

Public Understanding of Sentencing

PUBLIC DIALOGUE REPORT

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by Frances Osborne, Sarah Castell, Rebekah McCabe & Louise MacAllister



Executive Summary

This report covers the findings of an online public dialogue held in Spring 2023 to provide evidence for the Justice Committee's inquiry on Public Opinion and Understanding of Sentencing. The dialogue responded to two key questions:

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

25 people were chosen to reflect the general public, screening out those with particular or emotionally significant lived experience of the justice system. Participants engaged in three half-day sessions to learn more about the issue, deliberate together and answer the two questions above.

Participants were given different ways to consider the aims of sentencing and deliberate between themselves, while also asking questions of experts. At the beginning Sir Bob Neill, from the Justice Select committee, and Jack Simson Caird, a member of the Committee's secretariat, introduced the role of the select committee and of the wider inquiry. This was followed by a presentation from Ruth Pope from the Sentencing Council about the aims of sentencing, and participants had a Q&A session with all the presenters. In the later workshops, presentations were given on the problems and challenges in current sentencing policy from different perspectives, including those of victims and prisoners. These were given by Gavin Dingwall, from the Sentencing Academy, and Mark Day, Joint Secretary to the Independent Commission into the Experience of Victims & Long-term Prisoners. At the final meeting, there was a discussion of the ways sentencing is discussed in the wider social media context; and a 'You be The Judge' case study exercise where participants considered how general principles might play out when applied to individual cases.

The findings in this report have been arrived at through qualitative thematic analysis of the dialogue as a whole. It is accompanied by findings from a survey participants completed before and after the dialogue.

Key Findings

Participants concluded that priorities for sentencing that focus on the needs of the victim, and the needs of wider society, are more important than prioritising punishing, or rehabilitating, the offender.

Participants were presented with the five statutory aims of sentencing policy set out by Parliament, using explanations used by the Sentencing Council¹. They broadly agreed that all the aims of sentencing they discussed were important, particularly when the context of specific cases is considered.

Overall, of the five they were shown, **Public Safety** was seen as the most important.

Second in importance, however, was a new priority which participants themselves added to the list they were given - **Provide Justice for the Victim**. Participants talked about the need for empathy and justice for the victims as an important but overlooked principle. A minority also said that **support for the victim and keeping them informed** could be an additional principle, which aligns with the overall theme of considering the victim's needs in the process.

¹ Wording taken from the Sentencing Council (<https://www.sentencingcouncil.org.uk/sentencing-basics/>)

Aims which seemed to reflect a desire to influence the offender - reform or punish them or oblige them to act to make restitution - tended to take lower priority, as shown in Table 1.

High Priority Aims:	Medium Priority Aims:	Lower Priority Aims:
Protect the Public	Reduce Crime	Punish the Offender
Provide Justice for the victim	Reform & Rehabilitate the Offender	Make the Offender Give Something Back

Table 1: Aims of Sentencing grouped by the Public Dialogue's prioritisation.

The inquiry could further explore the idea of a principle about justice for victims and consider ways to elevate the voice and needs of victims in the sentencing policy process.

Participants felt that the public should have an ongoing role in policy development, but not in direct decisions in sentencing.

Participants in the dialogue became aware of two important dimensions of making decisions about sentencing; balancing **emotional, personal, and human stories** with a more **rational framework** about the benefits and costs of different sentencing approaches.

Participants felt the public should have a role in wider sentencing policy and underlined the need for both the emotional and the rational to be heard and balanced. In terms of individual sentencing, there was generally a trust in judges and the system to make individual case decisions given that these groups had access to “*all the facts*”.

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

But the personal and human side of the story was seen to be important as well; participants also said that there would be a need for a plurality of perspective to be considered, as happened in this dialogue itself, because no one person can appreciate all the different needs and life experiences of the different actors in a case, and all the human perspectives need to be weighed up.

While the group did not generate new ways that the public’s voice in sentencing policy should be included, they did feel ultimately that there were more opportunities to think about how the public could be more present in the design of sentencing. This was demonstrated in the survey results below, where there was a statistically significant change in opinion. Before the dialogue eight of the participants supported public opinion influencing sentencing, while seventeen opposed. After the dialogue, only five opposed and seventeen were in favour of public opinion influencing sentencing.

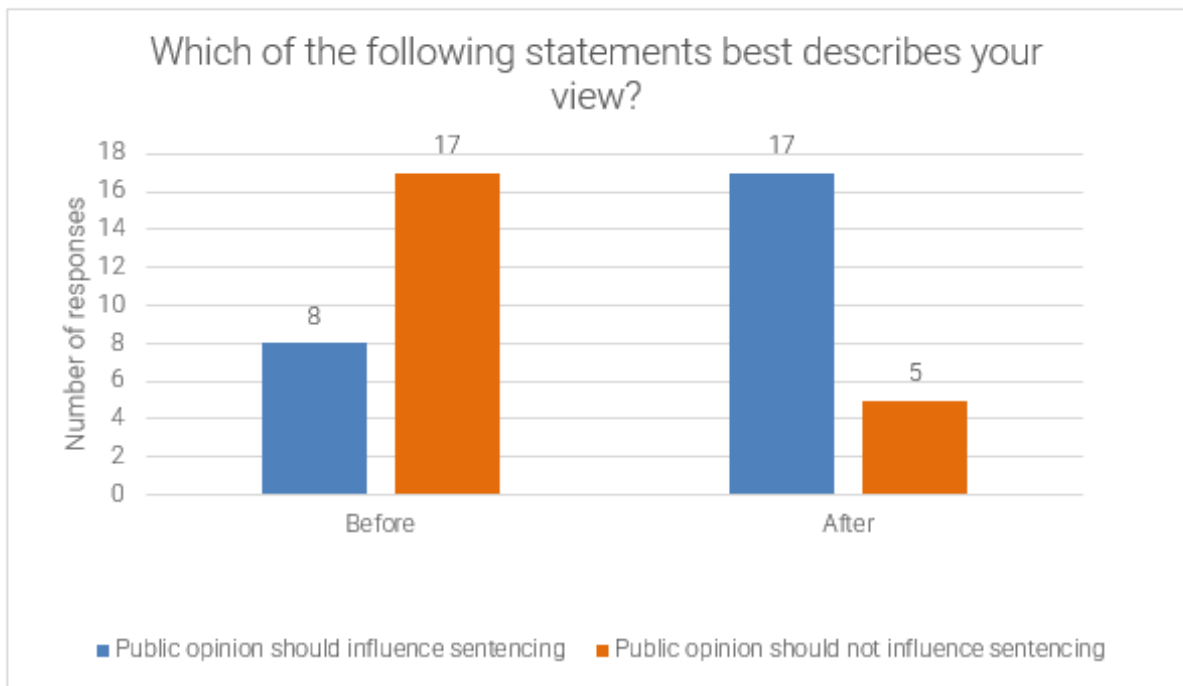


Figure 1: Graph of responses to the survey question about whether the public should or should not influence sentencing before and after the public dialogue.

Those seeking to involve the public in sentencing policymaking should consider the polarising effect the media might have on public opinion, and not take social media as a proxy for public opinion.

Participants commented on an analysis of social media about sentencing and compared this with their own deliberations.

Overall, they believed social media discussion of sentencing did not truly reflect public opinion on sentencing. Trusted sources tended to have longer form content, more analysis, and first-hand source detail such as verbatim quotes from the judge’s ruling.

The group highlighted that information on social media was not always trustworthy. While some saw its role in bringing attention to overlooked issues, the group advised policymakers not to assume that it represented public opinion, for two reasons. First, the views of non-users of social media are not represented.

“Not representative of public opinion - this only represents people who are online. There are plenty of people who don’t pay attention to this stuff.”

Second, the group was aware that algorithms and human appetite for sensational or controversial stories elevate the most dramatic stories. This creates an inaccurate impression for policymakers that public views are extreme.

Social media was also perceived as potentially harmful to a balanced climate of public opinion about sentencing. Participants felt that reporting could contribute to a sense that sentence decisions are always divisive or dramatic, and possibly also create more extreme views towards sentencing decisions, if the decision is shared without the kind of context than the participants in this dialogue had been exposed to.

This might gradually shift the broader public discourse on sentencing to more extreme positions, as people would not be exposed to the ‘right’ information.

The group here became **slightly more lenient in attitudes to sentencing** after the dialogue (as shown in pre and post questionnaires). While it is not to say that the public as a whole would be more lenient with more time to consider the matter, participants themselves believed that if the public had time to consider different perspectives, people in general would become more thoughtful and less extreme in their views.

Public education about sentencing policy is needed.

Because they had only previously heard about individual cases rather than the framework in which they sit, the participants suggested a remedy - that people should be educated about how sentencing works, so that individuals could balance views heard in the media with other information, for better public engagement about sentencing policy.

“If you unleash public opinion on a certain case, then public opinion could be massively swayed by social media. Education needs to be brought into this to stop that.”

Involve recommendations: A chance to put the public voice, and the voice of victims, into sentencing policy development.

The dialogue revealed several aspects of public opinion on sentencing policy which could enrich the Inquiry’s evidence base. The dialogue also shows potential for fruitful ongoing work with the public about sentencing policy in future. We have four recommendations for public engagement with sentencing policy in future.

Recommendation 1: Continue to use deliberative methods to develop and communicate the aims of sentencing.

The participants’ views aligned with the five principles set out by Parliament, but even a short deliberation meant that they added an extra aim for sentencing. This suggests that continuing to include the considered views of the public could bring additional richness and depth to sentencing policy development. It also might provide new insight which could help to frame communication of any new policy decisions in a way which chimes with public opinion.

Recommendation 2: Work with the public to explore how consideration of the victim should be brought in to sentencing policy development.

The new aim of “Justice for Victims” suggests that the public might want to see more explicit consideration of the victim at the heart of sentencing policy; further public engagement could help to explore what that would look like.

Recommendation 3: Communicate the aims of sentencing more effectively to the public to address misrepresentation in the media.

Participants recognised the importance of sentencing in the justice system, but the dialogue suggested they did not know much from a systemic level and learnt through stories. They also expressed concern about social media giving other members of the public a false impression of sentencing. Further research could be worthwhile to explore the knowledge people have now, and the biases or gaps they might have.

Recommendation 4: Use dialogue to explore how different narratives interplay in the development of a nuanced sentencing policy.

The dialogue itself tended to mitigate biases and assumptions about sentencing policy. The tools used in the dialogue made participants aware of the need to balance “*head and heart*” when discussing these issues. Argument mapping drew participants’ attention to the way rational arguments are framed, while social media modelling illustrated the potential down-side of telling sensational stories.

Hence, the dialogue provided an illustration of how conclusions are drawn from both emotional stories and rational evidence, mirroring to participants the challenge for sentencing policy itself - it must take into account both human stories and rationally-derived principles to apply to the whole of society. This supports a further role for dialogue in exploring the issues.

Participants also underlined the value of bringing a plurality of views to the issue of sentencing and sentencing policy. Bringing people from all walks of life together to discuss the issues makes it more likely that all perspectives will be considered.

“I changed my views from where I started and I’m more aware of the importance of taking a wider view and listening to others’ opinions”

1. Introduction

Context

This report sets out the findings of a public dialogue designed to contribute to an inquiry by the House of Commons [Justice Select Committee](#). The inquiry examines public opinion and understanding of sentencing in England & Wales². The terms of reference of the inquiry focus on the public's awareness of sentencing: establishing what is known, where people tend to get information from, and the connection between knowledge about sentencing and confidence in the criminal justice system. There is also a final, broader question: *to what extent should public opinion inform sentencing policy and practice?* Answering these questions requires an understanding of why members of the public think as they do, and how far they themselves think their opinion should inform policy and practice³.

Capturing and making sense of public opinion on sentencing is challenging. Statistically robust surveys often find that the public are more draconian than decision makers on sentencing; e.g. [2019 research](#) found that 70% of people think sentences are too light. The same research shows that certain groups among the public have different levels of confidence in the criminal justice system, which may drive different views; the public is not a single homogenous entity.

So, while polling is an important part of public opinion measurement, there is a role for other forms of engagement too. Qualitative discussions can uncover the views of different groups, gaps in knowledge, and what drives opinions. The Justice Committee was interested in gaining a more in-depth understanding of where the common ground would be within the UK public, when it comes to views on sentencing. Also, the Committee wanted to know whether public views change from those commonly expressed in surveys when people become more informed. When people are exposed to more information about how sentencing works, the implications of different approaches to sentencing, and given time and support to deliberate on these things with groups of people from all walks of life, *do their views change?* What might the implications be for public involvement in sentencing more broadly?

To bring the voice of the public into the inquiry, Involve was asked to facilitate a public dialogue process to explore these issues. The development and design of research and contributions to this report were supported by a partnership with the Rebooting Democracy team at the University of Southampton, as well as the not-for-profit Nethood⁴. The findings from the dialogue will be used to contribute to the Committee's evidence base, alongside opinion-gathering via surveys and engagement with particular special interest groups.

This report explains the dialogue process and its findings.

² "Sentencing" means the policy around the sentences that are able to be given for different offences when people are convicted in the criminal justice system.

³ The [inquiry webpage](#) contains more details.

⁴ This was supported by funding from RSA/UKRI Rethinking Public Dialogue programme, as well as the UKRI FLF programme grant ref MR/S032711/1.

About Public Dialogue

Public dialogue is a process where the public input into policy by learning from experts, advocates and each other through deliberative discussions. It has been used extensively in policy development for technical topics, particularly for science & technology⁵. Public dialogue gives participants information about a complex, future focused or values-based policy area. Specialists and members of the public deliberate together, before identifying key principles, values, trade-offs or “red lines” about future policy in that area. Key features of public dialogue include:

- Deliberative, in-depth process, in this case 1.5 days of deliberation.
- Discussions are informed by expert information provision and discussion.
- A demographically diverse group of people engage with one another and experts.
- Outputs include evidence of different values, principles and trade-offs to inform decision makers, and allow participants to share their lived experience and thoughts, finding common ground on issues that can be divisive.
- Not requiring consensus recommendations at the end.

