

INDEPENDENT SENTENCING REVIEW

Annex C - Evidence Summary

This document is a summary of the evidence submitted to the Independent Sentencing review in response to the Call for Evidence and through the programme of Engagement. It is important to note that this summary and the suggestions made represent the views of the respondents who submitted evidence. Suggestions have not been made by the Panel and have not been tested for feasibility.

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1. Executive summary

The UK Government launched an Independent Sentencing review in October 2024, which was tasked with a comprehensive re-evaluation of the English and Welsh sentencing framework. To support the Independent Sentencing review, a Call for Evidence was published which sought input from a wide range of individuals and organisations. The review asked 7 questions about the history of sentencing, structure of sentencing, the role of technology, community and custodial sentences, progression of custodial sentences and the individual needs of both offenders and victims. The Call for Evidence was open for 8 weeks, launching on 14 November 2024 and closing on 9 January 2025. The review received 1033 responses from a range of groups including: prisoners, ex-prisoners and their families; third sector organisations; campaign groups; academics; members of the public; and criminal justice organisations. A wide range of views were received reflecting the complexity and gravity of the topic.

Alongside the Call for Evidence, the Panel conducted a strategic programme of engagement with key organisations and individuals representing different sectors of the criminal justice system. This included delivering or attending 10 roundtables and events on topics including reducing reoffending; the lived experience of offenders; victims of violence against women and girls (VAWG) and female offenders; and technological solutions; and a series of visits including the male and female prison estate, probation units, approved premises, and a Women's Centre.

This report presents a summary of the findings from the Call for Evidence analysis, alongside evidence gathered through the strategic programme of engagement, and international comparators.

Key findings

This paper structures the findings in several sections, based on the themes which arose during the analysis. A summary of the key points in each section can be found below:

Respondents' views on the key drivers to changes in sentencing: Respondents felt there had been increased use of custodial sentences and recall, increased length of custodial sentences and decreased use of community sentences. They identified the following key drivers as underpinning these changes:

- Changes to government policy and legislation.
- Changes to government policy outside the criminal justice system which have widened wealth, health, education and accommodation inequalities, causing an increase in crime.
- Changes in practice, across police, probation and the Judiciary.
- Public and media influence driving more severe sentencing.
- Inconsistencies in the application of sentencing criteria and guidelines, scope for judicial discretion and lack of a person-centred approach in sentencing.

Respondents' views on the effectiveness of the current system: Respondents highlighted the following inefficiencies with the current justice system in England and Wales:

- Statutory purposes of sentencing are applied to sentencing decisions in an unbalanced way in favour of punishment. Respondents felt sentencing should have a greater focus on rehabilitation and reparation.
- Sentencing has several unintended outcomes for victims, the public, offenders and their families. Respondents suggested that the criminal justice system would benefit from expanding the definition of better outcomes to include experiences of victims.
- Balancing the needs of stakeholders is challenging, but there was a consensus that restorative justice approaches and improving transparency in sentencing would go some way to improving this balance.

Respondents' views on how the system responds to the individual needs:

Respondents generally expressed views that current sentencing practices exacerbate existing inequalities, with women, ethnic minorities and people with mental health or addiction needs often receiving harsher sentences than other cohorts. Tailored sentencing was proposed to meet individual needs and to address specific crime types, as outlined in Table 1.

Table 1. Respondents' suggestions about how sentencing practices could be improved to respond to individual needs.

Themes	Description
Increased use of non-custodial sentences	Should be considered for young offenders, women (including pregnant women, but without electronic tagging), offenders with mental health and addiction needs, non-violent offenders, first-time offenders, neurodivergent offenders and "accidental" offenders.
Greater focus on causes of crime	Focus on addressing root cause, particularly in the community, to divert young offenders, first-time offenders and offenders with mental health and addiction needs from the criminal justice system.
Cultural training	Mandatory cultural training for criminal justice system staff, culturally specific rehabilitative approaches for ethnic minority offenders.
Multi-agency working	Including with the third sector, to better support female offenders and offenders who are victims too.

Respondents' views on ways to improve sentencing

Respondents proposed many changes to improve sentencing policy and practice, as presented in Table 2 below.

Table 2. Suggestions to improve sentencing policy and practice.

Themes	Description
Legislation, policy and sentencing	Introducing an advisory panel to oversee sentencing policy, decriminalisation of certain offences, evidence-based, person-centred and dynamic sentencing approach.
Use of community and custodial sentences	Decrease the use and length of custodial sentences – particularly for non-violent and low-risk offenders - and increase the use of deferred, suspended and community sentences. Decreasing the use of short custodial sentences. Consider the use of fines and curfews.
Court system	Re-structuring courts into 4 tiers (pre-court disposal, magistrates courts, intermediate court and Crown Court), increasing judicial knowledge of sentencing options through training, increasing use of problem-solving courts.

Suggested changes to the management of sentences and progression

Respondents proposed many changes to improve the management of sentences and progression, as presented in Table 3 below.

Table 3. Suggestions to improve sentencing policy and practice.

Themes	Description
Custodial sentences	Increasing activity and support in custody to support rehabilitation, providing clear progression pathways, increasing access to open prisons, removing post-sentence supervision, using recall as a last resort.
Community sentences	Improving public knowledge, increasing focus on rehabilitation, increasing judicial confidence, localising probation services, increased investment, improving training, increasing quality of pre-sentence reports. Increased investment into statutory and third sector services to support the management of community services and increase efforts to divert offenders.

Respondents' views on using technology in sentencing: Respondents were generally positive about the current and prospective use of technology. They discussed the use of AI, electronic monitoring, virtual reality and online platforms to better support rehabilitation and sentence management. However, many challenges were raised regarding the potential for bias in predictive tools used to assess and manage risk, particularly AI. It was also suggested that careful consideration of proportionality, consent, and potential misuse of data is required to ensure the responsible and lawful deployment of new technologies.

2. Background

In October 2024, the Lord Chancellor launched an Independent Sentencing review, to ensure government is never again in a position where the country has more prisoners than prison places and is forced to rely on the emergency release of prisoners. To deliver the review, the Lord Chancellor appointed an independent panel, who represent a wealth of expertise within the criminal justice system, to work alongside the Chair, Rt Hon David Gauke.

The Independent Sentencing review Terms of Reference can be found on [gov.uk](https://www.gov.uk).

The Independent Sentencing review Panel were tasked with a comprehensive re-evaluation of the sentencing framework. To do this, the review was guided by 3 principles:

- firstly, sentences must punish offenders and protect the public - there must always be space in prison for the most dangerous offenders
- secondly, sentences must encourage offenders to turn their backs on a life of crime, cutting crime by reducing reoffending
- thirdly, we must expand and make greater use of punishment outside of prison

To gather evidence to support the Panel to develop recommendations, the review launched an 8 week Call for Evidence, on 14 November 2024, which sought written evidence from various stakeholders against 7 themes:

- Theme 1: History and trends in sentencing
- Theme 2: Structures
- Theme 3: Technology
- Theme 4: Community sentences
- Theme 5: Custodial sentences
- Theme 6: Progression of custodial sentences
- Theme 7: Individual needs of victims and offenders

Given the immediacy of the problems the review was addressing, the Call for Evidence encouraged evidence that extended existing ideas, or that may be ambitious, innovative, or new. The list of questions that were asked can be found in the Appendix of this paper.

