing

Our own polling provided some insight into how well the public understands the role of different institutions in sentencing. Figure 1 below shows that whilst the majority (74%) of respondents knew that the courts were responsible for imposing a sentence on a guilty individual, only 22% of respondents knew that Parliament was responsible for setting the maximum sentence for offences in law. That 74% of responders correctly identified that courts are responsible for imposing a sentence on an offender shows that there is good level of understanding of the basic fact that it is judges, rather than any other state actor, who are responsible for deciding on an appropriate sentence.

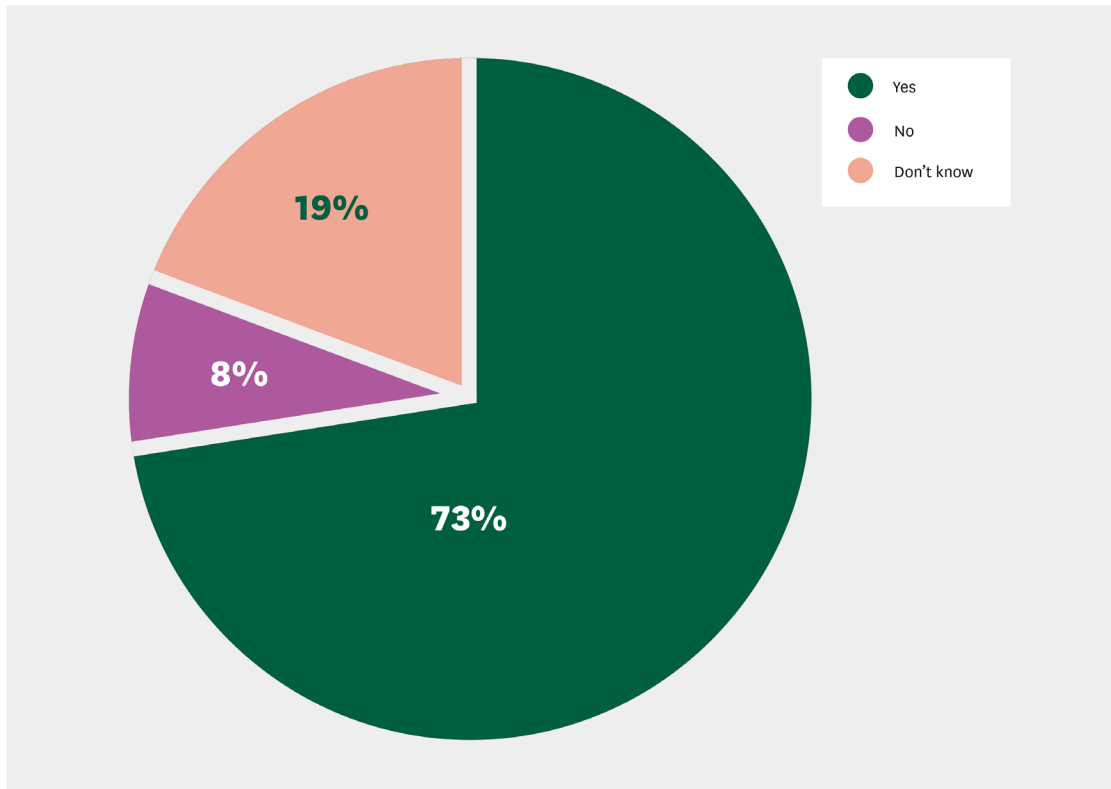
Figure 1: Perception of which bodies are responsible for actions within the criminal justice system



Source: Q5 To the best of your knowledge, which of the following bodies is responsible for each of the following actions within the criminal justice system? Public polling commissioned by the Justice Committee ([OUS0025](#))

18. The Sentencing Council's evidence drew attention to its own 2018 and 2019 surveys which found that around two-thirds of the public surveyed said that they were aware of sentencing guidelines before taking part in the research.²² We asked participants in our survey if a judge was under a legal obligation to follow sentencing guidelines. Figure 2 shows that 73% of respondents said that the judge was under a legal obligation to follow sentencing guidelines when sentencing an individual.

Figure 2: Is a judge under a legal obligation to follow sentencing guidelines when deciding sentence length?

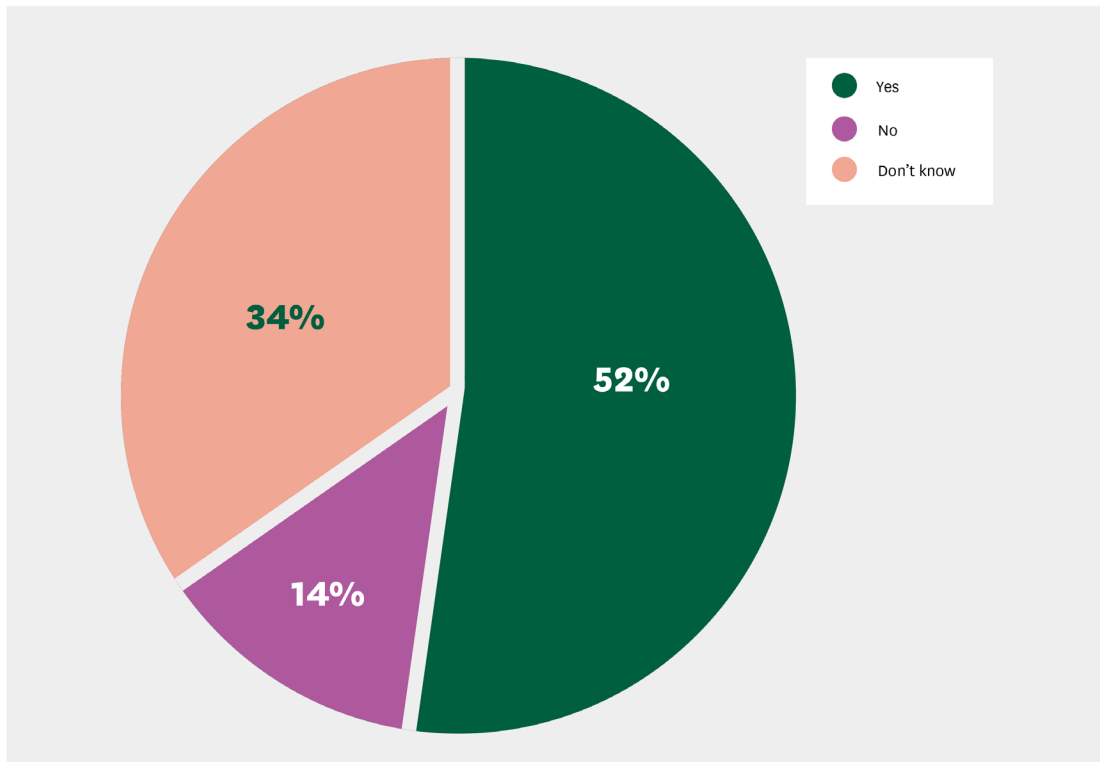


Source: Q4 To the best of your knowledge, is a judge under a legal obligation to follow sentencing guidelines when deciding the sentence for an individual found guilty of an offence? Public polling commissioned by the Justice Committee ([OUS0025](#))

The responses to this question do not necessarily indicate that the responders had prior knowledge of the Sentencing Council or the role of sentencing guidelines. One of the participants in the public dialogue said that “they should raise the profile of the Sentencing Council. I wasn’t aware of them before this”.²³

19. Our polling exercise asked whether a member of the public could ask the Attorney General to consider referring a sentence to the Court of Appeal and 52% of responses correctly said that they could (see Figure 3 below).

Figure 3: Perception of whether the public can ask the Attorney General to consider referring sentences to the Court of Appeal



Source: Q7 To the best of your knowledge, can members of the public ask the Attorney General to consider whether a sentence for a serious offence should be referred to the Court of Appeal if they think a sentence given by a judge is too low? Public polling commissioned by the Justice Committee ([OUS0025](#))

It is unclear whether those who correctly identified that a member of the public could ask the Attorney General to review a sentence had any prior knowledge of the Unduly Lenient Sentence Scheme. However, the fact that 48% of respondents did not know that members of the public could ask the Attorney General to review a sentence would suggest that there is a significant proportion of the public that are unaware of the scheme or at least of how it works.

20. A core finding of the public dialogue was that participants had less knowledge of the overarching sentencing system than they had of sentencing practice in individual cases. At the beginning of the dialogue, participants felt unsure and indicated that facts about the overarching system were not widely known.²⁴ Participants also shared that they lacked confidence in talking about sentencing because they did not feel informed about the issues:

[It] [f]eels like this is above my pay grade, in the sense that I don't know a lot about how sentencing works.²⁵

Participants in the dialogue suggested that education about sentencing, and sentencing policy, was needed to balance the information they heard through the media. It is worth noting that participants in the public dialogue did not have significant experience of the

24 Involve ([OUS0027](#))

25 Involve ([OUS0027](#))

justice system.²⁶ By contrast 51% of those polled had direct experience of the criminal justice system, and of those 45% said that their experience made them more confident in the system.

21. Beyond the role of the courts in imposing a sentence, the public does not have a good understanding of the role played by different state institutions in sentencing. That is unsurprising because the role played by government, Parliament, the Sentencing Council and the judiciary in sentencing involves a delicate balance of responsibilities, which are not easy to explain. Further, most of the public obtain information from the media about sentencing through reporting on individual cases, and such stories do not often provide information on the policies and responsibilities that lie behind individual sentencing decisions. The problem with this situation is that it creates an accountability gap, as it is unclear to the public which elements of sentencing the Government is responsible for.

Sentencing law and practice

22. The law that governs sentencing practice is complex and frequently amended. In his foreword to the Government's 2020 White Paper, *A Smarter Approach to Sentencing*, then Lord Chancellor Rt Hon Robert Buckland KC MP noted that there have been at least 17 major pieces of sentencing legislation within the last 30 years.²⁷ In January 2015, the Law Commission²⁸ began a project to introduce a single sentencing statute that would "act as the first and only port of call for sentencing tribunals".²⁹ In November 2018, the Law Commission's report, *The Sentencing Code*, was laid before Parliament. The report highlighted the startling complexity of the law on sentencing, which the Law Commission said was "simply impossible to describe [...] as clear, transparent, accessible or coherent".³⁰ The Sentencing Code came into effect through the enactment of the Sentencing Act 2020, which brought together over 50 pieces of primary legislation relating to sentencing procedure into one single Act. The Code represents a major improvement to the clarity and accessibility of sentencing law. Nevertheless, it remains the case that sentencing is a particularly complex area of the law.

23. It is generally accepted that public understanding of how sentencing works is low.³¹ In its written submission, the Sentencing Academy said that knowledge of different types of sentences, such as suspended sentence orders and community orders, is "poor" and that "[m]uch more could be done to clarify the way that sentences function".³² The Parole

26 The dialogue members were recruited to reflect the general public, screening out those with particular or emotionally significant lived experience of the justice system. This was because the Inquiry has undertaken other research and engagement with the views of people with direct experience of crime, courts and sentencing. We also wanted to ensure that participants were less likely to be made to review or revisit potentially traumatic experiences within the sessions.

27 Ministry of Justice, *A Smarter Approach to Sentencing*, September 2020, p3

28 The Law Commission is a statutory independent body. Its aims are to ensure that the law is as fair, modern, simple and as cost-effective as possible; to conduct research and consultations in order to make systematic recommendations for consideration by Parliament; and to codify the law, eliminate anomalies, repeal obsolete and unnecessary enactments and reduce the number of separate statutes.

29 Law Commission, '*Law Commission to codify sentencing procedure*', 26 January 2015

30 Law Commission, *The Sentencing Code Volume I: Report*, September 2020, p5

31 See, for example, Sentencing Academy ([OUS0002](#)), Howard League for Penal Reform ([OUS0008](#)), Professor Martina Y Feilzer, Professor of Criminology and Criminal Justice, Bangor University ([OUS0012](#)), Transform Justice ([OUS0013](#)), Prison Reform Trust ([OUS0014](#)), Traveller Movement ([OUS0015](#)), Criminal Justice Alliance ([OUS0016](#)) and Sentencing Council for England and Wales ([OUS0020](#))

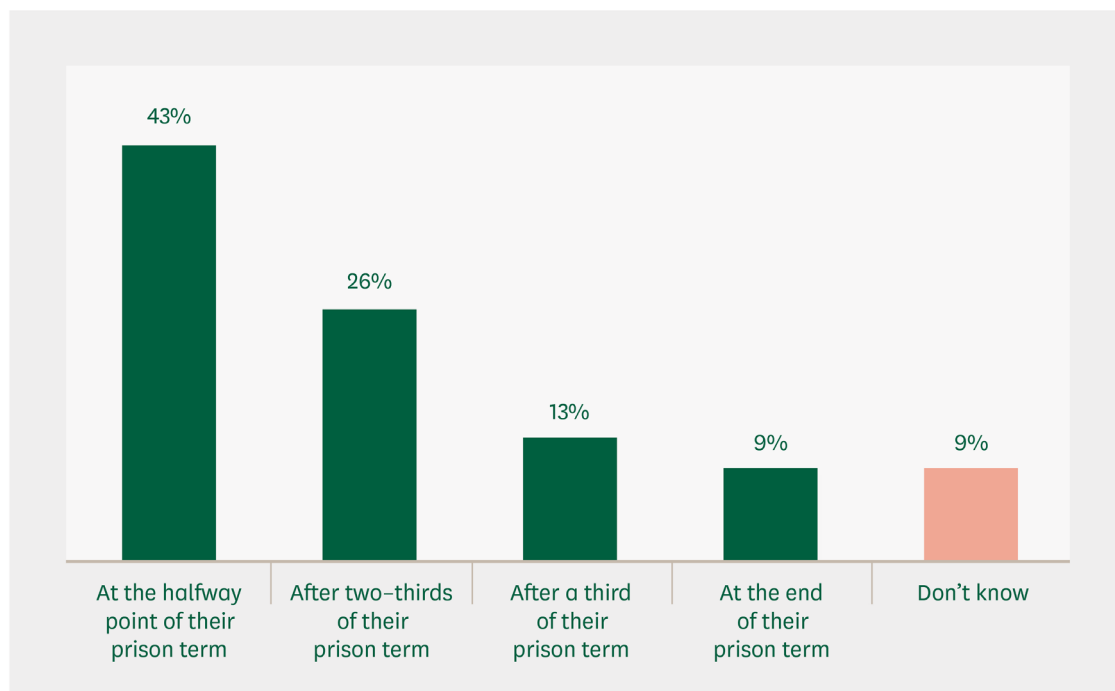
32 Sentencing Academy ([OUS0002](#))

Board for England and Wales similarly wrote that there “is significant misunderstanding regarding different sentence types” amongst the public. For example, it noted that understanding of how a life sentence works is often confused:

[T]he minimum tariff set by a judge represents the punishment part of the sentence. The decision from the Parole Board only concerns public protection after that minimum tariff is served, and that individual, if released, will spend the rest of their life on licence which is managed by the Probation Service. The notion that parole is an avenue for ‘early release’ is wholly inaccurate[.]³³

24. Our own survey asked about the administration of custodial sentences, specifically at what point a prisoner would be released from a custodial sentence of four years or less. Figure 4 below shows that around two fifths (43%) of respondents knew that an individual sentenced to a prison term of four years or less will typically be released from custody at the halfway point (to serve the remainder of the sentence on licence in the community).

Figure 4: Perception of when defendants would normally be released from prison if given a prison term of less than 4 years



Source: Q8 If a defendant is given a prison term of less than 4 years, when do you think they would normally be released from prison? Public polling commissioned by the Justice Committee ([OUS0025](#))

These results suggest that coverage in the media on when defendants will be released in individual cases has appeared to cut through with a section of the public. However, the fact that a majority are unaware that most will be released at the halfway point does reflect concerns raised in evidence. Dr Rory Kelly’s written evidence criticises the accessibility of the terminology used:

The present terminology inflates the severity of determinate sentences. A key risk here is that the terminology may lead to problematic headlines about offenders being released early or only serving half of their sentence. This is rife to mislead the public and risks triggering punitive reforms.³⁴

Dr Kelly's submission indicated that he is working with the Sentencing Academy on an empirical research project examining the public's understanding of core terms in sentencing.³⁵

25. The Sentencing Council's own research has shown that a majority of the public expressed confidence that they understood what key sentences (such as 'life sentence') involved but when respondents' level of knowledge was probed further in discussion groups, researchers found that their understanding was in fact limited:

For example, participants in the groups most commonly associated a life sentence as being a prison sentence of 25 years, with very few being aware that a life sentence meant the offender would remain on licence for the rest of their life. Regarding 'on licence', the term was linked in discussion to 'on probation', 'on parole', 'on remand' and 'on bail', and some participants sometimes associated the 'licence' with permission to do something (as in obtaining a driving licence).³⁶

The Howard League for Penal Reform's submission drew attention to research conducted in 2011 which showed that the term "life sentence" causes confusion and undermines confidence in the criminal justice system.³⁷

26. Section 52 of the Sentencing Act 2020 states that a court passing sentence "must state in open court, in ordinary language and in general terms, the court's reasons for deciding on the sentence". Section 52 also requires that an explanation must be given to the offender, in ordinary language, of the reasons for passing the sentence and its effect. The Crown Court Compendium (which provides guidance to judges) fleshes out this statutory requirement by setting out the specific elements that need to be identified and explained.³⁸ The Sentencing Academy's evidence stressed to us that the complexity of terminology was a barrier to increasing public understanding:

The meaning of a sentence of imprisonment (in terms of the percentage of the sentence served in prison) is hard to explain to the public. Recent legislative reforms making offence and sentence length influence the proportion of the sentence to be served in custody has further increased the complexity of a prison sentence. Of course, some sanctions need to be complex so they can be adapted to the individual circumstances of offenders. But little effort has been expended to make them as clear as possible.³⁹

27. Professor Kathryn Hollingsworth, from Newcastle University, pointed out in her submission that the Crown Court Compendium (issued to all judges) has provided

34 Dr Rory Kelly ([OUS0024](#))

35 Dr Rory Kelly ([OUS0024](#))

36 Sentencing Council for England and Wales ([OUS0020](#))

37 Howard League for Penal Reform ([OUS0008](#))

38 Ministry of Justice ([OUS0021](#)); Judicial College, [The Crown Court Compendium, Part II: Sentencing](#), June 2023

39 Sentencing Academy ([OUS0002](#))

specific guidance to judges on delivering sentences to children.⁴⁰ The Compendium contains examples of remarks that were rewritten with the assistance of a speech and language therapist and were designed to enhance the child’s understanding. Professor Hollingsworth recommended that judicial guidance on sentencing for adults should follow the same approach as that of the example templates for children.⁴¹

28. The Sentencing Council’s changes to the totality guideline provided a prime example of an area of sentencing where there are layers of complexity, for example in relation to concurrent and consecutive sentences, which are difficult to explain and understand. During our evidence session on the proposed changes to the totality guideline, Professor Andrew Ashworth, Emeritus Fellow All Souls College, University of Oxford, stressed that it was crucial for judges to provide an explanation of how a sentence is structured, including an explanation of how the sentence was calculated.⁴²

29. During our June 2023 visit to the New Amsterdam Court House, we received a briefing on Project ‘Plain Language’. We heard that the filming of court proceedings in the Netherlands has led to a greater focus on social and communication skills amongst judges. Project ‘Plain Language’ was introduced to improve the accessibility of verdicts, which had previously been very long and included legal jargon that was difficult for the public to understand. The Project encouraged sentencing judges to consider the question: ‘What do I mean?’. Communication specialists watched verdicts and provided advice and training to judges on how to improve the clarity and accessibility of their explanations. As well as addressing the use of technical language, judges were also asked to consider the overall structure of their remarks and given advice on how to ensure that a clear argument as to how they determined the sentence is threaded throughout.⁴³ In oral evidence, the Minister for Victims and Sentencing told us that, whilst he was cautious about changing legal terminology, he thought that “there is more that we can do about clear language and clear explanations”.⁴⁴

30. We welcome the Sentencing Academy’s work reviewing the terminology of sentencing and we look forward to its findings. We encourage the Government to work with Sentencing Council and the judiciary to explore whether sentencing terminology can be simplified and made more accessible. The example set by the judiciary in the Netherlands and their project ‘plain language’ provides a useful model of how this could be done.

