



Ministry  
of Justice

# **A Technical Guide to Criminal Justice Statistics Quarterly (CJSQ)**

Last updated February 2023

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## Introduction

This document provides more detail on criminal justice statistics presented in the publication Criminal Justice Statistics and is intended to be used as a guide to concepts and definitions. The examples provided within this document are for the 2021 data as the full validation process is carried out each year on the complete calendar year data.

The key areas covered are:

- i. An overview of Criminal Justice Statistics publications detailing the frequency and timings of the bulletin and the revisions policy.
- ii. Details of the data sources and any associated data quality issues.
- iii. Data developments relating to criminal justice statistics.
- iv. A high-level background to the criminal justice system (CJS) on the topics featured within the bulletin.
- v. Major legislation coming into effect in the period covered by the bulletin.
- vi. A glossary of the main terms used within the publication.
- vii. A list of relevant internet sites on the criminal justice system.

In addition, a list of the offence classifications<sup>1</sup> used by the Ministry of Justice for CJS statistical outputs can be found in the 'Offence group classifications' document on our Criminal Justice Statistics: December 2021 webpage:

<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2021>

This list shows how the Ministry of Justice group lower level offences together within the published tables and data tools. It is based on the classification used by the Home Office for crime statistics, although there are differences reflecting the respective scopes and aims of these publications. This document includes a detailed structure for all Home Office offence codes in the 2021 data, to support the interpretation of the experimental statistics provided at this level, and a less-detailed version encompassing all codes.

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<sup>1</sup> These classifications are based on those implemented by the ONS in July 2013, and discussed in the methodological note 'Presentational changes to National Statistics on police recorded crime in England and Wales', Office for National Statistics Methodology Note, 18 July 2013

[www.ons.gov.uk/ons/guide-method/method-quality/specific/crime-statistics-methodology/presentational-changes-on-police-recorded-crime-in-england-and-wales.pdf](http://www.ons.gov.uk/ons/guide-method/method-quality/specific/crime-statistics-methodology/presentational-changes-on-police-recorded-crime-in-england-and-wales.pdf)

# Overview of Criminal Justice Statistics

This section describes the background to the bulletin, the timing and frequency of the publication and the revisions policy relating to the statistics published.

## Background to Criminal Justice Statistics bulletin

On 17 November 2010 the Ministry of Justice (MoJ) launched a consultation on improving its statistics. One of the proposals was to assess interest in a quarterly criminal justice statistics bulletin which would give a statistical overview of the criminal justice system. The response from the consultation showed there was support for this proposal and a demand for more timely statistics. Full details of the consultation and response can be found at:

<http://webarchive.nationalarchives.gov.uk/20111121205348/http://www.justice.gov.uk/consultations/565.htm>

The bulletin covers statistics from the whole criminal justice system and as a result the following individual Ministry of Justice publications were discontinued:

- Criminal Statistics Annual;
- Sentencing Statistics Annual;
- Sentencing Statistics quarterly brief;
- Provisional Quarterly Criminal Justice System Information;
- Youth Crime: Young people aged 10-17 receiving their first reprimand, warning or conviction.

This bulletin is designated as National Statistics as it is produced to the standards specified in the Code of Practice for Official Statistics. The most recent assessments of Criminal Justice Statistics can be found on the UK Statistics Authority's website at the following address: [Mark Pont to David Blunt: Proven re-offending and criminal justice system statistics – Office for Statistics Regulation \(statisticsauthority.gov.uk\)](http://statisticsauthority.gov.uk)

From 20 November 2014 to 22 January 2015, the Ministry of Justice ran a consultation on changes to the criminal justice statistics quarterly. The consultation proposed changes to the presentation and content of the report. The consultation document and a summary of the responses received and the changes made as a result is available: [www.gov.uk/government/statistics/changes-to-criminal-justice-statistics](http://www.gov.uk/government/statistics/changes-to-criminal-justice-statistics)

## Timeframe and publication frequency

The statistics in this publication are largely for a rolling twelve-month reference period. (One overview table provides selected quarterly information). This time period has been chosen over shorter timeframes to minimise the volatility caused by seasonality, for example reduced court volumes every December when many of the courts are closed over the Christmas period.

Each quarter the latest reference period will be published, so statistics will be for the year ending March, June, September or December. The first three datasets will be provisional and the year ending December statistics will be the final release of the calendar year data. This is published as an annual statistical publication each May. As part of the final release, additional annexes will be published containing more detailed breakdowns of criminal justice statistics.

## Revisions policy

In accordance with Principle 2 of the Code of Practice for Official Statistics, the Ministry of Justice is required to publish transparent guidance on its policy for revisions. A copy of this statement can be found at:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/218490/statistics-revisions-policy.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/218490/statistics-revisions-policy.pdf)

The three reasons specified for statistics needing to be revised are changes in sources of administrative systems or methodology, receipt of subsequent information, and errors in statistical systems and processes. Each of these points, and its specific relevance to the criminal justice statistics publication, are addressed below:

### 1. Changes in sources of administrative systems/methodology

The data within this publication comes from a variety of administrative systems. This technical document will clearly present where there have been revisions to data accountable to switches in methodology or administrative systems. In addition, statistics affected within the publication will be appropriately footnoted.

### 2. Receipt of subsequent information

The nature of any administrative system is that data may be received late. For the purpose of this criminal justice statistics publication, the late data will be reviewed on a quarterly basis but, unless it is deemed to make significant changes to the statistics released; revisions will only be made as part of the final release containing the calendar year statistics. However should the review show that the late data has major impact on the statistics then revisions will be released as part of the subsequent publication.

### 3. Errors in statistical systems and processes

Occasionally errors can occur in statistical processes; procedures are constantly reviewed to minimise this risk. Should a significant error be found the publication on the website will be updated and an errata slip published documenting the revision.

## **Data revisions**

Ahead of each annual publication, additional data cleaning is applied to create a finalised dataset, which results in a range of updates to previous quarters' provisional data (and smaller updates to previous years where late data becomes available). In addition to this, there are occasional exercises to address specific issues that have been identified.

## Data Sources, Quality and Reporting

This section outlines the different data sources used to compile the statistics presented in the bulletin with information on data quality, processing and how they are reported. The three main sources the statistics are compiled from are:

- Data from the Home Office, including from the Penalty Notice Processing (PentiP) system.
- Data extracts from the Police National Computer.
- Data extracts from court administrative systems.

Further information on the Criminal Justice System processes that underpin the data reported in this publication can be found in the 'Background to the CJS' section.

### Out of court disposals (OOCs)

Penalty Notices for Disorder (PNDs, commonly known as 'on the spot fines'), cautions, community resolutions and cannabis/khat warnings are issued and recorded by police forces. Data about these out of court disposals are received from police forces, either directly, through the Police National Computer (PNC), through the 'PentiP' database or from data collated by the Home Office.

#### Penalty Notices for Disorder (PND)

From mid-2004, when PNDs were launched, until 2013, the Ministry of Justice received data directly from individual police forces on a monthly basis. These returns provided details of PNDs issued and their subsequent outcomes, and the data were checked by the statistical teams for completeness and accuracy. A new IT system, PentiP, commenced roll-out to police forces during 2012, as a single replacement for the existing individual police force databases; for one year data were received by MoJ from both the new 'PentiP' database and the individual police forces in parallel. Before 2013, any anomalies uncovered in the process of data quality checks were queried directly with the individual force and corrected.

From 2013, all PND data has been received by MoJ from the 'PentiP' database. Details of PNDs issued and their subsequent outcomes were extracted from the live administrative system on a quarterly basis rather than via manual monthly returns. The data are checked in the same way as previously by the statistical teams for completeness and accuracy, but any anomalies found are directed to the 'PentiP' system administrators instead of the individual police force. The data held centrally includes gender, age, and self-identified ethnicity (see Court Proceedings section below). However, a review of data validations on the PND dataset has shown that in years prior to 2017 defendants of unknown gender appear to have been included within the male category. This has been amended since 2018.

#### Police Cautions

From April 2011 all cautions data are collected from the Police National Computer; the records are validated for accuracy and completeness. All cautions data prior to April 2011 were collected directly from police forces and have been through the same validation process. The data held centrally includes gender, age, and self-identified ethnicity (see Court Proceedings section below).

Note that with rape cases, whilst the vast majority will be proceeded against at court, there are a small number that are dealt with by use of a caution. Police are able to issue a caution for rape offences only in very specific circumstances. The majority of cases where a caution has been issued will be in response to a statutory rape offence involving an offender and victim, both under the age of consent, who perceived the act as consensual.

Where such a caution is given, the required procedure is to have that agreed by a range of people involved in the criminal justice system, such as the Crown Prosecution Service, a senior police

officer, and signed off by the force's crime registrar. The decision to issue a caution is **never** made by an investigating police officer acting alone.

## **Cannabis and Khat warnings**

Khat warnings could be issued to adults from June 2014 onwards.

This data is supplied from the Home Office management information systems; any anomalies are queried with the Home Office. Information provided by the Home Office relates only to overall numbers of people given warnings and does not provide breakdowns by demographic characteristics such as age or gender.

## **Community Resolutions**

Data on Community Resolutions is available from 2015. Information provided by the Home Office relates only to overall numbers of people receiving Community Resolutions and does not provide breakdowns by demographic characteristics such as age or gender.

Further information about Community Resolutions can be obtained from the Home Office publication at the link below:

[www.gov.uk/government/collections/crime-outcomes-in-england-and-wales-statistics](http://www.gov.uk/government/collections/crime-outcomes-in-england-and-wales-statistics)

## **Court proceedings**

### **Data sources**

Statistics on prosecutions, convictions and sentencing at magistrates' courts are derived from the LIBRA case management system. Crown Court trial and sentencing data are derived from the CREST system, or from March 2019 the XHIBIT system.

Both data collection systems are managed by an outside consultant on our behalf to form the Court Proceeding Database. Before the data is received, it is processed to capture cases where a final outcome or sentence has been recorded to meet the requirements of the counting rules used in Criminal Justice Statistics Quarterly. As part of the processing, certain fields not required are removed from the data and rules applied within the data processing may impose default values in some fields where no information is included (e.g. missing date of birth). This helps to enable consistent recording. The offence field is simplified, allowing related offences to be grouped together more closely and enabling the clearer presentation of statistics by offence type.

After processing, the Court Proceeding Database contains information on:

- Case number
- Date of completion
- Defendant name
- Date of birth
- Gender
- Age
- Ethnicity
- Police Force Area
- Court
- Type of proceedings (e.g. summoned by police or committed for trial)
- Plea at Crown Court
- Result of case (e.g. dismissed, not tried at Crown Court)
- Sentencing outcome of the case (up to four disposals and the corresponding amounts e.g. fine amount)
- Offence codes and categorisations
- Principal offence marker
- Disqualification information for motoring offences

- Remand status – bail, custody or not remanded/unknown

The data includes offences where there has been no police involvement, such as those prosecutions instigated by government departments, private organisations and individuals.

From May 2017, certain cases have been derived from the Automated Track Case Management System (ATCM). These cases are those proceeded in the absence of the defendant through the Single Justice Procedure (SJP) where no “not guilty” plea was received. These include Transport for London offences, TV licencing offences (from December 2018) and certain DVLA offences (from October 2020).

We incorporate new offences as we become aware of them and as they feed through into the data that we see. There can be a lag in seeing some new offences, both as a result of the time it takes for an offence to be investigated and charged by the police, prosecuted and have the court case complete and as a result of the lag between the offence being commenced and being available through court data systems. One effect of this is that we would expect to see a higher ratio of cautions to convictions when an offence is new than in subsequent years, because cautions can be issued more quickly and will hence get onto the data sooner.

### **Common Platform and reform to criminal court data<sup>2</sup>**

‘Common Platform’ is a new digital case management system for the magistrates’ and Crown Courts. The system seeks to streamline data collection, data accessibility and improve the way criminal cases are processed across the Criminal Justice System. It will eventually replace the existing ‘legacy’ criminal court systems Libra (magistrates’) and XHIBIT (Crown), with a single, streamlined system.