To bolster the evidence submitted through the Call for Evidence, the Panel undertook a programme of engagement with stakeholders across the justice system to gather further qualitative evidence. This engagement collected a diverse range of perspectives including from victims, offenders, those with lived experience, campaign groups, academics, think tanks, former senior officials, frontline staff, as well as those with an expertise in technological solutions. This engagement plan was designed to ensure the Panel recommendations are grounded in real-world experiences, in line

with best practice, and ultimately fulfil the review's Terms of Reference and overarching objectives.

The Sentencing review Panel used evidence gathered from both the Call for Evidence exercise and the programme of engagement to inform the development of recommendations included in the review's report. Given the timescale available for the review, the Panel prioritised recommendations that are urgently required to achieve a sustainable prison population, as this is the key objective within the Terms of Reference. This means that, even if they have merit, many of the suggestions made by respondents that are included in this evidence summary have not been addressed by the Panel due to limited capacity to explore them sufficiently.

3. Methods

Call for Evidence Approach

The Call for Evidence was open for 8 weeks, launching on 14 November 2024 and closing on 9 January 2025. It was open for anyone to submit responses, either via an online portal, email or letter.

The Call for Evidence collected data about respondents and contained 7 open-ended questions for written feedback. Please see the Appendix for a list of the questions asked.

Analysis

The review received **1033 responses**. The responses came from a range of individuals and groups, including 265 from people with lived experience (the majority of whom were prisoners, ex-prisoners their families), 119 from third sector organisations and 58 from academics and academic institutions. Other responses came from campaign groups, HMPPS staff, private companies, government organisations, including independent organisations, the legal sector and the Judiciary (judges, lawyers, law firms, legal associations etc.), the police (police officers, police associations etc.), trade unions and members of Parliament.

Responses were analysed thematically to identify key themes to inform the review. The report has been structured to reflect these themes, as a many of the key themes, for example technology, cut across answers to more than one of the 7 questions asked in the Call for Evidence.

Caveats

It is important to note that this paper only represents the views and suggestions of those who responded to the Call for Evidence and participated in engagement activities, so they cannot be taken to represent the views of *all* individuals or organisations.

It should be noted that the discrepancy between views of self-selecting respondents and the public was a theme in some of the responses, with submissions noting that perceptions of the criminal justice system are in contradiction with the evidence base on crime and sentencing overall.

Many respondents only submitted evidence in response to some of the questions in Call for Evidence.

Engagement Approach

The engagement programme was designed by the panel and delivered by the Independent Sentencing review's secretariat, with the aim of gathering testimony and evidence from a range of experts and stakeholders.

In total, the Panel hosted or attended 10 roundtables and events, each with multiple attendees with expert knowledge in the topic of discussion. Sessions covered a diverse range of topics including reducing reoffending; the lived experience of offenders; victims of violence against women and girls (VAWG) and female offenders; general victims of crime; and technological solutions. The Panel attended a recurring international roundtable hosted by the Embassy of the Netherlands which brought together the Panel and European comparators from The Netherlands, Finland, Sweden and France. The Panel also attended an academic conference run by the Sentencing Council and a meeting of senior operational colleagues to understand the impact of the recommendations on the frontline.

Conscious of the impact that Panel recommendations may have on offenders and frontline workers, the Panel visited prisons in both the male and female estate, probation units, approved premises, and a Women's Centre. These visits and roundtables were bolstered by individual meetings between key stakeholders and the Chair of the review.

While the Panel recognised the importance of domestic collaboration, they also wanted to understand how other countries were able to reduce prison numbers while also reducing crime rates. On this basis, the Chair visited Spain and Texas. The panel also engaged with officials from Singapore to understand their methods of reducing reoffending and the prison population, while also reducing crime.

The review secretariat reviewed the gathered qualitative data taken from the discussions, identified overarching viewpoints, recurring themes, and notable suggestions, and ensured that this information was considered by the Panel as part of the recommendation development.

4. Findings

4.1 Respondents' views on the key drivers to changes in sentencing

Respondents expressed views that there had been the following changes in sentencing:

- Increased use of custodial sentences
- Increased use of recall to custody
- Increased length of custodial sentence (sentence inflation)
- Decreased use of community sentences

This section summarises the key drivers that respondents identified as underpinning these changes to sentencing.

Summary: Respondents' views on the key drivers of changes in sentencing

- Respondents pointed to changes to government policy and legislation, including changes to the Criminal Justice Act (2003), politicians adopting a “tough on crime” stance, and reductions in funding for services to address underlying causes of offending.
- Respondents felt that media influence, including reports on high-profile cases and emotive campaigns which promote punishment through the sentiment that “prison works” and contribute to public misconceptions around crime rates and sentencing practice, leading to a preference for tougher sanctions.
- Respondents saw changes to government practice across police, probation and the Judiciary, which has led to an increase in the size of the custodial population as key drivers. For example, relating to a lack of judicial awareness of non-custodial sentencing options and confidence in the effectiveness of community sentences.
- Respondents identified challenges with sentencing criteria and guidelines, including inconsistencies in application, their scope for judicial discretion and lack of person-centred approach.

4.1a Government policy and legislation

Respondents expressed views that sentence inflation is the cumulative result of decades of piecemeal changes to the law. Some respondents cited specific changes made under the Criminal Justice Act 2003, including the introduction of new offences and increased minimum and maximum sentences for specific offences.¹ Some respondents highlighted that minimum sentences may have had the effect of shifting the midway point of sentence (tariff) with inflationary effects.

Other specific changes identified as driving more punitive sentencing included a widening range of restrictions on early release and changes to legislation in relation to drug, immigration and protest related offences. Roundtable attendees agreed that legislative changes have directly impacted prison population, also referring to increases in statutory maximum sentences. Many attendees highlighted the creation of new offences such as assault on emergency workers, akin to common assault, for which sentences have been increased twice by Parliament.

Respondents stated that government policy and legislation changes have been driven largely by political factors. Some respondents pointed to “penal populism”² and the proposition that some politicians, across political parties, have introduced harsher sentences to take a “tough on crime” stance to win votes, even when the evidence does not support the effectiveness of this. In his evidence submitted to the Call for Evidence, Lord Farmer stated that “My response to the arms race which penal populism generates in necessarily vote hungry politicians, is that, like the nuclear arms race, we simply cannot afford the price tag, either in sheer cash terms of £47,000 per prisoner per annum, or the squandering of human potential.” Other respondents felt that politicians take this choice to manage risk, as the public and politicians view custody as effective in providing public protection.

Respondents suggested that government policy and legislation has not kept up with the changing nature and complexity of crime. Respondents described how the changing nature and complexity of crime, particularly due to increased technology, has outpaced changes in the criminal justice system.

Respondents felt that the Government had attempted to tackle prison capacity challenges through changes to policy and legislation that had not proven effective. For example, the introduction of the “New Prison Programme”³ which respondents felt will not create enough places to meet population projections and the Standard Determinate Sentencing (SDS40) “Early Release Scheme”⁴ which was perceived to be applied inconsistently and unfairly.

¹ Multiple sections of the Criminal Justice Act, 2003 such as section 181, 269 and 285.

² The term “populist punitiveness” was first coined by Sir Anthony Bottoms in 1995 and may be contrasted with “penal populism” which Julian V. has explained by stating that “penal populists allow the electoral advantage of a policy to take precedence over its penal effectiveness”.

³ The New Prison Programme (HM Government, 2024) aims to build 6,500 new prison places under the 10-year prison capacity strategy.

