



## Justice Committee

**The Rt. Hon. David Gauke**  
**Chair of Independent**  
**Sentencing Review**

By email only

10 December 2024

Dear David,

### **INDEPENDENT SENTENCING REVIEW**

Thank you for your letter inviting a submission to the Independent Sentencing Review and confirming the composition of the Review's Panel. The Committee welcomes the establishment of the Review. We are pleased to see that the Review has appointed such an esteemed panel of experts on sentencing, some of whom have appeared before the Committee on several occasions.

In terms of the Committee's submission to the Review, we wish to draw attention to the evidence gathered and recommendations made by the previous Committee as part of its inquiry on public opinion and understanding of sentencing, which reported in October 2023.<sup>1</sup> The Report was informed by a significant amount of public engagement, including: a deliberative engagement exercise in the format of a public dialogue run by Involve, the public participation charity, and Savanta to carry out a public polling exercise.<sup>2</sup> We would encourage you to use the results of those engagements exercise and if possible to explore the possibility of carrying out similar exercises as part of your review.

The report was also informed by the Committee's role as a statutory consultee of Sentencing Council draft guidelines. The Committee greatly values its relationship with the Sentencing Council. We would also like to highlight the Committee's contributions to the Council's consultations for the Totality and Imposition Guidelines in the last Parliament, which were both facilitated by the Council's proactive and collaborative approach to working with the Committee.<sup>3</sup>

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<sup>1</sup> Justice Committee, [Public opinion and understanding of sentencing](#), Tenth Report of the Session 2022-23, HC 305, 25 October 2023

<sup>2</sup> Public polling commissioned by the Justice Committee ([OUS0025](#)); Involve ([OUS0027](#)).

<sup>3</sup> [Letter from the Chair of the Justice Committee to the Chair of the Sentencing Council regarding the draft Totality guideline](#), 14 March 2023; [Letter from the Chair of the Justice Committee to the Chair of the Sentencing Council regarding the draft Imposition of community and custodial sentences guideline](#), 28 March 2024



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### Public opinion and understanding of sentencing

The Committee's report is particularly relevant to Theme 1, History and trends in sentencing, and Theme 2, Structures, as set out in the Review's call for evidence. The Committee's report highlighted a number of concerns with the current policy process on sentencing. The Committee commissioned polling that highlighted that "the public does not have a good understanding of the role played by different state institutions in sentencing".<sup>4</sup> For example, the polling found that 22% of those surveyed knew that Parliament was responsible for setting the maximum sentence in law for a criminal offence.<sup>5</sup> The Committee concluded that this was in part explained by the particular complexities of the institutional roles played by Government, Parliament, the Sentencing Council and the judiciary in sentencing policy.<sup>6</sup>

The Committee's report also highlighted concerns over the way in which public opinion currently influences sentencing policy, concluding that "the public debate on sentencing is stuck in a dysfunctional and reactive cycle".<sup>7</sup> The report documented how successful campaigns in recent years have led to Parliament increasing the statutory maximum for certain offences.<sup>8</sup> This pattern has led to some unintended consequences, as documented by the Howard League's report "Sentence inflation: a judicial critique".<sup>9</sup> The report, which was authored by Lord Woolf, Lord Phillips of Worth Matravers, Lord Thomas of Cwmgiedd, Lord Burnett of Maldon and Sir Brian Leveson, set out that "this type of legislation interferes with good sentencing practice" and that it leads to sentence inflation.<sup>10</sup>

The Committee's report identified that there is no systemic mechanism for engaging with public opinion on sentencing, and recommended that the Government adopt a "structured engagement plan to gather information on the public's views on sentencing".<sup>11</sup> Structured deliberative engagement exercises, of the type that the Committee commissioned as part of its inquiry, can play an important part in this public engagement work. The report also identified, through the Committee's own polling, that there are areas where there continues to be a gap between the public's views on the appropriate sentence and current sentencing practice. But rather than simply reacting to responses to individual cases, the Committee recommended that

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<sup>4</sup> *Op. cit.* para 21

<sup>5</sup> *Op. cit.* para 17

<sup>6</sup> *Op. cit.* para 21

<sup>7</sup> *Op. cit.* para 128

<sup>8</sup> *Op. cit.* table 1 pages 8-9

<sup>9</sup> Sentence inflation: a judicial critique, Howard League for Penal Reform, 6 October 2024

<sup>10</sup> *Ibid.* page 11

<sup>11</sup> *Op. cit.* para 81



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Government undertake in-depth analysis of the public's view of sentencing policy for particular offences.<sup>12</sup>

The Committee's report also highlighted that the current institutional framework does not provide scrutiny of government proposals on sentencing.<sup>13</sup> The Sentencing Council is not able to provide this scrutiny function. The Committee recommended that the Ministry of Justice should establish an independent advisory panel on sentencing to consider proposed changes to sentencing policy, to provide independent advice to ministers and to inform public debate.<sup>14</sup> It is vital that parliamentarians and the public should have access to independent analysis of the effect of sentencing policy proposals, both in terms of resources for prisons and probation but also in terms of potential effects on sentences for other offences. We recognise that the Review is operating to a challenging timetable, but we would recommend that it considers whether institutional changes, such as the establishment of an independent panel, could provide a mechanism that could operate in the long term to inform and scrutinise policy proposals from Government on sentencing.

A further area which the Committee's report highlighted was the language of sentencing. The Committee noted that much of the current terminology is complex and can lead to confusion.<sup>15</sup> Sentencing is particularly important to public confidence in the justice system, and this means that misunderstandings can lead to distrust. For example, Dr Rory Kelly told the Committee that "the present terminology inflates the severity of determinate sentences".<sup>16</sup> The Government's early release scheme, SDS40, also reinforces this point and gives rise to a disconnect between what is communicated as the sentence and the length of the custodial term. Life sentences are another example which highlight the confusion created by the current terminology, with respected media outlets regularly using the headline "jailed for life" even when a defendant has not received a Whole Life Order.<sup>17</sup> The Report highlighted the example of the Netherlands, where their judiciary established a "plain language" project to make their work more accessible to the public.<sup>18</sup>

The Review's call for evidence makes reference to the value of international examples. The Committee published a [summary](#) of its visit to Finland and Netherlands on our website, and it captures some of the insights gathered from meetings with leading experts, judges and civil servants on sentencing and we

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<sup>12</sup> *Op. cit.* paras 87 and 130

<sup>13</sup> *Op. cit.* para 94

<sup>14</sup> *Op. cit.* para 95

<sup>15</sup> *Op. cit.* para 30

<sup>16</sup> *Op. cit.* para 24

<sup>17</sup> *Op. cit.* para 111

<sup>18</sup> *Op. cit.* para 29



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would be happy to place the Review team in contact with any of those mentioned if required.<sup>19</sup>

We look forward to working with you and the Review in the coming months and we wish you every success with your work.

Yours sincerely,

A handwritten signature in black ink that reads "Andy Slaughter". The signature is fluid and cursive, with a long horizontal stroke at the bottom.

**Andy Slaughter MP**  
**Chair, Justice Committee**

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<sup>19</sup> [Summary of the Justice Committee's visit to Finland and the Netherlands, June 2023 \(OUS0026\)](#)