Early adopter courts across England and Wales are testing the system before the subsequent rollout to all criminal courts. Derbyshire magistrates’ and Crown Court began this process in September 2020 and the roll out has continued across England and Wales. Common Platform has been rolled out (as at February 2023) in 173 courts and is live in 58 Crown Courts and 115 magistrates’ courts. New cases entering courts from the point at which they adopt the Common Platform are held on the new system – cases that began at court prior to that court transitioning to Common Platform will remain on the ‘legacy’ system (e.g., LIBRA or XHIBIT).

Most measures relating to defendants dealt with at magistrates’ courts and Crown Courts include both ‘legacy’ and Common Platform estimates. This includes all key breakdowns in published tables and associated data tools such as offence group and remand status for example.

Methodologies are as similar as possible however there are areas of known difference. The ‘legacy’ and ‘new’ data systems are fundamentally different, they do not record information in the same way and as such it is not possible to exactly replicate the existing published methodologies.

We will continue to develop data processes from the new system in collaboration with HMCTS and partner agencies as the Common Platform roll out continues.

We are monitoring the opportunities to improve the availability and coverage of published data as case volumes increase on Common Platform. This will include investigating provision of more complete data on the remand population, for example. Provision of additional and more detailed information on offenders and court proceedings will require rigorous quality assurance to ensure trustworthiness, quality and value.

### **Validation process**

Individual records are validated in an automated process that highlights irregularities and inconsistencies.

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<sup>2</sup><https://www.gov.uk/government/news/common-platform-system-tested-in-criminal-courts/>



Data validation is ongoing to investigate unusual trends or records. For the most serious offences (such as homicide) and disposals (such as life imprisonment) individual records are flagged for manual confirmation which further reduces the possibility of error.

For the Crown Court, where these validation failures occur, the data are corrected by either applying automated data amendment routines or by referring to original court registers.

At the magistrates' courts the sheer volume of courts records (with around 1.5 million defendants per year compared with 100,000 Crown Court records) means these files cannot follow the same process. The majority of validation failures are subject to automatic amendment.

### **Information not held within the Court Proceedings Database**

The Court Proceedings Database (CPD) holds information on defendants proceeded against, found guilty and sentenced for criminal offences in England and Wales. Significant information is held on individual court files but is not reported to the MoJ due to its size and complexity.

Examples of information that is commonly asked for but is not held are listed below:

- i. Information is not held regarding the characteristics of the defendant except for age, gender, ethnicity, and whether they are a person or corporation. Information regarding the defendant that is NOT held includes, but is not limited to:
  - a. Nationality,
  - b. Occupation,
  - c. Social class,
  - d. Location of residence, and
  - e. Religious belief.
- ii. Information is not held regarding the victim of an offence unless the legislation relating to that offence refers to a specific class of victim (in which case all we hold is what can be inferred from the use of that offence).
- iii. Information is not held concerning the crime itself except for what can be inferred from the legislation relating to that offence. Information that is NOT held includes, but is not limited to:
  - a. The location,
  - b. The date or timing of the offence,
  - c. Whether the offence was carried out online or offline,
  - d. Whether a weapon was involved, and if so, what type of weapon,
  - e. The relationship of the defendant and victim.

For example, offences involving domestic violence or "honour-based" violence cannot be separately identified from violent offences in general, because they are not covered by separate legislation.

- iv. Information is not held regarding pleas in magistrates' courts.
- v. Information is not held regarding which organisation prosecuted the case e.g. cases cannot be separately identified as to whether they were prosecuted by the Crown Prosecution Service, the police or by some other authorised body.
- vi. Because individuals cannot be tracked between courts and cases in the CPD, we are not able to use it to consider offending histories – offending histories are derived from the Police National Computer. This also means that we are not able to determine the original offence for which those tried or sentenced at the Crown Court were prosecuted.

Historically, the recording of ethnicity data for defendants at magistrates' courts has been poor, with high proportions of unknown ethnicity. The recording of ethnicity data for indictable offences has been more complete than summary offences because, in charged cases, the defendant will have been seen by the police and asked about their ethnicity (in cases where the defendant received a summons, they will not have been seen by the prosecutor, and may not have appeared in court). After a considerable programme of work, a substantial improvement in the data has been noted in the recording of ethnicity for indictable offences, with approximately 14 per cent having an unknown ethnicity annually since 2010, compared with 44 in 2004, so this is now shown. However, we still do not report on ethnicity for summary offences due to the prevalence with which this is missing.

## **How information is reported**

In this publication, data for a given year relates to all defendants whose proceedings were completed during that year. A defendant may appear more than once in that year's data if proceedings were completed against that defendant on more than one occasion during the year.

Proceedings against companies and other bodies such as businesses, local authorities and public bodies are included throughout, except where reporting is limited to 'persons' or broken down by personal characteristics. Breakdowns by characteristics also exclude those whose characteristics are unknown or not stated.

The complexities of the criminal justice system and the constraints on resources in collating and processing data limit the amount of information collected routinely so only the final outcome of proceedings at magistrates' courts and the Crown Court (where applicable) is recorded. This is not necessarily the same as the offence for which the defendant was initially prosecuted, for example when the court accepts a guilty plea from the defendant on a lesser charge.

The Criminal Justice Statistics quarterly bulletin includes high level trends on the ethnicity of defendants and offenders given cautions, PNDs, and those proceeded against, convicted and sentenced at court. Where available self-identified ethnicity has been used. This is presented using the 5+1 ethnic classification – White, Black, Asian, Mixed, Chinese and other, and Unknown. Prior to May 2021, this was based on the 16+1 classification used in the 2001 census. Since May 2021, this has been replaced by the 18+1 classification used in the 2011 Census. This had caused two key changes to the data presented in our publications:

- i. The data now captures a further two ethnicity classifications: Gypsy or Irish Traveller which will fall into the broader category of 'White' and Arab which will fall into the broader category of 'Other'.
- ii. The movement of the Chinese ethnicity classification from the broad category of 'Chinese and Other' into 'Asian'. Due to the small number of offenders sentenced who identified as Chinese, this change has had little impact on overall trends presented in the data, we have also applied this change to the whole timeseries presented to allow for continued comparison across years. However, it means that the 'Chinese and Other' category will be renamed 'Other' within our data tables to account for this change.

The ethnic breakdown presented for cautions data is based on the 4+1 classification – White, Black, Asian, Other and Unknown – derived from officer identification.

Breaches of court orders that are a criminal offence in their own right (e.g. breach of an anti-social behaviour order) have been included in the published tables since 2009. Prior to 2009 these were excluded from the count of court proceedings because of recording issues and are not included in the published tables. Statistics on other breaches, as recorded by courts, are also not included in Criminal Justice Statistics due to concerns over the recording of this data. In accordance with user demand, work is ongoing to establish whether this can be resolved, and experimental statistics will be published if and when data of sufficient quality is available.

There are thousands of different individual offences which defendants are prosecuted for in each year, many of which are seemingly very similar to those without legal training. Furthermore, many are only invoked in one or two cases and are susceptible to fluctuations or administrative misreporting. For these reasons, it would not be practical to report on individual offences in this bulletin. Instead, we primarily report using high-level offence groups, which separate out summary offences from the more serious indictable offences, and subdivide those into broad categories by the type of act the offence represents (e.g. 'violence against the person').

We also provide breakdowns using a detailed offence grouping, which brings together similar offences in more specific groups (e.g. 'manslaughter'). These groupings are broadly consistent with those used by the Home Office in offence recording, for offences they cover, although in some cases our groupings present additional detail where particular offences are known to be of interest. This consistency, and the separation of more and less serious offences, make these groupings of the most general use, although it does mean careful consideration must be given to what each group does and does not include when making use of the figures presented. (For example, 'violence against the person' only encompasses indictable violent crime, with common assault included as a summary offence.) To assist with this, we provide a classification document setting out which Home Office offence codes (either representing individual offences or a small number of closely related offences) fall into each group. Our experimental data table at Home Office offence code level also offers the possibility for users to generate alternative groups to fit their own requirements.

### **Reporting on the principal offence and principal sentence**

The volume and complexity of offending patterns when reporting on all offences for which each individual is prosecuted and sentenced is too great for meaningful commentary throughout the bulletin. For this reason, most content (unless specifically noted otherwise) is provided on a principal offence basis, i.e. with each defendant reported only against their principal offence. A principal offence will be set in the magistrates' courts and the Crown Court data separately, and the basis for the selection of the principal offence is as follows:

- i. where a defendant is found guilty of one offence and acquitted of another, or not tried for the other offence(s) at that court, the offence selected is the one for which they are found guilty at that court;
- ii. where a defendant is found guilty of two or more offences at that court, the offence selected is the one for which the most severe sentence or other disposal is imposed;
- iii. where the same disposal is imposed for two or more offences, the offence selected is the one for which the statutory maximum penalty is the most severe; and
- iv. where the same disposal is imposed for two or more offences with the same statutory maximum penalty, the offence selected is the one which appears first on the list of offences.

Where a defendant is sent from the magistrates' courts to the Crown Court for trial or sentence for one or more offences, it is not possible to determine the final outcome solely based on data from the magistrates' courts. When setting the principal offence in magistrates' courts data:

- if an offender is convicted for more than one offence at a magistrates' court, any offences for which the offender is also sentenced at the magistrates' court generally take precedence over offences for which the offender is committed to the Crown Court for sentencing;
- if an offender is convicted of any offence(s) at a magistrates' court, these generally take precedence over offences for which they are committed to the Crown Court for trial; and
- if a defendant is committed to the Crown Court for either trial or sentence for all offences for which they were prosecuted, the principal offence will be the one for which the statutory maximum penalty is the most severe.

There are therefore some cases where the principal offence for which a defendant is prosecuted at magistrates' courts is a less serious offence than their non-principal offence(s).

Unless otherwise stated, each offender is reported only against the most severe sentence or order given for their principal offence (i.e. the principal sentence); secondary sentences given for the principal offence and sentences for non-principal offences are not generally counted in the tables. The exception to this is the 'Compensation – all' line and financial breakdown of compensation in the data tool presenting outcomes by detailed offence group, where secondary sentences for the principal offence are counted, because compensation falls overwhelmingly into this category and otherwise the averages presented would be misleading.

Examples of how the principal offence and principal sentence are constructed:

Example 1 – the principal offence

An offender appearing in court on one charge of Actual Bodily Harm (ABH) and one charge of common assault who receives the same sentence for both offences would appear in the tables with the charge of ABH counted as their principal offence as it is the offence with the most severe maximum sentence.

Example 2 – the principal offence and principal sentence

An offender convicted and sentenced for one charge of ABH and one charge of common assault, receiving a custodial sentence of 6 months for ABH and a fine for common assault would be counted as having been convicted of ABH (principal offence) and as having received a 6 month sentence for ABH (principal offence and principal sentence).

Example 3 – the principal sentence and ancillary order

An offender who receives a 6 month custodial sentence for an offence of ABH and a compensation order for that offence would be counted as having received a custodial sentence and counted once in the total sentenced column. They would also be counted in the 'Compensation – all' line and financial breakdown in the data tool presenting outcomes by detailed offence group, but only if the compensation order and custodial sentence were for the same offence (i.e. both for ABH).

## **Offence not known**

A small number of offences in years prior to 2018 with offence codes that appear to be invalid have been relabelled as 'not known' in the accompanying products showing 'offence' and 'detailed offence' variables.

From 2018, where validation checks on the data are not able to identify the correct five-digit Home Office offence code, we have labelled these records as offence 'not known' (or offence code '99999') in order to increase transparency for users of our data. Records will appear under 'not known' for offence type, offence group, offence and detailed offence.