2. Approach

Aims and objectives

As part of the inquiry, the committee sought to understand the public’s awareness of sentencing, how they get information about sentencing, how they perceive these sources, and the connection between knowledge about sentencing and confidence in the criminal justice system. To explore these areas, the dialogue had two focal questions:

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

Alongside this, there was an underlying question about the public’s role in sentencing and to what extent public opinion should inform sentencing.

Recruitment

The dialogue comprised 25 people, who met over three half-day sessions. The qualitative research recruitment agency [Criteria](#), recruited members of the public to a brief.

The dialogue members were recruited to reflect the general public, screening out those with particular or emotionally significant lived experience of the justice system⁶. 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.

⁵ An overview of public dialogue can be found at <https://involve.org.uk/resources/methods/public-dialogue>

⁶ Participants were filtered through answering questions about their personal experiences & work. The full question is in the annex.

Targets for different demographics were set to create a broadly reflective mini-public. This was to make sure there were people from different backgrounds in the dialogue and to avoid overrepresentation of certain demographics. We also asked for participants to speak fluent English, have access to an internet connection and device for the meetings. This did not affect any of the demographic targets.

We recruited 30 people for a group of 28. There was a total of 25 participants at all meetings. 28 people attended on the 28th of February, 27 on the 4th of March and 25 on the 11th of March. The demographics of the targets and the participants in the dialogue can be found in the appendix 2.

Design

The dialogue was held online over a three-week period in February and March 2023. Participants took part in three half-day sessions with a mixture of presentations, Q&A sessions, and discussion in breakout rooms. In the breakout rooms, groups of 5 – 7 participants took part in deliberative discussions with the support of facilitators and participated in an exercise developed from the Sentencing Council’s You be The Judge resources.

The Table 2 below outlines what happened in the dialogue and the materials that participants were shown:

<p>Session 1: Evening of February 28th</p>	<p>Participants were welcomed to the dialogue, met one another, and discussed guidelines for how they would work together.</p> <p>Sir Bob Neill from the Select Committee & Jack Simson Caird a member of the Committee’s secretariat introduced what the select committee is, the inquiry and the key questions of the dialogue. Ruth Pope from the Sentencing Council presented the basics of the sentencing system and how guidelines are developed.</p> <p>Participants asked the presenters questions to build their understanding & feel prepared for future meetings. Unanswered questions were answered between Session 1 & 2 in a written document.</p>
<p>Session 2: Morning of March 4th</p>	<p>Participants were asked to pay attention to news stories they hear about sentencing between the meetings. They reflected on these stories & the media as a group at the start of the session.</p> <p>They then listened to short presentations. Gavin Dingwall, from the Sentencing Academy presented the different aims of sentencing and perspectives people bring to these aims. Mark Day, Joint Secretary to the Independent Commission into the Experience of Victims & Long-term Prisoners, presented on problems with the current approach to sentencing and how to reconcile aims of sentencing going forward.</p> <p>Reflecting on everything they had heard, participants developed aims for sentencing in small group discussions. Mid-way through they were introduced to the five principles of sentencing from the Sentencing Council. They then clustered the aims based on how important they thought they were, from highest to lowest priority. Their deliberations were guided by facilitators and argument maps.</p>
<p>Session 3:</p>	<p>First, participants took part in a role-playing scenario developed from the Sentencing</p>

<p>Morning of March 11th</p>	<p>Council’s You Be the Judge scenarios. In small facilitated groups, they reflected on their aims from Session 2 and whether the context of a specific case changed their views.</p> <p>Rafael Mestre, from the University of Southampton, presented the top themes in recently published news and social media, identified by topic modelling analysis. Participants then discussed these results, how they related to the aims of sentencing, their opinions, and wider public views on sentencing.</p> <p>To conclude, participants reflected on their experience of the process, if it changed their views of sentencing, and the role of the public opinion.</p>
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Table 2: Timetable of the three sessions, with overviews of each sessions activities.

3. Perceptions of sentencing

Understanding of sentencing

Initially participants didn’t feel informed about sentencing

During the first session, participants were asked how they felt about taking part in the dialogue and talking about sentencing. Most said they had not paid close attention to sentencing, with many only recalling paying attention to sentencing in relation to high profile cases and not the overall system.

“With no first-hand experience I’d say I haven’t paid much attention ... other than things I may notice in the media”

“Sentencing only reaches public consciousness if a high-profile case”.

Many did not feel confident talking about sentencing, because they felt uninformed about an important topic. Some people were surprised the public would be asked as well as experts, which linked to a lack of confidence when talking about sentencing. They thought it was an important topic, which contributed to some nervousness, but also meant they were excited to learn more.

“It’s quite surprising that I’m being asked my opinion and I’m beginning to feel the weight of responsibility”

“Quite daunting on questions - I know what my opinions are but when you have to explain why your opinion is, it’s harder. You don’t necessarily know how to explain your opinion.”

“Feels like this is above my pay grade, in the sense that I don’t know a lot about how sentencing works.”

But they felt sentencing was important and should be fair

However, most groups suggested sentencing was important. Some important principles were highlighted early on, such as ensuring that victims get justice, and that the system is fair. Some participants had noticed policy changes to the overall justice system and had suspected there were inequalities in the sentencing of crimes. There was a sense that sentencing needs to be consistent for justice to be done.

“If it was on my doorstep or a crime against me, I’d be looking for appropriate sentencing of the crime.”

“Justice needs to be seen to be done to give the public confidence. Grenfell Towers is an example, where it feels justice can be averted if there is money and power involved, or wheels turn very slowly in some cases.”

“A couple of years ago, I paid more attention to it due to a couple of cases. It drew my attention to it for a time. I looked into the differences in sentencing, even though it was a similar crime.”

Sources of information

People felt media stories only give a snapshot of a few cases, not the whole sentencing system

Throughout the dialogue, participants reflected on where they heard about sentencing⁷. They mostly spoke about personal conversations, stories in the media and social media posts or discussions. School and formal education were not mentioned.

Individual cases were mentioned most often. These were often the most attention-grabbing and emotive cases, such as controversial decisions or celebrity cases. Participants suggested these stories only provide a pithy “*snapshot*” and not the full context of the ruling. Because it is “*not the full picture*” and could be biased, they did not fully trust the information they had seen about sentencing- though a few acknowledged that giving the full detail might not be read, as it is too in-depth for casual consumption.

“Never 100% trust these news sites, like the Daily Echo - when it comes to comments, they might have just picked bits they’ve found interesting. Not the full picture.”

“Also, all newspapers are competing for the most high-profile stories that attract readers...and therefore other stories are not covered. So perhaps it fuels sensationalism in the reporting of stories”

“I use Yahoo news, and the Telegraph. To be honest if there was verbatim on this (the sentencing decision & judgement) I probably wouldn’t read it.”

“Clickbait tricks you into paying attention - but it is annoying and generates negative emotions”

Participants did not think social media represented wider public opinion

Several participants suggested social media 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.

“If my friend clicks on a story on Facebook, the algorithm shares it with other people and then it feeds back on itself. It’s not the best way of getting news out.”

“The more divisive topics tend to be shared the most”

“There’s no lengthy discussions on social media that are in-depth and meaningful.”

“Ideally, we should get more and more wide and diverse sources of news, rather than the algorithms that seem to give us narrower and narrower information that fits with our ‘likes’, our choices and tastes.”

⁷ At different points, they reflected on their initial understanding of sentencing, what they heard about between sessions 1 & 2, and the topic modelling analysis. See the Methods section for more information.

When the top stories online about sentencing were presented in the final session, this reinforced their observations. Some were surprised at how different the top stories were when the full range of online articles was compared with those shared most on Twitter. Participants noted that this dynamic means social media highlights stories that otherwise wouldn't be heard, which could be a good thing.

“It's a way of highlighting issues that might get pushed under the carpet. There's instances where influencers share a topic that are not picked up by the main outlets”

However, this could also skew public perceptions of the most important issues if decision-makers only rely on what is reported on social media.

“The examples on social media were just a subset of cases, this doesn't reflect the whole of society's opinion”

“We've tried to dig into the contexts of stories in this dialogue. We've tried to come up with fair, reasonable and balanced views. What's being presented here (on social media) - well, it's the most outrageous parts that's driving the discussion.”

“Not representative of public opinion - this only represents people who are online. There are plenty of people who don't pay attention to this stuff.”

Media drawing closely and visibly from an official source is seen as most trustworthy

There were some types of media that people trusted more. Some news providers were mentioned as more trustworthy or balanced, such as broadcasters like the BBC or Sky News, and newspapers like local papers or the Telegraph.

“I choose BBC radio news and TV and I do believe what they say, it's accurate and trustworthy”

“On my phone I have a Google news feed that pops up that baits you to read, but stuff from the BBC, or the Telegraph, I'll read into”

“Local news and local police reporting feels like it would be accurate and have no reasons to spin or have bias.”

In contrast with the media being partial, some perceived that the court had “*more of the facts*” or the “*full picture*”. Similarly, others said they found reports quoting the words of those in the courtroom, such as the judge's remarks or court reporters, more trustworthy. The participants seemed to feel more trusting where there was more context and detail in sources.

“I went looking for links that are court based, so I'd be getting info straight from the source”

“I heard on GB News that since COVID, lots of reporters are not going into court - so I'm wondering where are news outlets getting their information from?”

“It's more trustworthy if the judge has written up the full decision without anything missed out.”

“I do feel we are provided with limited or partial information. For example, the Manchester Bombing, Nicola Bulley case, we can't know everything, we understand that the public can't know everything.”

After being shown the analysis of social media, some people suggested ways that information could be made more accessible and accurate, such as social media moderation, providing official information and fact-checking; along with clarity on what kinds of authorities exist to provide information about sentencing.

“Some sort of policing of articles should be introduced. Like if the courts have a page to share full info so not just from articles.”

“There should be a raised profile of the Sentencing Council. I wasn’t aware of them before this.”

“Perhaps we should hear more from journalists and researchers, and place more importance on fact checking and on sources that are understood to be reliable.”

4. Priorities for Sentencing

Priorities for the principles of sentencing

In the second and third meetings, participants identified what they felt the key aims of sentencing were. They first had a discussion after they listened to the presentations on different perspectives on sentencing and current problems with it. After this, they were introduced to the five recognised purposes of sentencing⁸ as listed below:

1. **Punish the offender** – this can include going to prison, doing unpaid work in the community, obeying a curfew or paying a fine.
2. **Reduce crime** – by preventing the offender from committing more crime and putting others off from committing similar offences.
3. **Reform and rehabilitate offenders** – changing an offender’s behaviour to prevent future crime for example by requiring an offender to have treatment for drug addiction or alcohol abuse.
4. **Protect the public** – from the offender and from the risk of more crimes being committed by them. This could be by putting them in prison, restricting their activities or supervision by probation.
5. **Make the offender give something back** – for example, by the payment of compensation or through restorative justice. Restorative justice gives victims the chance to tell offenders about the impact of their crime and get an apology.

In small groups, participants then prioritised these principles and added any additional principles they had identified. After looking at examples of specific cases (You be The Judge) they prioritised these aims.

The table below (Table 3) shows the order that each group prioritised different purposes at the end of the final session. The boxes highlighted in yellow are additional to the five purposes of sentencing which the group were given to consider, and reflect other priorities which they generated themselves.

Group One	Group Two	Group Three	Group Four
1. Protect the Public	=1. Protect the Public	1. Protect the Public	1. Protect the Public

⁸ Wording taken from the Sentencing Council (<https://www.sentencingcouncil.org.uk/sentencing-basics/>)

2. Punish the Offender	=1. Reform & Rehabilitate Offenders	2. Justice for Victims	2. Justice & Support for Victims
3. Reduce Crime	=2. Make the Offender Give Something Back	3. Public Trust Sentencing is Fair	3. Reduce crime – Through Educating & Deterring the Public
4. Make the Offender Give Something Back	=2. Reduce Crime	4. Make the Offender Give Something Back	4. Reform & Rehabilitate Offenders
5. Reform & Rehabilitate Offenders	=2. Punish the Offender	5. Reform & Rehabilitate Offenders	5. Make the Offender Give Something Back
NA- ⁹ Provide a Sense of Justice to the Victim	NA- Keeping the Victim Informed & Happy		6. Reduce Crime – Stop Reoffending
	NA- Empathy		
	NA- Understanding why Crime Happens		

Table 3: Detailed overview of how different groups prioritised different aims of sentencing. The boxes in yellow are new principles or aims suggested by the public dialogue participants.

The purposes and the discussions around them are expanded on below, broadly in the order of importance that they were ranked in by the groups. Participants clearly expressed that all the aims were important and that which are most important could be different depending on the context.

“All of these are important; it depends on the nature of the crime and the person who committed it as to which of these should be the priority”

Protection of the Public was the highest priority.

Public Safety was the top priority for all the groups, with one group moving it from second to first after looking at the case study. In most groups there was little debate about why it was important - it seemed to be a given. It was also referred to when other aims were considered, such as deterrence and preventing re-offending.

“It makes sense to keep violent offenders away from public.”

““I don’t support the death penalty as people have been killed who were later found to be innocent - but some people should be permanently removed from society for public safety”

This priority had the most immediate emotional resonance to the group; as members of the public themselves, it was easy to consider the perspective of the general public and how they wanted to feel.

“I’d feel safer if people who commit murder are never released”.

⁹ Principles marked NA were discussed but were not included in their prioritisation.

This prioritisation is similar to the results of the Savanta survey also submitted to the inquiry, where 64% of respondents ranked Protecting the public from further harm as a top-three factor that should influence sentencing.

An additional principle was added as next most important – Justice for Victims

All the groups said there should be an additional purpose focused on the victims' experience. They 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 was not clear in current sentences.

“Why do none of the aims mention the victims?”

“Justice for victims is important...victims should be treated fairly throughout the process and the punishment should fit the crime”

“The sentence¹⁰ doesn't cover all of our priority aims. We don't know about after support for victim, it seems like all they're getting is their money back and being told to get on with it.”