Sentencing trends

31. A number of submissions highlighted that the public is not aware of recent trends in sentencing in England and Wales, including that average prison sentences have increased in the past decade. In its written submission, the Sentencing Academy outlined findings from its 2021 survey of members of the public. Whilst the average prison sentence has increased since 1996, most respondents were unaware of this increase: “[o]ver half (56%) endorsed the view that sentences are shorter now (19% ‘much shorter’; 37% ‘somewhat shorter’).” The Sentencing Academy noted that public estimates of imprisonment rates

40 Professor Kathryn Hollingsworth ([OUS0023](#))

41 Professor Kathryn Hollingsworth ([OUS0023](#))

42 [Q18](#)

43 Summary of the Justice Committee’s visit to Finland and the Netherlands, June 2023 ([OUS0026](#))

44 [Q139](#)

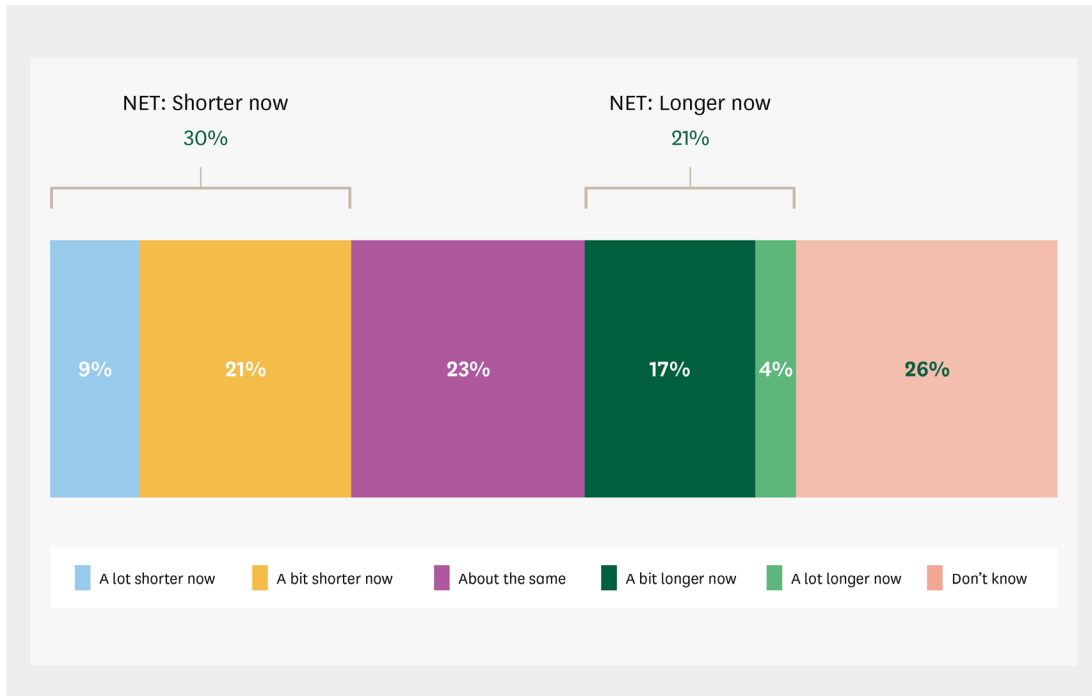
and average sentence lengths were also “highly inaccurate”.⁴⁵ The Howard League for Penal Reform highlighted a 2011 mixed-methods study of public knowledge and attitudes to sentencing for murder. It found that “participants underestimated the amount of time people convicted of murder spent in custody, overestimated reoffending rates, and did not understand tariffs or the life licence”.⁴⁶

32. Our own quantitative and qualitative research into public understanding provided further evidence as to levels of knowledge on sentencing trends. Figure 5 below shows mixed perceptions of change in average prison sentence lengths for indictable offences since 2012. Almost one third (30%) of respondents believed that average prison sentence lengths had become shorter (of which 9% thought they had become a lot shorter), 23% of respondents thought they were about the same and 26% of respondents said that they did not know. Average prison sentence lengths have increased since 2012. Figure 6 below shows that the average custodial sentence length has increased from 14.5 months in 2012 to 21.9 months in 2021. Figure 7 below shows a decline in the number of custodial sentences of less than four years since 2010, whilst custodial sentences of four to 10 years and 10 years or more have increased. It is important to stress the limitations of figures 6 and 7, as although they provide important information on broader trends, they do not present a complete picture of recent changes to sentencing practice. For example, they do not provide information on the use of community sentences or suspended sentences in place of custodial sentences (which may impact on averages), changes in offending patterns, or trends on sentencing for particular offences which may vary from the overall average. The data also does not account for changes in early release practices over the time period. Data which controls for variables such as these would allow for more reliable conclusions to be drawn.

45 Sentencing Academy ([OUS0002](#))

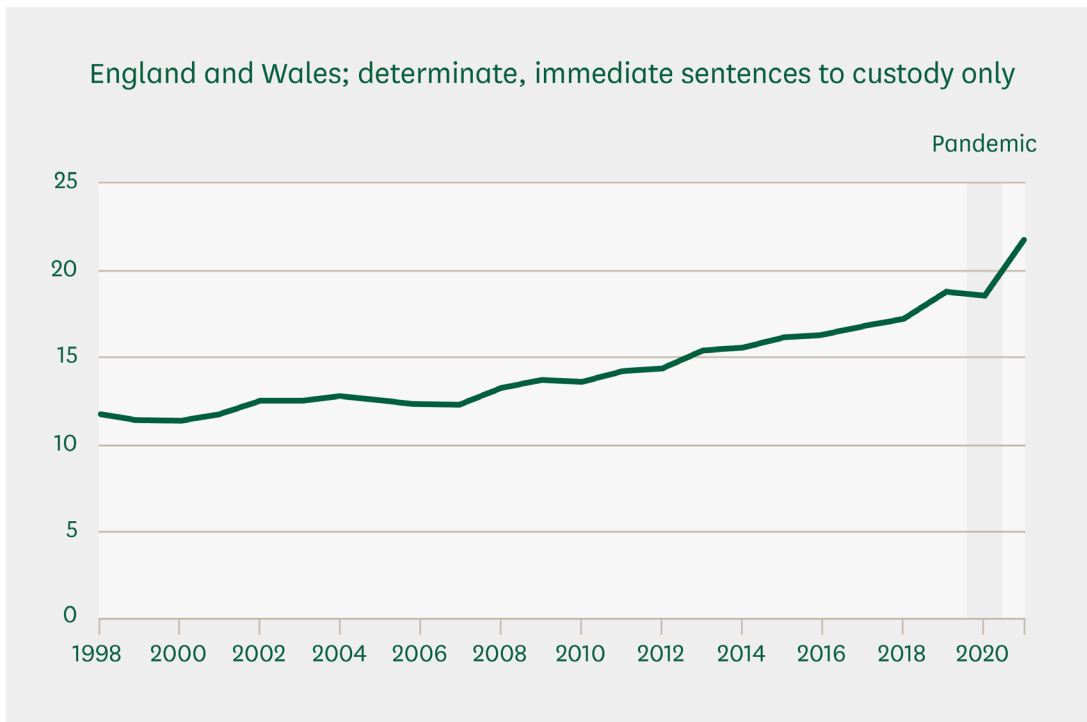
46 Howard League for Panel Reform ([OUS0008](#))

Figure 5: Perception of change in average sentence length for indictable offences since 2012

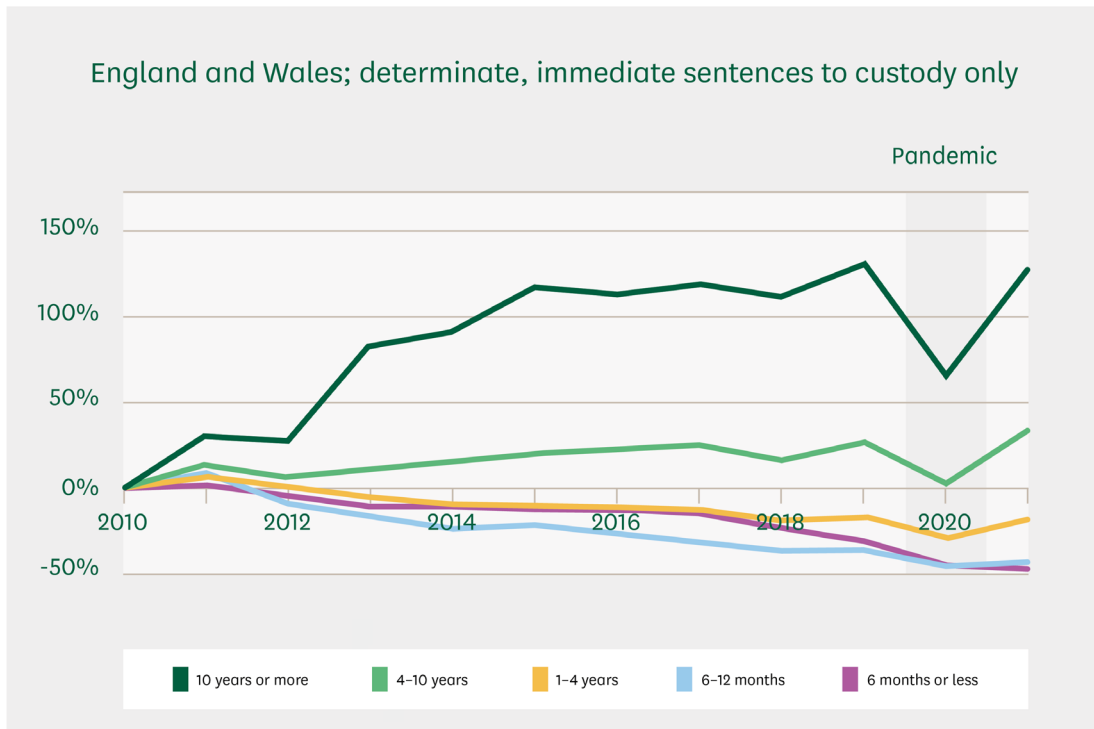


Source: Q6 To the best of your knowledge, has the average prison sentence length for indictable offences (offences that can only be tried in front of a jury in the Crown Court) got longer, shorter or stayed the same since 2012? Public polling commissioned by the Justice Committee ([OUS0025](#))

Figure 6: Average custodial sentence length in months, since 1998



Source: MoJ, [Sentencing statistics \(annual\) 2008](#) [archived], table 1.1; Ministry of Justice, [Criminal justice statistics quarterly December 2021](#), Outcomes by offence data tool.

Figure 7: Change in custodial sentence lengths since 2010

Source: Ministry of Justice, [Criminal justice statistics quarterly December 2021](#), Outcomes by offence data tool.

Notes: These relate to defendants for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it 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.

The findings of the polling on sentencing trends were also supported by the polling of participants in the public dialogue. Only five of the 28 participants in the public dialogue knew when asked at the beginning of the dialogue that the average prison sentence for indictable offences has increased since 2012.⁴⁷

33. The Sentencing Academy’s evidence raised concerns over the lack of public awareness of current sentencing trends:

Public knowledge of sentencing trends is both poor and biased, manifested in the systematic under-estimation of severity of current practice. A circular relationship has developed: the general public believe that sentencing is too lenient. Misperceptions of the average prison sentence then colour attitudes to sentencing and sentencers. Thus, respondents in the 2021 Sentencing Academy survey who expressed the view that sentencing was ‘much too lenient’ were significantly less accurate in their estimates of sentencing practice than those who thought that sentencing was ‘about right’. More specifically, those favouring tougher punishment tended to underestimate the current use of imprisonment.⁴⁸

34. In its written submission, the Howard League highlighted “the widespread absence of public legal education”, which it said contributed to sentencing policy and practice

47 Involve ([OUS0027](#))

48 Sentencing Academy ([OUS0002](#))

being “poorly understood by the public”.⁴⁹ Abiodun Michael Olatokun, a member of the Solicitor General’s Panel on Public Legal Education, noted that there are legal education requirements within the National Curriculum for Citizenship Education at Key Stages 3 and 4; however, he suggested that the requirements as currently set out do not guarantee that sentencing is covered and further argued that Citizenship Education provision in schools is “patchy”.⁵⁰ During our June 2023 visit to the Netherlands, we heard that education on the courts system is a compulsory element of Citizenship Education and that a visit to a court often forms part of this learning. In oral evidence, Lord Justice William Davis, Chairman of the Sentencing Council, told us:

We are particularly keen on seeking to engage with young people, because it seems to us that given our limited resource, we have to look at the best way to create long-term confidence. So we engage with schools and the Citizens Foundation to get material out [...] as part of citizenship training in schools.⁵¹

35. The Government has previously supported initiatives to improve public legal education. In 2018, then Solicitor General, Sir Robert Buckland KC MP, launched a new public legal education vision statement. The statement created “a shared vision for the [public legal education] community to aspire to which will help drive forward legal education initiatives”.⁵² It set out seven goals for where public legal education might be in 10 years’ time. This included prioritising reaching children, young adults and vulnerable groups in significant numbers across the UK, with a long-term focus on the engagement of young people. Another goal was to embed public legal education into public services and government departments, with an aim to improve links between the gov.uk website and public legal education.⁵³

The Solicitor General’s Committee on Public Legal Education argued that greater legal capability would enable individuals and communities to “[f]eel confidence in the rule of law, our legal justice system, and that the principle of equality before the law is being upheld”.⁵⁴

36. It is concerning that much of the public is not aware of recent trends in sentence lengths. It means that the public is not able to consider individual sentences within a wider context. Low levels of understanding of sentencing has an effect on the quality of public debate on sentencing, which in turn can have an influence on sentencing policy.

37. *There needs to be a step-change in the Ministry of Justice, the Attorney General’s Office and the Sentencing Council’s efforts on public legal education. HMCTS should develop a programme which enables secondary school pupils to be able to visit magistrates’ courts and Crown Courts to find out about the criminal justice system and sentencing. Education about criminal justice procedure, including sentencing policy and practice, should be incorporated into the National Curriculum for Citizenship*

49 Howard League for Penal Reform ([OUS0008](#))

50 Mr Abiodun Olatokun, Lecturer in Law, Trainee Barrister at London South Bank University, Matrix Chambers ([OUS0018](#))

51 [Q78](#)

52 Gov.uk, ‘[Our vision for legal education](#)’, 31 October 2018 (accessed 23 June 2023)

53 [A Ten Year Vision for Public Legal Education](#), Prepared by the Solicitor General’s Committee on Public Legal Education, 31 October 2018

54 [A Ten Year Vision for Public Legal Education](#), Prepared by the Solicitor General’s Committee on Public Legal Education, 31 October 2018

Education. The Sentencing Council should look into producing a Massive Open Online Course (MOOC) on sentencing that could enable members of the public to learn about how sentencing works in England and Wales. Resources on sentencing and criminal justice could also be added to the Oak National Academy Online teaching resources. The Ministry of Justice and the Sentencing Council should consider producing a standalone public-facing website dedicated to providing the public with up-to date information on sentencing trends in England and Wales.