## **Remands**

The figures in the remands chapter relate to defendants remanded in each year in each completed court case rather than to the number of remand decisions (a defendant may be remanded several times during a case). Cases are recorded in the year in which the final court outcome was made, and this is not necessarily the same year in which the person was originally remanded. Because individuals cannot be robustly tracked between courts and cases, they will be counted separately in both Crown Court and magistrates' courts totals if their case spans both and would be counted more than once if remanded as part of multiple completed court cases.

Each individual is reported against their principal remand status at that court, that is, the remand status involving the greatest degree of court control – i.e. custody if any period of the trial or sentencing was spent on custodial remand, else bail if any period was spent on bail and no period was spent in custody, else not remanded.

The not remanded and unknown category at magistrates' court will include cases that are dealt with outside of court or dealt with in one court sitting such as Single Justice Procedure cases. Users should exercise caution using statistics on remand status at Crown Court as this category will include a large proportion of defendants with unknown remand status. We are investigating ways to improve how we capture remand data in the Crown Court, particularly with a view to reduce the number of cases reported with unknown remand status.

All magistrates' court data prior to June 2012 are estimated; please see an explanation of the methodology below. This continued following the introduction of LIBRA in 2008 because of overreporting of custodial and bail remands at that time.

#### Estimation process part 1 – matching with prisons remand receptions

Magistrates' court remands data from 2008 was matched with prison remand reception data (which records when defendants were received into custody). Where a defendant in the court data was also found to be recorded in the prison data, it was taken that the defendant had been remanded in custody at some point. The criteria used to determine whether a match exists were surname, initial, date of birth and sex, with the additional criterion being that the date of the reception into prison had to be earlier than the date of conclusion of the case at the magistrates' court. In addition, a degree of fuzzy matching was employed to allow for common variations in the spelling of defendants' surnames. Where a matched case exists, we accept that the court remand decision is "custody".

#### Estimation process part 2 – deriving volumes remanded on bail

For Quarter 2 of 2010 onwards, alongside the matching process with prison remand reception data, magistrates' courts data was matched with data on the number of magistrates' court hearings related to each defendant within the court proceedings, to assist in making assumptions on whether a defendant was remanded on bail.

Due to data limitations, it has not been possible to match every defendant to a number of court hearings – for example, for 2012 87% of defendants proceeded against in magistrates' courts (including failures to appear) were matched with the database providing their number of hearings.

Where a match with prison remand reception data does not exist, the following assumptions are made:

- i. The number of court hearings and the proceedings outcome are considered. If the defendant is reported to have only appeared once before a magistrate, and their proceedings outcome was committal to the Crown Court for sentencing or trial, the final remand decision shown will be "bail";
- ii. Otherwise, if the defendant is reported to have appeared more than once before a magistrate, and the magistrates' court remand decision is "bail", the final remand decision shown will be "bail";
- iii. Otherwise, if it was not possible to match to a number of court hearings for the defendant but their proceedings outcome was a 'failure to appear while on bail', the final remand decision (regardless of which magistrates' court remand decision is recorded) is "bail";
- iv. Otherwise, if it was not possible to match to a number of court hearings for the defendant, and their magistrates' court remand decision is "bail" but their proceedings outcome is anything other than a failure to appear while on bail, then the final remand decision shown will be "Not known". Cases flagged as bail are not automatically accepted as bail due to the over-reporting of the "bail" remand status on Libra – in this scenario, not enough information is recorded centrally about the cases in question to justify the reported "bail" status.
- v. Otherwise, the remand decision will be "Not Remanded". The "Not Remanded" category includes those where the remand status is not stated or not recorded.

It is not possible to use the methodology outlined above to produce estimates of the number of defendants remanded on bail for calendar years 2008 and 2009 and Quarter 1 of 2010, as data is not centrally held on the number of court hearings for defendants proceeded against during these years. As such, only the estimated number of defendants remanded into custody can be presented for these reference periods.

### Magistrates' remands data from June 2012

A solution to the LIBRA interface problems causing the overcounting was developed and introduced during 2012, commencing in May, and is believed to have been effective. As such, from the *Criminal Justice Statistics Quarterly: June 2013* onwards, it was possible to move to publishing magistrates' court remand data based on data collated directly from Libra.

Data from June 2012 is formed on a revised basis; a combination of remand status before conviction or acquittal and at the point of committal to the Crown Court, rather than a combination of the former and remand status at committal hearing. This change in methodology reflects an improvement in data quality and was made as a result of the abolition of committal hearings - those sent to the Crown Court for trial no longer necessarily have multiple hearings at the magistrates' court and so their remand status may only be recorded at one point during the proceeding (i.e. at the point of committal).

### **Failure to appear (FTA) warrants**

Prior to the *Criminal Justice Statistics Quarterly: June 2015*, information was published on failure to appear (FTA) warrants: Table Q3.5 presented statistics on the number of FTA warrants received and executed in each police force area in England and Wales, by category of warrant. In the bulletin covering the 12 months ending March 2015, we were only able to publish this table with reservations as to the data quality, as reflected within the table footnotes. Most significantly, only 9 months of data was present for the Metropolitan Police, the largest police force area. Over the subsequent two quarters, a still smaller proportion of the required data was available across police forces, and it is believed that what is held would not represent a fair national picture, leading to the withdrawal of Table Q3.5 from these releases.

This reduction in data availability was related to the abolition of a requirement for police forces to supply this data, which makes it impossible for us to continue to supply robust data on the previous basis. As such, we consulted users in the *Update to September 2015* on whether they would like us to include, subject to data quality proving sufficient, a breakdown of court data on failures to appear. Having received some interest, we investigated the feasibility of including this from the *Update to December 2015* on, and published experimental statistics for the calendar year 2015 in the *Update to June 2016*. We have continued to investigate whether anything further can be done to demonstrate or improve its quality with a view to reincorporating it into routine publication.

The Ministry of Justice now publish experimental data on FTA warrants alongside the Criminal Court statistics quarterly statistical bulletin. These are based on management information held by HM Courts & Tribunals Service, a different source to figures previously published alongside Criminal Justice Statistics bulletins. Feedback from users will be welcome, including on how these should be published in future.

<https://www.gov.uk/government/collections/criminal-court-statistics>

### **Fines**

As a result of enhancements to quality assurance, we became aware that fine data from magistrates' courts of values between £10,000 and £99,999 was affected by a data processing issue. Between 2009 and 2014 fine data from magistrates' courts of values between £10,000 and £99,999 was omitted from our data. This is a result of technical limitations relating to source data processing. We are investigating whether anything can be done to capture this for future years. We were able to correct much of the data for 2015 and 2016, and the issues was resolved from 2017 onwards. We

also enhanced the quality assurance applied to high fines at magistrates' courts, reflecting their increased prevalence and plausibility following the elimination of the £5,000 limit in March 2015.

## **Comparison with alternative sources of figures**

### Comparison with Criminal Court Statistics

The Criminal Justice Statistics (CJS) and Criminal Court Statistics (CCS) quarterly publications both contain data ultimately derived from the same court administrative systems. In general, the functional difference between these publications is that the former reports on defendants and the outcomes of proceedings against them, while the latter focuses mainly on cases and flows through the court system.

The figures in these publications are not directly comparable as there are known differences between them. These are due to a number of factors, including differences in the data collation methods and counting methodologies used, which reflect the differences in the information presented. For example, CJSQ is initially processed by an outside consultant on our behalf to meet the requirements of the counting rules used to capture cases where a final outcome or sentence has been recorded.

In 2010/11 the MoJ, with the support of a methodologist from the Office for National Statistics, undertook work to better understand the differences between the two publications. Among the key differences between the two datasets are:

- i. Definition of final outcome at the Crown Court - CCS statistics include cases ending as a result of all charges being quashed, discontinued by the prosecution, or where a bench warrant was issued or executed and other outcomes. These outcomes are not counted in Criminal Justice Statistics as the statistics focus on the final outcome of criminal cases and the sentences passed;
- ii. Different validation rules;
- iii. Timing of data extraction.

For magistrates' courts data, the number of proceedings reported in CCS exceeds those in CJS because the former counts the issuing of a bench warrant as the end of a set of proceedings. This implies that a case may be counted once by CJS but twice, as two sets of proceedings, by CCS.

Work is continually in train to investigate and review the differences between the two sets of statistics and their compilation processes, with a view to improving the alignment between them and explaining those differences that are inherent to what each publication presents.

### Comparison with outputs from the Police National Computer

The statistics that are included based on the Police National Computer (i.e. offending histories, first time entrants, and cautions) do not always align with those based on court data. This is due to differences between the police and court administrative systems from which they are derived, such as differences in recording practices and definitions.

### Comparison with police charges

It seems reasonable to expect figures on prosecutions to broadly follow trends in police charges for similar offences. However, there are important issues to consider:

- Time-lag – once a police charge has been issued, the next step is to send the case to court, typically the magistrates' court in the first instance, and for the more serious offences, subsequently to the Crown Court. Prosecution figures in this publication are based on cases completing within magistrates' courts (which often includes where the case is sent for trial to the Crown Court).
- Differences in counting – Home Office data count the number of offences where at least one person was charged by the police or summonsed, so will include offences where more

- than one suspect was later prosecuted. Criminal justice data on prosecutions count the number of defendants proceeded against
- Differences in coverage – although the offence grouping names are the same for recorded crime and prosecution data, our data on prosecutions count summary offences outside of the main offence categories. For example, prosecutions for common assault and battery (assault without injury) are recorded in summary non-motoring offences, but Home Office data on charges includes in violence.

### Comparisons to Offender Management Statistics

There are differences between statistics presented in this publication, Criminal Justice System statistics quarterly (CJSQ), and those produced as part of Offender Management Statistics quarterly (OMSQ) - this can be explained by the datasets used.

For example, CJSQ counts every case that is sentenced through the courts, whereas OMSQ counts an admission to prison, and therefore, not all offenders who are sentenced to custody will count as a prison admission.

For instance, if someone was sentenced to custody for one offence but was already in prison for a different offence then this would be counted twice in the sentencing data (as it's been processed through the courts as two different cases) but the prison admission would be for the first offence (as they have already been admitted to prison).

[Offender management statistics quarterly - GOV.UK \(www.gov.uk\)](http://www.gov.uk)



# Background to the Criminal Justice System

## Reporting crime

This section relates to crimes that are reported to the police and recorded by them. The Criminal Justice System (CJS) cannot work without the support of the community. In particular, victims and witnesses play a vital part in the justice process. If crimes aren't reported, offenders can't be brought to justice.

## Investigation

Following the report of a crime the police will investigate, their role is to:

- Investigate the crime;
- Identify suspects;
- Arrest and question them.

Once their investigations are complete, the police will either:

- Charge the suspect, in conjunction with the Crown Prosecution Service (CPS);
- Apply for a summons for the suspect to appear at court;
- Deal with them by using an out-of-court disposal (an alternative to prosecution);
- Resolve the matter informally (e.g. where the victim agrees to informal resolution or a restorative justice approach);
- Release the individual without charge on the basis they should not face criminal action.

## Offences not prosecuted by the police

Not all offences under law are investigated or prosecuted by the police. For example, television licence evasion is investigated by the TV licensing authority, and offences relating to benefits were prosecuted by the Revenue and Customs Prosecution Office (RCPO), which was an independent prosecuting authority reporting to the Attorney General, until it was merged into the Crown Prosecution Service in 2010.

## Deciding what happens with a case

The Crown Prosecution Service (CPS) is responsible for prosecuting suspects in court. However, the police investigate the alleged offence and in some less serious cases will decide whether to administer an out-of-court disposal or charge the individual.

More information on crime, police recorded crime outcomes, court procedures and sentencing can be found at the following link: [www.direct.gov.uk/en/CrimeJusticeAndTheLaw/index.htm](http://www.direct.gov.uk/en/CrimeJusticeAndTheLaw/index.htm).