Again, this chimed with the Savanta survey¹¹, where 56% of respondents ranked Ensuring the victim and/or family feel they have secured justice as a top-three factor that should influence sentencing.

Reducing Crime & Rehabilitation for Offenders were also priorities.

People generally recognised the role of sentencing in deterrence. Some spoke about how the public needs to be informed about sentencing, not just for deterring crime but also so that the wider public trust that sentencing is fair.

“With celebrities, most people know they've maybe made an example of that person.”

“A crime should be punished. It shows other people who are going to commit similar crimes they'll be punished so it acts as a deterrent.”

Reducing reoffending was a key part of the discussion across the meetings, even though it was a lower priority than public safety and victims for the groups. The aim of reducing crime was often discussed alongside the aim of reforming and rehabilitating offenders, with preventing crime being more important to most groups.

Some reasons why people said rehabilitation was important were caring for the offender, preventing harm to the public, and to avoid sentences being “a waste of time”. The focus of rehabilitation was often on “less serious” crimes such as shoplifting, with some less confident in rehabilitation for violent crimes.

“Sentencing should be providing care all round for the victim and those sentenced – it would do the best for everyone.”

“For the offender there needs to be punishment, rehabilitation and skills training for when they get out, so it's not just a waste of time”

“What's the point of sentencing if won't intend for people to return to society?”

¹⁰ This quote is referencing the sentence in a You Be The Judge Scenario about fraud.

¹¹ The results of the survey can be found online at: <https://committees.parliament.uk/writtenevidence/119614/default/>

“But some people don’t show remorse or show they are interested in becoming a better person”

“It’s difficult to rehabilitate someone who’s committed a murder”

People mostly spoke about a lack of economic opportunity as driving why people offend and re-offend. Some also raised the role of mental health, drug addiction and isolation from communities as underlying causes of crime to be addressed in rehabilitation.

“Offenders struggle after getting out of jail to get employed and be accepted by the community. Something needs to be done on that basis to make it easier than re-offending and going back to jail.”

“Deterrence is important, but people are not in the right frame of mind when they commit a crime so sentencing is not just about harm or deterrence.”

“Putting them in jail or a stronger sentence won’t help. Re-educating and involving them into community would.”

“We should help people be good members of society”

Throughout these discussions, people mentioned the role of evidence. This was particularly clear in the first session, as many of the Q&A questions were about how effective different sentences were at preventing re-offending and reducing crime rates.

Repairing harm done and Punishment were other aims

All groups spoke about “repairing the harm” of a crime or the offender “giving something back” as an aim but tended to prioritise this aim lower than those above. Most people had not heard of restorative justice until it was introduced in Session Two’s presentations, and some felt that existing sentencing did not include resolving the impacts of crimes. A few people felt restorative justice could give closure to victims and rehabilitate offenders in some cases. The discussions suggest there is potential for this framing to create a more nuanced perspective on the idea of sentencing, though more exploration with members of the public would be needed to substantiate this.

“Restorative justice gives victims the chance to tell offenders the impact of their crime and receive an apology”

“Allowing the victim to try and show perpetrator the damage they caused could give closure”

“But giving something back principle is not enough for victims, just having compensation is not enough to make up for it.”

Punishment for the offender was highly prioritised in one group, but other groups ranked it lowest or did not independently come up with it as a principle. This contrasts with the Savanta survey findings, where Punishment of the offender was one of the top three factors that should influence sentencing for 52% of people¹². Like public safety, there was little debate or discussion on why it would be important. Some participants felt that punishment was not appropriate for the crime and that sentences were too lenient.

“Sometimes sentences don’t seem to match the harm committed”

“Punishment does not prevent future crimes”

¹² The results of the survey can be found online at: <https://committees.parliament.uk/writtenevidence/119614/default/>

5. How people’s perspectives changed over the dialogue

This section draws on both the discussions in the dialogue itself, and the responses from participants to a survey before and after the dialogue. This survey is not statistically reliable as the dialogue had only a small number of participants. Both suggested some areas where people’s perspectives changed from participating, which are sorted into key areas below:

Participants moved to a more nuanced (and lenient) view about sentencing

Through the discussions there was a general trend towards a more nuanced view of sentencing guidelines. This was particularly noticeable after the You be The Judge exercise, in which people looked at a case study. Across the groups, participants discussed many factors in what the sentence should be and how some of these are hard to judge. For example, one group had a long discussion on the complexities of judging harm to a victim in a case involving the sale of illegal drugs. This contrasts with the first meeting; in that meeting, these complexities were not spontaneously perceived, and there were multiple questions about why sentencing appeared inconsistent across different cases for the same crime.

The participants’ comments suggest that the change relates to the depth of understanding they grew to have, through discussions, for the different perspectives of the different people in the situation - victim, perpetrator, others, and the needs of wider community.

“The exercises have made me reflect on how I originally saw the priorities. After seeing the specific case study, I realised that my priority order was a little bit different because I cared more about the consequences of the sentence on the individual perpetrator than the impact on victims. So, the context really makes a difference.”

While participants spoke about a different perspective, the survey showed slight changes to their priorities, though these were not statistically significant. Before and after the dialogue, participants were asked in the survey which factors were most important to them in the setting of sentences. The responses to this question before and after the dialogue are shown below.

Which of the following factors are the most important to you in the setting of sentences? (where 1 is most important, and 7 is least important)	
<i>Ranking before (where 7 is least important)</i>	<i>Ranking after (where 7 is least important)</i>
Protecting the Public (2.35)	Protecting the Public (2.13)
Justice for Victims (3.00)	Punishment (3.26)
Punishment (3.39)	Justice for the Victims (3.57)
Deterrence (4.22)	Rehabilitation (4.22)

Public confidence (4.31)	Public confidence (4.26)
Rehabilitation (4.39)	Deterrence (4.39)
Prisons' costs (6.35)	Prisons' costs (6.17)

Table 4: Ranking by participants of different aims of sentencing before and after the public dialogue. Results are taken from a pre and post survey. The number in brackets is the average score, where 1 is most important and 7 is least important.

The average ranking of importance declined for all options except deterrence and justice for the victims, where a decline means people prioritised it more (i.e.: closer to 1). As the survey was a small sample and more people did not complete the second survey, these changes are not statistically significant. However, it is notable that protecting the public was the top priority again (57% of participants ranked it 1st) and that punishment was a higher priority in the survey compared to the group discussions.

Participants were also asked if they thought that sentences in England and Wales were too tough, about right or too lenient. There was a move towards lenient preferences for the length of sentences, with five participants becoming more lenient and one participant becoming more tough in the post- survey. The sum of participants answers in shown in Figure 2. Again, this should be cautiously interpreted as it is not statistically significant.

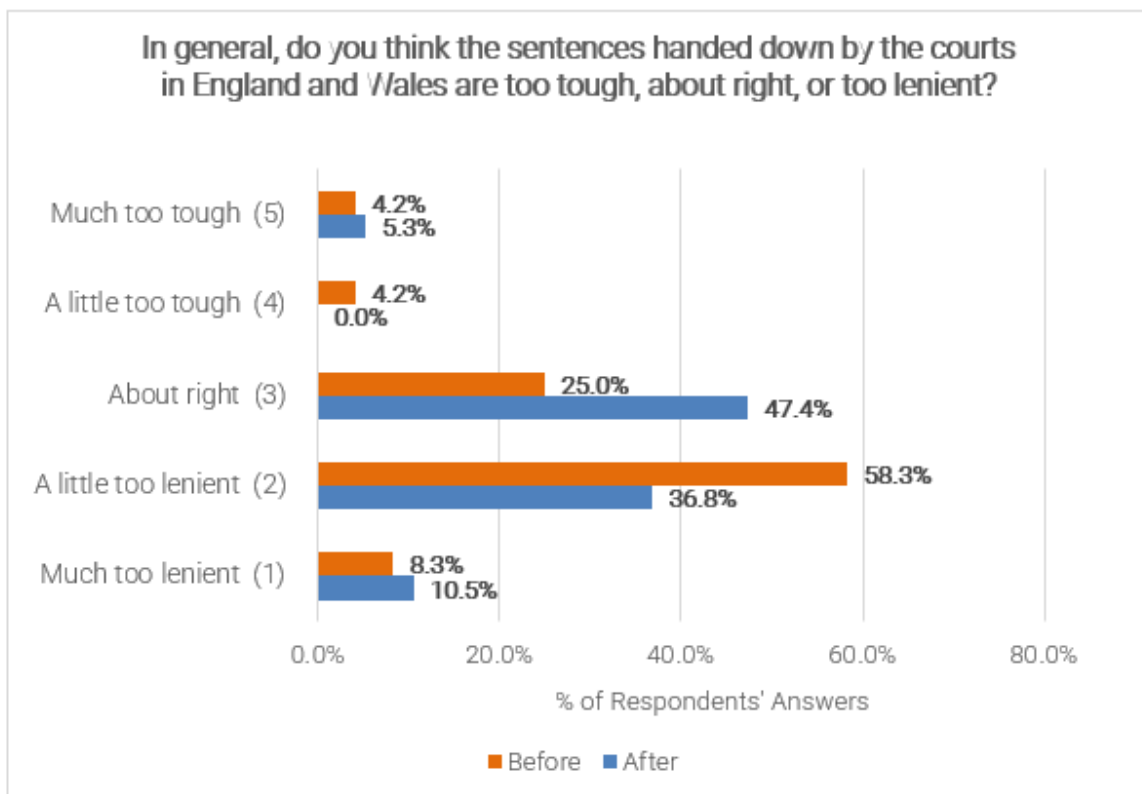


Figure 2: Answers to the question of whether sentences handed down by the courts in England and Wales is too tough, about right or too lenient before and after the public dialogue.

They felt they learnt a lot and were more comfortable talking about sentencing

In the final session, the participants reflected on taking part in the dialogue and seemed more comfortable than at the start. People said they found the topic interesting, had learnt a lot about it and would have liked to discuss it further.

“I found it interesting and enjoyed the information we had access to.”

“The topic was more interesting than I expected.”

“It was good, we had a good discussion and I enjoyed listening to others. I was a bit worried before we started because it can be quite an intense and divisive subject. I worried there’d be arguing but everyone’s been reasonable. I feel more informed now”

“It feels like we are just getting into the swing of it.”

In the pre and post survey with participants were asked two questions about their knowledge of sentencing currently. Afterwards, they were more reflective of the current statistics and system. For example, Table 5 shows that before the dialogue most participants did not know that the length of sentences had increased over time but most did know this afterwards.

Statements	Number of answers to the question - for the following questions please rate the statement on the scale provided from not true at all to completely true.				
	Not at all true	Slightly true	Somewhat true	Mostly true	Completely true
I have learned a lot from the presentations	0	0	1	12	10
I learned a lot from other participants	0	0	7	10	6
I learned a lot from facilitators ¹³	0	0	7	8	8
I have learned a lot from my own research	0	5	10	6	2

Table 5: Public dialogue participants' answers to the questions about their experience of the dialogue, in the post survey.

The facilitators noticed that some participants changed their views, and some of the participants themselves said they gained a new perspective. These participants often mentioned how they changed their view through listening and talking to others. This is reflected in the survey findings, where after the process overall they answered that they learnt a lot during the process. They cited presentations a main way they learnt alongside learning from participants and facilitators. When thinking about the media¹⁴,

¹³ The role of facilitators in a dialogue is to guide participants through the process. They don't provide expert input or information about the topic, only clarifying any questions about the process of participating in a dialogue.

¹⁴ These reflections were in the final session after seeing the analysis of top topics in newspapers & social media.

some noted their discussions in the dialogue were more overarching than their usual conversations about individual cases.

“Overall, I enjoyed listening to others’ point of views and taking it on board when forming my opinions. It’s surprising how you can change your mind.”

“I changed my views from where I started and I’m more aware of the importance of taking a wider view and listening to others’ opinions”

The group concluded that the public should have a role in policy, but not in direct decisions

In the initial discussions, where people felt uninformed and lacked confidence, most were unsure as to the role the public should have in sentencing. There was a minority who felt from the start that sentencing should consider public opinion, but most found it a hard decision.

“Whether or not the public should have a greater role in the sentencing process is a difficult call to make.”

As discussions progressed, the issues shaping the role of the public in sentencing emerged. The issue of public subjectivity was considered throughout. Participants noted that the public were likely to react emotionally and without considering all the sides of a case, especially with limited information from the media and about an emotive topic like sentencing. Involving the public would need to take account of this emotional reaction - and so including the public would need to be done carefully, to ensure that inevitable biases did not prevent justice from being done.

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

“There’s no black and white when it comes to sentencing. It’s hard to forge an opinion when we don’t have the information, so it’s not easy for the public to say without all the details of the case”

Participants also noted that to make public involvement fair, consideration should be given to whose voices are heard from within the public. Questions such as: How best to ensure that not only the loudest or most extreme views are heard, so that public involvement can lead to a better outcome in sentencing?

“Everyone on social media or who has a strong view can chip in but what about my mum or other folk like her who are not comfortable sharing their views? How do you capture views from the everyone in society?”

As discussions progressed, people saw a role for the public which could range from consultation on policy to deciding sentences like a jury. In most groups, more people said it was appropriate for judges to decide on specific sentences because they need to be able to interpret the guidelines themselves.

“It’s the judges who decide and I think that’s appropriate”

Participants also noted that there are already other areas where the public have a role in the justice system, and that the role of the public in sentencing policy should be considered in the light of this also.

“The public do have a role but the judge has to decide the sentence, the public have to attend jury service and so have a bit of sight elsewhere.”

“If you live in a place of high crime, you can give feedback on methods of how to deal with high crime. Like with what’s in the sentencing framework and how best you can go about it.”