Accessibility of information about sentencing

Data

38. Detailed sentencing data for England and Wales is published by the Ministry of Justice in annual statistical reports. Online data tools for both the magistrates' court and the Crown Court enable users to break down sentencing outcomes and length by characteristics, such as the type of offence and the demographics of individual defendants. Additionally, the Ministry of Justice publishes sentencing statistics and data tools specifically for knife and offensive weapon offences. Sentencing data is also included in the Ministry of Justice's *Criminal Justice Statistics Quarterly* release.⁵⁵ In its written submission, the Centre for Public Data noted that by international standards, the sentencing data made available by the MoJ was "relatively detailed".⁵⁶ This view was supported in oral evidence by Professor Julian Roberts, Executive Director of the Sentencing Academy, who told us "we have great sentencing statistics in England and Wales, better than in other jurisdictions".⁵⁷ However, whilst it is considered that there is generally good availability of sentencing data, we heard that more could be done to ensure that this information is both accessible and visible. For example, Professor Roberts told us: "The information is there but it is not getting out to the public. That gap needs to be filled and bridged somehow".⁵⁸

39. Some argue that sentencing data could be better used as a tool to improve public understanding if it included greater analysis of overall trends, such as imprisonment rates and average sentence lengths. The Sentencing Academy pointed to the periodic 'Digest' of criminal justice statistics formerly published by the Home Office, which it said had included "clear graphics illustrating key facts and recent trends in sentencing". It suggested that an online publication should be resumed by the Ministry of Justice and perhaps co-hosted with the Sentencing Council.⁵⁹ The Centre for Public Data similarly recommended that statistical releases:

should include some published series based on the sentencing tools (preferably those series of high interest to the public, such as average sentence length for serious sexual offences), and these should be discussed (with appropriate context, following the guidance in the UK's Code of Practice for Statistics) in the commentary published alongside the annual releases".⁶⁰

55 Centre for Public Data ([OUS0019](#)) and Ministry of Justice ([OUS0021](#))

56 Centre for Public Data ([OUS0019](#))

57 [Q16](#)

58 [Professor Julian Roberts] [Q16](#)

59 Sentencing Academy ([OUS0002](#))

60 Centre for Public Data ([OUS0019](#))

In oral evidence, Minister Edward Argar MP indicated support for improving the accessibility of sentencing statistics: “As a broad principle, if we can make the way we publish data more accessible, that is a good thing”.⁶¹

40. It was also suggested to us that more could be done to utilise available data to promote public confidence in sentencing. Transform Justice wrote that confidence could be increased by building public understanding of the effectiveness of sentencing, including the effectiveness of non-custodial sentences. It argued that “[t]he Ministry of Justice does have data on reoffending, and the Sentencing Council is supposed to inform the public about the effectiveness of sentencing. This needs to go beyond simply explaining how the current system works”.⁶² The Centre for Public Data suggested that statistical releases should be expanded to make sentencing information broken down by demographic characteristics including gender and ethnicity available at individual court level. It argued that this would fulfil a recommendation made by the Lammy Review, an independent review of the treatment of, and outcomes for, Black, Asian and Minority Ethnic (BAME) individuals in the Criminal Justice System, which reported in 2017 and said that making this information accessible would enable local sentencing disparities to be identified and scrutinised.⁶³

41. As well as making sentencing data more accessible and useful, this information could also be made more visible to the public. The Centre for Public Data suggested that the MoJ’s statistical releases should be better signposted; for example, the data tools could be published with a more search-engine friendly name and on their own webpage. It further suggested that the MoJ “should invest time in outreach—i.e. writing blog posts about using the data tools, and trends in the sentencing data”.⁶⁴ Both the Centre for Public Data and the Sentencing Academy suggested that improvements to the accessibility of sentencing data, including the addition of analysis on trends over time, would increase media engagement with the statistics.⁶⁵

42. It is vital that the public has access to current data on sentencing practice so individual cases can be understood in their broader context. *The MoJ should review its statistical releases on sentencing to ensure that they are presented in a format that is easily accessible and relevant to members of the public. Statistical releases should be accompanied by analysis and commentary. The MoJ should also revive the digest of criminal justice statistics and ensure that this reflects trends in sentencing and issues subject to public debate.*

43. *The Sentencing Council should provide independent and impartial analysis on significant trends in sentencing to inform public debate and government policy.*

Crown Court Sentencing Survey

44. In addition to the data published by the Ministry of Justice, court data is collected and analysed by the Sentencing Council. Between 2011 and 2015 the Sentencing Council commissioned the Crown Court Sentencing Survey (CCSS). Sentencing judges in the Crown Court were asked to complete a survey for each sentenced case, including questions

61 [Q148](#)

62 Transform Justice ([OUS0013](#))

63 Centre for Public Data ([OUS0019](#))

64 Centre for Public Data ([OUS0019](#))

65 Sentencing Academy ([OUS0002](#)) and Centre for Public Data ([OUS0019](#))

on aggravating and mitigating factors.⁶⁶ The Centre for Public Data noted that the completion rate was approximately 60% and that the scope of the survey was welcomed by researchers.⁶⁷ The survey ended on 31 March 2015 following an external review. The Sentencing Council moved from using the CCSS to “focusing on specific offences or other guideline subject areas”.⁶⁸

45. In oral evidence, the Sentencing Council acknowledged the benefits of the CCSS but expressed concern about the resource implications of resuming such a survey. Steve Wade, Chief Executive of the Office of the Sentencing Council, told us “I would love for us to be able to reinstate something like a census-style survey, [...] because [the CCSS] was an incredibly rich source of data”. However, he added that “[u]nfortunately, even if we had significant additional resource, it would be unrealistic in terms of the demands it would place on courts’ and judges’ time, particularly in the current climate where the courts are focusing on trying to reduce the backlogs that have built up”.⁶⁹ Lord Justice Davis, Chairman of the Sentencing Council, told us the CCSS “had to cease, because it was simply too onerous for all concerned. It was onerous for the judges, but it also meant that the Council was bombarded with data that we simply did not have the capacity to deal with”.⁷⁰

46. The Committee’s work on the Sentencing Council’s revision to the totality guideline highlighted a number of basic gaps in the data on sentencing. For example, the Council’s definitive stage resource assessment that accompanies the guideline states “we are unable to provide a reliable estimate of how many cases this relates to”.⁷¹ The assessment explains that the Ministry of Justice does not publish figures on multiple offences and the Sentencing Council “does not currently have access to extensive information on secondary or non-principal offences nor the sentences imposed for them”. This means that there is no publicly available data on the number of concurrent and consecutive sentences handed down by the courts. Professor Mandeep Dhani, Middlesex University London, told the Committee that the lack of data on multiple offence cases meant that:

For the vast majority of sentences that are meted out, we do not know what they are, we do not know what those offences are receiving. We do not know and will not know, because the data is not there, and no one seems to be collecting it.⁷²

47. There is currently a significant gap in the public information on sentencing. The criminal justice system quarterly statistics provide information on sentencing, but there remains a need for more easily accessible data on sentencing trends, especially on sentencing for specific offences and in specific areas. At present the public debate on sentencing focuses almost exclusively on individual cases and we believe that better analytical information could help to redress this imbalance.

48. *The Crown Court Sentencing Survey provided a rich dataset on how sentences are determined. It should be possible to use the Common Platform, the new case*

66 [sentencingcouncil.org.uk](https://www.sentencingcouncil.org.uk), ‘[Crown Court Sentencing Survey](#)’, (accessed 26 June 2023)

67 Centre for Public Data ([OUS0019](#))

68 [sentencingcouncil.org.uk](https://www.sentencingcouncil.org.uk), ‘[Sentencing Council analysis and research to take new approach in 2015](#)’, (accessed 26 June 2023)

69 [Q87](#)

70 [Q88](#)

71 Sentencing Council, [Definitive Stage Resource Assessment](#), Totality, 1 June 2023

72 [Q17](#)

information system used in the criminal justice system, to produce a valuable dataset on sentencing without imposing additional burdens on the courts and the Sentencing Council. The Ministry of Justice, HMCTS and the Sentencing Council should explore how the Common Platform can be used to produce useful sentencing data that can be presented in a way that is accessible to the public.

49. The Sentencing Council is under a statutory duty, set out in section 129 of the Coroners and Justice Act 2009, to publish information regarding the sentencing practice of the magistrates' courts in each local justice area and on individual Crown Courts. In its consultation response to the *What next for the Sentencing Council?* consultation, the Council explain why it has not fulfilled this duty yet:

We carefully considered this duty when the Council was first set up but to date have not formally gathered or published information of this nature. This is mainly due to the difficulties with interpreting data produced on a local level (it could be potentially misleading if the analysis were not able to control for other factors that may have an influence: for example, the type of case load, socio-economic status of the population in the area, and the type of area).⁷³

50. Data on sentencing in individual courts will help the public to understand sentencing trends in their local area and is likely to help to stimulate local media interest and reporting. The Sentencing Council and the Ministry of Justice should work together to ensure that the statutory duty to publish information on sentencing in individual courts is fulfilled. We would ask that the Ministry of Justice and the Sentencing Council provide an update on what progress has been made on fulfilling this duty six months after the publication of this report.

Sentencing remarks

Availability

51. When a sentence is handed down, the courts have a duty to explain how the sentence was determined and what it means for the offender. Currently, sentencing remarks are not widely obtainable by the public in England and Wales, though their availability has been expanded in recent years. The Ministry of Justice noted in its written submission that, at the discretion of the sentencing judge, sentencing remarks in some high-profile cases are published on the judiciary.uk website. Furthermore, proceedings in the Crown Court are recorded in audio form and, on request, a written transcript can be provided for a fee (bereaved families of murder victims are entitled to a transcript without cost). In April 2022, the Government launched the Find Case Law service in collaboration between the Ministry of Justice and the National Archives. The service provides free access to case law in England and Wales.⁷⁴ Its focus is primarily on the civil courts, although it does include judgments made in the Court of Appeal Criminal Division. In July 2022, a Crown Court judge's sentencing remarks were broadcast on television for the first time, and have since been broadcast on more than 30 occasions.

⁷³ Sentencing Council, [What next for the Sentencing Council? Response to consultation](#), November 2021, p41

⁷⁴ Ministry of Justice ([OUS0021](#))

52. **The broadcasting of sentencing remarks represents a potential game-changer for public understanding of sentencing in England and Wales. However, it also reinforces the need for up-to-date statistical information on sentencing practice and trends so that the sentencing remarks that are being broadcast can be understood in their proper context.**

53. Subject to resource constraints, both the Ministry of Justice and the Sentencing Council supported broadening access to sentencing decisions further. Lord Justice Davis told us that “if we had sentencing remarks in every case, we would have a huge resource that would be enormously beneficial”.⁷⁵ However, he cautioned that “[a]pproximately 70,000 cases were sentenced in the Crown court last year. Very many of them were sentenced by judges who were sentencing 10 or a dozen cases in the course of a day. The practical prospect of getting a written set of sentencing remarks in every case is hugely problematic”.⁷⁶ Minister Argar and Claire Fielder, Director of Youth Justice and Offender Policy at the Ministry of Justice, told us that whilst they believed it was too early as yet to say whether all sentencing remarks should be published, the department was looking to incorporate Crown Court sentencing remarks into the Find Case Law service.⁷⁷

54. During our inquiry into open justice, we heard that published sentencing remarks “are very helpful for the media to enable them to explain the sentence to the public”.⁷⁸ During this inquiry, others have similarly set out how broadening access to sentencing remarks could improve public understanding of sentencing. The Criminal Justice Alliance suggested that the publication of sentencing remarks “enables experts to query sensationalist reporting to better inform the public” and recommended that all sentencing remarks be made publicly available immediately after the hearing.⁷⁹ During our December 2022 roundtable with academics, we heard that increasing the publication of sentencing remarks was a scalable solution to increasing public understanding of how sentencing decisions are reached.

55. Whilst widening access to sentencing remarks is considered beneficial to understanding of sentencing amongst the general public, sentencing remarks are of particular significance to victims of crime and their families. In its June 2022 report, *Making sense of sentencing*, the Independent Commission into the Experience of Victims and Long-Term Prisoners set out that, from the experience of those it listened to, summing up and sentencing “was the most confusing and complex aspect of the whole [criminal justice] process”.⁸⁰ It attributed this in part to confusion around what a sentence meant and what it entailed:

It is a requirement that the Judge outlines clearly in court what the sentence given entails, but this is not always provided and on many occasions victims

75 [Q87](#)

76 [Q86](#)

77 [Qq146–147](#)

78 Lizzie Dearden (Home Affairs and Security Correspondent at The Independent ([OPJ0014](#)))

79 Criminal Justice Alliance ([OUS0016](#))

80 Independent Commission into the Experience of Victims and Long-Term Prisoners, [Making sense of sentencing](#), June 2022, p33

are not present for the sentencing hearing. Few people we heard from had the sentence and its implications explained to them, what it meant and what conditions were attached to the Judge’s decision making.⁸¹

In oral evidence, the Victims’ Commissioner for London, Claire Waxman OBE, told us that sentencing remarks “should be free and accessible for victims and families to access [...] If they have not been there for the sentencing and nobody has given them the information, they should have a right to see the sentencing transcripts”.⁸²

56. We have previously made recommendations to the Government on the availability of sentencing remarks, both for victims of crime and bereaved families, and the wider public. Following our pre-legislative scrutiny of what was then the draft Victims Bill, we recommended that the Victims’ Code should include a right for victims whose cases are heard in the Crown Court to be offered a free transcript of the judge’s sentencing remarks, in a format that they can access.⁸³ In our November 2022 Report on open justice, we recommended that all Crown Court sentencing remarks should be published in audio and/or written form.⁸⁴ We also welcomed the broadcasting of Crown Court sentencing remarks and suggested that the recording of sentencing in magistrates’ courts could also be beneficial.⁸⁵

57. The Government responded that “[v]ictims whose cases are tried in the Crown Court are already able to request a transcript of judge’s sentencing remarks for a fee; the average cost in 2022–23 will be £42.36”; it added that it would not be appropriate to make access to sentencing remarks to victims a universal right under the Code because this “is not appropriate [...] in every case, and there are some exceptions where the Court can take the decision as to whether to provide the transcript”.⁸⁶ On expanding the broadcasting of sentencing remarks, the Government told us it would monitor the impact of existing arrangements before deciding whether to make further changes.⁸⁷ It also pointed to its consultation on open justice, which is examining a number of issues raised in our Report.⁸⁸

58. The current situation where victims have to pay significant sums to receive a transcript of sentencing remarks from the Crown Court is unsustainable. We reiterate our call for all sentencing remarks to be published (subject to the relevant legal restrictions). As a minimum, victims of crime and bereaved families should have ready and free access to sentencing remarks. It should be possible to use voice recording technology to ensure that remarks are recorded at minimal cost. The Victims’ Code should include a right for victims of crime to be provided with the sentencing remarks of the judge without charge.

81 Independent Commission into the Experience of Victims and Long-Term Prisoners, [Making sense of sentencing](#), June 2022, pp33–34

82 [Q69](#)

83 Justice Committee, Second Report of Session 2022–23, [Pre-legislative scrutiny of the draft Victims Bill](#), HC 304, para 83

84 Justice Committee, Fifth Report of Session 2022–23, [Open justice: court reporting in the digital age](#), HC 339, para 97

85 Justice Committee, Fifth Report of Session 2022–23, [Open justice: court reporting in the digital age](#), HC 339, paras 118–119

86 Justice Committee, Eighth Special Report of Session 2022–23, [Pre-legislative scrutiny of the draft Victims Bill: Government Response to the Committee’s Second Report](#), HC 932, Para 32

87 Justice Committee, Seventh Special Report of Session 2022–23, [Open justice: court reporting in the digital age: Government Response to the Committee’s Fifth Report of 2022–23](#), HC 1040, para 99

88 Gov.uk, [‘Open Justice: the way forward’](#), 11 May 2023, (accessed 26 June 2023)

Provision of information about sentencing to those in contact with the criminal justice system

59. In its written submission, the Parole Board for England and Wales said that information about sentencing “should be tailored to the relevant audience as needs and interest will vary”. It argued that, whilst tailored information for victims and prisoners is available, it is “fragmented and, in some places, out of date.”⁸⁹ In this section, we consider the provision of information to those in contact with the criminal justice system and how this might be improved to develop better understanding of the sentencing process.

Victims of crime and their families

60. Standards of service that must be provided to victims of crime are set out in the Victims’ Code (the Code), which was first introduced in 2006. Victims’ rights and entitlements set out in the Code include the right to be given information about the trial and the trial process, and the right to be given information about the outcome of a case and any appeals.⁹⁰ However, we heard during both our pre-legislative scrutiny of the then draft Victims Bill and this inquiry that many victims and bereaved families are struggling to access the information and explanations they are entitled to receive.⁹¹

61. The London Victims’ Commissioner told us “[w]e hear time and time again from victims that they have a very poor understanding of the sentencing that has been handed down in their particular case” and that the whole process around informing victims is “pretty flawed”.⁹² The Commissioner set out that information is not always provided in a timely fashion and that, where information about the sentence is provided, it may not sufficiently explain what the sentence meant and how it worked in practice.⁹³ She added that victims and bereaved families were not always given information which would enable them to prepare for what sentence might be given.⁹⁴ Individuals we spoke to who had led campaigns on sentencing had varying experiences of the justice system. One individual was only given very basic information about sentencing. Another had found detailed information provided to them by the prosecutor to be very helpful. It was suggested to us that victims and bereaved families would benefit from more information about sentencing practice for the offence(s) relevant to their case and more explanation of different sentence types, such as how a life sentence works.