## Out of court disposals (OOCs)

When the police, either alone or in conjunction with the CPS, determine that an OOC is the most appropriate way to address the offending behaviour, they have the following options:

For adults (aged 18+), a:

- Cannabis or Khat warning;
- Simple caution;
- Conditional caution;
- Penalty Notice for Disorder;
- Fixed Penalty Notice (for driving offences);
- Community Resolution

For young people (aged 10–17 years), a:

- Simple caution (available for offences from 8<sup>th</sup> April 2013);

- Conditional caution (from 8 April 2013, or from 26 January 2010 in five pilot areas);
- Reprimand or warning for youths (prior to 8 April 2013, when these were repealed and replaced by youth cautions).
- Penalty Notice for Disorder (prior to 8<sup>th</sup> April 2013).

It should be noted that police forces have differing approaches to using out of court disposals. For example, Lancashire, Leicestershire, Metropolitan Police and Staffordshire do not use cannabis/khat warnings for possession of cannabis offences, instead preferring the use of Community Resolutions.

### **Penalty Notices for Disorder (PNDs) and Fixed Penalty Notices**

Penalty Notices for Disorder (PNDs) were introduced in s1-11 of the Criminal Justice and Police Act 2001. Their aim was to provide the police with a quick and effective means of dealing with low-level, nuisance behaviour and are available for a specified range of offences including being drunk and disorderly in a public place, retail theft under £100 behaviour likely to cause fear, alarm or distress, and cannabis possession.

The majority of offences included in the scheme are summary offences where the most likely court outcome would be a fine. The scheme enables the police to issue penalty notices on the spot, in a police station, or at a suitable location such as a suspect's house.

PNDs can offer a quick and proportionate alternative to prosecution, which helps to reduce the burden on the courts. The police have less paperwork to complete, allowing them to spend more time on frontline duties and tackling serious crime. PNDs provide an efficient means for the police to tackle minor offences which may not previously have warranted the resources required for prosecution.

Under the scheme the police may issue a person who has committed a penalty offence with a fixed penalty of £60 for lower tier offence and £90 penalty for higher tier offence. Fixed penalties increased to £60 from £50 for lower tier offences and £90 from £80 for higher tier offences from July 2013. The recipient then has 21 days (the Suspended Enforcement Period - SEP) in which to pay the penalty amount in full or request a court hearing. If the penalty is paid they discharge all liability to conviction of the penalty offence and there is no criminal record. As an alternative to paying the penalty amount in full, recipients of PNDs can request a court hearing. Just one per cent of penalty notices have been contested at court in each year since PNDs were rolled out in England and Wales in 2004. This figure is consistent across all age groups and offences. If a court hearing is requested the process defaults to a standard prosecution. If no action is taken within the SEP then a fine of one and a half times the penalty amount is automatically registered (without the need for a court case) against the recipient. The fine will be enforced in the same way as any other fine by the courts.

The scheme is based on the long standing Fixed Penalty Notice scheme for road traffic offences. PNDs are issued to individuals and there is no requirement for an admission of guilt nor is a conviction recorded against the recipient. PNDs are issued to individuals who are suspected of committing specified penalty offences. The offences are divided into lower and higher tiers which attract penalties of £60 and £90 respectively:

#### Offences which attracts £90 (previously £80) penalty are:

- Wasting police time or giving a false report;
- Misuse of public telecommunications system;
- Knowingly giving a false alarm to a fire brigade;
- Causing harassment, alarm or distress;
- Throwing fireworks in a thoroughfare;
- Drunk and disorderly;
- Selling alcohol to person under 18;
- Selling alcohol to a person who is drunk;

- Supplying alcohol to a person under 18;
- Purchasing alcohol for person under 18 in licensed premises;
- Purchasing alcohol for person under 18 for consumption in a bar in licensed premises;
- Delivering alcohol to person under 18 or allowing such delivery;
- Destroying/damaging property (under £300
- Theft (retail under £100);
- Breach of fireworks curfew;
- Possessing Category 4 firework;
- Possessing adult firework by person under 18;
- Possessing cannabis

Offences which attracts £60 (previously £50) penalty are:

- Trespassing on a railway;
- Throwing stones etc. at trains or other things on railways;
- Being drunk in a highway, other public place or licensed premises;
- Consuming alcohol in designated public place;
- Depositing and leaving litter;
- Consumption of alcohol by a person under 18 on relevant premises
- Allowing consumption of alcohol by a person under 18 on relevant premises
- Buying or Attempting to buy alcohol by a person under 18
- Depositing and leaving litter in a Royal Park
- Use pedal cycle in a Royal Park
- Failing to remove animal faeces from a Royal Park
- Possessing Khat (from 24<sup>th</sup> of June 2014)

Revised statutory guidance on PNDs published in July 2009 limited the use of PNDs for cannabis possession to offenders aged 18 and over. (However, since this time a number of forces have issued PNDs for possession of cannabis to under 18's.)

In 2012, three new PNDs were enforced, namely depositing and leaving litter in a Royal Park, using a pedal cycle in a Royal Park and failing to remove animal faeces from a Royal Park, following the approval of The Criminal Justice and Police Act 2001 (Amendment) Order 2012.

From 8<sup>th</sup> April 2013, PNDs ceased to be available for persons below 18 years of age.

## **Cautions**

A caution can be administered when there is sufficient evidence to provide a realistic prospect of a conviction but it is not considered to be in the public interest to institute criminal proceedings. Additionally, the offender must admit guilt and consent to a caution in order for one to be given. Cautions are intended for low level, often first time, offending. There are two types of cautions, simple cautions and conditional cautions.

In 1954, for the first time, statistics were collected on the number of persons to whom formal cautions, whether written or oral, were given by the police as an alternative to prosecutions for offences other than motoring offences. Formal cautions can be, but very rarely are, used for motoring offences. The vast majority of road traffic warnings are issued in the form of a letter to the offender, a written warning.

### Simple cautions

A 'simple caution' is used to deal quickly and simply with those who commit less serious crimes. It aims to divert offenders away from court, and to reduce the likelihood that they will offend again. If you are given a simple caution you will be officially warned about the unacceptability of your behaviour, that the simple caution forms part of your criminal record and may be disclosed, and the likely consequences of committing further crimes will be explained to you. Young people, aged 10-

17, can now receive simple cautions, but prior to 8<sup>th</sup> April 2013 were instead given similar reprimands and warnings, which could also involve interventions to prevent further offending.

Simple cautions are currently available for all offences. A caution may be given by, or on the instructions of, a senior police officer, for summary and either way offences, and the CPS must authorise the decision to administer a caution for indictable only offences.

### Conditional cautions

A 'conditional caution' is a caution with conditions attached. A conditional caution can be given when there is sufficient evidence for a prosecution, it is in the public interest to prosecute, but the offending behaviour is better dealt with through compliance with a conditional caution. Again, the offender must admit guilt and consent to a conditional caution being administered. The conditions must be completed within a reasonable period (12 weeks) or the offender may be prosecuted for the original offence. They are also administered by the police, using their own discretion, for summary and either way offences, with the CPS authorising their use for indictable only offences.

Examples of conditions might be:

- Rehabilitation – conditions that help to change the behaviour of the offender, reduce the likelihood of re-offending or help to reintegrate the offender into society, such as the completion of an alcohol treatment programme;
- Reparation - conditions that aim to repair the damage done by the offender, such as by an apology to the victim or an agreement to repair any damage caused.

In January 2010 punitive financial penalty conditions and a youth conditional caution for 16- and 17-year olds were piloted in five police force areas. Currently conditional cautions are only available for summary (non-motoring) offences and a few either way offences such as criminal damage and theft.

Like simple cautions, conditional cautions aim to keep lower level offenders from overburdening the court system. They also address the needs of both victims and offenders by dealing with the offender's behaviour quickly and allowing action to be taken to rehabilitate the offender or to repair the damage caused by the offence.

### **Cannabis and Khat warnings**

Cannabis warnings were introduced in 2004. They are intended to address simple offences of possession of cannabis by an adult, with the aim of diverting offenders from the wider CJS. They are used in circumstances where aggravating factors, such as a prior cannabis warning, are not present, and consist of a verbal warning and confiscation of the cannabis.

Equivalent warnings for possession of khat were introduced in 2014.

### **Community Resolutions**

Community resolutions were introduced in 2009. They are intended to represent a proportionate approach to dealing with lower level crime, where the offender admits to an offence, and usually where the victim does not want more formal action to be taken. Resolutions can include the offender apologising, making reparations or being advised about their future behaviour.

### **Court proceedings**

If an out of court disposal is not deemed to be appropriate, the next formal step is for court proceedings to be initiated.

## Charging and case management

The Criminal Justice Act 2003 requires that the decision to charge a person for all but the most minor or routine offences is now undertaken by the Crown Prosecution Service (CPS). The police remain responsible for responding to allegations that a person has committed a crime, deciding whether an investigation is required and subsequently conducting the investigation. The police can still charge both summary and triable either-way offences if there is an anticipation of a guilty plea and the likely sentence would be handed down in a magistrates' court.

The Director of Public Prosecutions' guidance requires that charging decisions are made – whether by the police or CPS – in accordance with the Code for Crown Prosecutors and following a review of the evidence. The guidance for prosecutors can be found at the following link:  
[www.cps.gov.uk/publications/directors\\_guidance/dpp\\_guidance\\_5.html](http://www.cps.gov.uk/publications/directors_guidance/dpp_guidance_5.html)

Prosecutors are responsible for making charging decisions in the most serious cases, ensuring pre-charge decisions are timely, and identifying cases appropriate for out of court disposals prior to charge. In cases where the police have charged the defendant, these decisions are made prior to the first hearing. These arrangements allow for strong cases to be built from the start and for cases where there is not enough evidence to bring a prosecution to be sifted out as quickly as possible.

Once an accused person is charged, the law requires that they are brought before a magistrates' court as soon as possible. There are three main methods of ensuring the defendant attends court:

- being held in custody by the police to appear as soon as practicable;
- being released on bail to attend court;
- being summonsed to appear in court.

Generally, an arrest warrant may only be issued where

- the offence is triable only on indictment or is potentially punishable with imprisonment; or
- the address of the accused is not sufficiently established for a summons to be served.

No branch of the government or the judiciary can direct a police officer or the CPS to bring criminal proceedings (or not to do so) in a particular case – this includes Ministers of the Crown. The CPS will continue to review cases after a charging decision has been made and throughout the court process in accordance with the Code for Crown Prosecutors. If as part of this on-going review, the CPS considers there is no longer sufficient evidence for a realistic prospect of conviction or that prosecution is no longer in the public interest, it may discontinue the proceedings at any time before the start of the trial or committal. If the prosecutor is thinking of changing the charges, i.e. downgrading the original offence, or stopping the case, they will contact the police wherever possible. This gives the police the chance to provide more information that may affect the decision.

## Court jurisdiction and types of case

There are three broad types of offence, based on severity: indictable only, triable-other-way and summary offences. Indictable only offences are the most serious and must be tried at the Crown Court; summary offences are the least serious and must be tried at magistrates' courts; and triable-either-way offences are of intermediate severity and may be tried at either court based on the circumstances of the case.

### Magistrates' courts

Virtually all criminal cases start in magistrates' courts and around 95 per cent of cases finish there. As well as hearing criminal cases magistrates deal with family matters. Cases in magistrates' courts are usually heard by a panel of three lay magistrates (Justices of the Peace) supported by a legally qualified court clerk. There are also around 140 district judges, who are experienced barristers or solicitors who sit alone and deal with more complex or sensitive cases. Magistrates

cannot normally order sentences of imprisonment that exceed six months (or 12 months for consecutive sentences), with the specific limitations depending on the offence before them.

Indictable only offences are initially proceeded against at magistrates' courts but are committed to the Crown Court for trial. Triable either-way cases may also be committed for trial, if the magistrates do not believe their sentencing powers would be sufficient in the event of a conviction or (in almost all circumstances) if the defendant elects to be tried on indictment. In cases that are triable either-way, the offender may also be committed by the magistrates to the Crown Court for sentencing if a more severe sentence is thought necessary.