Respondents expressed views that changes to government policies outside the criminal justice system had widened societal inequality, contributing to a rise in the prison population. For example, changes to industrial and economic policies including those leading to the closure of heavy industry had created structural mass unemployment, driving dependency on benefits and drugs and, in turn, increasing crime.

Respondents expressed views that since key drivers behind crime and reoffending are societal, the levers to address them also lie at least in part outside the criminal justice system. As stated by the third sector organisation, Transform Justice “sentences can only ever play a limited part in reducing/increasing reoffending”. For example, respondents suggested a strong link between homelessness and offending, highlighting the impact of social instability on driving increases in the prison population.

Respondents commented that reduced funding for support services has exacerbated inequalities and created economic hardship. Respondents felt that cuts have dissolved initiatives that aim to prevent crime and left basic community needs unmet. Whilst other respondents identified that reductions in funding for police, prisons, the Probation Service and the courts have contributed to a perception that crime is out of control, leading to a demand for longer prison sentences.

4.1b Government and statutory services practice and structures

Respondents expressed views that changes to practices, across police, probation and the Judiciary, have driven changes to the prison population.

- **Police:** Increased effectiveness of police in charging sex offences and improved responses to detecting serious organised crime, which respondents felt has contributed to higher levels of imprisonment.
- **Probation Service:** Some respondents noted a perceived culture of fear amongst probation staff, combined with pressure on their resources, which has resulted in an increase in recalls and a reluctance to propose lower-level sanctions.
- **Judiciary:** Respondents felt that there is a lack of awareness of non-custodial sentencing options and a lack of judicial confidence in the delivery and effectiveness of community sentences, in part due to pressures on the Probation Service, which is reducing the use of them.

4.1c Societal expectations

Respondents felt that the public tends to overestimate the amount and severity of crime and hold the misconception that sentencing has become less, rather than more, punitive over time. Respondents were concerned that the public are overconfident in the effectiveness of custodial sentences in acting as a deterrent and reducing reoffending and they lack knowledge of non-custodial sentencing options, meaning that they tend to favour tougher sanctions. However, the Institute for Crime

and Justice Policy Research at Birkbeck University highlighted that when given detailed background about an offender's history, there is evidence the public are more inclined to favour less punitive sentences, suggesting viewpoints are caused by poor access to information.

Respondents felt that public opinion is influenced by the media. Respondents noted that the media reports high-profile cases, emotive campaigns and promotion of punishment through the sentiment that "prison works". For example, The Lord Bishop of Gloucester stated that "crime makes up a disproportionate amount of news and social media reporting, usually focusing on shocking but relatively rare crimes. This distorts public perception of the incidence of crime and the safety of our streets". Respondents felt this has driven a desire for tougher sanctions.

This notion was also reflected in the views of roundtable attendees, who noted that lobbying on behalf of victims has led to legislative changes, such as the lengthening of the minimum term or tariff for life sentences.

However, counter to this point, some respondents noted that the public debate is missing the voice of victims who may better support rehabilitation, rather than advocating for prison and punishment. The Right Reverend James Jones KBE argued that public conversation needs "to hear the voices of victims and their families making it clear that they are not left satisfied by those who have offended against them returning to the community with the risk of their reoffending left unaddressed in their period in prison."

Many respondents noted that changes to sentencing have been driven by these shifts in societal views and pressure from the public and groups to adjust policy, legislation and individual sentencing decisions to align with their expectations.

Respondents expressed that there is a need for greater transparency in sentencing and improving public knowledge with regards to sentencing practices. The Sentencing Academy responded with findings from a survey they conducted that found almost three-quarters of respondents knew either "not very much" or "nothing at all" about prisons.

4.1d Sentencing criteria and guidelines

Respondents expressed views that changes to sentencing guidelines have increased the prison population. For example, the Sentencing Council acknowledged that changes to domestic and aggravated burglary guidelines had unintentionally increased sentence severity.

Respondents expressed views that because of the sentencing guidelines the Judiciary are unable to exercise their discretion to decrease the severity of sentencing when they deem it appropriate. Many respondents shared similar views to the Criminal Bar Association, who summarised the idea: "In most areas of criminal

law, we do not believe that Sentencing Guidelines have (of themselves) inflated the level of sentences for different offences or offence categories. However, they have made it more difficult for a judge to exercise their discretion". Others highlighted that due to the guidelines, magistrates are often limited to fines or custody, as opposed to community sentences.

Some respondents felt that sentencing guidelines meant essential evidence relating to their own and/or family member's culpability in a case was not taken into account for sentencing. Some respondents, including prisoners, who raised this concern did so in relation to joint enterprise. Respondents felt this contributed to the imprisonment of individuals they perceived to be less culpable (or even innocent).

Respondents expressed views that sentencing criteria makes it more difficult to take a person-centred approach to sentencing, resulting in harsher sentences that may not align with circumstances. Respondents felt these issues played a role in unjust or disproportionately severe sentences for certain individuals, particularly those with mental health or personal challenges.

Other respondents, however, expressed views that sentencing guidelines have contributed to a decrease in the use of community sentences. Respondents noted that because magistrates view community sentences as ineffective and because they have the discretion not to use them when following the sentencing guidelines, custodial sentences are often given to offenders instead (and subsequently, this has caused a rise in the prison population).

4.2 Respondents' views on the effectiveness of the current system

This section summarises respondents' views about how sentences are delivered and how effective they are, including the perceived impact on different cohorts.

Summary: Respondents' views on the effectiveness of the current system

- The application of the statutory purposes of sentencing was considered by respondents as unbalanced in favour of punishment, and public protection. A need for greater focus on rehabilitation to reduce re-offending was called for. Respondents suggested that reparation, particularly through restorative justice programmes, should be a higher priority in sentencing.
- Some respondents also considered that public protection should be the overarching aim of the criminal justice system, and that there's little evidence that the criminal justice system acts as a deterrent, so some respondents questioned this being a statutory purpose.
- Respondents suggested that criminal justice system interventions (such as protective orders) alone are not sufficient to improve overall public safety, and that a more holistic approach involving other social and community interventions is needed.
- Respondents identified numerous unintended consequences for victims, the public, offenders and their families. Examples include the mental health impacts of custodial sentences on families, and the re-traumatising impact of appeals on victims.
- Respondents suggested that the justice system would benefit from expanding the definition of "better outcomes" to include the experiences of victims and offenders accessing and exposed to the criminal justice system.
- Balancing the needs of stakeholders is challenging, but there was a consensus amongst respondents that restorative justice approaches and improving transparency in sentencing would go some way to addressing this.

4.2a Purpose and outcomes of sentencing

Respondents felt that sentencing practices do not match the statutory purposes of sentencing. Respondents felt that the emphasis of sentencing decisions is often weighted towards punishment and often at the expense of rehabilitation. Although punishment was considered an important part of the justice system, respondents raised concerns that overly punitive sentences, particularly lengthy prison terms, are not effective in achieving rehabilitation and reducing reoffending and may even be counterproductive. This was particularly where punishments were seen by the offender as being disproportionate to the crime, or where people in prison are there

due to a perceived risk, rather than in response to a crime that had been committed, for example where offenders are recalled or remanded in custody.

Individuals with lived experience of the criminal justice system who the Panel met mirrored these views. They felt their sentences had little focus on rehabilitation and were unfairly punitive. This was stated to have created “another level of trauma” additional to the vulnerabilities that had resulted in their offending (such as adverse childhood experiences).