62. The uncertainty caused by inadequate information about sentencing is further compounded by broader misunderstandings about the criminal justice system. For example, the Victims’ Commissioner told us she heard from people who are unaware that victims did not have a right to their own legal representation through the criminal court and did not understand why this was the case.⁹⁵ Bishop James Jones KBE told us that in some of the evidence heard by the Independent Commission, “the experience of the victim was one of shock that they knew nothing about the criminal justice system. Suddenly, they were plunged into this new world. What was absent was any one person

89 Parole Board for England and Wales ([OUS0005](#))

90 Gov.uk, ‘[Code of Practice for Victims of Crime in England and Wales \(Victim’s Code\)](#)’, updated 21 April 2021, (accessed 27 June 2023)

91 Justice Committee, Second Report of Session 2022–23, [Pre-legislative scrutiny of the draft Victims Bill](#), HC 304

92 [Q7](#)

93 [Q7](#)

94 [Q9](#)

95 [Q9](#)

supervising the victim's experience".⁹⁶ We also heard that it was important for victims to have clarity on their role within criminal justice processes, such as the parole system, so as not to set unrealistic expectations of their ability to influence the outcome of the process.⁹⁷

63. In oral evidence, we heard that there was also concern about how victims and bereaved families were informed of their right to ask the Attorney General to consider whether a sentence should be referred to the Court of Appeal as being unduly lenient.⁹⁸ The London Victims' Commissioner told us that victims had a right to be informed about the scheme under the Victims' Code, but that they needed information about whether they were eligible for the scheme as well as information on how to access it. The Commissioner added that there should also be more flexibility around the 28-day time limit so that victims and bereaved families were not timed out of accessing the scheme owing to delays in receiving information about the sentence. She noted that there was provision for offenders to apply to the Court of Appeal Criminal Division for permission to appeal their conviction or sentence beyond the time limit in exceptional circumstances, and suggested that the same provision should be extended to the Unduly Lenient Sentence Scheme.⁹⁹

64. Following a consultation on improving victims' experiences of the justice system, the then Lord Chancellor and Secretary of State, the Rt Hon Dominic Raab MP, announced in May 2022 that the Government would publish a revised draft of the Code during the passage of the then Victims Bill (now Victims and Prisoners Bill) and that it would consult on the draft Code once the Bill was in force.¹⁰⁰ Accordingly, in June 2023 the MoJ published a revised draft Code. The Minister for Victims and Sentencing wrote to us stating:

This draft of the new Victims' Code is a starting point for engagement and has been published in order to be transparent about our intentions, allowing for feedback, scrutiny, and debate. The new Victims' Code will be publicly consulted on once the Victims and Prisoners Bill receives Royal Assent, so that we can consider issues raised during the Bill's passage.¹⁰¹

65. ***The Victims' Code sets out that victims of crime are entitled to be given information about the outcome of the case and any appeals. The Government should ensure that victims of crime and bereaved families receive tailored information about sentencing during the court process. The Government should amend the Victims' Code to make clear that victims be entitled to ready access to information about how sentences are determined for offences relevant to the victim's case, including average sentence lengths. When a sentence is handed down, victims should have ready access to information about how the sentence works. The Government should ensure that where they are eligible, victims of crime and bereaved families should automatically be referred to accurate and clear information about the Unduly Lenient Sentence scheme in a timely fashion.***

96 [Q10](#)

97 [Mark Day] [Q64](#)

98 The Attorney General's power to refer does not apply to all offences, and there is a 28-day time limit within which the Attorney General can refer a sentence to the Court of Appeal for review. Anyone can ask the Attorney General to consider whether a sentence should be referred to the Court of Appeal as being unduly lenient, including a victim, a relative of a victim or a member of the public, House of Commons Library, [Review of Unduly Lenient Sentences](#), 8 November 2022, CBP0512

99 [Qq55–65](#)

100 Ministry of Justice, '[Delivering justice for victims: A consultation on improving victims' experiences of the justice system: consultation outcome](#)', updated 1 June 2022, (accessed 27 June 2023)

101 Ministry of Justice, '[Updates in the draft new Victims' Code](#)', updated 19 June 2023, (accessed 27 June 2023)

The information should make clear the deadline for making an application under the scheme. These changes should be made before the Victims and Prisoners Bill receives Royal Assent.

Defendants and prisoners

66. As noted earlier in this Report, sentencers have a duty to explain how a sentence was determined and what it means for the offender. However, we have heard that defendants and prisoners do not always understand the sentencing process.

67. Individuals we spoke to from the charity Revolving Doors, an organisation that works with and advocates for those with lived experience of the criminal justice system, in November 2022 told us that they did not fully understand the sentencing process and that they would have benefitted from having more information. One described the process as a ‘blur’; they had pled guilty and attended a hearing believing that the case was to be adjourned but were instead given a custodial sentence that day. In oral evidence, Bishop James Jones KBE said that for offenders, their understanding of sentencing was variable: “It would depend on how many times they had offended and appeared before the courts”.¹⁰² Mark Day told us that changes to sentences over time had increased the complexity of the sentencing framework, “which means that when both victims and offenders are faced with the sentence often neither group knows what it actually means”.¹⁰³ Indeed, during our inquiry into Imprisonment for Public Protection (IPP) sentences, we heard that “from its inception, both sentenced individuals and psychological professionals did not know what the sentence was and what the implications were for such a sentence”.¹⁰⁴

68. Professor Hollingsworth’s submission recommended that in all cases involving a child defendant, the sentencing remarks should be written down and the child should be provided with a copy.¹⁰⁵ Her evidence emphasised that her own small-scale study with child defendants had found that children had a negative experience of the sentencing process which was linked to the difficulty in understanding of the courtroom communication and the language used. Professor Hollingsworth suggested that by providing a hard copy of the remarks to a child defendant, this would enable the child to read the remarks later on in a calmer environment, when they are more likely to comprehend the sentence.¹⁰⁶

69. In its written submission, Revolving Doors highlighted the importance of pre-sentence reports (PSRs) in supporting sentencers to consider mitigating circumstances and better understand the root cause of an offence, thereby leading to sentencing decisions which better addressed the drivers of offences. They said PSRs were “woefully underused, with many defendants unaware that they were entitled to [one] or worse, unaware that probation even played a role at court”.¹⁰⁷ Lived experience members of the charity told us that the PSR process felt rushed and that they did not understand the significance of the reports and how they were used to inform sentencing.

70. The Government committed to pilot new approaches to delivering PSRs in its September 2020 White Paper on sentencing. The Minister for Prisons and Probation wrote

102 [Q12](#)

103 [Q19](#)

104 Oral evidence taken on 23 November 2021, HC 678 (21–22) 123, Q4 [Dr Dinesh Maganty]

105 OUS0023 - Professor Kathryn Hollingsworth

106 OUS0023 - Professor Kathryn Hollingsworth

107 Revolving Doors ([OUS0011](#))

to us on 15 June 2023 with an update on a pilot in 15 magistrates' courts which began in March 2021. The Minister reiterated the Government's commitment "to increasing the proportion of probation managed cases which benefit from a PSR and ensuring probation staff are delivering timely reports to a high standard".¹⁰⁸

71. It is important that offenders understand the sentence they are to serve. Offenders should have ready access to information about the sentencing process, including information about pre-sentence reports at the earliest possible stage. Following sentencing, they should have ready access to information about what their sentence will look like in practice. Offenders, including child defendants, should be given a hard copy of their sentencing remarks. We look forward to the outcome of the pre-sentence reports pilots and encourage the Government to increase the proportion of cases that have access to pre-sentence reports.

108 Letter from Rt Hon Damian Hinds MP, Minister for Prisons and Probation, dated 15 June 2023, [on Pre-sentence reports pilots and evaluation publication](#)

3 Public opinion on sentencing

72. Lord Burnett of Maldon, Lord Chief Justice between 2017 and 2023, speaking in December 2020, said:

To my mind, there has been a perceptible hardening of the public and political attitude to crime, particularly sexual and violent offending, which has resulted in a general shift in the balance between culpability and harm when determining sentence.¹⁰⁹

It is clear that this change in public opinion has had an influence on sentencing policy and the law. Since 2000, Parliament has significantly increased minimum terms for offenders found guilty of murder.¹¹⁰ Parliament has also increased the maximum sentence for a range of offences. The Ministry of Justice’s evidence highlighted a number of victim-focused campaigns which had led to changes to sentencing law, including: Helen’s law, Harper’s law and Tony’s law (see Table 1, paragraph 6).¹¹¹ Lord Burnett of Maldon added that the “judiciary has been sensitive to that change in legislative mood”.¹¹² This Chapter examines the role of public opinion in shaping sentencing policy in England and Wales and presents the Committee’s findings on public opinion of sentencing from the polling and the public dialogue.

Ascertaining and measuring public opinion on sentencing

73. A number of submissions to our inquiry argued that polling exercises may not be the most effective measure of public opinion on sentencing. The Howard League wrote that public opinion polling “is unable to distinguish between views which are based on misunderstandings about the criminal justice system and settled opinion”.¹¹³ Survey design is key in ascertaining an accurate measure of public opinion, as noted by Professor Martina Y Feilzer. She highlighted research which found that surveys which locate questions about sentencing within the context of individual cases, rather than overarching, “global” questions (e.g. whether sentencing is too lenient), received responses that were “much closer to actual judicial practice than expected, closing what has been called the ‘punitiveness gap’”. She added that this finding “may reflect methodological problems in survey research that uses global questions that are insufficiently sensitive to respondents’ attitudes and are simply inaccurate as indicators of public views of sentencing”.¹¹⁴

74. Indeed, during our June 2023 visit to Helsinki, we heard from Dr Paulina Tollroth, Government Counsellor, and Professor Tapio Lappi-Seppälä, University of Helsinki, that ascertaining an accurate measure of public opinion was costly, and that it may be better not to conduct an opinion poll at all than to conduct one that was not well-designed.¹¹⁵ In oral evidence, Professor Hough told us “[t]here is still a need for structured survey

109 Lord Burnett of Maldon, [Sentencing: the Judge’s role](#), December 2020

110 Criminal Justice Act 2003 and the Police, Crime, Sentencing and Courts Act 2022

111 Ministry of Justice ([OUS0021](#)); Helen’s Law refers to the Prisoners (Disclosure of Information About Victims) Act 2020; Harper’s Law refers to section 3 of the Police, Crime, Sentencing and Courts Act 2022; Tony’s Law refers to sections 122 and 123 of the Police, Crime, Sentencing and Courts Act 2022.

112 Lord Burnett of Maldon, [Sentencing: the Judge’s role](#), December 2020

113 Howard League for Penal Reform ([OUS0008](#))

114 Professor Martina Y Feilzer, Professor of Criminology and Criminal Justice, Bangor University ([OUS0012](#))

115 Summary of the Justice Committee’s visit to Finland and the Netherlands, June 2023 ([OUS0026](#))

research, qualitative and quantitative, but it is essential that there should [also] be research that allows people to deliberate, and not just give their top-of-the-head view on what sentencing should do”.¹¹⁶

75. Deliberative engagement exercises are often considered a more reliable measure of public opinion. In its written submission, the Scottish Sentencing Council wrote that “[s]tructured and controlled studies may be the most reliable means to ascertain public opinion. Research suggests that overall the public has a perception that sentencing is lenient in general. However this perception is often dispelled when individuals are provided with the factors and circumstances of a specific case”.¹¹⁷ Similarly, the Prison Reform Trust noted that “there is good evidence that, faced with the full circumstances of a case in mock sentencing exercises, people tend to be less punitive than in the abstract”.¹¹⁸ During our visit to Finland and the Netherlands, we again heard that public engagement exercises which contextualise sentencing through exposure to real cases elicited views that were more in line with actual sentencing practice.¹¹⁹ However, it should also be stressed that the specific facts of the cases and the offences used in such exercises can have an effect on the gap between what the public select and actual sentencing outcomes.¹²⁰

76. The link between understanding and opinion on sentencing, and of how views may be shaped by the way in which information about sentencing is communicated was also raised by Transform Justice. Their written submission highlighted research conducted by the Frameworks Institute on behalf of Transform Justice, the Criminal Justice Alliance, Clinks and the Alliance for Youth Justice which it said demonstrated that:

the public can be supportive of (and therefore have confidence in) non-punitive criminal justice policies. It just relies on these policies being communicated effectively. This means using language which triggers some beliefs (rehabilitation) and avoiding engaging with others (punishment).¹²¹

For the public dialogue carried out by Involve for this inquiry, the two You be the Judge scenarios considered by the participants’ did not include violent or sexual offences, which could have had an impact on the participants views.¹²² This is not to say that public opinion is entirely malleable according to levels of understanding of sentencing practice or the nature of specific cases presented to them. As noted by the Sentencing Academy in its January 2022 report, “[r]easonable people may well disagree about the appropriate sentencing response to crime”.¹²³

77. In its written submission, the Centre for Justice Innovation also highlighted the importance of remembering that ‘the public’ is not a homogenous group: “the public are a diverse body and different factors influence them differently”.¹²⁴ It pointed to research published by the Ministry of Justice in 2013, which found that factors which influenced

116 [Q37](#)

117 Scottish Sentencing Council ([OUS0010](#))

118 Prison Reform Trust ([OUS0014](#))

119 Summary of the Justice Committee’s visit to Finland and the Netherlands, June 2023 ([OUS0026](#))

120 Ministry of Justice, Analysis of complete ‘You be the Judge’ website experiences, 2013, page 3

121 Transform Justice ([OUS0013](#))

122 Involve ([OUS0027](#))

123 Sentencing Academy, [Public Knowledge of Sentencing Practice and Trends](#), January 2022, p16

124 Centre for Justice Innovation ([OUS0007](#))

punitive attitudes included gender, socio-economic class, education, newspaper readership and perceptions of crime trends, and suggested that not enough is known about different segments of the public and what drives their opinions.¹²⁵

78. The Government considers public opinion on sentencing through several mechanisms; however, it does not appear to ascertain or measure opinion in a systematic fashion. Rather, it appears to respond to perceptions of public opinion on an ad hoc basis. In its written submission, the Ministry of Justice set out a number of ways in which the views of victims, stakeholders and the wider public were considered as part of the development of sentencing policy. This included through enacting policies set out in manifesto commitments, listening to the views of MPs representing their constituents, responding to victim-focused campaigns, conducting consultations and considering e-petitions. In oral evidence, the Minister for Victims and Sentencing told us:

[w]e do undertake polling. We undertake research and consultations around specific offences *where there is pressure, and there are different ways that that pressure manifests itself*¹²⁶ [...] there is [...] a challenge with saying, whether it is annually, once a parliamentary term or whatever, that we will undertake research across the whole piece of sentences for a whole tariff of offences in tune with public opinion.¹²⁷

The Minister further added that it was difficult to measure shifts in public opinion over time.¹²⁸

79. The challenge in measuring opinion over time was also recognised by the Sentencing Council. In its written submission, it noted that research findings were affected by methodology, including sample size and representativeness, the questions asked and the mode of delivery. Whilst acknowledging that methodological changes would affect the overall comparability of findings, the Sentencing Council highlighted that it had sought to provide a measure of public opinion over time by repeating survey research on similar aspects of sentencing.¹²⁹

80. Research on the public's views on sentencing can play a valuable role in the policy process. However, it must be recognised that ascertaining and measuring public opinion is very difficult to do. Unless research is well-designed and methodologically rigorous then the results are almost certain to be flawed. Any general assessments of the public's view of sentencing policy across all offences should be balanced against analysis and engagement of public opinion and understanding which, where possible, focuses on specific offences or offence types.

81. *Given the potential importance of public opinion in influencing sentencing policy, the Government should consider adopting a structured engagement plan to gather information on the public's views on sentencing. Whilst we recognise the value of public polling exercises, we recommend caution be exercised in relying exclusively on the findings of ad hoc polls as an evidence base for sentencing policy decisions. The MoJ should conduct regular, structured, deliberative engagement exercises with members of*

125 Centre for Justice Innovation ([OUS0007](#))

126 Our emphasis

127 [Q141](#)

128 [Q142](#)

129 Sentencing Council for England and Wales ([OUS0020](#))

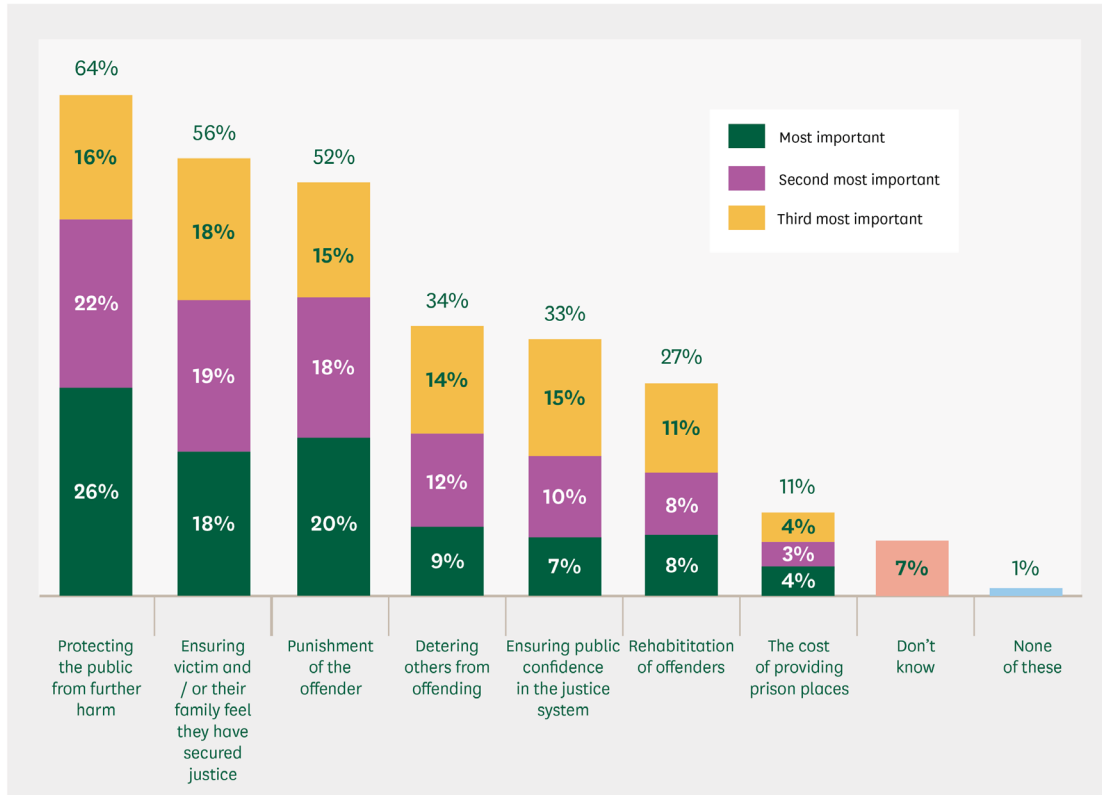
the public as part of its policy development process. The Sentencing Council should also consider whether it could use structured deliberative engagement exercises as part of its public engagement work and as part of its consultations on draft guidelines, including a full range of offending scenarios, such as violent and sexual offending, if relevant.

Public opinion on sentencing: Findings from our quantitative and qualitative research

82. As outlined earlier in this Report, there are five statutory aims of sentencing:

- the punishment of offenders;
- the reduction of crime (including its reduction by deterrence);
- the reform and rehabilitation of offenders;
- the protection of the public; and
- the making of reparation by offenders to persons affected by their offences.

83. As part of our public polling and public dialogue, we explored what members of the public thought about the aims and purposes of sentencing. For both the respondents to our survey and the participants in our public dialogue, protection of the public from further harm was the highest priority aim of sentencing. Figure 8 below shows that 64% of respondents to the survey ranked public protection as one of their top three most important aims of sentencing, of which 26% said it was the most important factor. It also shows that 56% of respondents placed ensuring the victim and/or their family felt they had secured justice as one of their top three factors, making it second overall. It is worth noting that ensuring justice for the victim is not currently one of the statutory purposes of sentencing.