### The Crown Court

The Crown Court deals with more serious criminal cases such as murder, rape or robbery, almost exclusively either referred from magistrates' courts or on appeal from them. Trials are heard by a Judge and a 12-person jury. Members of the public are selected at random for jury service or may have to go to court as witnesses. Data was received from 74 identified Crown Court centres across England and Wales. Potential penalty levels vary according to a wide range of factors, including the offence itself.

### Proceedings involving young persons

Young people aged between 10 and 17 are mainly dealt with in the youth courts by specially trained magistrates. In youth courts, no person is allowed to be present unless authorised by the court, except for the members and officers of the court, parties to the case (normally including parents/guardians), their legal representatives, witnesses and bona fide representatives of the media. Proceedings may be reported in the press, but the young person may not generally be identified.

A child or young person is generally tried in the youth court unless any of the below apply:

- He or she is charged with homicide (such as murder or manslaughter), when they must be sent to the Crown Court for trial;
- He or she is aged 10 and over and under 18 and is charged with a 'grave crime' (an offence for which an adult could be imprisoned for at least 14 years), indecent assault or dangerous driving. These cases may be sent to the Crown Court if magistrates decide that if convicted, the appropriate sentence would be more than they have the power to give;
- He or she is charged jointly with another person aged 18 or over, when both should be dealt with in the Crown Court.

### **Remand decisions**

The police, magistrates and Crown Court may make different remand decisions at each point in the proceedings. The police can release an arrested suspect on bail while they make further inquiries. This means that the suspect is released from custody on condition that they return to the police station on a specified date. The police can also grant bail to a defendant who has been charged with an offence. In this situation the defendant is given bail on condition that they appear at a magistrates' court on a specified date.

A magistrates' court may: adjourn a hearing without remand; commit a defendant to the Crown Court for trial or sentence; or remand the defendant either in custody or on bail. There is a statutory right to bail, but this may be denied in specific circumstances, namely where the court has substantial grounds for believing that if a defendant were remanded on bail, he or she would fail to surrender to custody, commit an offence while on bail, interfere with witnesses, or otherwise obstruct the course of justice. Since 2012 courts must, in most cases, before considering grounds for remanding in custody establish whether a defendant, if convicted, would have a reasonable prospect of receiving a custodial sentence. If the court is not satisfied that there is a reasonable prospect of custody it should not go on to consider grounds for remanding in custody. The prosecution may, in certain circumstances, appeal to a Crown Court Judge against the decision by

a magistrates' court to grant bail. The appeal must be made within 48 hours. Since 2012, the prosecution may also in certain circumstances appeal to the High Court against a grant of bail by the Crown Court.

Those charged with, or convicted of, homicide or rape where the defendant has a previous conviction for any of those offences are only granted bail if there are exceptional circumstances which justify it. A magistrates' court has the power to remand a defendant in custody for up to eight days in the first instance but thereafter may remand him/her for up to 28 days, provided that the defendant is present in court and has previously been remanded in custody for the same offence.

The court is not bound to act as recommended by either the defence or the prosecution, or on the historic past recommendations of another court. It must decide, on each occasion, whether the defendant presents such a bail risk as to warrant custody. The court may decide to grant bail, but only under certain conditions and, should these conditions be broken, the defendant would be liable to immediate arrest. The court has to make a risk assessment, balancing the risk which releasing the defendant on bail may pose to the public or the administration of justice, against the consideration that it is a serious step to remand in custody.

Failure to Appear (FTA) warrants are issued by courts when defendants do not turn up at court on a specified date having either been summonsed or granted bail at an earlier stage of proceedings. Police forces then attempt to execute these warrants. The categorisation of these warrants and urgency with which they are executed depend primarily on the severity of the offence and risk to the public. (For further information, see the equivalent guide provided alongside *Criminal Justice Statistics: Update to December 2014*.)

## **Pleas and convictions**

As part of proceedings, defendants will usually be required to enter a plea. However, plea information is only provided for the Crown Court as part of this bulletin, because it is not held centrally for magistrates' court cases.

Proceedings may be ended for a variety of reasons, primarily because the defendant was either convicted or acquitted (at the Crown Court) / dismissed or discharged (at magistrates' courts). Following conviction, an offender will be sentenced; either at the court where they were convicted, or, for triable-either-way offences convicted at magistrates' courts but where magistrates feel their sentencing powers are insufficient, at the Crown Court following committal.

## **Sentencing**

The section below details the main purposes of sentencing and describes some of the major disposals presented in this publication, the web addresses shown below from the Crown Prosecution Service give more detail of sentencing practice and the available orders.  
[www.cps.gov.uk/legal/s\\_to\\_u/sentencing\\_-\\_general\\_principles/](http://www.cps.gov.uk/legal/s_to_u/sentencing_-_general_principles/)

When an offender is convicted, in either a magistrates' or the Crown Court, the court can either pass sentence immediately or if further information is required they may adjourn to a later date. The Criminal Justice Act 2003 set out the five main purposes of sentencing for adults:

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

While courts are obliged to have regard to these principles, sentence will generally be determined according to the seriousness of the offence. Seriousness is made up of the harm caused by the offence and the culpability of the offender in committing it.

There is also a statutory aggravating provision which requires the court to treat recent and relevant previous convictions as making an offence more serious. There are thresholds of penalty based on seriousness:

- Offences that are **so serious** that neither a fine alone nor a community sentence can be justified;
- Offences that are **serious enough** to warrant a community sentence.

If neither of these thresholds is reached, then a fine or a discharge will be appropriate.

## **Disposals given in court**

### **Immediate custody**

Adults aged over 21 will be sentenced to imprisonment, adults aged 18–20 will be sentenced to detention in a young offender institution. Maximum penalties are specified for all offences according to the seriousness of the offence. Generally, the maximum custodial penalties are set at one of the following levels:

- 1 month;
- 3 months;
- 6 months;
- 12 months;
- 2 years;
- 5 years;
- 7 years;
- 10 years;
- 14 years;
- Life.

One of the characteristics of the criminal law in England and Wales is that offences are defined very broadly. Hence sentences imposed often tend to cluster much lower than the maximum penalty.

### Short sentences – Under 12 months

#### Standard determinate sentences

All offenders serving a standard determinate sentence are subject to release at the half-way point of their custodial term and serve the rest of their sentence on licence in the community (under the Criminal Justice Act 2003, as amended by the Offender Rehabilitation Act 2014). In addition, under the Offender Rehabilitation Act 2014, all offenders sentenced to more than one day in custody are subject to supervision in the community for a minimum of 12 months. Offenders whose licence period is less than 12 months are therefore subject to post-sentence supervision to make up the balance.

#### Special determinate sentence

The Criminal Justice and Courts Act 2015 introduced a special determinate sentence for offenders of particular concern, which came into force on 13 April 2015. The sentence comprises the appropriate custodial term plus a further one-year licence period, with discretionary release between the half-way and end point of the custodial term and the remainder of the sentence spent on licence in the community. The sentence must be imposed where the offender has committed a specified offence listed on Schedule 18A to the Criminal Justice Act 2003 and the court has determined that a custodial sentence is necessary but does not impose either a life sentence or an extended determinate sentence.



## Public protection sentences

Until they were abolished under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), offenders convicted of a specified sexual or violent offence may be sentenced to a public protection sentence. In such cases, the court had to determine whether the offender is dangerous to the extent that there is a significant risk to the public of serious harm through the commission by him or her of a further sexual or violent offence. If the court does consider that to be the case, it may impose a public protection sentence. There are two such sentences:

- **Imprisonment or detention for public protection** (IPP – sections 225 and 226 of the Criminal Justice Act 2003) – where the maximum for the offence is ten years or more and where a life sentence is not available or appropriate. An IPP is an indeterminate sentence; an offender will serve the tariff (minimum term) as set by the judge and then is eligible to be released if considered safe by the Parole Board. The only significant distinction between life and IPP is that, whereas life sentences last for the whole of the offender's life, the Parole Board can bring an IPP licence to an end after a minimum of 10 years in the community following release.
- **Extended sentence** (EPP – section 227 of the 2003 Act) – where the maximum for the offence is less than 10 years. An extended sentence comprises the normal determinate custodial period plus an extended period on licence. The offender may be released at any time between the halfway point and the end of the normal custodial period and is on licence until the end of the extension period.

Prisoners serving an IPP or EPP sentence imposed on conviction prior to 3 December 2012 continue to be released as before.

The Criminal Justice and Immigration Act 2008 changed the provisions so as to give judges more discretion over the use of public protection sentences; they were to be restricted to offences for meriting custodial sentences of four years or more (that is, two years served in custody); and for release from an extended sentence to be automatically at the half way point of the custodial period with licence extending from then until the end of the extension period. These changes apply to cases sentenced on or after 14 July 2008.

## Extended Determinate Sentences

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), which was largely commenced on 3 December 2012, abolished the sentence of Imprisonment for Public Protection (IPP) and Extended Sentences for Public Protection (EPPs). These were replaced by a new Extended Determinate Sentence (EDS) which is for dangerous offenders who previously would have eligible for an IPP or an extended sentence under the 2003 Act (see also automatic life sentences below).

## Licence

For the duration of the licence, an offender is obliged to comply with the terms of that licence. These may include requirements to report to the probation service, restrictions as to where he may live and what work he may undertake, and requirements to attend programmes. If an offender breaches his licence he is liable to be recalled to prison, potentially until the end of his sentence.

## **Life sentences**

The main types of life sentence and the respective age-related variants are as follows:

### Mandatory life sentences for murder

All murder convictions must result in a life sentence:

- **Imprisonment for Life** – this is the only sentence that can be imposed on anyone over the age of 21 who is convicted of murder.

- Detention during Her Majesty's Pleasure – this is the mandatory sentence for a person convicted of murder who was aged 10 or over but under 18 at the time of the offence.
- Custody for Life – this is the mandatory sentence for a person aged 18 or over but under 21 at the time of the offence who is convicted of murder and sentenced while under 21.

### Automatic life sentence

LASPO Act 2012 introduced an automatic life sentence for specified serious offences (listed in Schedule 15B Criminal Justice Act 2003) where the offender has a previous conviction also for a specified offence resulting in a custodial sentence of 10 years or more (or a minimum term of five years or more) and the index offence also merits a sentence of 10 years or more.

### Discretionary life sentences

Discretionary life sentences are available for serious offences with a maximum penalty of a life sentence:

- Imprisonment for Life – this is the maximum sentence for those over 21 convicted of certain serious offences, e.g. manslaughter, attempted murder, rape, armed robbery, arson etc.
- Detention for Life – this is the maximum sentence for a person aged 10 or over but under 18, who is convicted of offences other than murder for which a discretionary life sentence may be passed on a person over 21.
- Custody for Life – this sentence may also be imposed where a person aged 18 or over but under 21 at the time of the offence is convicted of any other offence for which a discretionary life sentence may be passed on an adult.

Under any life sentence the court determines the minimum term to be served in custody before the offender can be considered for release by the Parole Board. If the offender is released, he or she remains on licence and subject to recall to custody, for the rest of their lives.

### Minimum custodial sentences

The Powers of Criminal Courts (Sentencing) Act 2000 introduced minimum custodial sentences of:

- Seven years for a third Class A drug trafficking offence committed after 30 September 1997.
- Three years for a third domestic burglary committed after 30 November 1999.
- An automatic life sentence for a second serious offence committed after 30 September 1997. This section has subsequently been replaced from 4 April 2005 by indeterminate sentences for public protection.

The Criminal Justice Act 2003 also introduced a minimum sentence of five years (three years in the case of those aged 16 or 17) for certain offences under section 5 of the Firearms Act 1968.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012, introduced a minimum sentence of six months' imprisonment for adults, four months' Detention and Training Order for 16 and 17 year olds, for the offence of carrying a knife or offensive weapon and going on to use it to threaten and cause a risk of immediate harm. This was commenced in December 2012.