With regards to public protection, respondents expressed the view that there is a need to better protect victims of domestic abuse. Here, respondents raised the use of protective orders and specialised domestic abuse courts. Respondents felt that effective monitoring and enforcement of these orders was crucial. There were also concerns that short-term custodial sentences can pose public protection risks, and that the management of offenders upon their return to the community is often inadequate due to the Probation Service being under resourced.

Respondents expressed views that reparation, particularly through restorative justice programmes, should be a higher priority in sentencing. Respondents suggested that reparation would allow offenders to understand the impact of their actions and make amends to victims. However, responses noted there is often a lack of consistency in how sentences are served, which reduces the effectiveness of rehabilitation and reparation efforts. This was affirmed by some individuals at a roundtable discussion with lived experience of the criminal justice system who had felt the benefits of restorative justice on their rehabilitation.

However, victims’ groups felt restorative justice should not be applicable for every case and should be approached with an individualised method to ensure victims don’t have the onus to “forgive”. Respondents to the Call for Evidence suggested that redirecting resources from prisons to community-based rehabilitation and victim support could create a more sustainable system. Respondents also stated that the use of compensation orders and community payback work had declined, despite these being considered as an important means of reparation by respondents.

Respondents felt that longer sentences and harsher punishments do not effectively deter crime. There was consensus in responses submitted through the Call for Evidence that the likelihood of being caught is a much stronger deterrent than the severity of the punishment. Several respondents argued that deterrence should be removed as a purpose of sentencing, as it is not well-supported by research. However, some respondents to the Call for Evidence felt that there was value in longer sentences, for example to deter and disrupt organised criminal activity.

Respondents expressed views that there is a need to tailor sentences to the specific needs of offenders. Responses highlighted that underlying issues, such as mental health and addiction, require rehabilitative approaches.

Suggestions: The sentencing purposes need to be better balanced, which would involve a more holistic, evidence-based approach that prioritises community safety and reducing reoffending over more punitive sentences. Reparation should be a higher priority in sentencing. Some felt deterrence should be removed as a purpose.

4.2b Unintended outcomes

Respondents expressed views that the current prison system often fails to address the root cause of offending. Many respondents raised that the root causes of offending remain unaddressed through the system. For example, it was commonly cited that adult offenders released from custodial sentences of less than 12 months have a high proven reoffending rate, yet there is a high financial burden of incarceration, and it was felt this money could be used for more effective crime prevention strategies.

Respondents expressed views that the criminal justice system does not adequately address the needs of victims of crime. Respondents reported that sentencing practices deprioritised victim restitution or restorative approaches, leading to low confidence in the system's effectiveness. This sentiment was reflected in the views of organisations representing victims' voices. Joint enterprise was frequently cited as an example of a sentence respondents felt does not give the victim's family closure, and often re-traumatises victims further, as several individuals might be given long (even life) sentences for a crime committed by one member of a group and those convicted often appeal their sentences.

A roundtable attendee highlighted the lack of procedural justice which can erode the confidence of victims. It was highlighted that "how a victim is treated by the system" in terms of transparency and accountability can be more important than the sentencing outcome. As a part of this, victims must be kept informed throughout an offender's journey as much or as little as they desire, particularly around their rehabilitation. Many people raised that after sentencing, victims lack support and have "the core responsibility of their own protection".

Respondents discussed that actions of the criminal justice system when dealing with those who are classed as both victims and offenders can lead to unintended consequences. Rob Canton, Professor Emeritus at De Montfort University and Patron of the Probation Institute, stated that the "rhetorical opposition between offenders and victims can be extremely unhelpful when they are not discrete tribes", and that this "prevents policy from attending to those rights and interests, both for offenders and victims... with us becoming increasingly aware of the trauma and disadvantage that has scarred the lives of many offenders".

Respondents flagged that individuals who are both victims and criminals might include, for example, people who have been trafficked for criminality or female offenders who are victims of domestic violence.

- Regarding people who have been trafficked, some respondents spoke of the justice system's inability to navigate these complex cases and support individuals, including those victims who are unable or unwilling to give evidence against their traffickers and who are imprisoned themselves as a result. Some suggested that there may be more victims of human trafficking in prison than perpetrators and suggested that this may be due to issues with the system's ability to manage and support these individuals.
- Regarding female offenders who are victims of domestic violence, respondents suggested and a tailored approach to sentencing should be considered.

Respondents highlighted the unintended consequence experienced by prisoners and their families, including difficulty reintegrating into society following a custodial sentence. Respondents said that a custodial sentence affects mental health and results in other outcomes, such as loss of housing or a job, that could impact the offender's ability to re-integrate into society on release. These outcomes were said to be more pronounced for vulnerable groups, such as women, ethnic minorities, and people with pre-existing mental health needs.

4.2c Balancing the needs of victims, offenders, and communities

Many respondents expressed views that sentencing should balance the needs of victims, offenders, and communities whilst also meeting the statutory purposes of sentencing. Some needs mentioned are captured in table 4, below.

Table 4. Highlights some of the key needs identified of different stakeholder groups.

Victims	Offenders	Community
<ul style="list-style-type: none"> • Opportunity to be involved in the court process and parole decisions • To be protected from further harm • To be kept informed so they feel justice is being done and they feel safe • Other needs e.g. involvement in rehabilitation, and 	<ul style="list-style-type: none"> • For sentencing to be fair, consistent and proportionate. • Adequate pre-sentence reports • To carry out community sentences in an area they know • Have the root cause of offending addressed, including through tailored sentencing • Access to person-centred rehabilitation 	<ul style="list-style-type: none"> • Community engagement before introducing new sentencing plans and including public deliberation about sentencing for serious offences • Rehabilitation, reduction of reoffending, and punishment (namely violent and repeat offenders) • Active involvement of community in

a needs assessment of their own wellbeing		rehabilitation, to create inclusive post-prison environment
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4.2c.i Informing victims and the public

Respondents expressed the view that victims receive limited information which may contribute to them believing sentences are unduly lenient. Organisations who represent victims told the Panel that there were limitations to information provided for victims. For example, roundtable attendees noted that many victims misunderstand the gap between what a maximum sentence is for a specific offence and what an average sentence is for that same offence.

Responses to the Call for Evidence highlighted that the public may benefit from greater awareness of:

1. The cost and impact of different sentences.
2. The impact and implications of different sentences (considering the lack of rehabilitation available in custody and that most people will be released).
3. The reason for different sentences.
4. The challenges faced by incarcerated individuals.
5. The effectiveness of sentences. Here there was also a suggested need for more research into the effectiveness of different types of sentences, with the findings being published.

4.2c.ii The role of restorative justice approaches

Respondents noted the benefits of restorative justice, particularly for victims by helping them feel heard, which is often considered missing in traditional sentencing. Some suggested the increased use or formal integration of restorative justice approaches in sentencing and in society more broadly. Many respondents suggested that restorative justice would improve outcomes for victims, offenders and communities over traditional sentences. Respondents noted that restorative justice approaches provide the highest levels of satisfaction, as they are said to promote social integration, personalised rehabilitation and allow healing on both sides. Respondents cited Home Office assessments which found 80%+ victim satisfaction in trials of restorative justice (highest in conferencing involving members of public), up to 25% less reoffending, and savings of up to £9 for every £1 spent.⁵ Some respondents cited the successful use of restorative justice in youth offender programmes.