Figure 8: Ranked importance of factors influencing the setting of sentences

Source: Q9 Which of the following factors are the most important to you in the setting of sentences? Public polling commissioned by the Justice Committee ([OUS0025](#))

84. Participants in the public dialogue discussed and prioritised the purposes of sentencing in small groups. Protection of the public was the top priority for each group, with one group moving it from second to first after considering a case study. The facilitators noted that “[i]n most groups there was little debate about why it was important—it seemed to be a given”.¹³⁰ In the public dialogue, each of the four discussion groups included providing justice for victims as a purpose of sentencing, with two groups making this their second most important priority after protecting the public.¹³¹ Facilitators noted that the participants “mostly spoke about providing a sense of justice for victims, but some also spoke about how victims should be supported and should be informed throughout sentencing. After seeing example sentences in the You be The Judge scenario, some felt the outcomes and support for the victim were not clear in current sentences”.¹³²

85. Findings from the Committee’s engagement with the public demonstrate how important it is for the MoJ to undertake more work of this nature and to incorporate findings into its policy development. *The Government should review the statutory purposes of sentencing to consider whether greater emphasis should be placed on achieving justice for the victims of crime and their families.*

86. As part of our polling, we asked for respondent opinions on sentences for specific offences. We asked respondents what the starting point should be for the minimum tariff for the murder of a child and for the murder of an adult. The current starting points for

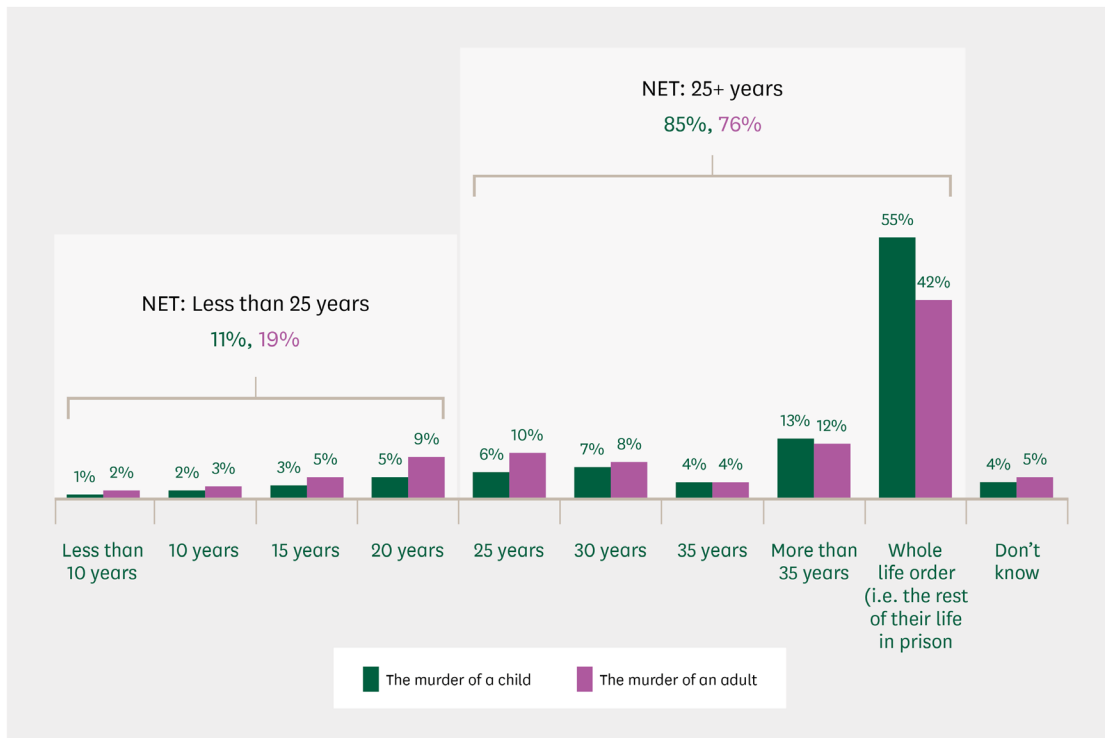
130 Involve ([OUS0027](#))

131 Involve ([OUS0027](#))

132 Involve ([OUS0027](#))

the minimum term for murder committed by an adult are contained in Schedule 21 of the Sentencing Act 2020; they are a whole life term for cases where the seriousness of the offence is exceptionally high, 30 years where the seriousness of the offence is particularly high, 25 years when the offender brought a knife or another weapon to the scene, and 15 years in all other cases. 55% of respondents thought that the starting point for murder of a child should be a whole life order and 42% thought that the same should apply for murder of adult (see Figure 9 below).

Figure 9: Starting point for the prison term for an adult offender found guilty of murder of an adult and child



Source: Q13 In your view, what should the starting point (i.e. before mitigating factors that might reduce the sentence length, or aggravating factors, that might increase the sentence length, are taken into account) be for the prison term for an adult offender found guilty of a) the murder of an adult b) the murder of a child? Public polling commissioned by the Justice Committee ([OUS0025](#))

We also asked respondents for their view on the starting point for the sentence in the most severe cases of rape. The current sentencing guideline provides a starting point of 15 years custody for the most severe cases.¹³³ 45% of respondents said that the starting point should be 25 years, including 18% who thought a whole life order should be the starting point (see Figure 10 below).

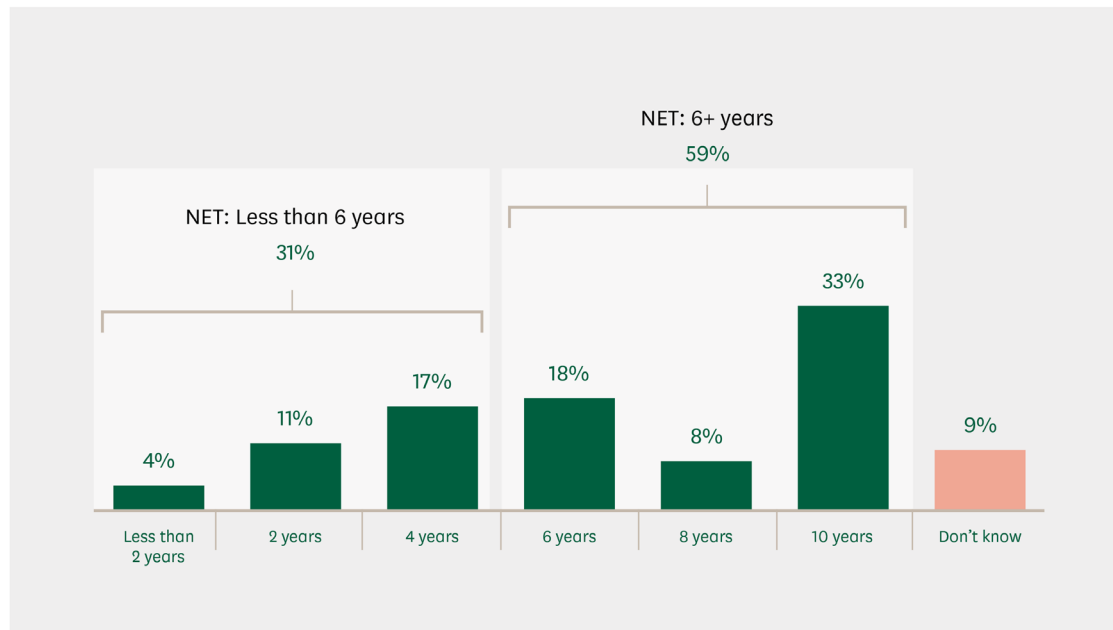
Figure 10: Starting point for the prison sentence for the most severe cases of rape



Source: Q14 When an adult offender is found guilty of rape, the sentencing guideline sets out that the judge can impose a range of available sentences from 4 to 19 years in prison depending on the nature of the offence. In your view, what should the starting point for the length of the prison term (i.e. before mitigating or aggravating factors are taken into account) be for the most severe cases (for example, a case involving a significant degree of planning, abduction, and where the victim is particularly vulnerable)? Public polling commissioned by the Justice Committee ([OUS0025](#))

Finally, we asked respondents to tell us what should be the starting point for the most severe cases of domestic burglary. The current Sentencing Council guideline for domestic burglary provides that the starting point for the most severe cases is three years custody.¹³⁴ 69% of respondents said it should be more than six years and 33 per cent selected the longest option of ten years (see Figure 11 below).

Figure 11: Starting point for the prison sentence for the most severe cases of domestic burglary



Source: Q15 When an adult offender is found guilty of domestic burglary, the sentencing guideline sets out that the judge can impose a range of available sentences from a community order to 6 years in prison depending on the nature of the offence. In your view, what should the starting point for the length of the prison sentence (i.e. before mitigating or aggravating factors are taken into account) be for the most severe cases (for example, a case involving a significant degree of planning, the use of violence, and the targeting of a vulnerable victim)? Public polling commissioned by the Justice Committee ([OUS0025](#))

87. Our polling on the public’s view on the appropriate starting points for specific offences suggests that a majority would support increases in the severity of the relevant custodial sentences. This position is also supported by much of the research into public opinion cited in the evidence submitted to this inquiry. This potential gap between public opinion on sentencing and actual practice indicated by the evidence we received highlights the need for in-depth analysis of the public’s view of sentencing policy for particular offences.

Public opinion and the development of sentencing policy and practice

88. Witnesses were generally supportive of public opinion informing the direction of sentencing policy to some extent, provided policymakers ascertain considered viewpoints. For example, the Howard League suggested that “[t]he general direction of sentencing policy should be informed by public judgement—the views of a representative sample of the public who are given the chance to learn and deliberate—rather than by superficial public opinion polling”.¹³⁵ Professor Hough similarly told us that the “deliberated viewpoint is arguably the crucial thing that sentencers and politicians need to listen to”.¹³⁶

89. Some cautioned against developing policy on the basis of perceptions of public opinion rather than on deliberated viewpoints. For example, Professor Martina Y Feilzer, noted that “research suggests that a lot of the ‘punitiveness gap’ which policy makers have been trying to narrow is due to methodologically poor measures of public opinion which

135 Howard League for Penal Reform ([OUS0008](#))

136 [Q37](#)

misrepresent public attitudes to sentencing”.¹³⁷ During our visit to the Netherlands, Dr Lucas Noyon, Leiden University, told us about what he referred to as the ‘inevitable 70%’. Having conducted research into public opinion polling across multiple jurisdictions, Dr Noyon found that, when asked their view of sentences handed down by the courts, approximately 70% of members of the public responded that they believed sentences were too lenient. Dr Noyon believed that due to the ‘inevitable 70%’, policy development that did not consider deliberated public views may lead to increasingly punitive sentences. The Centre for Justice Innovation acknowledged that there existed a wide range of views on sentencing and outlined how they thought this could be managed:

We think that, as in immigration policy, most people are ‘balancers’—seeing both pressures and gains. Therefore, securing political and public consent in sentencing policy needs arguments that make sense to this broader majority. What we argue for here is that any sentencing policy needs to try and reach that majority and may have to substantially confront those at the more extreme ends—the ‘flog ‘em’ crowd as well as the ‘bleeding heart’ liberals.¹³⁸

90. Members of the public who participated in our public dialogue similarly believed that public opinion should have a role in the development of sentencing policy. However, participants considered that initiatives to increase public involvement would need to account for the effect that reporting on individual cases can have on public opinion:

Lots of people react emotionally to high profile cases and they don’t have the information on how the justice system is laid out. But public opinion is still important to take into account.

There are real tensions to be managed between the value of involving people and the challenge of doing so when people’s emotions are heightened.¹³⁹

Several participants therefore suggested that public participation in the process would need to be underpinned by greater public understanding of sentencing:

The public should have influence, but it depends on how informed they are. If they have no influence then they might not have a stake in the justice system and it’s not a good place for society if there’s not broad agreement that it’s fair. Then people take things into their own hands. How we get there is hard, it starts with getting people more informed.

We should influence to some degree but not to a massive degree. The public would want to understand more through education as we only skim the surface of cases currently.¹⁴⁰

Participants were also mindful of the need to ensure that efforts to involve the public in the development of sentencing policy enabled everyone’s views to be heard.¹⁴¹

137 Professor Martina Y Feilzer, Professor of Criminology and Criminal Justice, Bangor University ([OUS0012](#))

138 Centre for Justice Innovation ([OUS0007](#))

139 Involve ([OUS0027](#))

140 Involve ([OUS0027](#))

141 Involve ([OUS0027](#))

91. Witnesses also emphasised the importance of drawing upon research evidence when developing sentencing policy.¹⁴² Revolving Doors argued that “[s]entencing must be guided by the established evidence base and the ultimate goal of reducing reoffending”.¹⁴³ Clinks, an organisation that supports the voluntary sector working in the criminal justice system, suggested that the voluntary sector should be pro-actively engaged in policy-making and that the Government should “facilitate open consultation on the development of sentencing policy to reflect the knowledge held within the voluntary sector about what works to support people who have committed crime, reduce reoffending, and ultimately keep communities safe”.¹⁴⁴ The Sentencing Council has a statutory duty to have regard to the effectiveness of sentences in preventing reoffending, and published a literature review of evidence on the effectiveness of sentencing in September 2022.¹⁴⁵ Transform Justice has argued that the Sentencing Council could better communicate its work on the effectiveness of different sentencing options, both to the public and to policy makers.¹⁴⁶

92. Whilst the Sentencing Council is responsible for developing and monitoring guidelines, its role in sentencing policy debate and development is limited to the provision of information. The Chairman of the Sentencing Council explained that:

[The Sentencing Council is] by a small majority a judicial group and, as you will be aware, it is not the function of judges to engage in or instigate public debate in the context of some wider policy debate [...] We can provide the raw fuel for the debate, in the information, but creating the debate is for the people around this horseshoe and those beyond.¹⁴⁷

93. Government and ultimately Parliament are responsible for legislation which introduces maximum or minimum sentences for criminal offences. In oral evidence, Claire Fielder explained that a number of factors are taken into consideration when a maximum sentence is raised, including whether the current maximum is an outlier relative to the maximum sentences for comparable offences.¹⁴⁸ During our roundtable discussions with criminal justice organisations and academics, we heard concern that changing maximum sentences for individual offences could create new ‘outliers’ elsewhere and lead to sentence inflation more broadly. Having considered changes to sentencing policy and practice over time, the Independent Commission into the Experience of Victims and Long-Term Prisoners recommended that the Law Commission should build on its work to codify sentencing legislation by carrying out a “fundamental assessment of the impact of legislation in this century on the effectiveness of the sentencing framework for the most serious crimes”. It suggested that this assessment should “consider the extent to which the law on sentencing now either enables or impedes judges in fulfilling the statutory purposes of sentencing for these crimes, and whether a rebalancing is required in order for them to do so”.¹⁴⁹

142 See for example Howard League for Penal Reform ([OUS0008](#))

143 Revolving Doors ([OUS0011](#))

144 Clinks ([OUS0017](#))

145 Sentencing Council for England and Wales, [The Effectiveness of Sentencing Options on Reoffending](#), September 2022

146 Transform Justice ([OUS0013](#)), Criminal Justice Alliance ([OUS0016](#))

147 [Q104](#)

148 [Q140](#)

149 Independent Commission into the Experience of Victims and Long-Term Prisoners ([OUS0003](#))

94. Under the Coroners and Justice Act 2009, the Lord Chancellor can refer a government policy proposal, or a government proposal for legislation, to the Sentencing Council for an assessment of the implications for prison resources. In practice, there has only been one request made under this power by a Lord Chancellor, and the Council does not believe it is well placed to undertake such assessments.¹⁵⁰ The Ministry of Justice does carry out its own impact assessments, but these are not independent. The result is that at present there is a lack of independent scrutiny of sentencing policy proposals, and in particular analysis of their downstream impact on resources.

95. *The MoJ should establish an independent advisory panel on sentencing to consider proposed changes to sentencing policy and to provide advice to ministers. The independent panel should bring together academic experts, the voluntary sector, and, importantly, representatives of victims of crime and their families. It is vital for the legitimacy of the independent panel that it should contain a diversity of opinion and a range of perspectives on sentencing. The panel should also conduct structured public engagement as part of its work. Its findings and advice should be publicly available. The MoJ should also instruct the independent advisory panel to conduct regular reviews of the statutory minimum and maximum tariffs for sentences to determine whether sentences are proportionate and consistent across different types of offence.*

Sentencing practice

96. Public opinion should not have any influence on individual sentencing decisions. Such decisions are a matter for the independent judiciary to decide, taking into account the circumstances of each case.¹⁵¹ In oral evidence, Lord Justice Davis explained that:

the rule of law requires a sentence in a case to be passed by an independent judge exercising his judgment—obviously, taking into account the interests of the victim and, in some cases, the wider public if some community impact is demonstrated, but the individual sentence is a matter for the individual judge.¹⁵²

The Traveller Movement highlighted the risk that biases held by the public could negatively affect sentencing practice should decisions be informed by public opinion.¹⁵³ The risk of bias was also considered by participants during our public dialogue, and participants in most groups believed it was appropriate for judges to make individual sentencing decisions.¹⁵⁴

97. Whilst public opinion has limited influence on sentencing practice in individual cases, public consultation on proposed changes to sentencing guidelines is carried out by the Sentencing Council. The Sentencing Council noted that it receives a “relatively low” number of consultation responses from members of the public, and that sometimes “such responses related more to general dissatisfaction with the underlying law or with police or

150 Sentencing Council, [What next for the Sentencing Council? Response to consultation](#), November 2021 p 14–16, Section 132 of the Coroners and Justice Act 2009

151 See for example Howard League for Penal Reform ([OUS0008](#)), Revolving Doors ([OUS0011](#)), Sentencing Council for England and Wales ([OUS0020](#)), Ministry of Justice ([OUS0021](#))

152 [Q100](#)

153 The Traveller Movement ([OUS0015](#))

154 Involve ([OUS0027](#))

prosecution practice than sentencing as such".¹⁵⁵ The Chairman of the Sentencing Council highlighted efforts the Council had made to attract media coverage of consultation exercises, but told us it was ultimately limited by its available resource.¹⁵⁶ In its written submission, the Sentencing Academy suggested that the Sentencing Council could do more to incorporate public opinion into its development of guidelines.¹⁵⁷ It added that thorough engagement with the public may have been impeded by the recent volume of consultations and therefore recommended that less, but more in-depth, consultations be held.