While the group did not generate new ways that the public’s voice in sentencing policy should be included in the process of policy design or sentencing practice, they did feel ultimately that there were more opportunities to think about how the public could be more present in the design of sentencing. This was reflected clearly in the survey results where there was a statistically significant change. Before the dialogue eight of the participants supported public opinion influencing sentencing, while seventeen opposed. After the dialogue, only five opposed and seventeen were in favour of public opinion influencing sentencing.¹⁵

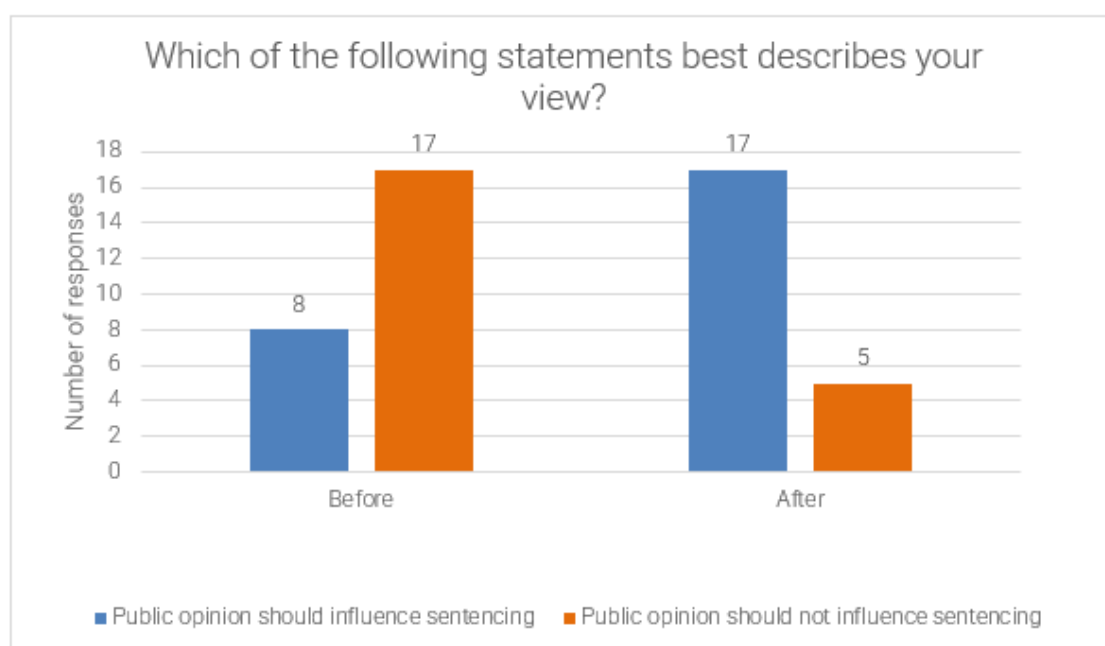


Figure 3: Graph of responses to the survey question about whether the public should or should not influence sentencing before and after the public dialogue.

An initial place to start would be to ensure that the public know more about sentencing. Several viewed informing people about how sentencing works as a requirement for any public role in sentencing policy or decisions.

“If you unleash public opinion on a certain case, then public opinion could be massively swayed by social media. Education needs to be brought into this to stop that.”

“They should raise the profile of the Sentencing Council. I wasn’t aware of them before this.”

“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

¹⁵ From the responses, when we recode numerically the two options assigning value 1 to the first (in favour), and value 2 to the second (against public opinion influencing sentencing), we can observe a decrease in the mean answer of 0.5, and conducting a pairwise test of difference in the means we find that the difference is significant. If the worst-case scenario where all who didn’t complete the second survey were against public opinion influencing sentencing is assumed, the paired one tailed t-test remains strongly significant ($p=0.028$), while the two tailed t-test is borderline significant ($p=0.056$).

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."

6. Conclusions

Potential to improve public knowledge about the principles of sentencing to tackle misrepresentation in the media

This dialogue demonstrates that participants feel sentencing is an important area of the justice system, but suggests it is one that members of the public do not know much about, on a systemic level.

The dialogue reveals the feelings of the public about the kind of knowledge that is prevalent - they identified the prevalence of emotive storytelling that emerges through the public hearing about individual, high-profile cases. It relates to emotive and individual issues rather than the underlying principles of justice and sentencing. Participants in this dialogue did not trust all media sources, and suspected that they were not given a full picture by the media of the issues and principles underpinning sentencing. Discussions suggested that media reporting in general is not representative of the most important principles for sentencing they identified.

The dialogue suggests that research with a wider public could be worthwhile, to explore the kinds of knowledge that exists now, as well as the sources that knowledge comes from. This would reveal the types of biases or gaps that might exist. The Inquiry could then consider how best to respond to these more precisely, through the communication tools available.

A need to be cautious about using social media as a proxy for public opinion.

Social media, in this dialogue, was seen as a double-edged sword when it comes to justice. While it has immediacy and power to get across stories, it is not a trusted way to get information to the public as it exacerbates bias. Participants trusted official sources of information more, such as explanations of sentences by judges, alongside media that reported official statements and data, and wanted to hear about sentencing from these sources.

If those working in justice policy use social media as a guide to public opinion, participants were concerned they will then also receive biased and partial views which could harm the justice system if they are taken as a proxy of public opinion.

Because access to social media is not equitable throughout the population, this also would exacerbate lack of representation of certain groups of the public in sentencing policy. The Inquiry could consider these issues, investigate further and consider how it should discuss social media in its final report.

Participants' views on the principles of sentencing broadly align with the five statutory principles of sentencing set out by Parliament - but they additionally care about justice for victims.

Participants felt all the purposes of sentencing they were shown by the Sentencing Council presentation were important. The dialogue illustrates that spontaneously, the public are likely to consider public perspectives first - their own safety - and have empathy for victims.

A feeling of justice for victims seems to be important, and the participants in this dialogue wanted it explicitly recognised in the principles for policy. All groups added justice for the victim as a purpose of sentencing. This idea could be explored by the Inquiry with a wider public, as it seems a good insight for

communications, which could provide a new way in to talk to the public about the principles of sentencing policy.

Greater empathy for all participants and perspectives emerge the more people deliberate.

Throughout the dialogue and after looking at case studies, most participants gained an understanding that the purposes of sentencing might be prioritised differently depending on the specific case. When people learnt more about sentencing, they developed a more nuanced view and thought more about the reasons why crimes are committed. They moved beyond their initial priorities for public safety and victim support. These qualitative insights from deliberation should be looked at alongside more in-depth quantitative research as they provide a more rounded picture of what the public might really want when given the time to deliberate.

Participants felt that if public views are used to inform sentencing policy only in situations where they are reacting emotionally to individual stories or seeing only one side of the issue, these might lead to miscarriages of justice

A need to include the public in sentencing policy but find ways to mitigate biases.

Most groups said public opinion should have a role in sentencing policy, but they still respected the role of the judge and court system in deciding sentences.

Participants wanted to ensure that any perspective from the public comes from well rounded, well-informed positions. This was to ensure meaningful involvement in the decision making from the public's perspective, and they felt it would lead to better sentencing outcomes with less biases.

One suggestion many people made was to educate people about sentencing and set this in the context of sentencing policy explicitly rather than leaving the public to learn about it from individual cases.

Overall, this dialogue reflects an appetite from the public to include public views in sentencing policy, but participants want this done in a way that is representative, includes all types of people, and does not default to partial or biased views.

This would lead to both better public involvement in decision-making, which could shore up the justice system in a prevailing climate of low trust in public institutions¹⁶. It would also create better sentencing policy through taking account of the perspectives of a wide and diverse population.

7. Recommendations from Involve

Recommendation 1: Continue to use deliberative methods to develop and communicate the aims of sentencing.

¹⁶ Overall, there is a current narrative that trust is low in institutions and politicians, but can be increased through institutions being clear on what they are doing, and taking account of both expertise and public voice. This is reflected in many different surveys and expert analysis, a selection of which can be found at these links:

<https://www.kcl.ac.uk/policy-institute/assets/confidence-in-institutions.pdf>

<https://www.ippr.org/news-and-media/press-releases/revealed-trust-in-politicians-at-lowest-level-on-record/>

<https://apolitical.co/solution-articles/en/low-trust-in-government-and-high-interpersonal-trust%E2%80%8A-%E2%80%8Awhat-might-that-mean-for-the-uk>

The participants' prioritisation of the aims of sentencing aligned with the five statutory aims set out by parliament that they were presented, but even a short deliberation meant they added an extra aim for sentencing. Further deliberation of this additional principle about victims could further add depth and richness to what this principle means. Another way deliberative methods could be used is in the development of how policy is framed and communicated to the public. The way participants spoke and viewed the different principles was different to what they presented. For example, they used the language of "*safety*" consistently when discussing Protecting the Public. Deliberation could be used to provide insight into how people understand and speak about ideas in sentencing policy, so that it can be better communicated to the people.

Recommendation 2: Work with the public to explore how consideration of the victim should be brought in to sentencing policy development.

Throughout the dialogue, participants raised consideration of the victim and in some groups prioritised it as very important. As a sample of the general public they particularly see the victims' experiences as a key factor to be considered in sentencing policy and guidelines. Due to the shorter nature of the deliberation, this principle was not fully defined. Further public engagement could be used to expand on why people prioritised this, what the meaning of it was and how it should be framed.

Recommendation 3: Communicate the aims of sentencing more effectively to the public to address misrepresentation in the media.

There was less knowledge of the overarching system. At the beginning participants felt unsure of the sentencing system and their survey responses indicated that facts about the overarching system were not widely known. In the deliberations about media and information, the participants themselves expressed scepticism of many media sources and particularly social media. These together with their recommendation for education, suggest the importance of shoring up public knowledge of sentencing. To do this, further research into people's current knowledge, biases and understanding of sentencing could be worthwhile.

Recommendation 4: Use dialogue to explore how both human stories, and rational argument, interplay in the development of a nuanced sentencing policy.

The dialogue itself tended to mitigate biases and assumptions about sentencing policy. The tools used in the dialogue made participants aware of the need to balance "*head and heart*" when discussing these issues. Argument mapping drew participants' attention to the way rational arguments are framed, while social media modelling illustrated the potential down-side of telling sensational stories.

Hence, the dialogue provided an illustration of how conclusions are drawn from both emotional stories and rational evidence, mirroring to participants the challenge for sentencing policy itself - it must take into account both human stories and rationally-derived principles to apply to the whole of society. This supports a further role for dialogue in exploring the issues.

Participants also underlined the value of bringing a plurality of views to the issue of sentencing and sentencing policy. Bringing people from all walks of life together to discuss the issues makes it more likely that all perspectives will be considered.

Appendices

Appendix 1: Funding & Thanks

In 2022, Involve, the University of Southampton and Nethood won a grant to explore new methods of delivering public dialogues, as one of the grantees of the Rebooting Public Dialogue Fund¹⁷, stewarded by the Royal Society of Arts (RSA). The funding from the RSA/UKRI Rethinking Public Dialogue programme, was also supported by the UKRI FLF programme grant ref MR/S032711/1.

The project funding enabled Involve to offer a public dialogue to the Select Committee without financial cost. The dialogue could meet the objectives of the inquiry while also testing a range of methodological innovations including some different ways of presenting information and facilitating discussions.

The first of these was using a different software to usual public dialogues. The first two sessions took place on Zoom, while the third session took place on Jitsi, a platform with higher privacy protection functionality than Zoom¹⁸.

In some of the sessions, we applied a range of ways of exploring the issues, supported by the University of Southampton as part of the grant-funded exploration of methods that have been shown to be effective in public engagement.

These were:

- First, to explore the way the participants moved through their discussions, and to learn about the different ways they might use and deploy information in their deliberations, we gave half the groups an argument mapping tool to use, while the other half deliberated without the tool. The argument mapping tool concisely sets out in a visual hierarchy the key arguments that were being used, as well as the pros and cons to those arguments.
- Second, we presented the results of a social media analysis to the whole group. This analysis used topic modelling techniques, showing how similar issues were discussed in the media. Using techniques based on machine learning, the analysis showed which topics were in national newspaper articles and which topics were discussed most on Twitter. Participants used the results to compare their own discourse with the media context.
- Third, for participants to engage creatively, empathetically, and think critically about sentencing, we used the Sentencing Council's You be The Judge scenarios to develop a role- playing exercise where participants were asked to collectively decide on a sentence.

These methods and the new platform did not affect the content of the information being presented, with the dialogue still including the elements of standard good practice in design and delivery. Materials were developed in collaboration between the University of Southampton and the clerks of the Select Committee to ensure it met the requirements of the inquiry's questions. We would like to thank the Select Committee, Inquiry, University of Southampton and Nethood for contributing to the delivery of the dialogue and writing of this report.

¹⁷ <https://www.thersa.org/rethinking-public-dialogue#:~:text=Closed%20in%20July%202022%2C%20Rethinking,better%20health%2C%20ageing%20and%20wellbeing>

¹⁸ One of the objectives of the grant-funded portion of the dialogue was to explore the usability of this platform in the context of the rest of the sessions. The choice of platform did not impose on the content of the sessions.

Appendix 2: Table of Demographic Criteria, Quotas & Dialogue Membership

Criteria	Categories	Minimum quota¹⁹	Initial 28	Final
Gender	Male	50%	50%	48%
	Female	50%	50%	52%
Location	Wales	5 people	18%	20%
	Midlands	5 people	14%	16%
	London (Zones 1-6)	3 people	18%	16%
	North of England	5 people	21%	20%
	South West England	3 people	21%	20%
	South East England		7%	8%
Ethnicity	Non-white British	8 – 11 people	36%	32%
	White British		61%	64%
	Unclear		4%	4%
Social Grade	B	At least 10 BC1	25%	28%
	C1	At least 10 BC1	43%	40%
	C2	At least 10 C2DE	25%	24%
	D	At least 10 C2DE	7%	8%
Urban – Rural	Urban		43%	44%
	Suburban		39%	36%
	Rural		18%	20%

¹⁹ For location & ethnicity, targets were for at least the % shown in the target figure. i.e.: at least 5 people to live in Wales. Participants reflected a spread of demographics rather than a representation of the population of England & Wales.

Annexes

Annex 1: Recruitment Question about experience with Sentencing

The following question was used for filtering out people with a significant experience of the Justice System, as described in the ‘Recruitment’ Section of the report.