⁵ Research cited on the response was funded by Home Office/Ministry of Justice grant (£1.3m) to Professor Joanna Shapland and colleagues at the University of Sheffield between 2001 and 2008 ('Evaluation of Restorative Justice Schemes' (Crime Reduction Programme), 2001-2008).

Many respondents supported expanding the use of restorative justice, particularly for non-violent crimes, with one respondent to the Call for Evidence suggesting its use to be a presumption unless the victim declines. International examples (New Zealand and Canada) were provided where restorative justice has been fully integrated alongside each tier of their respective justice systems.

Respondents suggested that restorative justice may not be beneficial in all cases. Some noted that in domestic abuse and sexual offence cases, restorative justice may not be beneficial and therefore cases should be assessed for suitability. Other respondents highlighted difficulties in delivering restorative justice, such as that restorative justice was seen as going above and beyond and that there is a lack of awareness of the approach amongst agencies.

Respondents also had mixed perceptions about whether the approach would be welcomed by victims, and responses noted that there are other ways the individual can learn about the impact of their behaviour without meeting directly with the victim, such as giving back to community projects that are important to the victim.

Suggestions: There should be increased transparency in sentencing and efforts should be made to increase public knowledge of sentencing practises. There should be a review into which other forms of justice could be delivered alongside more traditional responses, such as restorative justice approaches. Whilst there was consensus that the use of this approach should be increased, cases should be assessed for suitability.

4.3 Respondents' views on how the system meets individual needs

This section presents the evidence submitted about the needs of different individuals who are in, or engage with the criminal justice system, in addition to evidence of disparities, alongside suggestions for how criminal justice policy and practice could respond to individual needs.

Summary: Respondents' views on how the justice system meets individual needs

- Respondents generally felt that current practices exacerbate existing inequalities. Women, ethnic minorities, and people with mental health and addiction needs were considered to be either over-represented in the system, and/or receiving harsher sentences.
- Respondents suggested that older (50+) offenders are issued shorter sentences and/or are released from custody, and that younger (18-25) offenders, female offenders, offenders with mental health needs and neurodivergence, non-violent and first-time offenders should be diverted away from custodial sentences and should be supported with services to address the root cause of the offending.
- Respondents suggested using Intensive Supervision Courts for offenders with a substance misuse need.
- There were mixed views for how Foreign National Offenders (FNOs) should be treated, with some calling for speedier deportation and other respondents recommending amendments to support FNOs with needs like substance misuse.
- A multi-agency response that delivers “wrap around” support was suggested for prolific offenders, as well as tagging and testing.
- For perpetrators of violence against women and girls it was suggested that specific courts, such as a specialist domestic abuse court, is used and offenders should be required to complete behaviour change courses. Suggestions were also made around adding conditions to community orders and ensuring that risk is managed when offenders transition from custody to the community.
- Respondents suggested that there is a need for greater diversity in judicial appointments and training for judges on magistrates. Specific suggestions were made relating to joint enterprise offences.

4.3a Suggested amendments to the sentencing policy and practice to meet individual needs

To note, individuals have been grouped according to characteristics, but these groups are only used as broad categories. Many offenders share many of the individual characteristics identified, and it is essential to recognise the intersection or crossovers between groups.

4.3a.i Young Adult Offenders (18-25 years old)

Respondents suggested that tailored sentencing approaches are needed for young offenders due to brain maturation and accounting for adverse childhood experience. Wandsworth Prison Improvement Campaign (WPIC) highlighted concerns that “men of 18-25 can be immature, physically, socially and mentally and very vulnerable away from their families. They are particularly susceptible to bullying, addictions, violence and being recruited into gangs”. Respondents also noted the adverse effects of custodial sentences on young people as criminal convictions and records impact life chances.

Suggestions: Non-custodial options should be explored, that focus on skills training and rehabilitation, such as attending therapeutic training centres to address the root cause of their offending. Magistrates should be trained on the most effective sentence for young adult offenders. Access to and use of Community Violence Reduction Units should be expanded for this cohort. Some recommended that the length of sentences of those convicted as a young person be reviewed, and that long -life tariffs for under 25s should be avoided.

4.3a.ii Older Offenders (50+ years)

Respondents suggested a variety of options to divert older offenders out of custody, noting that older offenders typically have lower re-offending rates, that they are more vulnerable, that they suffer more physical and mental health issues, and they are at greater risk of bullying and intimidation in prison.

Suggestions: Issuing shorter sentences, even for more serious crimes. Fast-tracking older prisoners for rehabilitation programmes so they can be released more quickly. Expanding Early Release on Compassionate Grounds scheme to offenders nearing end of life (as they will most likely be vulnerable and pose little risk to public safety). Increasing the use of open conditions for life-sentenced prisoners. Moving prisoners to care homes when they reach 75-80 instead of release on licence. Management in the community on electronic tagging.

4.3a.iii Female Offenders

Many respondents referred to the challenges and inequalities faced by women in the criminal justice system. They noted that imprisonment for women has increased over time and cited research which found that women were twice as likely to be imprisoned for theft or handling offences in 2005 compared to 1991.⁶ Women’s advocates the Panel met through their engagement activity suggested that women are often sentenced for minor offences and get “escalated” to custody due to their complex needs. Respondents highlighted that women were criminalised on basis of issues that disproportionately disadvantage them including a child’s non-attendance at school or benefit fraud that could be better resolved outside of the criminal justice system.

⁶ Grove (2005)

Respondents to the Call for Evidence submitted evidence which showed that a high proportion of female offenders are survivors of trauma and abuse. APPEAL stated that many of their female clients “have faced extreme childhood adversity and difficulties during adolescence and early adulthood and are almost always victims of domestic abuse and/or coercive and controlling behaviour” and “experience various and often profound mental health problems and some have learning difficulties” consequently.

Respondents noted that custodial sentences, especially short ones, are ineffective at rehabilitating female offenders and often destabilise them further by removing them from housing, employment, and their children. Respondents felt that for women, alternatives to custody are required within the community. However, respondents cautioned against the use of some requirements on community orders (particularly tagging) which can be traumatising for women who are victims of domestic abuse. Some went further, suggesting felt there should be a presumption against criminalising victims of domestic abuse.

Respondents felt the role of women as primary caregivers was not adequately acknowledged by the system. Some discussed that disrupting families through imprisonment of female offenders who are caregivers places a greater burden on other public services. Many roundtable attendees agreed that sentencing for pregnant women and mothers should be reconsidered as they “are often carers so a sentence can weigh heavily on a family”, causing additional harm to young children.

Some respondents disagreed with the use of custodial sentences for mothers and babies due to health concerns. Some highlighted that since the high-profile deaths of two babies in the women’s prison estate in recent years the Prison Ombudsman, NHS and Ministry of Justice have categorised all pregnancies in prison as “high risk”, whilst ‘Pregnancy in Prison’ campaigners who submitted a response to the Call for Evidence noted that 11 countries already prioritise community alternatives over imprisonment. The Royal College of Midwives noted in their submission that “the first 1001 days of life are critical for maternal and infant wellbeing in both the short term and throughout the life course” and that “maternal and newborn health should not be compromised by imprisonment”.

Suggestions: Calls to use “gender responsive sentencing” including through problem-solving courts models, focussing on rehabilitation and diversion from custody. Respondents cited the Corston Report (Corston, 2007) and called for its recommendations to be implemented, including the recommendation to close prisons and open community rehabilitation centres for women. Respondents also recommended the use of community-based sentencing options to support pregnant women, noting that several countries, including Italy and Brazil, implement non-custodial measures for pregnant women, such as house arrest or probation.