The Criminal Justice and Courts Act 2015 contained provisions for minimum sentences for repeat offences of possession of a knife or offensive weapon, which were commenced on 17 July 2015, which also provide for a minimum sentence of six months' imprisonment for adults, and four months Detention and Training Order for 16 and 17 year olds.

Apart from the minimum sentence for firearms offences, the court may reduce the sentence by up to 20 per cent for an early guilty plea.

## **Suspended sentence orders**

These sentences were introduced under the Criminal Justice Act 2003 and are available for offences committed on or after 4 April 2005. They enable a court which passes a custodial sentence of 12 months or less to suspend that sentence for a period of between six months and two years while ordering the offender to undertake certain requirements in the community (drawn from the same list as those available for the community order). If the offender breaches the requirements there is a presumption that the custodial sentence will be given effect.

Under the LASPO Act 2012, these provisions were amended so that since December 2012 custodial sentences of two years or less can be suspended and the imposition of community requirements is discretionary.

## **Community sentences**

Since the implementation of the Criminal Justice Act 2003, there has been a single community order that can comprise one or more of the specified requirements depending on the offence and the offender. These are:

- Unpaid work (formerly community service/community punishment) – a requirement to complete between 40 and 300 hours' unpaid work;
- Activity – e.g. to attend basic skills classes;
- Programme – there are several designed to reduce the prospects of reoffending;
- Prohibited activity – requirement not to do something that is likely to lead to further offender or nuisance;
- Curfew – electronically monitored;
- Exclusion – not much used as no reliable electronic monitoring yet available;
- Residence – requirement to reside only where approved by probation officer;
- Mental health treatment (requires offender's consent);
- Drug rehabilitation (requires offender's consent);
- Alcohol treatment (requires offender's consent);
- Supervision – meetings with probation officer to address needs/offending behaviour;
- Attendance centre – three hours of activity, usually on Saturday afternoons, between a minimum of 12 hours and a maximum of 36 in total.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 introduced two further community requirements:

- i. Foreign travel prohibition requirement;
- ii. Alcohol abstinence and monitoring requirement – currently being piloted in London.

The Offender Rehabilitation Act 2014 replaced the supervision and activity requirements with a new rehabilitation activity requirement. Typically, the more serious the offence and the more extensive the offender's needs, the more requirements there may be (or the requirements may be more intensive/longer). Most orders will comprise one or two requirements but there are packages of several available where required. The court tailors the order as appropriate and is guided by the probation service through a pre-sentence report.

## **Fines**

Fines are available to punish all offenders (other than where mandatory sentences apply, such as for murder). Until March 2015, the maximum fine that could be imposed by magistrates' courts was defined in terms of level, set as follows:

- Level 1: £200
- Level 2: £500
- Level 3: £1,000

- Level 4: £2,500
- Level 5: £5,000 (from March 2015 no longer applies)

For offences committed on or after 12 March 2015, magistrates' courts gained the power to fine an unlimited amount. In practice, fine levels are generally much less than the historic maximum as courts must take account of offenders' means when deciding on the amount to impose. The Crown Court may fine an unlimited amount.

## **Discharges**

A court may discharge a person either absolutely or conditionally where the court takes the view that it is not necessary to impose punishment. An absolute discharge requires nothing from the offender and imposes no restrictions on future conduct. The majority of discharges are conditional discharges where the offender remains liable to punishment for the offence if he is convicted of a further offence within whatever period the court specifies (but not more than three years).

## **Compensation**

In cases involving death, injury, loss or damage, the courts are required to consider making a compensation order, and to give reasons where no such order is made. A compensation order can also be made in addition to any other sentence or order, or can be the only sentence imposed for a particular offence. Under provisions in the Crime and Courts Act 2013, there is no limit on the value of a single compensation order handed down to an adult offender by a magistrates' court (£5,000 limit in the magistrates' court where the offender is under the age of 18). However, courts are required to have regard to the means of the offender when deciding whether to make a compensation order and when deciding on its amount. When the defendant makes payments against financial penalties, compensation orders are paid off before fines.

## **Further sentences and orders**

Other punishments are used to a lesser extent. These include binding over orders, confiscation orders, exclusion orders and disqualification from driving. When a defendant stands convicted before the Crown Court of a drug trafficking offence, the Court is required to determine whether he has benefited from drug trafficking at any time, and if so, to make a confiscation order. The amount to be recovered is what the court assesses to be the value of the defendant's proceeds from drug trafficking, or that which can be realised. The courts have general power to penalise a defendant by making an order for the forfeiture of property associated with the offence.

## **Sentences specifically for children**

Sentencing for children is bound by the provisions of the Crime and Disorder Act 1998 and the Children and Young Persons Act 1933. The Acts set out two main purposes of youth sentencing:

- i. Every court in dealing with a child or young person who is brought before it, either as an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.
- ii. It shall be the principal aim of the youth justice system to prevent offending by children and young persons.

## Custodial sentences

The custodial sentences available for children are:

- Detention and Training Order: Detention and Training Orders (DTO's: sections 100–107 of PCC(S)A 2000) were introduced from 1 April 2000 to replace the sentences of Detention in a YOI for 15–17 year olds and the Secure Training Order for 12–14 year olds. A DTO may be

given for a term of 4, 6, 8, 10, 12, 18 or 24 months, of which usually half is served in detention and the remainder in the community under supervision.

- Section 91 Powers of Criminal Courts (Sentencing) Act 2000: Section 91 Powers of Criminal Courts (Sentencing) Act 2000 (PCC(S) A 2000) restated the power (originally in section 53(2) of the Children and Young Persons Act 1933) to detain juveniles who commit certain serious offences (mostly those with a statutory maximum of 14 years imprisonment or more in the case of an adult) for a period equivalent to the maximum for which an adult committing the same offence could be imprisoned.
- Section 90 Powers of Criminal Courts (Sentencing) Act 2000: A juvenile offender convicted of murder will be sentenced to Detention during Her Majesty's Pleasure, the provisions of which are found in S.90 of the Powers of Criminal Courts (Sentencing) Act 2000. Offences committed prior to August 2000 would have been sentenced under S. 53(1) (2) Children and Young Persons Act 1933.
- Detention for Life: This is the maximum sentence for a person aged 10 or over but under 18, who is convicted of offences other than murder for which a discretionary life sentence may be passed on a person over 21.

### Community sentences

Community sentences for children are supervised by Youth Offending Teams (YOTs) and comprise different orders than are available for adults. The community order is not available for children and a reform of child sentencing means all the orders listed below, with the exception of the Reparation Order and the Referral Order, have been replaced by the Youth Rehabilitation Order for offences committed from 30 November 2009.

### Current community sentences:

- Referral Order: Is given to 10 to 17-year-olds pleading guilty for a first offence only where the court deems a custodial sentence is not warranted. They are required to attend a youth offender panel, which is made up of two volunteers from the local community and panel adviser from a YOT. The panel, with the young person, their parents/carers and the victim (where appropriate), agree a contract lasting between three and 12 months. The aim of the contract is to repair the harm caused by the offence and address the causes of the offending behaviour. The conviction is 'spent' once the contract has been successfully completed. This means that in most circumstances the offence will not have to be disclosed by the young person when applying for work.
- Reparation Order: Available for 10 to 17-year-olds convicted of an offence it must comprise a maximum of 24 hours and must be completed within three months of the date the order is passed. The views of the victim must be sought before a reparation order can be made. If the victim is not prepared to have any further contact with the offender, then reparation can be made to the community at large. Reparation cannot consist of financial reparation; courts have other means to enforce financial reparation if they believe it to be suitable.
- Youth Rehabilitation Order (YRO): has replaced most of the previously available community sentences with a 'menu' of requirements that can be tailored to suit the individual risks and needs of an offender. In this respect it is similar to the community order available for adults. The YRO can be made for up to three years.

The following requirements can be attached to a YRO:

- Activity Requirement
- Curfew Requirement
- Exclusion Requirement
- Local Authority Residence Requirement
- Education Requirement
- Mental Health Treatment Requirement
- Unpaid Work Requirement (16 to 17-year-olds)

- Drug Testing Requirement
- Intoxicating Substance Treatment Requirement
- Supervision Requirement
- Electronic Monitoring Requirement
- Prohibited Activity Requirement
- Drug Treatment Requirement
- Residence Requirement
- Programme Requirement
- Attendance Centre Requirement
- Intensive Supervision and Surveillance (based on the current ISSP)
- Intensive Fostering.

## Legislation coming into effect in the reporting period

The legislation described below relates mainly to legislation that came into force since January 2002. It is only a short summary of the sections that may have affected the published statistics. The following web site has details of all legislation that has come into force in the intervening period. [www.legislation.gov.uk/](http://www.legislation.gov.uk/)

The coverage of the sentencing statistics in this volume may have been affected by the following legislation, which has altered the modes of trial, sentencing framework or significantly altered the range of offences:

- Powers of Criminal Courts (Sentencing) Act 2000
- Criminal Justice and Police Act 2001
- Proceeds of Crime Act 2002
- Criminal Justice Act 2003
- Sexual Offences Act 2003
- Fraud Act 2006
- Criminal Justice and Immigration Act 2008
- Coroners and Justice Act 2009
- Legal Aid, Sentencing and Punishment of Offenders Act 2012
- The Misuse of Drugs Act 1971 (Ketamine, Khat etc.) (Amendment) Order 2014
- The Assaults on Emergency Workers (Offences) Act 2018

The **Powers of Criminal Court (Sentencing) Act 2000** consolidated legislation on sentencing and the treatment of offenders that was previously contained within twelve other Acts. It was divided into the following parts:

Part I Powers exercisable before sentence: covering deferment of sentence, committal to the Crown Court for sentence, powers to remit young offenders to youth courts for sentence and the power for magistrates to adjourn sentencing to enable a medical exam.

Part II Absolute and Conditional Discharge: giving the power for a court to discharge an offender absolutely or conditionally in cases where the penalty is not fixed by law or imposed under section 109(2), 110(2) or 111(2) of this act. Conditional discharges require an offender not to commit another offence within a period no greater than three years, if breached the original court is to sentence for the original offence as if he had just been convicted before that court.

Part III Mandatory and discretionary referral of young offenders: establishing referral orders (see Appendix 1) where offenders aged under 18 who have pleaded guilty to an offence can be referred to a youth offender panel.

Part IV Community orders and reparation orders: establishing curfew orders, action plan orders and general provisions for community sentences, most of this section was subsequently repealed by the Criminal Justice Act 2003.

Part V Custodial sentences etc.: consolidated legislation establishing six months as the maximum term for which magistrates can sentence to custody, also introduced the custodial sentence with extended licence period for specified violent or sexual offences.

Chapter II of part V contained many provisions regarding the detention and custody of offenders under 21 years of age. Sections 90–91 still apply to offenders aged under 18 convicted of serious offences such as murder or rape and specify the periods of detention that can or should be imposed.

Section 100 consolidated legislation in the Crime and Disorder Act which introduced Detention and Training Orders (DTO's) for offenders aged under 18 convicted of an offence which would be punishable by imprisonment for an offender aged over 21. A DTO is for a set period of 4,

6, 8, 10, 12, 18 or 24 months with half the sentence to be served in secure accommodation and the remaining period to be served in the community but with supervision by a local social work department or Youth offending team.

Sections 109–111 consolidated legislation on mandatory minimum terms for: offenders convicted of a second serious offence in which case the minimum term is life imprisonment, a third class A drug trafficking offence in which case the court should impose a custodial sentence of seven years or a third domestic burglary in which case a custodial sentence of three years should be imposed. Section 109 relating to life imprisonment has since been replaced by the provisions contained within the Criminal Justice Act 2003 for IPP sentences.

Section 118 contained some provisions on the imposition of suspended sentences which have since been replaced by the Suspended Sentence Order.