Which of the following statements apply to you?

I, and/ or a member of my close family and friends, have in the last 10 years been convicted of an offence which resulted in a custodial sentence (whether or not suspended)	Not selected
I, and/or a member of my close family and friends, have been a victim of a crime where the perpetrator was convicted and received a custodial sentence (whether or not suspended)	Not selected
, and/or a member of my close family or friend, have had an experience with the justice system that has had a significant emotional impact on me	Not selected
I, or a close family member or friend, have had an experience with the justice system, but it has NOT had a significant emotional impact on me	Ask follow up question
I’ve had no experience with the justice system	Continue

The follow up question asked for a short answer of the experience, which was then reviewed on a case-by-case basis.

Annex 2: Evidence Presented in Sessions

Session 1:

Presentations introducing the Public Dialogue

Sir Bob Neill from Justice Select Committee and Jack Simson Caird a member of the Committee’s secretariat gave a 10 min introduction to:

- Who the Justice Select Committee are
- The enquiry, why it is happening, how it will be used, and how this dialogue feeds into the enquiry
- The core questions the dialogue will explore

Presentation from Ruth Pope, Sentencing Council

Ruth Pope Sentencing Council presented slides outlining - What are the sentencing guidelines and discretion to decide; how are sentencing guidelines developed; types of sentences; an overview of the roles in a sentencing decision.

The presentation included the videos linked below:

- What a magistrate does: <https://youtu.be/ZuFb7mq6kAA>
- What a judge does: <https://youtu.be/nqBc8vhNpkA>
- Overview of the different types of sentence: <https://youtu.be/cyZp1Hz-xaU>
- Overview of the kinds of factors that influence a sentence: <https://youtu.be/LQ6iSLvFIRY>
- What guidelines do: https://youtu.be/XgGG_Dzmj08

The presentation slides are below:



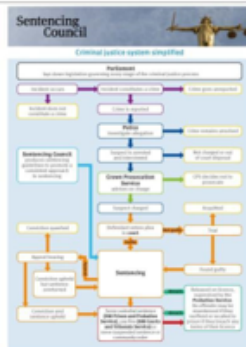
All about sentencing

Ruth Pope

Office of the Sentencing Council



Where does sentencing fit in?



2



Where does sentencing fit in?



Where does sentencing fit in?



Suspect is arrested and interviewed

Where does sentencing fit in?



Suspect charged

Where does sentencing fit in?



Defendant enters plea in court

GUILTY

Where does sentencing fit in?



What does a magistrate do?







When we are developing sentencing guidelines for an offence we look at evidence

- What is the harm caused by the offence?
- How many offenders are sentenced each year for this offence?
- What is the range of offending covered by the offence?
- What is the range of sentences actually given?
- What evidence is there that any particular type of sentence is more effective at preventing reoffending?

I hope you found that interesting and useful

All of the videos in this presentation and lots more information about sentencing is available on the Sentencing Council website:

www.sentencingcouncil.org.uk

Between Sessions 1 & 2:

Written Questions & Answers

Between Session 1 & Session 2, questions that were not answered live in the first meeting were categorised and duplicate questions removed. These questions were sent to the team working on the Select Committee Inquiry, who prepared a PDF that was sent to participants before the 2nd session.

The content of this is shown below:

Key statistics on sentencing

The latest statistics from the Ministry of Justice show that:

- In the year ending September 2022, just over 1 million people were sentenced in criminal courts in England and Wales.
- Of these, 6% or 64,000 people were sentenced to immediate custody.
- The average custodial sentence length was around 22 months.
- A similar proportion (7% or 69,000 people) received a community sentence, such as having to perform unpaid work.
- The majority of sentences (78% or over three quarters) were to pay a fine. These sentences were largely for motoring offences.
- At the end of December 2022, there were just over 67,000 people in prison serving custodial sentences.
- Of those who had never been released, over half were on determinate (fixed length) sentences of 4 years or more.
- Offenders serving sentences of less than one year made up around 6% of this population.
- There were around 8,500 people in prison serving indeterminate sentences (15% of the unreleased, sentenced population).
- Around 7,100 people were serving life sentences in England and Wales, as of the end of December 2022.
- Around 400 people per year are sentenced to life imprisonment.
- As of the end of September 2022, there were 72,000 people being supervised in the community while serving community sentences. The most common requirements of community sentences were to perform unpaid work and to undertake a rehabilitation activity.
- Around 44,000 people were being supervised in the community while on suspended sentences.
- The average length of a suspended sentence was around 20 months.

Questions from Session 1:

Evidence & Effectiveness

Could we have statistics on what is effective or less effective for sentencing? For example, the % of people on discharge or paying a fine who reoffend?

Whilst the Ministry of Justice does publish statistics on proven reoffending (defined as any offence committed in a one year follow-up period and receiving a court conviction, caution, reprimand or warning in the one year follow up or a further six months waiting period), its [guide to these statistics](#) includes the following note about using the statistics to assess the effectiveness of sentences:

Proven reoffending rates by disposal (sentence type) should not be compared to assess the effectiveness of sentences, as there is no control for known differences in offender characteristics and the type of sentence given.

The report [Impact of short custodial sentences, community orders and suspended sentence orders on reoffending](#) compares like for like offenders, which enables a more reliable comparison of proven reoffending rates between offenders receiving different sentences.

In the [2013 Compendium of reoffending statistics and analysis](#), suspended sentence orders had a lower reoffending rate than matched offenders given community orders (3.2 percentage points for 2010).

Other non-custodial sentences are compared in annex D of the [Proven reoffending statistics quarterly bulletin, January to December 2014, England and Wales](#).

In September 2022, the Sentencing Council published a [review of research on the effectiveness of sentencing](#). Key findings can be found on pages 5-7.

Why was the range for community service of 40-300 hours chosen? What difference does different numbers of hours make to the effectiveness of sentencing?

The 40-300 hours range for community service is set out in law ([Schedule 9](#) of the Sentencing Act 2020). The Sentencing Council website has an [information page](#) about community orders. This includes a table which sets out three sentencing ranges within the 40-300 hours:

Low	Medium	High
<p>Offences only just cross community order threshold, where the seriousness of the offence or the nature of the offender's record means that a discharge or fine is inappropriate</p> <p>In general, only one requirement will be appropriate and the length may be curtailed if additional requirements are necessary</p>	<p>Offences that obviously fall within the community order band</p>	<p>Offences only just fall below the custody threshold or the custody threshold is crossed but a community order is more appropriate in the circumstances</p> <p>More intensive sentences which combine two or more requirements may be appropriate</p>
<p>Suitable requirements might include:</p> <ul style="list-style-type: none"> • Any appropriate rehabilitative requirement(s) • 40 – 80 hours of unpaid work • Curfew requirement for example up to 16 hours per day for a few weeks** • Exclusion requirement, for a few months • Prohibited activity requirement 	<p>Suitable requirements might include:</p> <ul style="list-style-type: none"> • Any appropriate rehabilitative requirement(s) • 80 – 150 hours of unpaid work • Curfew requirement for example up to 16 hours per day for 2 – 3 months** • Exclusion requirement lasting in the region of 6 months • Prohibited activity requirement 	<p>Suitable requirements might include:</p> <ul style="list-style-type: none"> • Any appropriate rehabilitative requirement(s) • 150 – 300 hours of unpaid work • Curfew requirement for example up to 16 hours per day for 4 – 12 months** • Exclusion requirement lasting in the region of 12 months

The HM Inspectorate of Probation (the independent body that inspects the Probation Service) website includes a [page](#) about research on unpaid work (last updated 17 May 2021). It noted that “There have been no systematic reviews on the impact of unpaid work on reoffending rates”. It refers to [research](#) published by the Ministry of Justice in 2014:

In 2014, the Ministry of Justice published research on community orders with punitive requirements, including results from a survey of service users. Key findings related to unpaid work were as follows:

- *nearly two-thirds of service users thought that unpaid work made them less likely to commit crime, but around one in five disagreed*
- *compliance with unpaid work was higher in relation to the following:*
 - *service users who thought their probation practitioner listened to them ‘a lot’ compared with ‘a little’ in deciding the type of unpaid work*
 - *service users who felt the unpaid work was ‘not demanding at all’ compared with those who said it was ‘very’ demanding*
 - *older service users, those without an accommodation need, and those with children*
- *service users were more likely to report that they had breached their order when they had an unpaid work requirement in the sentence (controlling for factors including the likelihood of reoffending).*

To what extent do they look at sentencing policy in other countries/societies and the impact it has there?

It is difficult for us to assess the extent to which the Ministry of Justice considers international comparisons when developing sentencing policy. There are references to international evidence within the Government’s September 2020 White Paper, [A Smarter Approach to Sentencing](#) (this paper set out the Government’s vision for sentencing, and a number of policies in it have since become law.) This suggests that the Government does consider to some extent how sentencing works in other countries.

Select committees, including the Justice Committee, can travel within the UK and internationally to look at how things are done in other countries. Committees can use what they see and learn during these visits to inform their reports, including what recommendations they might make to the UK Government.

During this inquiry, it was suggested to the Committee that it visit Finland and the Netherlands to look at levels of public understanding of sentencing there, and how public opinion informs sentencing policy. The Committee is currently planning its visit, and this will also form part of the evidence base for its report.

Do judges use evidence about the effectiveness of different sentences to inform their sentencing decisions?

The judge or magistrates look at the facts of the case and decide the appropriate sentence based on the harm done to the victim and how much responsibility the offender has for the crime. The sentence imposed on an offender should reflect the crime they have committed and be proportionate to the seriousness of the offence. It is up to the judge or magistrates to decide how much weight to give each factor in the case they are dealing with.

The judge or magistrates must refer to the law, including the maximum and, in some cases, minimum sentence and any [sentencing guidelines](#) relevant to the offence that has been committed. The sentencing guidelines set out the process judges and magistrates should follow and the factors they should consider to work out the appropriate sentence.

The factors taken into account will vary depending on the facts of each individual case but, because the judge or magistrates will be following the sentencing guidelines, they will take a consistent approach. The kind of factors the judge or magistrates will consider will include seriousness of the offence, harm caused to the victim, the offender's level of blame, their criminal record, their personal circumstances and whether they have pleaded guilty. These factors may be relevant in determining the type of sentence as well as how long it might be and the type and number of requirements that might be imposed.

By law, judges and magistrates must sentence according to the guidelines, unless it would be unjust to do so. They have the discretion to depart from sentencing guidelines if they think it would be in the interest of justice to do so, given all the circumstances of a particular case.

Where there is no guideline for a particular offence, judges and magistrates will refer to the General guideline for sentencing offences that do not have a specific sentencing guideline. The General guideline came into force on 1 October 2019.

Judges may also refer to important Court of Appeal judgments to examine how sentences have been reached for similar cases in the past.

Policy

How does public opinion change sentencing policy?

The Ministry of Justice's [written submission](#) to the inquiry sets out a number of ways in which the public's views inform sentencing policy. In summary these are:

- **Manifesto commitments**: In the run up to a General Election, political parties often include commitment on policies they would legislate (introduce or change laws) for which relate to the criminal justice system and sentencing. Commitments made by an elected Government give a mandate for enacting policies supported by the public.
- **Views of MPs representing their constituents**: The Ministry of Justice considers what MPs are saying on behalf of their constituents, and this information forms part of the advice that is given to Ministers when they are making decisions about sentencing.
- **Victim-focused campaigns**: Sometimes victims of crime and their families campaign on changes to sentencing, and these campaigns can lead to changes in the law. Recent examples include Harper's Law, which introduced mandatory (meaning judges must give the sentence) life sentences for those who kill an emergency worker in the course of their duty, and Tony's Law, which increased the maximum sentence that can be given for child cruelty offences.
- **Consultations**: Sometimes the Government puts out public consultations on changes to policy which anybody can respond to.
- **E-petitions**: Any British citizen or UK resident can start a petition on the Parliament website. They are reviewed by the Petitions Committee. Petitions that receive 10,000 signatures receive a written response from the Government. Petitions that receive 100,000 signatures are considered for debate in Parliament.

How will the inquiry affect policy & when would any effects happen?

When the Committee has finished gathering evidence and information for this inquiry, it will produce a report which makes recommendations to the Government. The conclusions and recommendations will be based on all of the information the Committee has received, including findings from this public dialogue. The report will be published so that anyone can read it. We expect the report for this inquiry to be published during early summer.

The Government has to respond to the Committee's recommendations, and typically does so within 60 days of the report being published. However, it is for the Government to decide which recommendations it wishes to take forwards.

When it responds, the Government might accept a recommendation, partly accept it, or reject it. It is difficult to predict how the Government might respond to a select committee's recommendations. When the Government accepts a recommendation, it sometimes gives an indication of when it plans to make any changes. The Government's response will also be published so that anyone can read it.

Why do we not use harsher punishment such as the death penalty? Who makes decisions like this?

The last executions in the UK took place in 1964. Capital punishment (the death penalty) for murder was suspended in 1965 and abolished in 1969 (1973 in Northern Ireland). Although unused, the death penalty remained a legally defined punishment for certain offences, such as treason, until it was completely abolished in 1998.

Successive UK Governments since the death penalty was abolished have adopted a policy of not reintroducing it, and of opposing its use in other countries. A [news story](#) on the Gov.uk website from 2019 sets out some of the reasons for the UK's longstanding position on the death penalty:

- The belief that its use undermines human dignity;
- That there is no conclusive evidence that it acts as a deterrence (prevents crime); and
- That any miscarriage of justice (if someone wrongly convicted is sentenced to the death penalty and executed) cannot be reversed.

What do we mean by policy? Could you explain what policy means in relation to sentencing.

A policy is an idea or a principle that is put forward. When thinking about ‘Government policy’, a policy is generally some form of action the Government wants to take to change how something is done or to introduce something new. Sometimes the Government has to change the law to make its policies happen. Parliament is responsible for examining new laws or changes to existing laws, and for introducing these laws.