4.3a.iv Offenders with mental health needs

Respondents noted that there are a disproportionate number of prisoners who have mental health needs compared to in the wider public. Respondents felt there should be consideration of the state's responsibility for offenders' mental health needs in sentencing. They raised challenges to delivering this, noting the difficulties faced by NHS mental health and social services, a lack of mental health and psychiatric assessments during sentencing, and a lack of confidence in recommending Mental Health Treatment Requirements (MHTRs) or hospital orders rather than custodial sentences.

Suggestions: Individuals with mental health needs should be diverted away from prison and into community sentencing, through increasing the use of mental health treatment orders or deferred sentences. Roundtable attendees agreed with this sentiment and suggested that probation officers should deliver trauma-informed support and rehabilitation in the community. Others suggested that pre-sentencing reports and psychiatric reports should be mandatory when considering prison sentences, and that there should be access to therapeutic units in prisons.

4.3a.v Neurodivergent offenders

Respondents felt that neurodivergent offenders didn't have their needs properly met in the criminal justice system.

In their submission to the Call for Evidence, User Voice, highlighted research they had conducted (commissioned by NHS England in 2022) to learn about the experience of neurodivergent people in the criminal justice system found that "of the 104 service users who were interviewed, only 3% said the courts had made adjustments around their neurodiverse condition".

An individual with lived experience of the criminal justice system who took part in the review's engagement programme highlighted how their neurodiversity impacted their offending and sentencing. They explained that they had received an additional charge of assault on an emergency worker. They noted their condition was not recognised by the judge and they were "perceived as aggressive or lacking remorse", whilst struggling to convey emotions.

Suggestions: More assessments to increase diagnosis and treatment and training for practitioners who are working with neurodivergent offenders. Bespoke drug and alcohol treatment should be made available for those with neurodiverse needs. Liaison and Diversion services should be expanded to focus on those with neurodivergence or learning disabilities.

4.3a.vi Offenders with addiction needs

Respondents identified insufficient provision of drug and alcohol rehabilitation centres and programmes to support offenders with addiction needs. Some respondents also highlighted that there is an issue with the short length of custodial sentences given to this cohort - citing findings from a Dame Carol Black review which found that nearly 75% of people receiving drug treatment in prison are in for less than 6 months, and many are incarcerated for less than one month,⁷ which does not enable offenders to establish and complete an effective drug treatment and rehabilitation programme.

Respondents also noted that gambling disorders should be recognised in sentencing for gambling-related crimes and treated, and that there needs to be a better understanding of sex addiction in order to break the cycle.

Suggestions: More intensive supervision courts, using remote-breath test devices to provide more options to step-down from/step up to electronic monitoring, and de-criminalisation of drugs to remove regulation of drug supplies from criminal gangs.

4.3a.vii Ethnic Minorities

Respondents understood that offenders from ethnic minority backgrounds received harsher sentencing outcomes and are over-represented in prisons compared to white offenders. These offenders were said to also be less likely to get support in the community, and to be given mental health treatment. In their submission to the Call for Evidence, Working Chance, an employment charity for women, highlighted that over half of their clients are from racially minoritised communities, with 30% as identifying as Black or Black British. Respondents also highlighted limited access to culturally appropriate rehabilitation services for these offenders and difficulties accessing legal representation and support.

Some respondents argued that Joint Enterprise has led to the unfair conviction of young men, particularly from ethnic minority groups. Several respondents noted concerns that joint enterprise has a discriminatory impact. They argue that it results in unfair convictions and lengthy sentences as secondary parties frequently

⁷ Dame Carol Black (2020). review of Drugs – evidence relating to drug use, supply and effects, including current trends and future risks.

receive the same sentences as primary offenders, with insufficient regard for their direct involvement or intent.

Respondents to the Call for Evidence cited that women from ethnic minority backgrounds experience intersectional discrimination and they are disproportionately criminalised as offenders rather than victims. This was reflected in the views of some roundtable attendees who highlighted that minoritised women are over-monitored and reluctant to report abuse due to fear of criminalisation.

Respondents cited evidence of structural racism in the criminal justice system including judicial bias. Action for Race Equality cited their research, done in partnership with Kitty Lymperopoulou, that “a custodial sentence is 41% more likely for Chinese defendants, and between 16% and 21% more likely for defendants from Asian groups, compared with white British defendants. Similarly, a custodial sentence is between 9% and 19% more likely for defendants in the black groups, and 22% more likely for white and black African defendants than white British defendants after adjusting for other characteristics.”

Suggestions: Cultural information training for judges and staff in the criminal justice system, and culturally informed sentencing, increasing diversity among judicial appointments, commissioning further reviews to address root causes of racial and gender disparities in sentencing, and providing access to culturally specific rehabilitative approaches, for example like Canada’s healing lodges. Respondents also proposed that the recommendations in the Lammy review (Lammy, 2017), in relation to race, should be revisited.

Respondents advocated for reforms to the joint enterprise law, including providing more sentencing discretion for judges, reviewing past convictions, and implementing "second look" mechanisms to reevaluate lengthy sentences, especially for those who were minors or young adults at the time of the offence. There are also calls for greater transparency and data collection around the use of joint enterprise to understand its full impact.

4.3a.viii Foreign national offenders (FNOs)

Some respondents noted the high cost of incarcerating FNOs and that there is inefficiency in the system with delays in both the sentencing and deportation processes.

Respondents also noted the impact of a conviction on an FNO, for example it may impact their immigration status resulting in restricted access to employment, education, and benefits, in turn increasing reoffending risks. Separately, it was noted that technologies such as electronic monitoring of FNOs have low uptake and limited effectiveness, as it was stated that FNOs pose a higher risk of absconding and are less likely to comply with monitoring conditions compared to British national offenders,

particularly where they oppose their deportation. Therefore, it is important to consider the cost of tagging FNOs in the community.

Suggestions: Some called for those arriving before age 18 or with over 5 years' residence in the UK not to be deported. Others were in favour of speedier deportation to reduce distress to FNOs and cost to UK. International agreements to repatriate offenders were suggested, such as the partnership with Albania as a potential framework. Suggestions included increasing access to translation services and that because substance misuse is often at the root cause of offending for FNOs, more substance misuse treatments should be available for this cohort.

4.3a.ix Victims of modern slavery and human trafficking

Respondents flagged survivors of modern slavery and human trafficking, including those who offend, as being a particularly vulnerable group within the criminal justice system. Respondents noted that these offenders might experience; extended deportation risks due to delays in appeals, limited access to compensation, potential threats and intimidation, re-trafficking and marginalisation due to criminal records. However, in their response to the Call for Evidence, After Exploitation, noted that "significant efforts by the prisons and probation service to identify and capture information on exploitation is welcome, but intervention at the point of conviction is indicative of numerous opportunities missed to address exploitation before conviction".

4.3a.x Offending type and/or frequency

Respondents proposed a greater use of non-custodial alternatives for non-violent offenders. They included, as examples, peaceful protesters, council tax evaders, shoplifters and low-level repeat offenders.

For first-time and non-violent offenders, respondents felt the goal should be to address the underlying cause of offending and provide rehabilitation opportunities rather than subjecting them to the potentially damaging effects of incarceration. Respondents also stated the belief that first-time offenders are often at a "teachable moment" and can be encouraged to turn their lives around through progressive rehabilitation and community-based interventions.

