



Ministry  
of Justice

**Sir Nic Dakin MP**  
Parliamentary Under-Secretary  
of State for Justice

Lord Alton of Liverpool  
Chair, Joint Committee on Human Rights  
House of Commons  
London  
SW1A 0AA

**MoJ ref:** SUB123353

24 April 2025

Dear Lord Alton,

### **SENTENCING GUIDELINES (PRE-SENTENCE REPORTS) BILL**

Thank you for your letter of 8 April regarding the Sentencing Guidelines (Pre-sentence Reports) Bill. I have set out below your questions and my responses.

#### **Application to existing guidelines**

***The Bill states that “sentencing guidelines about pre-sentence reports may not include provision...”. Is the intention that this prohibition would affect only guidelines yet to be formally issued, or will it also apply to existing guidelines?***

The Bill operates on section 120 of the Coroners and Justice Act 2009 to limit the power of the Sentencing Council to issue sentencing guidelines about requests for pre-sentence reports (PSRs). Once the Bill is in force, any provision in sentencing guidelines that is of the description in the new subsection (4A) will cease to be lawful and so cease to have effect. I can therefore confirm that the Bill will, as a matter of law, affect both new and existing guidelines. In practice, this means that some existing guidelines will be affected by the Bill, including offence-specific guidelines related to mitigating and aggravating factors, which set out guidance about PSRs for specific cohorts.

However, for completeness, I note that the Bill does not prevent the court from requesting a PSR where, in its own judgement, it thinks the personal circumstances of the offender warrant one. Furthermore, section 30 of the Sentencing Code is clear that, where the pre-sentence report requirements apply, a PSR must be obtained unless, ], the circumstances of the case make it unnecessary.

We will continue to work closely with the Sentencing Council to enable smooth implementation of the Bill.

### **Interaction with Court of Appeal case law**

***Paragraph 11 of the Explanatory Notes states that the Bill will not affect Court of Appeal case law about when pre-sentence reports are necessary or desirable, including in respect of pregnant women and new mothers and young defendants. Is the term “personal characteristics” in the Bill intended to exclude pregnancy, motherhood (including being in the 12 month post-natal period) and age (including being between 18-25) to ensure guidelines that are consistent with this case law?***

The Bill specifies that personal characteristics includes race, religion or belief or cultural background. However, this is a non-exhaustive list and personal characteristics is also intended to cover a wider range of characteristics, including sex, gender identity, age physical disabilities and pregnancy status. Pregnancy, motherhood and age are therefore not excluded from the definition of “personal characteristics”.

As we set out in the Explanatory Notes, we do not consider this approach to be inconsistent with the Court of Appeal case law. The Bill relates solely to the powers of the Sentencing Council to include certain matters in sentencing guidelines whereas the Court of Appeal case law relates directly to the question of when the court should obtain a PSR. This reflects the Government’s view that it is not for the Sentencing Council to set policy on when to seek a PSR with reference to particular cohorts. As we said at Second Reading and during the Lord Chancellor’s oral statement, the Bill also does not prevent the Sentencing Council from issuing guidelines that advise courts, in general terms, to consider an offender’s personal circumstances when deciding whether to request a PSR. It is for the court to decide whether to obtain a PSR and it is open for them to take into consideration an offender’s personal circumstances, including pregnancy, new mothers and young defendants. The Bill in no way limits a judge’s ability to request a PSR and so judges will continue normal practice, requesting PSRs in cases where they ordinarily would.

### **Interpretation of the term “personal characteristics”**

***If the intention is to permit sentencing guidelines being framed by reference to these and/or any other specific matters, how can the Government be sure that the term “personal characteristics” will be interpreted accordingly by the Sentencing Council or any court? We note that in the case law on Article 14 ECHR (freedom from discrimination) the term “personal characteristic” has been found to include matters such as age (R (Carson) v SSWP [2005] UKHL 37 at [60])***

The Bill’s fundamental objective is to ensure equality before the law. We have decided the most appropriate way of fulfilling this ambition is to adopt a general approach and bring forward legislation which prevents sentencing guidelines about pre-sentence reports being framed by reference to any personal characteristic of an offender. This will mean, as discussed in response to the previous question, that the Bill has a broader impact beyond the draft Imposition guideline’s reference to being from an ethnic minority, cultural minority, and/or faith minority community.

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I look forward to any further discussions on this Bill and working with you as it progresses through Parliament.

A handwritten signature in black ink, appearing to read 'Nic' with a stylized flourish above the 'i'.

**SIR NIC DAKIN MP**

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