In terms of sentencing, Parliament has introduced maximum and minimum sentences for criminal offences. Maximum sentences are much more common than minimum sentences, because they give judges discretion to decide the appropriate sentence for the particular circumstances of the offender in each case. It is common for offences to have a maximum sentence set out in law by Parliament. For example, it set down in law that a person can get the maximum of seven years for [theft](#) or a life sentence for [rape](#). Minimum sentences have also been introduced by legislation, such as a minimum of five years in prison for certain types of gun crime, and a minimum of three years when someone is convicted of a third [domestic burglary](#). Parliament has created and set rules about different [types of sentences](#) and when and who they can be given to. For example, there are differences in the kinds of sentence that can be given to adults and [under 18s](#). It has also introduced principles such as offenders being released on licence half way through a prison sentence and that there should be a [reduction in sentence for a guilty plea](#).

If it was Government policy to, for example, make maximum and minimum sentences for some criminal offences longer or shorter, it may suggest changes to the law which Parliament would then consider.

How sentencing works

Could we have a brief overview of current sentencing so we can more clearly see what needs improving?

The presentations provided by Professor Gavin Dingwall, Sentencing Academy, and Mark Day, Independent Commission into the Experiences of Victims and Long-Term Prisoners will give an overview of different perspectives on sentencing and current issues.

When the Committee launched this inquiry, it put out a call for written submissions. These have been published on the Committee’s website and are available [here](#). The submissions raise a number of issues regarding public understanding of sentencing and public opinion on sentencing. In summary:

Public understanding

- Some submissions discussed how complex sentencing is, such as how certain types of sentence work and the language that is used, and suggested that this may affect public understanding.
- Some submissions suggested that better and/or more information about sentencing could be provided to the public.
- Some submissions discussed how sentencing is presented in the media, such as the focus on serious offences and/or unusual sentences (such as where a sentence has been found to have been

too lenient), and how this might affect public understanding of how sentencing works, and confidence in the criminal justice system.

- Some submissions also discussed how politicians talk about sentencing and how, for example, talk of making sentences ‘tougher’ might affect public understanding and opinion on how sentencing currently works, and their confidence.

Public opinion

- Some submissions suggested that some ways of finding out what the public thinks about sentencing are better than others. For example, some submissions suggested that events such as this public dialogue are more effective than polling/questionnaires.
- Some submissions discussed how what people think about sentencing might be affected by things such as how much information they have and their own experiences. Some submissions suggested that more could be done to understand why different people think different things about sentencing.
- Some submissions discussed how the Government currently develops policies and ideas around sentencing, and suggested that it could adopt what they describe as a more ‘evidence-based’ approach.

What are the baseline sentences for different types of crime?

There are many types of sentence that a judge or magistrates can pass. They range from fines, which are given for lower-level offences, up to life sentences in prison for the most serious crimes. There are four main types of sentence:

- Discharge
- Fine
- Community sentence
- Custodial sentence

Discharges

Discharges are given for the least-serious offences such as very minor thefts. A discharge means that the person is released from court without any further action. But they will still get a criminal record.

Fines

Fines are the most common type of sentence given by the courts. That is because they are given for lower-level crimes such as minor driving offences or minor theft.

Community sentence

A community sentence combines some form of punishment with activities carried out in the community. It could mean, for example, that an offender must:

- carry out up to 300 hours of unpaid work, for example removing graffiti
- have alcohol or drug treatment to help tackle the reasons why they have committed crimes in the first place
- keep to a curfew – which aims to keep them out of trouble, or

- live at a particular address or not travel abroad.

Custodial sentence

Imprisonment is the most severe sentence available to the courts. Custodial sentences are reserved for the most serious offences and are imposed when the offence committed is “so serious that neither a fine alone nor a community sentence can be justified for the offence” (section 230(2) of the Sentencing Code). A custodial sentence may be imposed where the court believes it is necessary to protect the public. The length of the sentence depends on the seriousness of the offence and the maximum penalty for the crime allowed by law. Parliament has also introduced minimum sentences for some serious offences that must be imposed unless there are exceptional circumstances:

- seven years’ imprisonment for a third Class A drug trafficking offence
- three years for a third domestic burglary
- five years for certain firearms offences
- six months for a second offence of possessing a weapon
- six months for threatening with a weapon

Parliament has decided that judges must give a life sentence to all offenders found guilty of murder. The judge will set a minimum term an offender must serve before they can be considered for release by the [Parole Board](#).

The minimum term for murder is based on the starting points set out in [Schedule 21 of the Sentencing Code](#). The schedule sets out examples of the different types of cases and the starting point that would usually be applied. For example, where a murder is committed with a knife or other weapon which the offender took to the scene intending to commit an offence, the starting point for the minimum term would be 25 years.

The offender will be released only once they have served the minimum term and if the Parole Board is satisfied that detaining the offender is no longer necessary for the protection of the public. If released, an offender serving a life sentence will remain on licence for the rest of their life. If they are ever thought to be a risk to the public, they could be recalled to prison. They do not need to have committed another offence in order to be recalled.

For the most serious cases of murder, an offender may be sentenced to a life sentence with a ‘whole life order.’ This means that their crime was so serious that they will never be released from prison.

As of 31 December 2022, there were 66 whole-life prisoners. The list of offenders with a whole-life term includes murderers Rosemary West, Levi Bellfield and Wayne Couzens. (Statistics taken from the Ministry of Justice’s [offender management statistics publications](#).)

How are sentences appealed if people disagree with them?

A [person sentenced in the magistrates’ court](#) can appeal to the Crown Court. There will be a rehearing in the Crown Court. The Crown Court may impose a sentence greater than that imposed by the magistrates’ court. A [person sentenced in the Crown Court](#) can apply to be allowed to appeal to the Court of Appeal. They are required to fill in a form. A judge then decides if they are allowed to appeal. If the person is

allowed to appeal to the Court of Appeal the Court of Appeal will consider whether it thinks the person appealing should have been sentenced differently. The Court of Appeal can change the sentence given by the Crown Court, passing a sentence it thinks is appropriate in the case. When deciding the new sentence, the Court of Appeal must make sure that as a whole the person is not dealt with more severely than they would have been dealt with by the Crown Court. In practice the Court of Appeal considers whether or not the sentence is wrong in principle or manifestly excessive.

Where a person is sentenced in the Crown Court for certain serious offences, anyone, including victims or their families, [can ask the Attorney General to review the sentence if they think it is too low](#). This is known as the unduly lenient sentence scheme. Only sentences for certain offences can be reviewed, for example these include murder, rape, some child sexual offences, serious fraud and serious drugs crimes. Once a person asks the Attorney General to review a sentence, the Attorney General will review the case and decide whether to refer it to the Court of Appeal. The Court of Appeal may then, if it agrees to review the case increase the sentence if it finds that the sentence is unduly lenient (unreasonably low).

Is self-defence considered in sentencing, & how?

Self defence can be a mitigating factor (a factor that can reduce a sentence) when the court decides on a sentence as it can indicate lesser culpability. This means that when the court considers the sentence in an individual case, for example for an offence of [assault occasioning actual bodily harm](#), the fact that a person acted in self defence but used excessive force might reduce their culpability and so their sentence. When the courts determine sentences for murder, one of the mitigating factors that may be relevant is that the offender acted to any extent in self-defence or in fear of violence ([Schedule 21](#), Sentencing Act 2020).

Is technology being looked at to use in sentencing decisions, i.e.: to speed things up?

It is possible for sentencing hearings to take place via video link, however in practice as they are such an important part of the criminal justice process, sentencing hearings almost always take place in person.

We are not currently aware of plans to use technology in decision-making on sentencing. However, we are aware of some ways technology is being used to improve access to sentencing remarks (remarks given by a judge to explain the reasoning behind the sentence they have given). Last year, a judge's sentencing remarks were broadcast for the [first time](#).

What differences are there in sentencing based on people's characteristics, i.e.: class, race, gender? How are these being addressed?

The Ministry of Justice's [Statistics on Ethnicity and the Criminal Justice System 2020](#), which was published in December 2021 said the following:

In general, minority ethnic groups appear to be over-represented at many stages throughout the CJS compared with the White ethnic group. This is especially apparent when comparing to the ethnic breakdown of the population of England and Wales. The greatest disparity appears at the point of stop and search, custodial remands and prison population. Among minority ethnic groups, Black individuals were often the most over-represented. Outcomes for minority ethnic children are often more pronounced than White children at various points of the CJS. Differences in outcomes between ethnic groups over time present a mixed picture, with disparity decreasing in some areas and widening in others.

The House of Commons Library has produced a briefing, which on pages 20-21 has some statistics on disparities in sentencing: [Race and ethnic disparities \(parliament.uk\)](https://www.parliament.uk/resources/briefings/briefing-2019-01-23-race-and-ethnic-disparities-in-sentencing)

The Sentencing Council's has set itself a [strategic objective](#) of: "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". To deliver on this objective it has said it will "Ensure any evidence of disparity in sentencing between different demographic groups is taken into account when deciding whether to develop or review a guideline by including this as a consideration in the Council's criteria for developing and revising guidelines".

How is remorse as a criteria dealt with neurodivergent people being sentenced?

The Sentencing Council's guideline [Sentencing offenders with mental disorders, developmental disorders, or neurological impairments](#), provides guidance to courts when sentencing offenders who have any mental disorder, neurological impairment or developmental disorder. The includes autistic people and people with autistic spectrum disorder. The guideline does not specifically mention remorse but gives more general guidance, for example saying that "in assessing whether the impairment or disorder has any impact on sentencing, the approach to sentencing should be individualistic and focused on the issues in the case".

Session 2:

In Session 2 there were two short presentations on the different aims of sentencing, perspectives on these and the experience of Victims & Long-term Prisoners.

Presentation from Gavin Dingwall

Gavin Dingwall, Senior Research Fellow at the Sentencing Academy, gave a short presentation of the different aims of sentencing and perspectives people bring to these aims.

There were no slides for this presentation.

Presentation from Mark Day

The slides are shown below:



Mark Day
Joint Secretary



Purpose and objectives

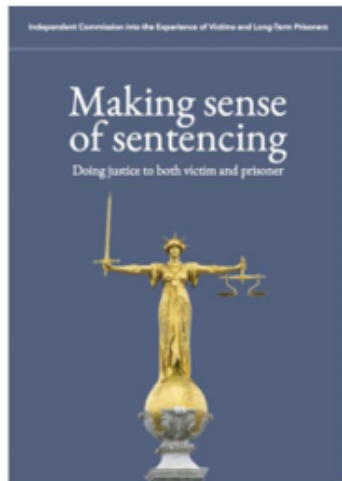
The aim of the Commission is to provide the basis for a more measured and informed public and political debate about how the most serious crime is punished. That debate should include both the treatment of perpetrators and the attention given to victims and their families once sentence has been passed.



Bi-focal approach

“Our approach will be bifocal, examining these issues through the eyes both of victims and their families and of long-term prisoners past and present.”

Bishop James Jones

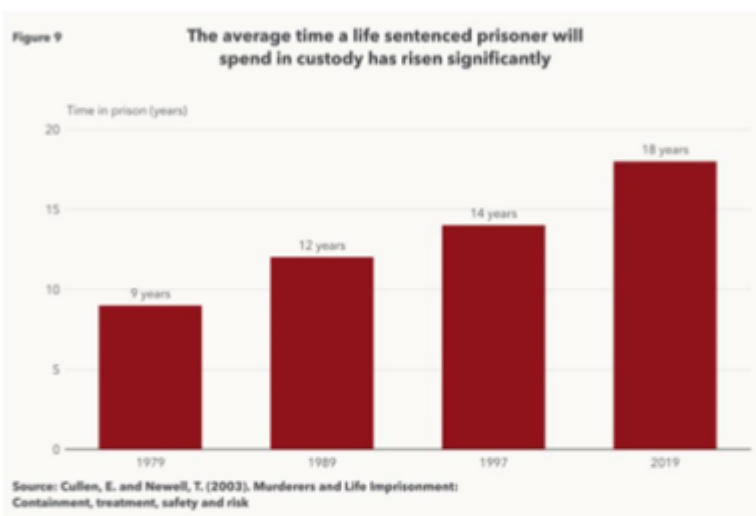


Sentences are getting longer

The number of people given a determinate sentence of more than 10 years more than doubled from 485 in 2009 to 1,188 in 2019.

In 2000, the average tariff length of mandatory life sentences was 13 years. By 2020 it had risen to 20 years.

In 1979 the average time spent in custody by life sentenced prisoners was nine years. By 2019 that figure had doubled to an average of 18 years.



What victims told us

Victims' families want timely and accurate information

The process of sentencing leaves them feeling uncertain and confused about what the sentence means, and cut off from what happens to the prisoner thereafter

The content of the sentence should lead the offender to recognise what they have done and to reform

Where victims and their families have sought out restorative justice, they have often found it helpful, but many did not have the opportunity to explore the possibility of restorative justice

Providing longer sentences does not compensate victims for a failure to treat them and their families properly and in a way which respects the impact of the crime on them.

"He got this sentence that I didn't know what it meant and that his legal team gave me a brief explanation of what that was all about. That it was a life sentence, depending on how he behaved and then there you go, you're off in the big wide world absolutely none the wiser and just left going out of your mind."


"A report would have been helpful (to understand the sentencing) something that I could have read if I wanted to because of the trauma you don't remember, and there is so much information and everything you have been told is so outside of your everyday life and experience that it doesn't go in. I would say a simplified and bullet point report to help understanding and get clarity."

“There are so many organisations that you deal with, and I am quite an intelligent lady, but I have to tell you that at times it completely and utterly overwhelmed me. I just feel there needs to be a greater coordination and continuity between organisation and a serious understanding that the victims that are going through this are going through a tremendously traumatic experience.”


What prisoners told us

- Lost agency and autonomy
- “Most long termers have no or very few supporters or friends.”
- Many prisoners recognised the difficulty (for prison staff and the Parole Board) of accurately assessing risk and reform.
- The importance of gaining education and vocational skills
- A common belief was that the length of sentences was excessive from the point of view of nurturing positive change
- The main impact of longer sentences is to generate a lack of hope among prisoners.