Respondents emphasised the complexity of managing prolific offenders and the need for an evidence-based approach which balances public safety and offender rehabilitation. Respondents noted concerns that overly harsh mandatory sentencing regimes for prolific offenders, while intuitively appealing, may not effectively deter them from crime or address the underlying drivers of their offending. By contrast, there were some respondents who held views that this cohort should receive longer custodial sentences in order to protect the public. Respondents noted that deferred sentencing models that pause final sentencing decisions to allow offenders to meet rehabilitative conditions show promise. Alternatives like problem-solving courts were mentioned.

For domestic abuse and VAWG perpetrators, respondents suggested the need for a greater focus on rehabilitation, as well as measures to manage risk and protect victims. Responses also suggested the need for monitoring of sentencing levels to ensure they reflect the severity of the crimes. Respondents felt fines should not be used for domestic abuse offenders due to the lack of rehabilitation and risk to victims.

Suggestions:

Respondents suggested supporting council tax evaders to escape debt, and alternatives to custody for property, fraud and organised crime offences.

Alternative sentencing options, such as diversionary programmes, community-based outcomes, and alternatives to the mainstream prison environment should be provided for first-time offenders. First-time offenders should be separated from habitual criminals, as the latter can have a negative influence on the former.

More tailored, multi-agency approaches that address the root causes of prolific offending through interventions like mandatory drug treatment, electronic monitoring, and coordinated support should be implemented. Probation officers who took part in one of the review's roundtables felt that wrap-around support was needed for prolific offenders, to address their "basic needs" before moving onto probation-focused work on their offending.

Behaviour change programmes in custody and the community to effectively address the root causes of domestic abuse and reduce the risk of reoffending. Conditions added to community orders for domestic abuse offenders around noncontact conditions, with a suggestion to use "exclusion zones" and "relationship disclosures" to manage risk. Significant consequences for breaching protective and restraining orders for those convicted of domestic abuse offences should face. Sentencing for domestic abuse and VAWG offences should prioritise victim safety and positive outcomes through a coordinated cross-agency response which may include the use of short-term custody to address immediate risks, as well as specialist domestic abuse courts and greater use GPS tracking.

4.4 Respondents' views on ways to improve sentencing

This section draws out the many suggestions about how sentencing can be improved.

4.4a Suggested changes to policy, legislation and sentencing framework

Summary: Suggested changes to legislation, policy and sentencing framework

- Respondents called for the introduction of an independent advisory panel to oversee amendments to sentencing policies, reduce the role of Parliament in setting the sentencing framework, and continue to evaluate decisions to increase objectivity.
- Respondents felt that certain offences should be decriminalised, such as legalising drug use and non-payment of council tax, and update legislation to reflect the changing nature of Serious and Organised Crime.
- Respondents wanted an enhanced role for the Sentencing Council, to set minimum and maximum sentences and in the regulation of sentencing, including developing new procedural rules and providing judicial training to ensure decisions are fair.
- Respondents suggested amendments to the hierarchy and weighting of the sentencing purposes and suggestions to make sentences less punitive, such as presumptions in favour of non-custodial options.
- Respondents called for an update to the sentencing guidelines to ensure consistency in sentencing for the same offence type, whilst also developing guidelines that aim to rectify inequalities in sentencing relating to race and gender, for example.
- Respondents asked for a person-centred approach to sentencing to be introduced, which assesses need and flexes based on an individual's progression.
- Respondents wanted a review to the process for early guilty pleas to encourage greater use, thereby reducing the remand population.

4.4a.i Suggested changes to policy

Respondents proposed changes to sentencing governance structures. They suggested that sentencing should be depoliticised by reducing the role of Parliament in setting the framework and engaging the public before introducing new plans, such as through a Citizen's Assembly. Respondents suggested other governance changes, including giving councils the power to manage more community-based sentences and increased efforts from Crown Prosecution Service (CPS) and police to divert offenders away from court.

Many respondents suggested the introduction of an independent advisory panel of experts to oversee changes to sentencing policy. It was felt this would increase the objectivity of decisions and ensure changes were less influenced by public pressures. Roundtable attendees also suggested an advisory body to provide

“accountability” to the Government on sentencing policymaking. Another suggestion from respondents included the reintroduction of the Criminal Offences Gateway to scrutinise any proposals for new offences.⁸

Some respondents suggested the Sentencing Council should have greater powers to promote cost-effective and evidence-based sentencing practices, including the ability to set mandatory minimum and maximum sentences. Respondents also suggested that the Sentencing Council should have a greater role in the regulation of sentencing, such as increased oversight and guidelines to ensure sentencing decisions are fair, develop new procedural rules and provide enhanced training for judges and magistrates.

Respondents highlighted a need for continuous evaluation and implementation of learning to improve sentencing policy. Respondents suggested that robust research into the effectiveness of different sentences for different groups of offenders is essential to ensure the sentence with the greatest chance of reducing reoffending and risk is given. Respondents also proposed data should be collected on the cost of each sentence.

4.4a.ii Suggested changes to legislation

Respondents recommended changes to legislation to decriminalise certain offences, including legalising drug use and decriminalising council tax non-payments. Some respondents felt legalising the possession and use of some or all drugs, particularly cannabis, would undermine organised crime, reduce property crime and free up resources currently spent on enforcement. Respondents suggested that providing addicts with a regulated supply of drugs could reduce harm. Respondents cited the effectiveness of drug policy reforms in other countries, such as Spain, as evidence that similar approaches could work in the UK.

Several respondents advocated for changes to public nuisance offences in relation to the imprisonment of protestors,⁹ such as climate campaigners.

Respondents proposed changes to legislation to address the changing nature of crime. The National Crime Agency suggested an update to legislation to better address the increasing threat and harm from serious and organised crime. Other suggestions included creating a new offence to target moderators of digital platforms which host child sexual abuse material and introducing statutory footing to provide clarity on proving criminal property in money laundering cases.

⁸ The Criminal Offences Gateway was established by the Ministry of Justice in 2010 to scrutinise proposals to create new criminal offences (Ministry of Justice, 2014). In 2015 the Government decided to discontinue the criminal offences gateway and to instead increase scrutiny on the appropriateness and associated costs of new and amended offences through the Home Affairs Committee write round process (HM Government, 2015).

⁹ As set out in Section 78 of the Police, Crime and Sentencing Courts Act 2022.

4.4a.iii Suggested changes to the sentencing framework

4.4a.iii.a) The statutory purposes

Respondents called for the hierarchy and weighting of the statutory purposes of sentencing to be amended to focus more on crime reduction. Respondents proposed the removal of punishment and deterrence as priorities. CILEX, for example, suggested the following hierarchy:

- (a) The protection of the public
- (b) The reduction of crime (including its reduction by deterrence)
- (c) The reform and rehabilitation of offenders
- (d) The making of reparation by offenders to persons affected by their offences
- (e) The punishment of offenders

4.4a.iii.b) Approaches to sentencing

Respondents proposed a more evidence-based approach to sentencing. Respondents highlighted the need for an evidence-based approach which monitors outcomes, with the goal of reducing reoffending and improving community safety.

Respondents also pointed to the need for better data sharing across criminal justice system agencies and partners, which can help in making better informed decisions at different stages of the criminal justice process.