The **Criminal Justice and Police Act 2001** introduced on the spot fixed penalties for a range of offences including retail theft under £100, behaviour likely to cause fear of harassment, alarm or distress and being drunk and disorderly in a public place. The Act allows local councils to create areas in which drinking could be restricted and the power to confiscate alcohol in these areas. It also introduced a new offence of protesting in an intimidating manner, as well as making kerb crawling, 'hit and run' accidents, and importing obscene material arrestable offences. It also gave new powers to magistrates to remand children aged between 12 and 16 into custody when charged with offences such as theft and criminal damage.

The **Proceeds of Crime Act 2002** consolidated drug trafficking and criminal justice legislation on the confiscation of convicted defendants' earnings. Confiscation orders can only be made in the Crown Court and the powers of magistrates to make a confiscation order were also abolished by this Act.

The Act made the power to confiscate mandatory and the Crown Court must instigate confiscation proceedings if requested by the prosecutor. Confiscation hearings are conducted according to the civil standard of proof, i.e. on the balance of probabilities. In some cases the court is empowered to assume that the defendants assets and earnings from the six years prior to conviction have been derived from criminal conduct and to make an order accordingly, the court is further required to make this assumption following a conviction for drug trafficking.

The **Criminal Justice Act 2003** brought in means to involve the Crown Prosecution Service in charging decisions and to reform the system for allocating cases to court. It introduced a new presumption against bail in certain circumstances where an offence has been committed while on bail or for defendants charged with an imprisonable offence. The Act aimed to ensure that criminal trials are run more efficiently and to ensure a reduction in abuse of the system:

Rules on evidence were changed to allow the use of previous convictions where relevant, and to allow the use of reported (hearsay) evidence where there is good reason why the original source cannot be present, or where the judge otherwise considers it would be appropriate, with effect from 4 April 2005.

A right of appeal for the prosecution against judicial decisions to direct or order an acquittal before the jury has been asked to consider the evidence. This will be introduced to balance the defendant's right of appeal against both conviction and sentence (not yet in force).

The Act provides a sentencing framework that is clearer and more flexible than before:

- The purposes of sentencing of adults are identified in statute for the first time, as punishment, crime reduction, reform and rehabilitation, public protection and reparation.
- The principles of sentencing are set out, including that any previous convictions, where they are recent and relevant, should be regarded as an aggravating factor, which will increase the severity of the sentence, with effect from 4 April 2005.



- Through the implementation of section 167 of the act, a new Sentencing Guidelines Council was established on 27 February 2004. This Council and the Sentencing Advisory Panel worked together to ensure that sentencing guidelines are produced which encourage consistency in sentencing throughout the courts of England and Wales and support sentencers in their decision making (the Sentencing Guidelines Council has since been superseded by the Sentencing Council – see Coroners and Justice Act 2009).
- Sentence lengths of 12 months or over are served in full, with half in custody, half in the community and with supervision extended to the end of the sentence rather than the ¾ point as previously, with effect from 4 April 2005.

It brought in changes to the sentences available to the courts:

- The various kinds of community orders for adults were replaced by a single community order with a range of possible requirements, commenced 4 April 2005.
- Serious violent and sexual offenders attracted new sentences, to ensure that they are kept in prison or under supervision for longer periods than previously, with effect from 4 April 2005.
- An increase in sentence length for any offence where it is aggravated by hostility towards the victim on the basis of disability, sexual orientation, race or religion, with effect from 4 April 2005.
- Some new short custodial sentences were introduced. These include custody plus, intermittent custody and a reformed suspended sentence in which offenders have to complete a range of requirements imposed by the court. Intermittent custody was piloted from January 2004 to November 2006, but not implemented, and the new suspended sentence was commenced from 4 April 2005. Custody plus has not been implemented.

The Act also addressed a number of other areas:

- It contains a number of provisions on drug related offending, extending to those aged 14 and above, the provisions to test persons in police detention and at other points in the criminal justice system for specified Class A drugs. It also reclassified Cannabis as a class C drug, introduced on 1 August 2004. This decision was subsequently reversed, and cannabis was reclassified as a class B drug from 26 January 2009.
- It established a five-year mandatory minimum custodial sentence (three years for 16- to 17-year-olds) for unauthorised possession of a prohibited firearm, with effect from 22 January 2004.
- It increased the maximum penalty for causing death by dangerous driving from 10 to 14 years, with effect from 27 February 2004.
- In relation to juveniles, the Act extended the use of parenting orders by making them available at an earlier stage and introduced individual support orders, requiring young people with anti-social behaviour orders to undertake education-related activities, introduced on 27 February 2004.
- In relation to fines it introduced the financial circumstances order which compelled offenders to inform the court of their financial circumstances so that the court can impose a fine that both reflects the seriousness of the offence and the ability of pay of the offender.

The **Sexual Offences Act 2003** was brought in from May 2004 and repealed virtually all the previous legislation relating to sexual offences. It included the following main offences, with effect from 1 May 2004:

- Rape and the evidential and conclusive presumptions about consent regarding adults, covering an individual's ability to make a choice or where violence or threats of violence take place.
- Assault by penetration, committing an offence, causing a person to engage in sexual activity without consent.
- Rape and other offences against children under 13, where the offence is committed intentionally.
- Child sex offences, including causing or inciting a child to engage in sexual activity making it constitute an offence regardless of whether the activity incited actually takes place.

- Causing a child to watch a sexual act and child sex offences committed by children or young persons.
- Re-enacting and amending abuse of position of trust under sections 3 and 4 of the Sexual Offences (Amendment) Act 2000.
- Familial child sex offences, including intension and incitement of the offence.
- Offences against persons with a mental disorder.
- Indecent photographs of children redefining a 'child' for the purposes of the Protection of Children Act 1978, as a person under 18 years of age.
- Abuse of children through prostitution and pornography, covering under 18s and under 13s.
- Exploitation of prostitution including trafficking of a person into or out of the UK for sexual exploitation.
- Preparatory offences and sex with an adult relative.

The act also defined the interpretation of the terms 'sexual' and 'consent'.

The Act also introduced new civil preventative orders:

- Notification orders: This is an order which can be made, on application by a chief officer of police, in respect of individuals who have been convicted, cautioned etc. abroad for sexual offences equivalent to the sexual offences listed in Schedule 3 of the 2003 Act. The effect of the order is to make such offenders subject to the notification requirements of Part 2 of the 2003 Act as if they had been convicted, cautioned etc. in the UK of a relevant offence, with effect from 1 May 2004.
- Sexual offences prevention orders (SOPOs): This order replaced both the sex offender order and the restraining order. Therefore, a SOPO can be made on application by a chief officer of police in respect of a convicted sex offender or by a court at conviction. The SOPO is also an improvement on the existing orders. A conditional discharge cannot be received as punishment for breach of a SOPO, with effect 1 May 2004.
- Foreign travel orders: This order enables the courts, in certain circumstances and on application by a chief officer of police, to prohibit those convicted of sexual offences against children aged under 16 from travelling overseas where there is evidence that they intend to cause serious sexual harm to children in a foreign country, with effect 1 May 2004.
- Risk of sexual harm orders (RSHOs): This order, similar to the SOPO, aims to restrict the activities of those involved in grooming children for sexual activity. A previous conviction, caution etc. for a sexual offence is not a prerequisite in applying for a RSHO, with effect 1 May 2004.

None of the provisions in the Act applied retrospectively.

The **Fraud Act 2006** commenced from 15 January 2007 and summarised fraud into three categories:

- i. Fraud by false representation;
- ii. Fraud by failing to disclose information;
- iii. Fraud by abuse of position.

It also created new offences for:

- Obtaining Services Dishonestly;
- Possessing, making or supplying articles for use in Fraud;
- Sole traders, who are now subject to fraudulent trading charges.

The aim of the Act was to criminalise the intent of a fraudulent act rather than the act itself; this will allow the Act to respond to technological advances which may alter the means by which a fraudulent act can be committed.

The **Criminal Justice and Immigration Act 2008** commenced from November 2008 and was a wide-ranging Act which aimed to make further provisions about the criminal justice system; dealing

with offenders; the management of offenders; and to amend the Repatriation of Prisoners Act 1984. It created or amended a number of offences, including:

- A new offence of inciting hatred on the grounds of sexual orientation;
- A ban on the possession of extreme pornographic images;
- Clarification of the law on self-defence;
- New civil penalties for serious breaches of data protection principles and made unlawfully obtaining personal data an offence punishable by up to two years in prison;
- Abolished the common law offence of blasphemy and blasphemous libel.

It also made changes to sentencing, including:

- The creation of Violent Offender Orders (VOOs): Civil preventative orders that allow courts to impose post-sentence restrictions on those convicted of violent offences.
- The clarification of sentencing procedures for young offenders.
- The creation of the youth conditional caution and the Youth Rehabilitation Order (YRO) a generic community sentence similar to the adult community order in which a 'menu' of requirements is chosen from to create a bespoke order specific to an offender and their offending behaviour. The YRO came into effect on 30 November 2009.
- Amended provisions in the Criminal Justice Act 2003 so as to give judges more discretion over the use of public protection sentences; for the use of public protection sentences to be restricted to offences for which two years real time in prison is justified or where the offender has previously been convicted of a specified offence (listed in Schedule 15A to the 2003 Act); and for release from an extended sentence to be automatic at the half way point of the custodial period with licence extending then until the end of the extension period. These changes apply to cases sentenced on or after 14 July 2008.

The **Coroners and Justice Act 2009** introduced several new offences:

- Offences relating to encouraging or assisting suicide
- Possession of prohibited images of children.

It also made changes to:

- Retrospective application of genocide, crimes against humanity and war crimes
- Persons suffering from diminished responsibility, partial defence: loss of control relating to murder
- Driving disqualifications for those also sentence to immediate custody
- Added certain terrorist offence to the list for which Indeterminate sentences for public protection are available.

The Act introduced provisions for anonymity in certain investigations and for certain witness. It also established the Sentencing Council to replace the Sentencing Guidelines Council.

The **Legal Aid, Sentencing and Punishment of Offenders Act 2012** received Royal Assent on 1 May 2012. The Act introduces a wide range of reforms to the justice system as well as delivering structural reforms to the administration of legal aid.

Explanation of sections of the act which commenced at the point of Royal Assent and will have a potential impact on the data can be found at the link below:

[www.justice.gov.uk/downloads/legislation/bills-acts/legal-aid-sentencing/laspo-sections-commenced-on-assent.pdf](http://www.justice.gov.uk/downloads/legislation/bills-acts/legal-aid-sentencing/laspo-sections-commenced-on-assent.pdf)

The **Misuse of Drugs Act 1971 (Ketamine, Khat etc.) (Amendment) Order 2014**, brings certain drugs under the control of the Misuse of Drugs Act 1971 ('the Act'). Article 3 of this Order brings groups of "NBOMe" compounds, some of which were subject to control under a Temporary Class Drugs Order (SI 2013/1294), under permanent control as Class A drugs under the Act.

The Order reclassifies Ketamine as a Class B drug, makes Lisdexamphetamine a Class B drug and brings groups of benzofuran compounds, some of which were subject to control under a

Temporary Class Drugs Order (SI 2013/1294), under permanent control as Class B drugs under the Act. Under article 5 Tramadol, Zaleplon and Zopiclone are brought under control as Class C drugs under the Act.

## **Khat**

Khat is a class C, schedule 1 drug. It is illegal to possess, supply or produce this drug. Possession carries a maximum sentence of 2 years' imprisonment and a fine. Trafficking offences carry a maximum sentence of 14 years' imprisonment and a fine.

Police officers will take a special 'escalating' approach to the policing of khat possession. There are three possible responses for officers to take where they believe they have found an individual in possession of khat for personal use:

### Khat Warnings

A cannabis or khat warning may be given where the offender is found in possession of a small amount of cannabis or khat consistent with personal use and the offender admits the elements of the offence. The drug is confiscated and a record of the warning will be made on local systems.

### Penalty Notice for Disorder (PND)

Where someone has already received a khat warning and is again caught in possession, then the police have the discretion to issue an on the spot fine ('PND') for £60.00. If the PND is paid within 21 days no further action will be taken and no criminal record will exist. A PND can be challenged, and if challenged will result in criminal proceedings at the Magistrates Court. Failure to pay will result in a fine for the original penalty plus 50% (£90) being registered against the defendant at their local Magistrates' Court. A person has a right to refuse a PND but this will probably result in arrest.