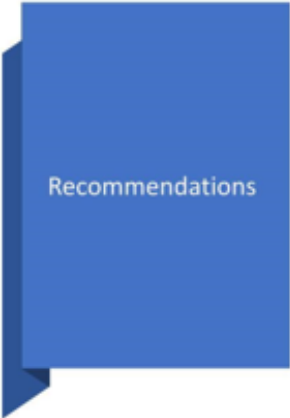
“I suppose the main impact the sentence has had on me is the lack of hope that I wake up with daily and feelings of bitterness I have to live with. I feel that over the years prison has taken my shine away from me and I’ve grown to mistrust all those in authority.”



“With these long times, and the way the prison system is, and lack of money and lack of this, that and the other, there’s such a long time of nothingness. Like for me it was seven years before I could even say I’m halfway and start counting down to another seven years, and it seemed endless.”



“Courses, sentence plans, rehabilitation can never work if you lock people up in a cupboard-toilet-cell.”



Recommendations

- A national debate on sentencing, including:
- A Law Commission review of the sentencing framework for serious offences
 - A Citizens’ Assembly on sentencing policy
 - Strengthening the role for the Sentencing Council in promoting public confidence in and understanding of sentencing

Recommendations aimed at victims

- Better communication with, and information for, victims of serious crime
- An entitlement for victims to have a summary of the prisoner's sentence plan and progress in the sentence
- Better enforcement of existing victim entitlements
- Better access to restorative justice for victims and prisoners.

Recommendations aimed at prisoners

- Improve the content of long sentences, including better opportunities for education and other purposeful activity
- Greater external scrutiny of arrangements for sentence progression
- Improve the effectiveness of the parole system
- Address the injustice faced by IPP prisoners.

Mark Day

Questions & Answers between Session 2-3

As with session 1, some questions were not answered in session and some responses to these were prepared by the Clerks working on the inquiry. These questions and answers are shown below:

Q&A Sheet

Is misinformation policed at all?

Disinformation (intentionally spreading factually incorrect information) and misinformation (unknowingly spreading factually incorrect information) do not cross the threshold of illegality. This means misinformation is not treated as a criminal matter. However, there are various processes in place designed to prevent and address misinformation.

Social media

For content that is harmful, but not illegal, social media platforms self-regulate through 'community standards' and 'terms of use' that users agree to when joining. For example, some social media platforms allow users to report content for review by content moderators.

TV and radio

[Ofcom](#) regulates communications services including TV, radio and video on demand services. Its

Broadcasting Code includes rules which TV and radio broadcasters must follow. The Code includes a section on '[Due impartiality and due accuracy](#)', to ensure that news is reported with due accuracy. Full guidance on this section of the Code is available [here](#).

Ofcom handles complaints about the communications services it regulates. Information about its complaints process is available [here](#). Ofcom has legal powers to impose sanctions on broadcasters if they are found to have breached the rules.

Newspapers

The [Independent Press Standards Organisation](#) (IPSO) is the independent regulator of most of the UK's newspapers and magazines. The Editors' Code of Practice sets out the rules that newspapers and magazines regulated by IPSO have agreed to follow. Clause 1 of the [Code](#) relates to the accuracy of reporting. IPSO considers complaints about newspapers or magazines which are members of IPSO. Information about this is available [here](#).

Sentencing and the media

The judiciary, through the Judicial Office, publishes some sentencing remarks on the [judiciary.uk website](#). The Sentencing Council also produces [news stories](#) that provides information for the media and the public on sentencing. The judiciary and the Sentencing Council also use social media to publicise sentencing remarks and provide other information on sentencing.

Are the five principles of sentencing in any kind of order or prioritised at all?

The law does not set out whether or how each of the five purposes of sentencing should be prioritised.

When considering a sentence, as well as bearing in mind the five purposes of sentencing, the judge or magistrates must refer to the law, including the maximum and, in some cases, minimum sentence and any sentencing guidelines relevant to the offence that has been committed. The sentencing guidelines set out the process judges and magistrates should follow and the factors they should consider to work out the appropriate sentence.

The factors taken into account will vary depending on the facts of each individual case but, because the judge or magistrates will be following the sentencing guidelines, they will take a consistent approach. The kind of factors the judge or magistrates will consider will include seriousness of the offence, harm caused to the victim, the offender's level of blame, their criminal record, their personal circumstances and whether they have pleaded guilty. These factors may be relevant in determining the type of sentence as well as how long it might be and the type and number of requirements that might be imposed.

The Sentencing Council has produced a [video](#) about how judges and magistrates weigh up the five purposes of sentencing.

Session 3:

Presentation of Social Media Analysis

In Session 3, Rafael Mestre, from the University of Southampton, presented the top themes in recently published news and social media, identified by topic modelling analysis. The presentation summarising these results is below:

Social media analysis

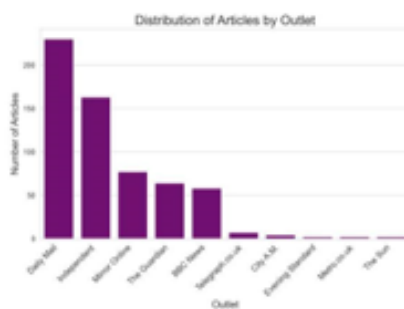
University of Southampton

11 March 2023

Overview of our study

- We have analysed news/social media in three ways:
 - Most prominent articles published by national news outlets
 - Most shared articles on Twitter
 - Articles that stirred the biggest conversation
- Our aims are to understand:
 - What's the focus of online public discussion on sentencing?
 - Which sentencing articles are shared the most?
 - Which sentencing articles create the biggest conversations?

2



We obtained a list of the most prominent articles in English/Welsh news outlets through an online service

We pick up a total of **609 articles related to sentencing**

What are the most common topics when discussing sentencing?

Topic modelling



1 circle = 1 topic of conversation

Topic nb	Topic name
Topic 1	Climate activists
Topic 2	Scammers
Topic 3	Gary Glitter
Topic 4	Police breaking law
Topic 5	Veterans convicted
Topic 6	Spies
Topic 7	Infant murder
Topic 8	NHS

4

NEWS
Home | Cost of Living | War in Ukraine | Coronavirus | Climate
England | Local News | Regions | Birmingham & Black Country

Judge praises Birmingham protesters' 'admirable' actions

© 17 February

Topic 1: Climate activists

Mirror
The activists glued their hands to Leonardo Da Vinci's The Last Supper inside the Royal Academy
Image: PA

NEWS POLITICS FOOTBALL CELEBS TV MONEY ROYALS

Just Stop Oil activists who glued themselves to Da Vinci painting fined just £175 each

Cooper Hughes sprayed onto the wall 'no new oil' and then he and Simon Bramwell, Jessica Agar, Lucy Porter and Tristan Strange glued themselves to the frame of the painting in July last year

5

NEWS POLITICS FOOTBALL CELEBS TV MONEY ROYALS

Couple scammed out of £77,000 by cowboy builders for a job that should cost just £1,000
Professor Nigel Wilson and his wife Dr Henrika Wilson used £77,000 to engage builders for roof repairs on their home which usually cost around £2,000, Oxford Crown Court heard

NEWS POLITICS FOOTBALL CELEBS TV MONEY ROYALS

Fake doctor duped NHS £1.3million using forged qualifications to pursue 22-YEAR career
Zsuzsanna claimed she graduated from the University of Auckland before working for more than two decades as a practicing stroke in the NHS

Crooked travel agent who faked cancer in 'deliberate and calculated' £2.6m holiday con on her family and 1,400 customers is jailed for nine years

- Lynne Barlow claimed to her customers that she was covered by insurance
- The 39-year-old was subject to an investigation after victims came forward
- Barlow claimed she was terminally ill while she was selling holidays to people

By DAN SALES FOR MAILONLINE and KEVIN DONALD
PUBLISHED: 10:55, 3 February 2023 | UPDATED: 20:22, 3 February 2023

Topic 2: Scammers

6



CRIMINAL

14 hours

GLITTER'S OUT Gary Glitter 'treated like royalty' in bail hostel & 'having his meals delivered to his private room' after jail release

Sam Crispin

Published: 14:26, 4 Feb 2022 | Updated: 14:26, 4 Feb 2022

Vigilantes arrive at Gary Glitter's bail hostel and are confronted by police as pop paedophile celebrates freedom - by dining on a plate of fish and chips

- The 1970s glam rock star, 76, and child abuser was released from jail yesterday
- Vigilantes identified the bail hostel and immediately arrived at the address

Topic 3: Celebrities (Gary Glitter)

7



Former Dorset Police worker jailed for stealing evidence cash

12:25 January

Disgraced West Yorkshire police officer who persuaded his wife to lie and take his speeding points after he broke the limit is jailed for six months

- Mark Hinchcliffe, 43, persuaded wife Lisa to take speeding points for him twice
- Hinchcliffe had been a police officer with West Yorkshire Police for 18 years
- He has now been jailed for six months while his wife received a suspended term

By STEWART CARR

PUBLISHED: 20:07, 25 January 2022 | UPDATED: 09:34, 26 January 2022

Metropolitan police

Former Met officer who bound female flatmate with duct tape jailed

Sam Grigg, 36, forced 23-year-old woman to believe she was about to be raped during '10 minutes of terror'

Topic 4: Police breaking the law

8

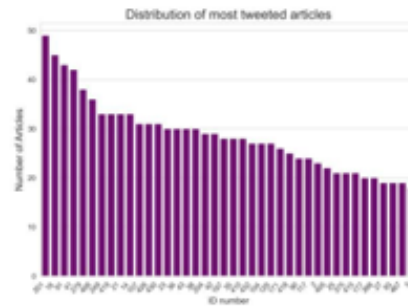
Which sentencing articles are shared the most on Twitter?



10

Which sentencing articles are shared the most on Twitter?

Our 609 articles were tweeted 3087 times, **but not at the same rate**



11

Top 4 articles

'Which is more important to them, their freedom or their organs?': Prisoners to be offered reduced sentences of up to a year if they donate their organs or bone marrow under bold proposal in Massachusetts

- Massachusetts State Democrats proposed a bill that would see inmates offered reduced sentences of up to a year if they donate their organs and bone marrow
- Many say the bill raises ethical concerns for the more than 6,000 inmates in Massachusetts prisons who could risk their health for freedom
- One of the bill's sponsors said it would restore their 'family autonomy' and allow them to donate to family members

NEWS
Home | Cost of Living | War in Ukraine | Coronavirus | Climate | UK | World | Business | Politics | Tech

Most probation services are over capacity, leaked data reveals

UK | England | N. Ireland | Scotland | Wales | Cyprus | Isle of Man | Guernsey | Jersey | Local News

Home | News | Sport | Weather | Shop

Transgender double rapist Isla Bryson leaves women's prison after 48 hours and is put behind bars in an all-male unit after Nicola Sturgeon was forced into screaming U-turn

NEWS
Home | Cost of Living | War in Ukraine | Coronavirus | Climate | UK | World | Business | Politics | Tech

Buffalo shooting: Relative lunges at gunman before sentencing

World | Africa | Asia | Australia | Europe | Latin America | Middle East | US & Canada

12

But, what are the most relevant topics when tweeting news articles about sentencing?

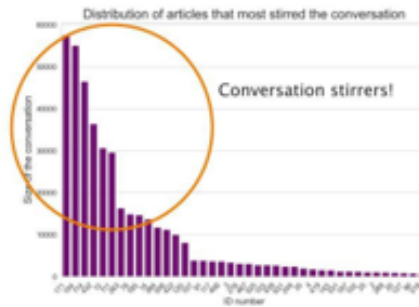
Topic nb	Topic name
Topic 1	Trans people
Topic 2	Filter topic
Topic 3	Asylum seekers
Topic 4	Spies
Topic 5	Paedophiles/sexual abuse
Topic 6	Climate activists
Topic 7	Probation services
Topic 8	Capitol rioters

Top topics shared were not even in the most common newspaper articles

13

Some tweets receive lots of replies

Which articles about sentencing appear in the biggest online conversations?



Top 6 articles

Former prosecutor claims **Donald Trump** ran 'empire built on lies' and 'inflated his worth by BILLIONS' to secure millions in loans, in first interview since resigning when DA refused to indict former President

I married the man who became 'transgender' rapist Isla Bryson - and think 'she' only became a woman to get an easier time in jail: Estranged wife of attacker previously known as Adam Graham slams 'sham decision' to put sex offender in women's prison

Furious campaigners slam 'disgusting' decision to send transgender rapist to female prison as backlash grows over Sturgeon's gender self-ID reforms

Trans rapist prison case 'must not lead to blanket rule', says campaign group

Scottish Trans and Nicola Sturgeon say decisions must be made on case-by-case basis

Rapist guilty of attacking women before gender change

Bride-to-be strangled and threatened to kill her trans partner in fight over MoT test that she blamed on victim's hormone treatment



Who are the tweeters responsible of such big conversations?