98. During our visit to the Netherlands, the Deputy Director of the Public Prosecution Service outlined how the Sentencing Guidelines Commission (the Dutch equivalent to the Sentencing Council) undertook public consultations.¹⁵⁸ Members of the public, including school children, were invited to express their views on guidelines through online questionnaires, which were designed to be accessible to the public. Scenario-based questions were used to ascertain the public's views on issues such as aggravating and mitigating factors, and the public were also asked about the deterrent effect of sentences. By way of example, the Deputy Director explained that a consultation on the sentencing guidelines for domestic burglary found that members of the public felt this offence to be more serious if committed whilst the victim was at home; this led to a change in the guideline. Elsewhere, a recent consultation on offences relating to fireworks received just under 1,700 responses from members of the public and a further 700 responses from schools.¹⁵⁹

99. At present, the public consultations conducted by the Sentencing Council on changes to guidelines represent one of the principal means by which the public can engage with the sentencing process. The Council does valuable work in engaging stakeholders in their consultations. However, their limited resources mean the Council only receives a small number of submissions from the public.

100. *The Sentencing Council should be empowered to do more to encourage public engagement with its consultations on draft guidelines. For example, it should explore whether it could use the approach of using online questionnaires adopted by the Sentencing Guidelines Commission in the Netherlands to encourage more responses from the public to their consultations. Online questionnaires would appear to be a more accessible form of engagement than a simple call for written evidence. We would also recommend that any expansion in the scale of public engagement also includes the use of deliberative engagement tools similar to the public dialogue used as part of this inquiry.*

155 Sentencing Council for England and Wales ([OUS0020](#))

156 [Q90](#)

157 Sentencing Academy ([OUS0002](#))

158 Whereas the Sentencing Council for England and Wales produces and reviews sentencing guidelines for the judiciary, the Sentencing Guidelines Commission in the Netherlands produces and reviews sentencing guidelines for the Public Prosecution Service.

159 Summary of the Justice Committee's visit to Finland and the Netherlands, June 2023 ([OUS0026](#))

4 Public understanding of sentencing and public confidence in the criminal justice system

101. Lord Justice Auld’s review of the Criminal Courts of England and Wales, published in 2001, was concerned with the “urgent need to enhance public confidence in the criminal justice system as a whole”.¹⁶⁰ Auld recognised that public confidence was an elusive concept, and one which the criminal justice system, by its very nature, was unlikely to engender in all who interact with it. Lord Justice Auld concluded: “public confidence is not so much an aim of a good criminal justice system; but a consequence of it”.¹⁶¹ One of the core aims of this inquiry was to examine how public understanding of sentencing affects public confidence in the criminal justice system. This Chapter addresses this question and the role of the media.

The relationship between public understanding and public confidence

102. A number of submissions to the inquiry argued that there was a strong connection between public understanding of sentencing and public confidence in the criminal justice system. Some witnesses based their claims on empirical research with the public. The Sentencing Academy and the Scottish Sentencing Council’s submissions drew attention to research that showed that public trust and confidence in criminal justice can be improved by giving people facts and information on the system and on individual cases.¹⁶² The Sentencing Council for England and Wales’ evidence stated that their own 2018 survey showed the public to be only slightly more likely to be confident than not confident in the effectiveness or fairness of the criminal justice system. When asked how confident they were, 52% felt it was effective and 54% felt it was fair, and this was supported by qualitative discussion groups. The Council also conducted analysis of the drivers behind public confidence in the criminal justice system:

[T]he factor that most influenced respondents’ confidence in the CJS was contact with or experience of the CJS that had improved their understanding of sentencing. Having contact with the police, having been involved in a criminal court case as a juror and having come into contact with the criminal courts per se also predicted a higher level of confidence in the effectiveness of the CJS.¹⁶³

The Council also reported that education affected confidence in the criminal justice system, which was also supported by the Scottish Sentencing Council’s research.¹⁶⁴ The Sentencing Council’s analysis also showed that victims of crime are likely not to have confidence in the criminal justice system and that this is often driven by poor communication and engagement from agencies and institutions within the criminal justice system.¹⁶⁵

160 Lord Justice Auld, Review of the Criminal Courts of England and Wales (2001), p7

161 Lord Justice Auld, Review of the Criminal Courts of England and Wales (2001), p7

162 Sentencing Academy ([OUS0002](#)), Scottish Sentencing Council ([OUS0010](#))

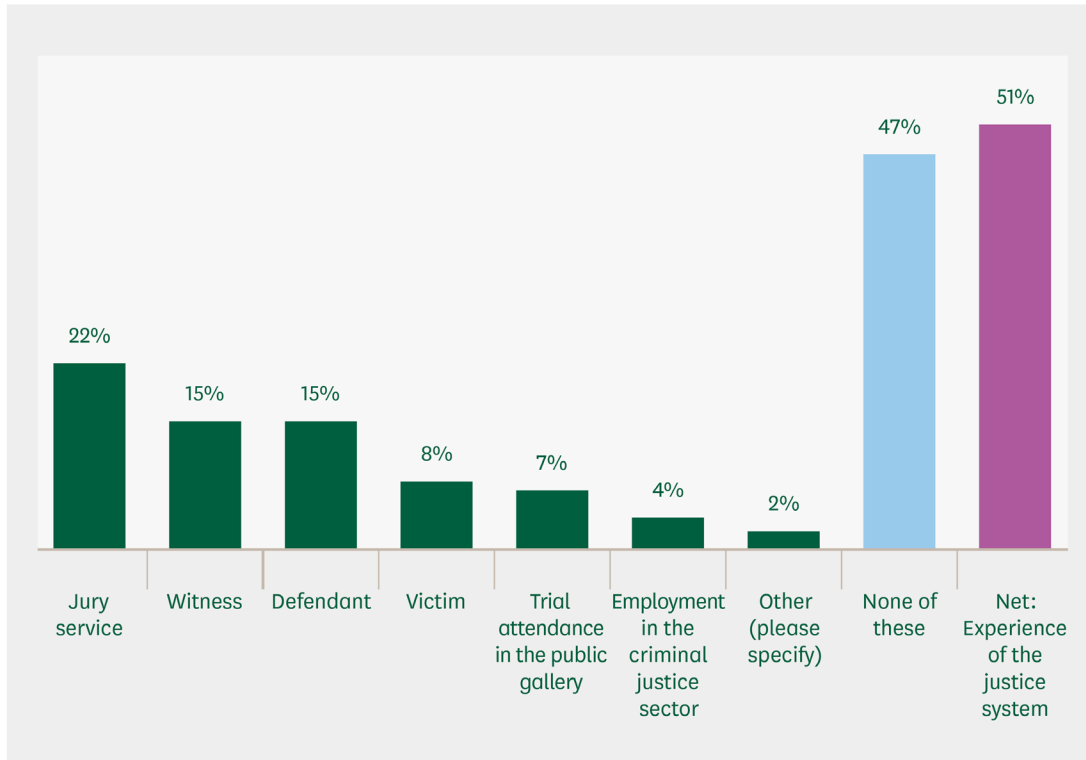
163 Sentencing Council for England and Wales ([OUS0020](#))

164 Sentencing Council for England and Wales ([OUS0020](#)), Scottish Sentencing Council ([OUS0010](#))

165 Sentencing Council for England and Wales ([OUS0020](#))

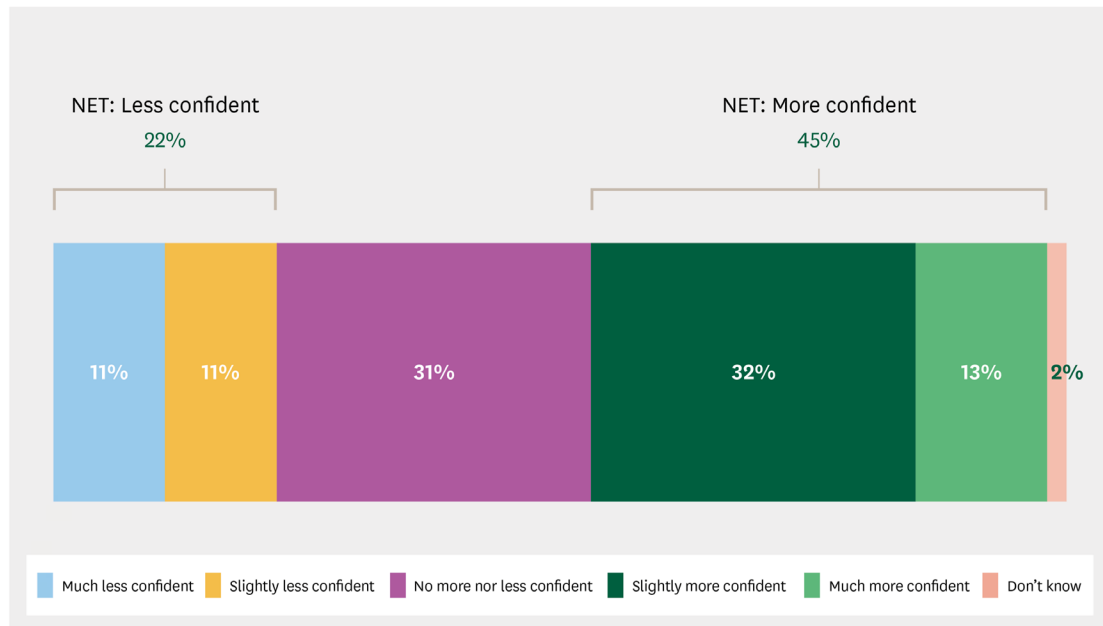
103. Our own polling research sought to investigate the connection between contact with the criminal justice system and public confidence. We asked the 2,057 adults in England and Wales whether they had had one of several listed interactions with the criminal justice system. 51% of respondents said that they had experience of the criminal justice system, set out in Figure 12 below.

Figure 12: Experience of the criminal justice system in England and Wales



Source: Q1 Which of the following experiences, if any, have you had of the criminal justice system in England and Wales? Public polling commissioned by the Justice Committee ([OUS0025](#))

104. We then asked those who had said that they had experience of the system to state how it had affected their confidence in the criminal justice system. The results showed that 45% said that their experience with the criminal justice system had increased their confidence in the criminal justice system and 22% said it had made them less confident, as set out in Figure 13 below:

Figure 13: Confidence in the criminal justice system after previous experience

Source: Q2 To what extent, if at all, did your experience(s) make you more or less confident in the criminal justice system and the process of sentencing offenders? Public polling commissioned by the Justice Committee ([OUS0025](#))

105. The evidence to the inquiry also considered how public communications about sentencing impacted upon confidence. Transform Justice, a charity focused on criminal justice, argued in its submission that increasing public confidence in criminal justice requires a change in the approach to communication, particularly through an emphasis on using reframed messaging about evidence-based policies.¹⁶⁶ Transform Justice argued that the problem with the lack of confidence was exacerbated by the government and the opposition “reinforcing unhelpful beliefs in how it talks about crime and justice—prioritising punishment and prison and leaving other, more effective ways to deal with crime out of the narrative”.¹⁶⁷ The Prison Reform Trust’s evidence criticised the government’s approach to communicating about the criminal justice system: “The public can scarcely be expected to have confidence in a system which their elected government seems so eager to trash”.¹⁶⁸

106. One of the principal challenges to the idea that increased public understanding of sentencing will lead to greater public confidence is the fact that sentencing is such a complex area of the law. The Prison Reform Trust’s submission put the point in the following terms: “if the public really understood the anomalies and confusion within our sentencing framework there is no guarantee that their confidence would be increased”.¹⁶⁹ This echoes Lord Justice Auld’s finding in his review from 2001 that the complexities of the criminal justice system were the source of damage to public confidence.¹⁷⁰

107. The relationship between public understanding of sentencing and public confidence in the criminal justice system is far from straightforward. Simplistic causal claims should be avoided. Our overall conclusion is that everyone involved in, or responsible

166 Transform Justice ([OUS0013](#))

167 Ibid

168 Prison Reform Trust ([OUS0014](#))

169 Ibid

170 Lord Justice Auld, Review of the Criminal Courts of England and Wales (2001), para 30

for, the criminal justice system needs to take the duty to ensure public confidence extremely seriously. Politicians from all parties must ensure that public commentary on the criminal justice system does not contribute to misunderstandings that can damage public confidence. In terms of public policy, stripping away unnecessary complexity in sentencing must also be prioritised to facilitate improved public debate. Improvements to open justice, such as the broadcasting of sentencing remarks, need to be built upon, including through some of the recommendations outlined in this report. Even if it is not possible to say that direct contact with, or information about, the criminal justice system will necessarily lead to improved confidence, it is undoubtedly a public good to encourage more of the public to know about the justice which is done in their name.

108. In relation to the current challenge to public confidence based on the persistence of the view among the public that the system is not severe enough, it is important to recognise that this represents a significant long-term public policy challenge that needs to be addressed. Our own polling indicates that the majority of the public support further increases to the severity of sentences for the gravest criminal offences. We should not assume that these views are based on mistaken assumptions or lack of knowledge of current sentencing practice. It is vital that policymakers adopt a consistent and principled response to maintaining public confidence in response to the challenge of the public's position on sentencing severity. This should be informed by an attempt to understand what the public's expectations are.

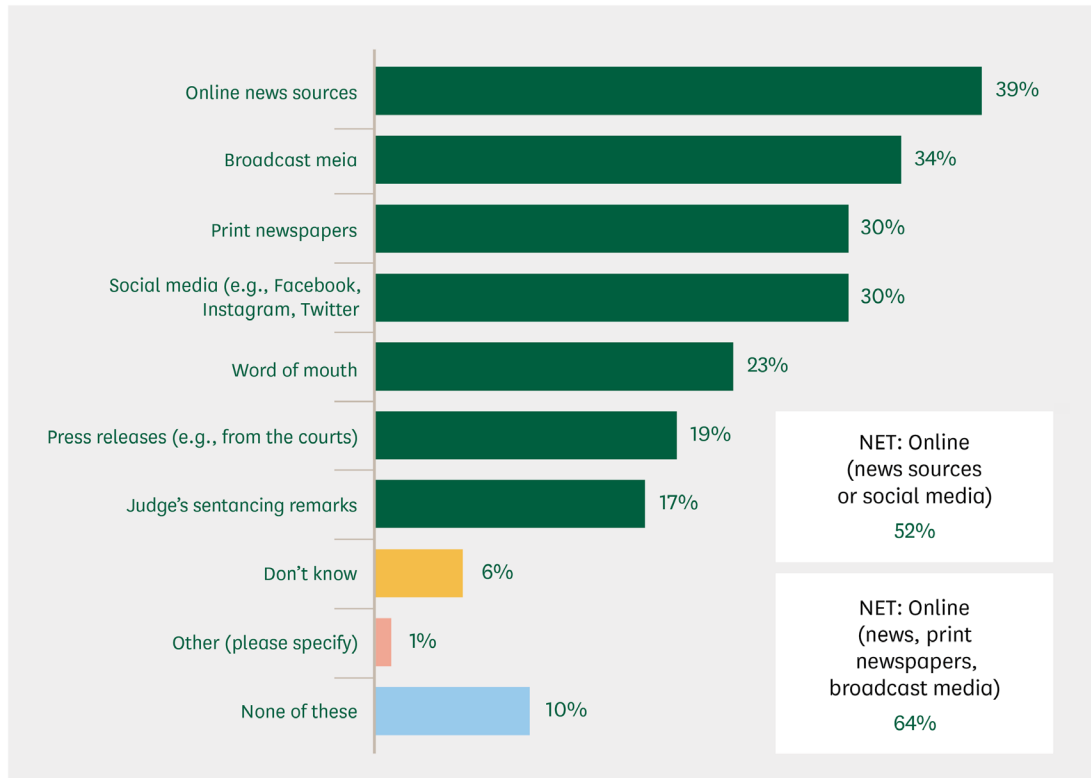
The role of the media

109. The media are the main source of information on sentencing for the public. Figure 14 below shows that 64% of respondents to our survey received information about sentencing through online news, print newspapers and broadcast media. Almost one third (30%) of respondents to our survey received information through social media. During our inquiry into open justice, we found that a decline in local news reporting may have had an effect on how the public finds out about the courts' approach to sentencing. As noted by the Howard League:¹⁷¹

the media landscape has changed in ways which further undermine public understanding [of sentencing]. The decline of the regional press means that fewer journalists are locally based and have the time and capacity to spend their time in courtrooms covering cases. Instead, local newspapers rely on press releases from prosecuting authorities and regurgitate sensational national stories.¹⁷²

171 Howard League for Penal Reform ([OUS0008](#))

172 Howard League for Penal Reform ([OUS0008](#))

Figure 14: Source of information on sentencing decisions

Source: Q3 In which of the following places, if any, do you receive information on the sentencing decision for someone who has committed a criminal offence? Public polling commissioned by the Justice Committee ([OUS0025](#))

110. The media focus on sentencing decisions reached in serious, high-profile cases, or sentences which are atypical in some way, is seen by many as a barrier to improving public understanding of sentencing. The Parole Board noted that “there is a limited appetite for information when the system is progressing as it should; but rather interest comes when there are occasional controversial decisions, or when a heinous crime is involved. Public awareness is driven by the cases in the news and that, by nature, is more focused on the high profile and more notorious cases”.¹⁷³ This means that information received by the public is not always representative of broader trends in sentencing policy and practice.¹⁷⁴ Furthermore, contextual information about sentencing practice is often absent from media reporting. For example, the Sentencing Council explained that media reports often focus on the sentence itself rather than the judicial decision-making processes that underpin it.¹⁷⁵

111. As we have outlined in this Report, sentencing is complex. It is therefore undoubtedly a challenge for the media to communicate information about sentencing in a way that is both accessible and comprehensive. However, evidence we received suggested that more could be done to prevent media reporting from further embedding common misunderstandings. For example, phrases such as ‘jailed for life’ in reporting on life sentences inadequately reflect how a life sentence works and can lead people to believe that an individual is guaranteed to spend the rest of their life in prison custody. Equally, the life

173 Parole Board for England and Wales ([OUS0005](#))

174 Sentencing Academy ([OUS0002](#))

175 Sentencing Council for England and Wales ([OUS0020](#))

licence aspect of the sentence is often unexplained.¹⁷⁶ In oral evidence, the Chairman of the Sentencing Council told us he found the phrase ‘walked free from court’ in reporting on community sentences particularly frustrating:¹⁷⁷

That person has not walked free; for the next two or three years, they have got to engage in quite a lot of work, which will be far beyond what they are used to. If it works, then it has genuine rehabilitative effect, and if it does not, then back they will come.