### Arrest

An individual who has received a khat warning and a PND and is caught again for khat possession should be arrested and taken to the police station. At this point, and depending on the circumstances, either the matter will be dealt with by way of charge, caution or no further action (including the possibility of issuing a further cannabis warning or a PND).

The **Assaults on Emergency Workers (Offences) Act 2018** was brought on the 13<sup>th</sup> of November 2018 to make provision about offences when perpetrated against emergency workers, and persons assisting such workers; to make certain offences aggravated when perpetrated against such workers in the exercise of their duty; and for connected purposes. The Act introduced the new offence 'Assault of an emergency worker'.

The **Criminal Justice and Courts Act 2015** makes provision about how offenders are dealt with before and after conviction; the Act created and amended a variety of offences as well as making provision about judicial review.

The act also introduced trial by **Single Justice Procedure (SJP)** where adults tried for summary non-imprisonable offences at the magistrates' court can be dealt with remotely (the defendant does not need to physically attend court). Typical examples of these offences are 'Television licence evasion' and 'Speeding'. This will particularly impact Criminal Justice Statistics when looking at breakdowns by police force area (PFA) as individual courts in a particular area may be allocated all the SJP offences for the entire region. Caution should be taken when interpreting trends following 2015 by police force area, as SJP offences make up a substantial proportion of total prosecutions.

## Glossary

**Absolute discharge:** When the court decides someone is guilty, but decides not to punish them further at this time, they will be given a 'discharge'. Discharges are given for minor offences. An 'absolute discharge' means that no more action will be taken.

**Average custodial sentence length (ACSL):** Average length of determinate custodial sentences given in months. This excludes indeterminate sentences (life or Imprisonment for Public Protection sentences) as the length of these sentences is not recorded.

**Example of calculation of average custodial sentence length (ACSL):** Offenders in four cases are sentenced to immediate custody and the sentence lengths handed down are: 6 months, 1 year, 18 months and a life sentence. The calculation of ACSL excludes the life sentence as this is an indeterminate sentence and it is not known how long the offenders will serve in custody. The mean is calculated from the remaining 3 sentences, implying the ACSL for these offences is:  $(6+12+18)/3 = 12$  months.

**Community sentence:** When a court imposes a community sentence, the offender doesn't go to prison, but the court says there are specific things the offender can, can't and must do while serving their sentence. The magistrate or judge will decide which combination of these 'requirements' will most effectively punish the offender for their crime, while also reducing the risk of them offending again.

**Conditional discharge:** When the court decides someone is guilty, but decides not to punish them further at this time, they will be given a 'discharge'. Discharges are given for minor offences. A 'conditional discharge' means that the offender won't be punished unless they commit another offence within a set period of time (no longer than three years).

**Conviction ratio:** The conviction ratio is defined as the ratio of convictions to prosecutions for a principal offence over one year. As trials can span more than one year, offenders found guilty in a reporting year are not always the same defendants who were prosecuted in that year. (This can give rise to some seemingly-anomalous results if considered for small groups, such as ratios greater than 1.)

**Crime:** is an action or an instance of negligence that is deemed injurious to the public welfare, morals or to the interests of the state and that is legally prohibited. An incident is counted as a crime if reported to the authorities and following investigation is confirmed as a "crime" and recorded as such.

**Criminal history:** An offender's criminal history counts the number of occasions on which an offender has previously received a conviction, caution or youth caution for any offence and has been recorded on the Police National Computer (PNC), including some offences committed outside of England and Wales. Where there were multiple offences on the same occasion, only the primary offence as recorded on the PNC would be counted. This count differs from First Time Entrants because all offenders prosecuted by an English or Welsh police force, irrespective of country of residence, are included.

**Disposal:** The end result of a trial at court. In this publication the disposals of interest are sentences, but other disposals are possible, for example where there is no finding of guilt and the defendant is acquitted.

**Downgrading:** A crime recorded by the police which results in a conviction for a lesser offence than initially recorded. For example, following an investigation a crime could be recorded as 'Wounding with intent to cause grievous bodily harm' and charged as Such, but during the court process more evidence comes to light which means that prosecutors believe the more appropriate charge is for a less serious offence of 'Causing actual bodily harm'.

**Fine:** Fines are the most common criminal sentence, given to punish an offender financially. They are usually given for less serious crimes that don't merit a community or prison sentence. They limit the amount of money offenders have to spend, with how much someone is fined depending on how serious the crime is and the offender's ability to pay.

**First time entrants:** A first time entrant (FTE) to the criminal justice system is an offender residing in England and Wales at the time of the offence, who has been recorded on the Police National Computer (PNC) by an English or Welsh police force as having received their first conviction, caution or youth caution. Offences resulting in a Penalty Notices for Disorder are not counted as first offences.

**Home Office offence codes** represent single offences or a small number of closely related offences. They underpin the offence groupings presented in this publication and are used consistently between the Home Office and Ministry of Justice

**Immediate custody:** Prison sentences are given when an offence is so serious that it is the only suitable punishment. A prison sentence will also be given when the court believes the public must be protected from the offender. A custodial sentence can be suspended when given (see below), but otherwise is termed 'immediate'. There are two different categories of immediate custodial sentence: determinate sentences (those having a fixed term) and indeterminate sentences (which have only a minimum term and include life sentences).

**Indictable offences:** These refer to either triable-either-way or indictable only offences.

**Indictable only:** These offences are the most serious breaches of the criminal law and must be tried at the Crown Court before a judge and jury. These 'indictable-only' offences include murder, manslaughter, rape and robbery.

**Notifiable offence:** The term 'notifiable' covers offences that are notified to the Home Office, and they are collectively known as 'recorded crime'. Notifiable offences include all indictable and triable-either-way offences (excluding section 6 of the Bail Act 1976), together with certain closely associated summary offences. Police recorded crime statistics cover notifiable offences.

**Otherwise dealt with:** includes a number of orders that do not fall within any of the major sentencing categories, for example hospital orders, confiscation orders and compensation orders. Different tables in this publication show more or fewer major sentencing categories; for this reason, the set of offences counted as otherwise dealt with varies between tables.

**Principal offence/disposal:** Where more than one offence is considered in a court case or cautioning occasion, the offence that would/did attract the most severe sentencing outcome is deemed to be the principal offence and other offences also dealt with in that case would be not be counted in our tables (unless specified). If two offences in the same case attract the same sentence the offence with the higher statutory maximum sentence is deemed the principal offence. An equivalent approach is applied to determining the 'principal disposal', which is the sentence we report on where more than one sentence is received for the principal offence – only the most severe sentence for that offence is reported on (unless specified). Details of how principal offences are determined can be found in the 'Reporting on the principal offence and principal sentence' section of this guide.

**Proven offending:** An individual is considered as a proven offender if they receive one of the following sanctions (or a juvenile equivalent):

- Simple caution
- Final warning
- Reprimand
- Conditional caution
- Penalty Notice for Disorder

- Cannabis/Khat Warning
- Community Resolution
- Conviction

**Recordable offence:** Recordable offences are those that the police are required to record on the Police National Computer. They include all offences for which a custodial sentence can be given plus a range of other offences defined as recordable in legislation. They exclude a range of less serious summary offences, for example television licence evasion, driving without insurance, speeding and vehicle tax offences.

**Triable either-way:** These offences may be tried either at the Crown Court or at a magistrates' court. These offences include criminal damage where the value is £5,000 or greater, theft, burglary and drink driving. Triable only on indictment and triable either way are frequently amalgamated to form indictable offences.

**Summary offences:** These offences are usually heard only by a magistrates' court. This group is dominated by motoring offences, for some of which fixed penalties can be issued, but also includes typically less serious offences such as common assault and criminal damage of up to £5,000.

**Suspended sentence:** A court may give an offender a 'suspended' prison sentence if the time they would otherwise spend in prison is under 24 months. With a suspended sentence, the offender doesn't go directly to prison but they do have to comply with conditions set out in the order made by the court. These conditions can last for up to two years. If the offender breaks these conditions, or commits another offence, they will usually have to serve the original sentence in prison.

**Victims:** individuals who are subject to an incident punishable under criminal law.

**Witnesses:** individuals or groups of people who observe an incident punishable under criminal law. A victim may also be a witness. Victims and witnesses can report an incident, which following investigation can become a crime. Reporting of an incident by either group will depend on their participation in the event and their perception of the seriousness of the event. If a victim does not report an incident, but a witness does, the police will still investigate and record as a crime if appropriate.

## Directory of related websites

The following list of websites contains information on organisations, publications and/or statistics relating to the criminal justice system that may be of interest.

### **Ministry of Justice** [www.gov.uk/government/organisations/ministry-of-justice](http://www.gov.uk/government/organisations/ministry-of-justice)

This site provides information on the organisations within the justice system, reports and data, and guidance:

- Details of Ministry of Justice statistical publications, can be found at: [www.gov.uk/government/organisations/ministry-of-justice/about/statistics](http://www.gov.uk/government/organisations/ministry-of-justice/about/statistics) For historic publications, see the links to 'earlier volumes in the series' (on National Archives website) on individual publication pages.
- Information on the bodies within the justice system, such as HM Prison and Probation Service, the Youth Justice Board for England and Wales and HM Courts & Tribunals Service can be found at: [www.gov.uk/government/organisations#ministry-of-justice](http://www.gov.uk/government/organisations#ministry-of-justice)

**The Crown Prosecution Service** [www.cps.gov.uk](http://www.cps.gov.uk) Gives information on the department and provides particulars in relation to legal guidance, victims and witnesses, in addition to details of publications.

### **The Attorney General's Office** [www.gov.uk/government/organisations/attorney-generals-office](http://www.gov.uk/government/organisations/attorney-generals-office)

Provides information on the role of the department including new releases; updates; reports; reviews and links to other law officers' departments and organisations.

**The Welsh Government** [www.gov.wales](http://www.gov.wales) Gives information on all aspects of the Welsh Government together with details of publications and statistics.

**The Scottish Government** [www.gov.scot](http://www.gov.scot) Gives information on all aspects of the Scottish Government together with details of publications and statistics.

**Criminal Justice System Northern Ireland** [www.nidirect.gov.uk/articles/introduction-justice-system](http://www.nidirect.gov.uk/articles/introduction-justice-system) Provides information about the justice system in Northern Ireland, including what court does what and the different agencies involved in the justice system.

**The Sentencing Council**, [www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk) The Sentencing Council is an independent, non-departmental public body of the Ministry of Justice which replaced the Sentencing Guidelines Council and the Sentencing Advisory Panel. The site contains information on: sentencing guidelines; general information on sentencing; and research and analysis undertaken by the Sentencing Council.

**Official Statistics publications** [www.gov.uk/government/statistics](http://www.gov.uk/government/statistics) Lists links to published and upcoming Official Statistics products. Official Statistics are produced impartially and free from political influence by ministerial departments, other departments and public bodies.

### **Office for National Statistics**, statistical publications on crime in England and Wales [www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/previousReleases](http://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/previousReleases)

Contains latest Crime Survey for England and Wales (CSEW) and police recorded crime (PRC) data. Covers crime against households and adults, and also includes data on crime experienced by children, and crimes against businesses and society.

### **Home Office**, statistical publications on crime outcomes assigned by the police [www.gov.uk/government/collections/crime-outcomes-in-england-and-wales-statistics](http://www.gov.uk/government/collections/crime-outcomes-in-england-and-wales-statistics)

### **Home Office**, police recorded crime and outcomes open data tables [www.gov.uk/government/statistics/police-recorded-crime-open-data-tables](http://www.gov.uk/government/statistics/police-recorded-crime-open-data-tables)

Contains detailed figures on police recorded crime and outcomes assigned by the police alongside supplementary material, including a user guide.