Conclusion

- When informing about sentencing, news outlets highlight articles about controversial topics like climate activists, scammers, celebrities, police officers breaking the law or crimes involving small children
- However, people on social media share and discuss the most articles about trans people and asylum seekers, but also about **prisoners and the state of prisons and probation services**
- Those articles give rise to the biggest online conversations, many times **initiated and stirred by celebrities, political figures and influencers**

Published articles != tweeted articles != most discussed topics

17



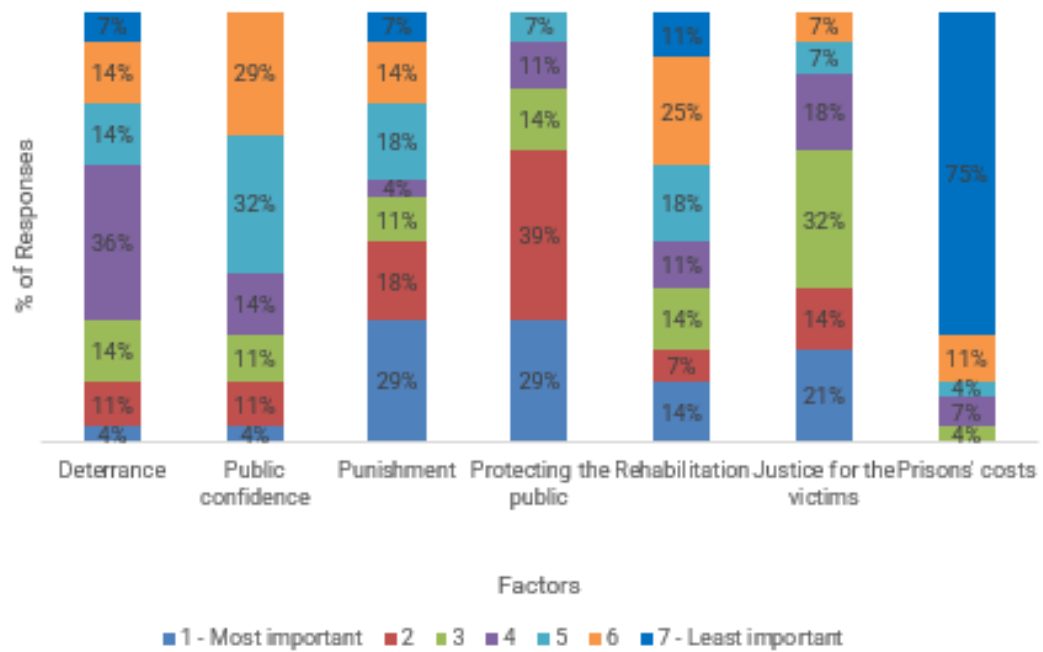
Annex 3: Pre & Post - Survey Results

1. We would like to ask you some questions about your attitudes, opinions, preferences and understandings of sentencing.

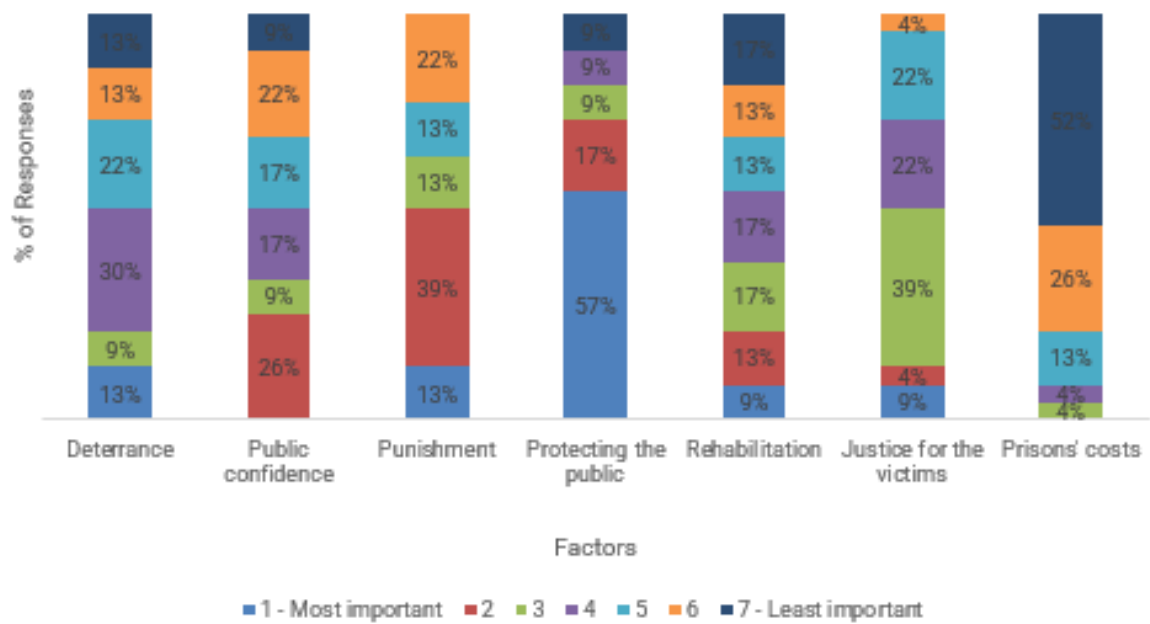
Which of the following factors are the most important to you in the setting of sentences?

Please click and drag the options in the order that best represents your view, where 1 = the option you think is most important and 7 = the option you think is the least important.

Post-survey: Which of the following factors are the most important to you in the setting of sentences?



Post-survey: Which of the following factors are the most important to you in the setting of sentences?



2. Which of the following mitigating factors (i.e. factors that might reduce the sentence length), if any, do you think a judge should take into account when deciding a sentence for a crime?

Please select all that apply

Factors	Count of Responses Before (out of 24 who answered this question)	Count of Responses After (out of 24 who answered this question)
The offender has a mental health condition or learning disability	21	17
The offender has a serious medical condition (e.g., cancer, heart disease)	13	7
Age and/or lack of maturity of the offender	14	14
The offender is a primary carer (e.g., parent/guardian of a child or carer for an adult)	7	11
It is the offender's first offence	21	20
The offender has shown remorse	12	18
The offender has taken steps to address their offending behaviour	20	19
Other (please specify)	1	0

3. Other (please specify)

In the pre-survey one participant added "*The offender's act was because of the cost of living*".

4. In general, do you think the sentences handed down by the courts in England and Wales are too tough, about right, or too lenient?

Please, select one option.

Options	Post-dialogue: Count of Responses	Post-dialogue: % of Responses	Pre-dialogue: Count of Responses	Pre-dialogue: % of Responses
Much too lenient	2	8.3%	2	10.5%
A little too	7	58.3%	7	36.8%

lenient				
About right	9	25.0%	9	47.4%
A little too tough	1	4.2%	0	0.0%
Much too tough	0	4.2%	1	5.3%

5. Which of the following statements best describes your view?

Please, select one option.

Options	Pre-Dialogue: Count of Responses	Pre-Dialogue: % of Responses	Post-Dialogue: Count of Responses	Post-Dialogue: % of Responses
Public opinion should influence sentencing	8	32%	17	77%
Public opinion should not influence sentencing	17	68%	5	23%

6. 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?

Please, select one option.

Options	Pre-Dialogue: Count of Responses	Pre-Dialogue: % of Responses	Post-Dialogue: Count of Responses	Post-Dialogue: % of Responses
A lot shorter now	2	11%	0	0%
A bit shorter now	3	16%	1	5%
About the same	9	47%	3	15%
A bit longer now	5	26%	11	55%
A lot longer now	0	0%	5	25%

7. When an offender is found guilty of murder, it is for the judge to decide how long the offender must stay in prison before they can be considered for release.

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 the murder of an adult?

Please, select one option.

Options	Pre-dialogue: Count of Responses	Pre-dialogue: % of Responses	Post-dialogue: Count of Responses	Post-dialogue: % of Responses
Less than 10 years	1	4%	0	0%
10 years	2	7%	4	18%
15 years	3	11%	2	9%
20 years	2	7%	4	18%
25 years	4	15%	3	13%
30 years	1	4%	1	5%
35 years	2	7%	2	9%
More than 35 years	1	4%	1	5%
Whole life	11	41%	5	23%

8. 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)?

Please, select one option.

Options	Pre-dialogue: Count of Responses	Pre-dialogue: % of Responses	Post-dialogue: Count of Responses	Post-dialogue: % of Responses
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Less than 2 years	1	4%	1	5%
2 years	4	15%	3	14%
4 years	6	22%	4	19%
6 years	4	15%	4	19%
8 years	4	15%	4	19%
10 years	8	30%	5	24%

9. Moving away from thinking about sentencing, we would like to ask you three further questions, about privacy online.

How confident are you about controlling privacy settings when using the internet?

Please, select one option.

Options	Pre-Dialogue: Count of Responses	Pre-Dialogue: % of Responses	Post-Dialogue: Count of Responses	Post-Dialogue: % of Responses
Not at all confident/can't do	0	0%	0	
Not very confident	3	11%	1	4%
Neither confident nor not confident	4	14%	2	9%
Fairly confident	15	54%	15	65%
Very confident	6	21%	5	22%

10. How important for you is protecting your data privacy online?

Please, select one option.

Options	Pre-Dialogue: Count of Responses	Pre-Dialogue: % of Responses	Post-Dialogue: Count of Responses	Post-Dialogue: % of Responses
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Not at all important	0	0%	0	0%
Not very important	0	0%	1	4%
Neither important nor not important	2	7%	1	4%
Fairly important	11	39%	10	44%
Very important	15	54%	11	48%

11. How well does the following statement describe your attitude to privacy online?

I am willing to give up more of my personal data if it means that I can access better opportunities to chat, learn, and play online.

Options	Pre-Dialogue: Count of Responses	Pre-Dialogue: % of Responses	Post-Dialogue: Count of Responses	Post-Dialogue: % of Responses
Not at all true	8	29%	6	26%
Slightly true	13	46%	7	30%
Somewhat true	5	18%	6	26%
Mostly true	2	7%	4	17%
Completely true	0	0%	0	0%

12. Now we would like to ask you about your experience in this online dialogue.

Please rate the following on a scale from very poor to excellent.

Experience	Very poor	Poor	Okay	Good	Excellent	No opinion
Access to the digital dialogue	0%	0%	4%	52%	43%	0%
Access to information required to participate effectively in the	0%	0%	5%	45%	50%	0%

dialogue						
Ease of identification of important arguments during the dialogue	0%	0%	0%	45%	55%	0%
Ease of participation in the dialogue	0%	0%	0%	45%	55%	0%
The quality of moderation	0%	0%	9%	27%	59%	5%
The technology overall	0%	5%	23%	41%	32%	0%

13, For the following questions please rate the statement on the scale provided from not true at all to completely true.

Statements	Number of answers to the question <i>For the following questions please rate the statement on the scale provided from not true at all to completely true.</i>				
	Not at all true	Slightly true	Somewhat true	Mostly true	Completely true
I have learned a lot from the presentations	0	0	1	12	10
I learned a lot from other participants	0	0	7	10	6
I learned a lot from facilitators ²⁰	0	0	7	8	8
I have learned a lot from my own research	0	5	10	6	2

²⁰ The role of facilitators in a dialogue is to guide participants through the process. They don't provide expert input or information about the topic, only clarifying any questions about the process of participating in a dialogue.

14. For the following questions please rate the statement on the scale provided from not true at all to completely true.

Statements	Number of answers to the question <i>For the following questions please rate the statement on the scale provided from not true at all to completely true.</i>				
	Not at all true	Slightly true	Somewhat true	Mostly true	Completely true
The discussion was enriched by seeing what topics were being discussed on social media	0	3	10	4	6
The evidence presented from social media is an accurate reflection of attitudes in my community	4	6	7	6	0
Social media discussion is not useful for understanding public opinions	3	5	7	4	4
This kind of dialogue should not inform decisions around sentencing because it is too different from how people normally talk	6	3	8	5	1

15. Please rate on a scale of 1-10 where 1 means not at all important and 10 means extremely important how much important you think it is that each of the following processes informs public policy decisions?

Process	Responses (from 1 – 10)									
	1	2	3	4	5	6	7	8	9	10
Dialogue	0	0	0	1	2	0	1	8	2	9
Social Media	1	0	3	4	3	6	0	3	0	3
Surveys	0	0	0	2	1	2	3	4	3	8
Experts	0	0	1	1	1	0	3	4	5	8

16. Are there any other comments and views on the dialogue you want to share with us?

There was a free-text box. Comments relevant to this report have been incorporated into the findings.

Annex 4: You be The Judge Scenarios

Each group looked at one of the two scenarios below in Session 3. They were shown the text below as an introduction to the role-play exercise, where the scenarios were framed as judge's decisions that were being reviewed because of public outcry. The wording is adapted to be shorter than the original You be The Judge materials.

Scenario A

About the Defendant - Debbie King

Age 47. No previous convictions. The defendant worked as a carer at a residential home where the fraud took place. Debbie was a carer for her mother, who has since died of dementia. Her mother lived abroad & she was unable to travel to look after her. Debbie has since lost her job and works at a supermarket. Her defence argued she is remorseful & has saved £400 to pay the victim back.

Facts about the case

She took the bank card belonging to an elderly resident and used it 6 times over a 10-week period to withdraw £1500. When the victim's son checked the accounts, he raised the alarm. The son is very angry but has not told his parent as it would upset them, particularly as they were very fond of the defendant. The defendant made full admissions on arrest and was very tearful.

Sentence

Community order of 120 hours unpaid work. Paying compensation of £1,500 - £400 immediately & £100 per month afterward. Paying costs of prosecution & statutory surcharge - £230

Reasoning

“Stealing from an elderly resident you were caring for is a very serious offence. This is higher culpability and category 5 harm where the starting point of 36 weeks’ custody is based on a loss/intended loss of £2,500. The mitigating factors here are your good character and the difficult circumstances you were in. The appropriate sentence for you after a trial would be a high-level community order.”

Scenario B

About the Defendant - James Dickens

Age: 22, No previous convictions, James was a student at the time, approaching the end of his university studies & planning to travel afterwards. James’ defence team argued he is remorseful and will not re-offend, having realised the seriousness of selling drugs.

Facts about the case:

James was approached the previous year at a festival by a drug dealer who suggested working with him to make some money. This year, he was searched at a 3-day music festival & had 100 tablets of Ecstasy (MDMA), 14 small wraps of cocaine and over £1000 cash. In the days before the festival, he organised sales by text - these were mostly with teenagers. His defence argued he did not realise the seriousness of selling drugs because of seeing drug use and open selling of it at festivals before.

Sentence

3 years in custody. Paying prosecution costs of £300 and the statutory surcharge of £190.

Reasoning

“Selling class A drugs is a serious offence. This is a category 3 harm case and your role was significant, so after a trial the range is 3 ½ to 7 years in custody. This case is made more serious because you were selling drugs to young teenagers. The case is less serious because you have had no previous convictions and are relatively young. You pleaded guilty, but you did not plead guilty at the first stage of proceedings.”