Our own search for newspaper articles which contained the headline “jailed for life” produced many examples which had the potential to mislead as the relevant life sentence was not a “whole life order”. A selection of examples is set out in Table 2 below:

Table 2: Selected newspaper stories with ‘jailed for life’ headline between July 2022- December 2022

Date	Newspaper	Headline	Minimum tariff
16.12.2022	The Independent	Lab worker who throttled and cut throat of female colleague jailed for life	23 years
15.12.2022	The Independent	Predator who murdered law graduate Zara jailed for life	38 years
14.12.2022	The Daily Telegraph	Mother jailed for life for stabbing her children	Unknown
2.12.2022	The Independent	Yoga teacher who stabbed her convicted killer lodger to death is jailed for life	20 years
12.11.2022	The Independent	The case that saw killer jailed for life almost 25 years after setting his partner on fire	15 years
28.10.2022	The Guardian	Burglar jailed for life after murdering 86-year-old woman in Derbyshire	34 years
20.8.2022	The Times	Wedding night murderer jailed for life	21 years

Source: Lexis and the Times

More recently, the BBC news website has also featured a number of stories featuring the headline ‘jailed for life’, a selection is set out in Table 3 below:

Table 3: Selected BBC news stories with ‘jailed for life’ headline in 2023

Date	Headline	Minimum tariff
18 May 2023	Khayri Mclean: Huddersfield teens jailed for life over schoolboy stabbing	18 years and 16 years
20 July 2023	Murderer of paedophile jailed for minimum 20 years	20 years

¹⁷⁶ Howard League for Penal Reform ([OJS0008](#)), Simon Scott, Doctoral Researcher, Centre for Crime, Offending, Punishment and Engagement, Nottingham Trent University ([OJS0006](#)), Sentencing Council for England and Wales ([OJS0020](#))

¹⁷⁷ [Q105](#)

Date	Headline	Minimum tariff
4 August 2023	Jacob Crouch: Stepfather jailed for life for 'brutal' baby murder	28 years

Source: BBC News website

112. **The use by major news outlets of the phrase “jailed for life” when they are not referring to a whole life order is an example of how media coverage risks perpetuating misunderstandings of the law on life sentences among the public. Reporting of sentencing that potentially inflates expectations of how long a person will serve in prison risks damaging public confidence. During our visit to Finland and the Netherlands, stakeholders stressed that the media’s self-restraint in commenting on sentencing contributed to a positive level positive level of cooperation between the judiciary and the media. *The Government should conduct a review of the terminology used in sentencing and should consider whether the terminology used for life sentences could be made more accessible to the public.***

113. Strengthening relationships between the courts and the media can lead to reporting which better develops public understanding. During our visit to Finland and the Netherlands, we heard about the role of ‘media’ or ‘press’ judges in engaging with the media on reports about sentencing. When we visited the Helsinki District Court, we heard that judges were encouraged to write their own press notices following the passing of a sentence to ‘take the news into their own hands’. Early reports on a sentence were often based upon the judge’s press notice and this ensured greater accuracy in initial media accounts of a sentencing decision. Judges did not write a press notice for every case; they focused on those that were unusual in some way. Furthermore, journalists were also able to share draft articles with media judges for advice. Media judges have been in place in Finland for ten years, and their introduction was influenced by a similar system in the Netherlands.¹⁷⁸

114. During our visit to the New Amsterdam Court House, we heard that press judges undertook their media duties in addition to their role as a judge. When a sentence is handed down, communication with the media is managed by a press judge rather than the sentencing judge. We heard that press judges were reactive to media and public interest in particular cases and that they regularly undertook television interviews.¹⁷⁹

115. Opportunities to engage with the media about sentencing need not be restricted to the reporting of an individual case. In its written submission, the Scottish Sentencing Council outlined how it had engaged with the media to improve public understanding of community sentences. The Council secretariat shared research with individual court reporters and news desk editors to raise awareness of the effect news reports and headlines can have on readers. The Council told us:¹⁸⁰

In response some reporters are explaining more fully the requirements of community sentencing and the reasons given by judges for their decisions. Some are also starting to depict a community sentence in a headline rather than rely on the more sensationalised ‘avoided jail’ approach.

178 Summary of the Justice Committee’s visit to Finland and the Netherlands, June 2023 ([OUS0026](#))

179 Summary of the Justice Committee’s visit to Finland and the Netherlands, June 2023 ([OUS0026](#))

180 Scottish Sentencing Council ([OUS0010](#))

116. *In order to improve the quality of information in the public domain on sentencing, the judiciary should consider whether the model of press judges, as used in Finland and the Netherlands, could be used. The changing nature of the media landscape means that there is a strong case for taking a more proactive approach to providing information to the public on judgments, including sentencing.*

117. *We would encourage the Ministry of Justice and the Sentencing Council to promote and disseminate the latest data and analysis on sentencing trends, including local data, to the media.*

Social media

118. As outlined earlier in this Chapter, many members of the public receive information about sentencing through social media content. In its written submission, the Howard League cautioned that “[s]ocial media in general, and Facebook in particular, are widely acknowledged to be an unreliable source of information and are unlikely to challenge public misconceptions about sentencing”.¹⁸¹ Indeed, participants in our public dialogue were sceptical of social media as a source of information, noting that it “provides a particularly limited picture as it shows attention-grabbing stories, due to the impact of social media algorithms, and friends being more likely to share these kinds of stories”.¹⁸²

119. In oral evidence, Steve Wade, Chief Executive of the Office of the Sentencing Council, set out the difficulty in monitoring information about sentencing on social media. He explained that there had been a recent increase in “hyper-local” social media networks in which people came together to share and discuss information about local incidents. He told us that:

[...] being able to try to come in and understand all the different ranges of information that people are accessing, how [the Sentencing Council] might be able to shape or influence some of them, and which are the ones where we might be able to get the biggest impact is one area that we definitely want to look at.¹⁸³

Mr Wade told us that “it is difficult to get your voice heard [on social media], particularly when you have limited resources”.¹⁸⁴ Currently, only three people work on public confidence and communications at the Sentencing Council, and accounting for their other duties this equates to about two full-time equivalent staff.¹⁸⁵

120. *The Sentencing Council should be provided with additional resource to expand its communications work across both traditional and social media.*

The importance of an open debate

121. Throughout this Report, the effect of public understanding of sentencing on confidence in the criminal justice system has been evident. Whether it be misconceptions about how particular sentences work in practice, or low awareness of sentencing guidelines,

181 Howard League for Penal Reform ([OJS0008](#))

182 Involve ([OJS0027](#))

183 [Q80](#)

184 [Q78](#)

185 [Q79](#)

misunderstandings of sentencing can influence beliefs that justice is not being fairly or adequately served. Efforts to improve access to information about sentencing and increase understanding would help to address this.¹⁸⁶

122. As well as improving the availability and accessibility of information about sentencing, evidence we received also stressed the need to refocus public discourse on sentencing. For example, a number of submissions advocated for information on the availability and effectiveness of non-custodial sentencing options to be better and more widely communicated.¹⁸⁷ During our public dialogue, reducing reoffending “was a key part of the discussion [on the aims of sentencing] across the meetings, even though it was a lower priority than public safety and victims for the groups”.¹⁸⁸ Some participants explained that reforming and rehabilitating offenders was important to avoid sentences being “a waste of time”. However, it was noted that “[t]he focus of rehabilitation was often on ‘less serious’ crimes such as shoplifting, with some less confident in rehabilitation for violent crimes”.¹⁸⁹

123. Whilst serious and violent offences make up the smallest proportion of sentences passed each year, sentencing for such offences understandably shapes public discourse. Chaired by The Right Reverent James Jones KBE, the Independent Commission into the Experience of Victims and Long-Term Prisoners (the Independent Commission) considered how effectively sentencing for serious offences is serving the five statutory aims of sentencing. Having gathered evidence from both victims and prisoners, it concluded that “the existing system serves neither well”.¹⁹⁰ It found that victims of crime and their families “feel overlooked, disregarded, neglected and marginalised by the criminal justice system—a justified complaint for which constantly longer sentences for offenders offers neither redress nor resolution”. Amongst prisoners, the Independent Commission identified concerns that the prison system is failing to deliver reform and rehabilitation.¹⁹¹ In his foreword to the report, Bishop James Jones noted that punishment and rehabilitation were “the two dominant polarities” of the sentencing debate. The Independent Commission sought to reconcile these aims of sentencing, and Bishop James Jones reflected that:

Society becomes a safer community when those who have done wrong come to see the error of their crimes and the full and true impact of their actions on those they have offended and determine to desist from their criminal behaviour. Those who have been offended against have a moral right to see that the offender is appropriately punished and that the offence is not repeated. Such a just hope is predicated on the reform of the offender.

Such a vision of justice depolarises retribution and rehabilitation and gives them equal emphasis in a unified view that serves both the offended and the offender.¹⁹²

186 See for example Howard League for Penal Reform ([OUS0008](#)), Transform Justice ([OUS0013](#)), Criminal Justice Alliance ([OUS0016](#)), Sentencing Council for England and Wales ([OUS0020](#))

187 See for example Howard League for Penal Reform ([OUS0008](#)), Transform Justice ([OUS0013](#)), The Traveller Movement ([OUS0015](#)), Criminal Justice Alliance ([OUS0016](#)),

188 Involve ([OUS0027](#))

189 Ibid

190 Independent Commission into the Experience of Victims and Long-Term Prisoners, [Making Sense of sentencing: Doing justice to both victim and prisoner](#), June 2022, p4

191 Ibid

192 Independent Commission into the Experience of Victims and Long-Term Prisoners, [Making Sense of sentencing: Doing justice to both victim and prisoner](#), June 2022, p3

124. The Independent Commission’s principal recommendation was that a new national debate is needed on sentencing for serious crimes: one which considers the content of a sentence as well as its length, and how such sentences meet the aims of sentencing. In oral evidence, The Right Reverend James Jones KBE explained:

What needs to happen is that when the public express a view of moral outrage, which they are right to do, and the victim is right to do, we need to stand back and say, “Okay, we send them to prison, but in prison what do we do?” That is why we need to balance the length of a sentence with the content of a sentence.¹⁹³

Joint Secretary to the Independent Commission, Mark Day, added that currently, public debate on sentencing was characterised by “periods of calm” and “periods when the political rhetoric escalates and sentencing ratchets up”.¹⁹⁴ He told us that an opportunity to take a step back was needed. In oral evidence, the Minister for Victims and Sentencing noted the increase in average sentence lengths for serious offences. He told us:

The starting point has to be us being clearer about what has happened [with sentence lengths] over the past 10 or 20 years. [...] we need to do more collectively to have an informed debate on this subject. [...] There is a role we all have in participating in that debate and engaging as politicians with our constituents but also more broadly societally.¹⁹⁵

125. It is important to remember that sentencing forms part of a broader criminal justice system, and policy decisions on sentencing therefore have direct implications for that wider system. In its submission, the Prison Reform Trust highlighted a 2017 study it published which suggested that changes to sentencing introduced in the Criminal Justice Act 2003 had added 16,000 prisoners to the prison population over the following 14 years.¹⁹⁶ The Government’s most recent Spending Review settlement in 2021 provided “£3.8 billion of investment across England and Wales over three years to deliver 20,000 additional prison places by the mid-2020s”.¹⁹⁷ Earlier this year, the Ministry of Justice published prison population projections which estimated that the prison population will increase to a range of 93,100 to 106,300 by March 2027. The prison population as at 30 June 2023 was 85,851.¹⁹⁸ Factors considered as part of this long-term increase include the recruitment of more police officers and changes in sentencing policy which will keep serious offenders in prison for longer.¹⁹⁹

126. The prison population appears to be rising faster than the rate at which additional prison places are being provided. On 30 November 2022, the Minister for Prisons and Probation, Rt Hon Damian Hinds MP, made a statement informing the House of Commons that, owing to pressures on prison capacity, the Government had requested the temporary use of up to 400 police cells.²⁰⁰ Pressures on prison capacity are further compounded by difficulties in recruiting and retaining prison staff. Our recent inquiry into the prison

193 [Q21](#)

194 [Q40](#)

195 [Q125](#)

196 Prison Reform Trust (OUS)

197 [Autumn Budget and Spending Review 2021](#), 27 October 2021

198 Ministry of Justice, Offender Management statistics quarterly: January to March 2023, [Prison Population: 30 June 2023](#), Table 1.1, 27 July 2023

199 Ministry of Justice, [Prison population projections: 2022 to 2027](#), 23 February 2023

200 HC Deb, 30 November 2022, [Cols 914–915](#) [Commons Chamber]

operational workforce has highlighted that staffing issues are having a negative effect on the prison system's ability to rehabilitate offenders. Dame Anne Owers, National Chair of the Independent Monitoring Boards, told us that staffing issues had overtaken Covid as the main obstacle to providing rehabilitative prison regimes.²⁰¹

127. The Justice Committee has previously expressed the need to consider and make clear the effect on prison resources of proposed changes to sentencing law. In its 2019 Report, *Prison Population 2022: planning for the future*, our predecessor Committee found that “addressing the crisis in the sustainability of our prisons calls for a serious open public debate about the criminal justice system, the role that prison can and cannot play, and its affordability”. It called for greater transparency to “to enable the public and others to understand the true costs and the challenging and testing nature of decisions which need to be made about public spending on prisons and other aspects of criminal justice.”²⁰²

128. We agree with Bishop James Jones’ submission to this inquiry on behalf of the Independent Commission into the experience of victims and long-term Prisoners that there is a need for national debate on sentencing. This inquiry has highlighted that the public debate on sentencing is stuck in a dysfunctional and reactive cycle.

129. The quality of public discourse on sentencing must be improved so as to enable greater public knowledge and understanding of current sentencing practice, of evidence on the effectiveness of different sentencing options, and the resource implications of sentences. It is incumbent on us all to play a role in shaping a more constructive debate and to seek consensus on the issues.

130. It is also important that Government and Parliament understand where there may be genuine and sustained gaps between sentencing policy and public opinion. Whilst more difficult to measure and more subjective, whether an offender is suitably punished is an important factor when considering the effectiveness of sentencing policy. Those gaps can be used to inform the development of sentencing policy. However, it is important to stress that sentencing in individual cases is a matter for the judiciary. Judges make their decisions based on the statutory framework set by Parliament, and the structure dictated by sentencing guidelines.

131. This Government, and its successors, need to think carefully about how to engage with public opinion on sentencing. There are important choices to be made about how to ascertain public opinion and the extent to which policy should be responsive to public pressure. In our view, the Government should seek to actively engage the public on sentencing policy but should do so in a structured and methodologically rigorous fashion. It should ensure that both traditional polling and deliberative methods are used, and that exercises occur at regular intervals. Finally, policy proposals on sentencing should be subject to independent evaluation, so that the resourcing implications are evaluated before they are enacted.

201 [Q145](#)

202 Justice Committee, Sixteenth Report of Session 2017–19, [Prison Population 2022: planning for the future](#), HC 483, para 264

Conclusions and recommendations

Public understanding of sentencing

1. Beyond the role of the courts in imposing a sentence, the public does not have a good understanding of the role played by different state institutions in sentencing. That is unsurprising because the role played by government, Parliament, the Sentencing Council and the judiciary in sentencing involves a delicate balance of responsibilities, which are not easy to explain. Further, most of the public obtain information from the media about sentencing through reporting on individual cases, and such stories do not often provide information on the policies and responsibilities that lie behind individual sentencing decisions. The problem with this situation is that it creates an accountability gap, as it is unclear to the public which elements of sentencing the Government is responsible for. (Paragraph 21)
2. We welcome the Sentencing Academy's work reviewing the terminology of sentencing and we look forward to its findings. We encourage the Government to work with Sentencing Council and the judiciary to explore whether sentencing terminology can be simplified and made more accessible. The example set by the judiciary in the Netherlands and their project 'plain language' provides a useful model of how this could be done. (Paragraph 30)
3. It is concerning that much of the public is not aware of recent trends in sentence lengths. It means that the public is not able to consider individual sentences within a wider context. Low levels of understanding of sentencing has an effect on the quality of public debate on sentencing, which in turn can have an influence on sentencing policy. (Paragraph 36)
4. *There needs to be a step-change in the Ministry of Justice, the Attorney General's Office and the Sentencing Council's efforts on public legal education. HMCTS should develop a programme which enables secondary school pupils to be able to visit magistrates' courts and Crown Courts to find out about the criminal justice system and sentencing. Education about criminal justice procedure, including sentencing policy and practice, should be incorporated into the National Curriculum for Citizenship Education. The Sentencing Council should look into producing a Massive Open Online Course (MOOC) on sentencing that could enable members of the public to learn about how sentencing works in England and Wales. Resources on sentencing and criminal justice could also be added to the Oak National Academy Online teaching resources. The Ministry of Justice and the Sentencing Council should consider producing a standalone public-facing website dedicated to providing the public with up-to date information on sentencing trends in England and Wales.* (Paragraph 37)
5. It is vital that the public has access to current data on sentencing practice so individual cases can be understood in their broader context. *The MoJ should review its statistical releases on sentencing to ensure that they are presented in a format that is easily accessible and relevant to members of the public. Statistical releases should be accompanied by analysis and commentary. The MoJ should also revive the digest of criminal justice statistics and ensure that this reflects trends in sentencing and issues subject to public debate.* (Paragraph 42)

6. *The Sentencing Council should provide independent and impartial analysis on significant trends in sentencing to inform public debate and government policy. (Paragraph 43)*
7. There is currently a significant gap in the public information on sentencing. The criminal justice system quarterly statistics provide information on sentencing, but there remains a need for more easily accessible data on sentencing trends, especially on sentencing for specific offences and in specific areas. At present the public debate on sentencing focuses almost exclusively on individual cases and we believe that better analytical information could help to redress this imbalance. (Paragraph 47)
8. *The Crown Court Sentencing Survey provided a rich dataset on how sentences are determined. It should be possible to use the Common Platform, the new case information system used in the criminal justice system, to produce a valuable dataset on sentencing without imposing additional burdens on the courts and the Sentencing Council. The Ministry of Justice, HMCTS and the Sentencing Council should explore how the Common Platform can be used to produce useful sentencing data that can be presented in a way that is accessible to the public. (Paragraph 48)*
9. Data on sentencing in individual courts will help the public to understand sentencing trends in their local area and is likely to help to stimulate local media interest and reporting. *The Sentencing Council and the Ministry of Justice should work together to ensure that the statutory duty to publish information on sentencing in individual courts is fulfilled. We would ask that the Ministry of Justice and the Sentencing Council provide an update on what progress has been made on fulfilling this duty six months after the publication of this report. (Paragraph 50)*
10. The broadcasting of sentencing remarks represents a potential game-changer for public understanding of sentencing in England and Wales. However, it also reinforces the need for up-to-date statistical information on sentencing practice and trends so that the sentencing remarks that are being broadcast can be understood in their proper context. (Paragraph 52)
11. The current situation where victims have to pay significant sums to receive a transcript of sentencing remarks from the Crown Court is unsustainable. *We reiterate our call for all sentencing remarks to be published (subject to the relevant legal restrictions). As a minimum, victims of crime and bereaved families should have ready and free access to sentencing remarks. It should be possible to use voice recording technology to ensure that remarks are recorded at minimal cost. The Victims' Code should include a right for victims of crime to be provided with the sentencing remarks of the judge without charge. (Paragraph 58)*
12. *The Victims' Code sets out that victims of crime are entitled to be given information about the outcome of the case and any appeals. The Government should ensure that victims of crime and bereaved families receive tailored information about sentencing during the court process. The Government should amend the Victims' Code to make clear that victims be entitled to ready access to information about how sentences are determined for offences relevant to the victim's case, including average sentence lengths. When a sentence is handed down, victims should have ready access to information about how the sentence works. The Government should ensure that where they are*

eligible, victims of crime and bereaved families should automatically be referred to accurate and clear information about the Unduly Lenient Sentence scheme in a timely fashion. The information should make clear the deadline for making an application under the scheme. These changes should be made before the Victims and Prisoners Bill receives Royal Assent. (Paragraph 65)

13. *It is important that offenders understand the sentence they are to serve. Offenders should have ready access to information about the sentencing process, including information about pre-sentence reports at the earliest possible stage. Following sentencing, they should have ready access to information about what their sentence will look like in practice. Offenders, including child defendants, should be given a hard copy of their sentencing remarks. We look forward to the outcome of the pre-sentence reports pilots and encourage the Government to increase the proportion of cases that have access to pre-sentence reports. (Paragraph 71)*

Public opinion of sentencing

14. Research on the public's views on sentencing can play a valuable role in the policy process. However, it must be recognised that ascertaining and measuring public opinion is very difficult to do. Unless research is well-designed and methodologically rigorous then the results are almost certain to be flawed. Any general assessments of the public's view of sentencing policy across all offences should be balanced against analysis and engagement of public opinion and understanding which, where possible, focuses on specific offences or offence types. (Paragraph 80)
15. *Given the potential importance of public opinion in influencing sentencing policy, the Government should consider adopting a structured engagement plan to gather information on the public's views on sentencing. Whilst we recognise the value of public polling exercises, we recommend caution be exercised in relying exclusively on the findings of ad hoc polls as an evidence base for sentencing policy decisions. The MoJ should conduct regular, structured, deliberative engagement exercises with members of the public as part of its policy development process. The Sentencing Council should also consider whether it could use structured deliberative engagement exercises as part of its public engagement work and as part of its consultations on draft guidelines, including a full range of offending scenarios, such as violent and sexual offending, if relevant. (Paragraph 81)*
16. Findings from the Committee's engagement with the public demonstrate how important it is for the MoJ to undertake more work of this nature and to incorporate findings into its policy development. *The Government should review the statutory purposes of sentencing to consider whether greater emphasis should be placed on achieving justice for the victims of crime and their families. (Paragraph 85)*
17. Our polling on the public's view on the appropriate starting points for specific offences suggests that a majority would support increases in the severity of the relevant custodial sentences. This position is also supported by much of the research into public opinion cited in the evidence submitted to this inquiry. This potential gap between public opinion on sentencing and actual practice indicated by the evidence we received highlights the need for in-depth analysis of the public's view of sentencing policy for particular offences. (Paragraph 87)

18. Under the Coroners and Justice Act 2009, the Lord Chancellor can refer a government policy proposal, or a government proposal for legislation, to the Sentencing Council for an assessment of the implications for prison resources. In practice, there has only been one request made under this power by a Lord Chancellor, and the Council does not believe it is well placed to undertake such assessments. The Ministry of Justice does carry out its own impact assessments, but these are not independent. The result is that at present there is a lack of independent scrutiny of sentencing policy proposals, and in particular analysis of their downstream impact on resources. (Paragraph 94)
19. *The MoJ should establish an independent advisory panel on sentencing to consider proposed changes to sentencing policy and to provide advice to ministers. The independent panel should bring together academic experts, the voluntary sector, and, importantly, representatives of victims of crime and their families. It is vital for the legitimacy of the independent panel that it should contain a diversity of opinion and a range of perspectives on sentencing. The panel should also conduct structured public engagement as part of its work. Its findings and advice should be publicly available. The MoJ should also instruct the independent advisory panel to conduct regular reviews of the statutory minimum and maximum tariffs for sentences to determine whether sentences are proportionate and consistent across different types of offence.* (Paragraph 95)
20. At present, the public consultations conducted by the Sentencing Council on changes to guidelines represent one of the principal means by which the public can engage with the sentencing process. The Council does valuable work in engaging stakeholders in their consultations. However, their limited resources mean the Council only receives a small number of submissions from the public. (Paragraph 99)
21. *The Sentencing Council should be empowered to do more to encourage public engagement with its consultations on draft guidelines. For example, it should explore whether it could use the approach of using online questionnaires adopted by the Sentencing Guidelines Commission in the Netherlands to encourage more responses from the public to their consultations. Online questionnaires would appear to be a more accessible form of engagement than a simple call for written evidence. We would also recommend that any expansion in the scale of public engagement also includes the use of deliberative engagement tools similar to the public dialogue used as part of this inquiry.* (Paragraph 100)

Public understanding of sentencing and public confidence in the criminal justice system

22. The relationship between public understanding of sentencing and public confidence in the criminal justice system is far from straightforward. Simplistic causal claims should be avoided. Our overall conclusion is that everyone involved in, or responsible for, the criminal justice system needs to take the duty to ensure public confidence extremely seriously. Politicians from all parties must ensure that public commentary on the criminal justice system does not contribute to misunderstandings that can damage public confidence. In terms of public policy, stripping away unnecessary complexity in sentencing must also be prioritised to facilitate improved public

debate. Improvements to open justice, such as the broadcasting of sentencing remarks, need to be built upon, including through some of the recommendations outlined in this report. Even if it is not possible to say that direct contact with, or information about, the criminal justice system will necessarily lead to improved confidence, it is undoubtedly a public good to encourage more of the public to know about the justice which is done in their name. (Paragraph 107)

23. In relation to the current challenge to public confidence based on the persistence of the view among the public that the system is not severe enough, it is important to recognise that this represents a significant long-term public policy challenge that needs to be addressed. Our own polling indicates that the majority of the public support further increases to the severity of sentences for the gravest criminal offences. We should not assume that these views are based on mistaken assumptions or lack of knowledge of current sentencing practice. It is vital that policymakers adopt a consistent and principled response to maintaining public confidence in response to the challenge of the public's position on sentencing severity. This should be informed by an attempt to understand what the public's expectations are. (Paragraph 108)
24. The use by major news outlets of the phrase "jailed for life" when they are not referring to a whole life order is an example of how media coverage risks perpetuating misunderstandings of the law on life sentences among the public. Reporting of sentencing that potentially inflates expectations of how long a person will serve in prison risks damaging public confidence. During our visit to Finland and the Netherlands, stakeholders stressed that the media's self-restraint in commenting on sentencing contributed to a positive level of cooperation between the judiciary and the media. *The Government should conduct a review of the terminology used in sentencing and should consider whether the terminology used for life sentences could be made more accessible to the public.* (Paragraph 112)
25. *In order to improve the quality of information in the public domain on sentencing, the judiciary should consider whether the model of press judges, as used in Finland and the Netherlands, could be used. The changing nature of the media landscape means that there is a strong case for taking a more proactive approach to providing information to the public on judgments, including sentencing.* (Paragraph 116)
26. *We would encourage the Ministry of Justice and the Sentencing Council to promote and disseminate the latest data and analysis on sentencing trends, including local data, to the media.* (Paragraph 117)
27. *The Sentencing Council should be provided with additional resource to expand its communications work across both traditional and social media.* (Paragraph 120)
28. We agree with Bishop James Jones' submission to this inquiry on behalf of the Independent Commission into the experience of victims and long-term Prisoners that there is a need for national debate on sentencing. This inquiry has highlighted that the public debate on sentencing is stuck in a dysfunctional and reactive cycle. (Paragraph 128)
29. The quality of public discourse on sentencing must be improved so as to enable greater public knowledge and understanding of current sentencing practice, of

evidence on the effectiveness of different sentencing options, and the resource implications of sentences. It is incumbent on us all to play a role in shaping a more constructive debate and to seek consensus on the issues. (Paragraph 129)

30. It is also important that Government and Parliament understand where there may be genuine and sustained gaps between sentencing policy and public opinion. Whilst more difficult to measure and more subjective, whether an offender is suitably punished is an important factor when considering the effectiveness of sentencing policy. Those gaps can be used to inform the development of sentencing policy. However, it is important to stress that sentencing in individual cases is a matter for the judiciary. Judges make their decisions based on the statutory framework set by Parliament, and the structure dictated by sentencing guidelines. (Paragraph 130)
31. *This Government, and its successors, need to think carefully about how to engage with public opinion on sentencing. There are important choices to be made about how to ascertain public opinion and the extent to which policy should be responsive to public pressure. In our view, the Government should seek to actively engage the public on sentencing policy but should do so in a structured and methodologically rigorous fashion. It should ensure that both traditional polling and deliberative methods are used, and that exercises occur at regular intervals. Finally, policy proposals on sentencing should be subject to independent evaluation, so that the resourcing implications are evaluated before they are enacted.* (Paragraph 131)

Formal minutes

Members present

Sir Robert Neill, in the Chair

Dr Kieran Mullan

Edward Timpson

Public opinion and understanding of sentencing

Draft Report (*Public opinion and understanding of sentencing*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 131 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Tenth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoes copies of the Report be made available (Standing Order no.134).

Adjournment

Adjourned till Tuesday 24 October 2023 at 2.00 pm.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 29 November 2022

Mark Day, Joint Secretary, Independent Commission into the Experience of Victims and Long-term Prisoners; **Bishop James Jones KBE**, Chair, Independent Commission into the Experience of Victims and Long-term Prisoners; **Professor Mike Hough**, Emeritus Professor, School of Law, Birkbeck, University of London; **Professor Julian Roberts**, Executive Director, Sentencing Academy; **Claire Waxman OBE**, Victims' Commissioner for London

[Q1-73](#)

Tuesday 13 December 2022

Steve Wade, Chief Executive, Sentencing Council for England and Wales; **Lord Justice William Davis**, Chairman, Sentencing Council for England and Wales

[Q74-117](#)

Rt Hon Edward Argar MP, Minister of State for Justice, Ministry of Justice; **Claire Fielder**, Director of Youth Justice and Offender Policy, Ministry of Justice

[Q118-149](#)

Tuesday 7 March 2023 (HC 1188)

Professor Andrew Ashworth CBE KC (Hon), Emeritus Vinerian Professor of English Law, Faculty of Law, University of Oxford; **Dr Rory Kelly**, Lecturer in Criminal Evidence and Criminal Law, Faculty of Laws, UCL; **Professor Mandeep Dhami**, Professor in Decision Psychology, Middlesex University

[Q1-39](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

OUS numbers are generated by the evidence processing system and so may not be complete.

- 1 Centre for Justice Innovation ([OUS0007](#))
- 2 Centre for Public Data ([OUS0019](#))
- 3 Clinks ([OUS0017](#))
- 4 Criminal Justice Alliance ([OUS0016](#))
- 5 Feilzer, Professor Martina Y (Bangor University) ([OUS0012](#))
- 6 Hollingsworth, Professor Kathryn ([OUS0023](#))
- 7 Howard League for Penal Reform ([OUS0008](#))
- 8 Independent Commission into the Experience of Victims and Long-term Prisoners ([OUS0003](#))
- 9 Involve ([OUS0027](#))
- 10 Kelly, Dr Rory (UCL Faculty of Laws) ([OUS0024](#))
- 11 Lowenstein, Dr Max ([OUS0001](#))
- 12 Ministry of Justice ([OUS0021](#))
- 13 Olatokun, Mr Abiodun ([OUS0018](#))
- 14 Parole Board for England & Wales ([OUS0005](#))
- 15 Prison Reform Trust ([OUS0014](#))
- 16 Public polling commissioned by the Justice Committee ([OUS0025](#))
- 17 Revolving Doors ([OUS0011](#))
- 18 Scott, Mr Simon ([OUS0006](#))
- 19 Scottish Sentencing Council ([OUS0010](#))
- 20 Sentencing Academy ([OUS0002](#))
- 21 Sentencing Council for England and Wales ([OUS0020](#))
- 22 Summary of the Justice Committee's visit to Finland and the Netherlands (June 2023) ([OUS0026](#))
- 23 The Traveller Movement ([OUS0015](#))
- 24 Transform Justice ([OUS0013](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2022–23

Number	Title	Reference
1st	Women in Prison	HC 265
2nd	Pre-legislative scrutiny of the draft Victims Bill	HC 304
3rd	IPP sentences	HC 266
4th	Fraud and the Justice System	HC 12
5th	Open justice: court reporting in the digital age	HC 339
6th	Appointment of the Chair of the Judicial Appointments Commission	HC 925
7th	The role of adult custodial remand in the criminal justice system	HC 264
8th	Appointment of the Prisons and Probation Ombudsman	HC 926
1st Special	Court capacity: Government Response to the Committee's Sixth Report of Session 2021–22	HC 548
2nd Special	Covid-19 and the criminal law: Government Response to the Committee's Fourth Report of Session 2021–22	HC 644
3rd Special	The Future of Legal Aid: Updated Government Response to the Committee's Third Report of Session 2021–22	HC 698
4th Special	Women in Prison: Government Response to the Committee's First Report	HC 802
5th Special	Bailiffs: Enforcement of debt: Government Response to the Committee's Seventeenth Report of Session 2017–2019	HC 979
6th Special	Fraud and the Justice System: Government Response to the Committee's Fourth Report of Session 2022–23	HC 1020
7th Special	Open justice: court reporting in the digital age: Government Response to the Committee's Fifth Report of Session 2022–23	HC 1040
8th Special	Pre-legislative scrutiny of the draft Victims Bill: Government Response to the Committee's Second Report	HC 932
9th	IPP sentences: Government and Parole Board Responses to the Committee's Third Report	HC 933
10th	The role of adult custodial remand in the criminal justice system: Government Response to the Committee's Seventh Report	HC 1244

Session 2021–22

Number	Title	Reference
1st	The Coroner Service	HC 68
2nd	Rainsbrook Secure Training Centre	HC 247
3rd	The Future of Legal Aid	HC 70
4th	Covid-19 and the criminal law	HC 71
5th	Mental health in prison	HC 72
6th	Court capacity	HC 69
1st Special	The future of the Probation Service: Government Response to the Committee's 18th Report of 2019–21	HC 475
2nd Special	Rainsbrook Secure Training Centre: Government Response to the Committee's Second Report of 2021–22	HC 565
3rd Special	The Coroner Service: Government Response to the Committee's First Report	HC 675
4th Special	The Future of Legal Aid: Government Response to the Committee's Third Report	HC 843
5th Special	Mental health in prison: Government Response to the Committee's Fifth Report	HC 1117

Session 2019–21

Number	Title	Reference
1st	Appointment of Chair of the Office for Legal Complaints	HC 224
2nd	Sentencing Council consultation on changes to magistrates' court sentencing guidelines	HC 460
3rd	Coronavirus (COVID-19): The impact on probation services	HC 461
4th	Coronavirus (Covid-19): The impact on prisons	HC 299
5th	Ageing prison population	HC 304
6th	Coronavirus (COVID-19): The impact on courts	HC 519
7th	Coronavirus (COVID-19): the impact on the legal professions in England and Wales	HC 520
8th	Appointment of HM Chief Inspector of Prisons	HC 750
9th	Private prosecutions: safeguards	HC 497
10th	Sentencing Council consultation on sentencing guidelines for firearms offences	HC 827
11th	Sentencing Council consultation on the assault offences guideline	HC 921
12th	Children and Young People in Custody (Part 1): Entry into the youth justice system	HC 306
13th	Sentencing Council: Changes to the drugs offences definitive guideline	HC 751

Number	Title	Reference
14th	Appointment of the Chair of the Independent Monitoring Authority	HC 954
15th	Appointment of the Chief Inspector of the Crown Prosecution Service	HC 955
16th	Children and young people in custody	HC 922
17th	Rainsbrook Secure Training Centre	HC 1266
18th	The future of the Probation Service	HC 285
1st Special	Prison Governance: Government Response to the Committee's First Report of Session 2019	HC 150
2nd Special	Court and Tribunal Reforms: Government Response to the Committee's Second Report of Session 2019	HC 151
3rd Special	Transforming Rehabilitation: Followup: Government Response to the Committee's Nineteenth Report of Session 2017–19	HC 152
4th Special	Coronavirus (COVID-19): The impact on probation systems: Government Response to the Committee's Third Report	HC 826
5th Special	Coronavirus (Covid 19): The impact on the legal professions in England and Wales: Government Response to the Committee's Seventh Report	HC 898
6th Special	Ageing prison population: Government Response to the Committee's Fifth Report	HC 976
7th Special	Court and Tribunal reforms: Further Government response to the Committee's Second Report of Session 2019 and Coronavirus (Covid-19): The impact on courts: Government response to the Committee's Sixth Report of Session 2019–21	HC 1008
8th Special	Coronavirus (Covid-19): The impact on prisons: Government Response to the Committee's Fourth Report of Session 2019–21	HC 1065
9th Special	Children and Young People in Custody (Part 1): Entry into the youth justice system: Government Response to Committee's Twelfth Report of Session 2019–21	HC 1185
10th Special	Private prosecutions: safeguards: Government Response to the Committee's Ninth Report	HC 1238
11th Special	Children and Young People in Custody (Part 2): The Youth Secure Estate and Resettlement: Government Response to the Committee's Sixteenth Report of Session 2019–21	HC 1357