Respondents made suggestions which would make sentences less punitive, including the length and type of the sentence given. Respondents made specific suggestions such as:

- Introducing presumptions in favour of non-custodial sentences for non-violent crimes.
- Removing mandatory minimum sentences so that judges can have discretion to give less punitive sentences. This would reduce the length of some sentences.
- Suspending short custodial sentences in the absence of exceptional circumstances and returning to sentencing thresholds in the Criminal Justice Act 1991^[1] to justify custodial sentences.
- Considering the capacity of prisons when making sentencing decisions. This may reduce the likelihood of some people being sent to prison.

Respondents called for a person-centred approach to sentencing, for example increasing the use of problem-solving courts. Respondents highlighted that sentencing should consider the needs and circumstances of offenders and create a clear link between assessment and subsequent progression pathways. Respondents acknowledged this would require improved recourse for assessment and sentencing planning, better mechanisms for evidencing personal change and regular review of assessment outcomes

Roundtable attendees agreed that sentencing should be amended to ensure person-centred approach. One attendee at an academic roundtable suggested replicating the success of the youth court by codifying in statute that sentences should aim to prevent further offending and to have regard for the welfare of the offender.

Organisations representing female offenders who the Panel met advocated for expansion of the use of women's problem-solving court model as well as investment into specialist courts such as those for domestic abuse. These are better placed to understand the root causes of women's offending and centre the survivor's voice, and they are more affordable.

4.4a.iii.c) The Sentencing Guidelines

A few respondents called for an update of sentencing guidelines to ensure greater consistency in sentencing. Respondents called for greater parity in sentence type and lengths between similar offences. Some respondents also proposed regular reviews of the guidelines, reflecting the changing nature of crime.

Some respondents discussed the need for guidelines to be developed which would help rectify patterns of inequality. Some respondents proposed that these guidelines should consider trauma histories, such as women's experiences of domestic abuse and coercive control, within sentencing. Others called for the consideration of cultural context, the lived experience and vulnerabilities (i.e. neurodiverse, brain injuries) of some offenders.

4.4a.iii.d) Early Guilty Pleas

Respondents proposed reviewing the process for early guilty pleas. Respondents felt a more formal process for early guilty plea discount could encourage earlier guilty pleas, thereby reducing the remand population while still ensuring effective punishment. However, some respondents raised concerns about the strict timeline for receiving full credit for a guilty plea, which may pressure vulnerable defendants to plead guilty.

4.4b Suggested changes to the use of custodial and community sentences

Summary: Suggested changes to the use of custodial and community sentences

- Respondents expressed negative views towards increasing the use and length of custodial sentences, which were felt to be ineffective at rehabilitation. This was especially the case for non-violent and low-risk offenders, with some calling for the release of certain cohorts such as non-violent protestors and women.
- Respondents called for the increased use of non-custodial sentences, reserving custodial sentences for the most serious offenders.
- Respondents expressed negative views towards short custodial sentences and called for the decrease in their use as they were viewed as an ineffective form of both deterrence and public protection.
- Respondents were supportive of the increased use of suspended and deferred sentences to enable offenders the chance to address the root cause of offending, for example relating to substance misuse.

4.4b.i Suggested changes to the use of community and non-custodial sentences

Respondents called for a reduction in the use of custodial sentences.

Respondents predominately expressed negative views towards increasing the use and length of custodial sentences, especially for non-violent and low-risk offenders. Instead, respondents suggested alternatives to custodial sentences, including deferred sentences, community sentences and part-time custodial sentences. Respondents felt custodial sentences place too much emphasis on punishment, opposed to rehabilitation, are costly and do not support prisoners on release. Some respondents felt custodial sentences leave prisoners in a “worse or more inadequate state on release”.

Some respondents called for release of specific cohorts from custody, including non-violent protestors, women (particularly pregnant women) and those who were not the primary offender on joint enterprise charges.

Respondents, such as the National Crime Agency, expressed views that custodial sentences remain a “critical tool to punish the most serious offenders and protect the public”. Respondents stated that there is still a need for custodial sentences. This included for offenders of serious and organised crime, those who have caused harm to others and those at high risk of re-offending.

Respondents expressed negative views towards short custodial sentences and called for a decrease in their use. Short custodial sentences were described as counterproductive as they disrupt offenders’ lives and social support networks without providing adequate opportunities for rehabilitation or addressing the root cause of their offending behaviour. Individuals with lived experience of the justice system who the Panel met through their engagement activity reiterated the disruption caused by short

sentences which "inform a chaotic lifestyle" where there is no stability, structure and where committing crime upon release seems like the only option.

At a roundtable, one attendee from an organisation focused on reducing reoffending observed that there was a "mismatch between sentence lengths and rehabilitative programme schedules". This was reiterated during visits to prisons where the Panel were told by staff and prisoners that short sentences and short periods on recall prevent prisoners from, or effectively engaging in, opportunities for rehabilitation in custody. Staff at one prison the review visited felt that for prolific offenders who are often given a series of short sentences, longer sentences would be more beneficial to address the root cause of their offending.

However, respondents also pointed out that only a small number of the current prison population are serving short sentences, so felt reforming short sentences would have little impact on improving prison capacity.

Furthermore, a respondent at a victim's roundtable, noted that victims, such as those of domestic abuse, can find that short sentences provide a period of respite to help them find time to decide what to do. This was supported by the Victims Commissioner's response to the Call for Evidence, who noted that "We must not lose sight of the fact that what a prison sentence does achieve is a limited period of respite for those who are being targeted. This is particularly the case in domestic violence cases, as victims can often need time to re-organise their lives without living in perpetual fear of their assailant."

Views from respondents on the current and future use of long custodial sentences were mixed. Respondents referred to "growing evidence" that long custodial sentences are ineffective at rehabilitation and deterrence. Prisoners and their families/friends felt that long prison sentences made it difficult to maintain relationships and that long sentences had a ripple effect on those close to the prisoner.

In contrast, some respondents felt longer sentences were effective at meeting the statutory purposes of sentencing and called for longer and tougher sentences to increase deterrence for serious crime. Some respondents felt that longer sentences can allow adequate time for rehabilitation and can be an effective form of public protection. Many respondents suggested that although the average sentence length should be reduced, longer sentences should be kept for those who have committed more serious crimes such as murder.

Respondents predominately held positive views towards the use of suspended and deferred sentences, with many recommending greater use of these sentences. Some argued that suspended sentences should take primacy over community orders as the custodial sentence element acts as an additional deterrent. Some roundtable attendees also held this view in relation to offenders with addiction

or mental health problems, to allow the chance to address the root cause of offending in the community.

However, some respondents felt these sentences were too lenient and didn't meet the statutory purposes of sentencing in relation to punishment and public protection.

Respondents held mixed views on standard determinate sentences. Some respondents were against early release from standard determinate sentences due to the risk to victims and the public, whilst some felt that a "full sentence should be a full sentence" for both transparency to the public and to deter criminals.

Many respondents proposed exploring the replacement of SDS40 with a system of earned release based on a framework to reward good behaviour and engagement with rehabilitation activities.

A few respondents called for a reduction from two-thirds release to 50% for those serving a standard determinate sentence of 4 years or more for sexual or violent crimes.

Respondents felt community sentences were more appropriate than custodial sentences for specific cohorts, such as women, noting the benefit of the flexible nature of community sentences meaning the combination of requirements attached to a sentence can be tailored to suit the individual.

However, other respondents expressed negative views towards community sentences, highlighting that they are considered a "soft option". Respondents suggested that community sentences may not be seen as a punishment or as an effective form of public protection, which means victims/the public may not be satisfied with community sentences as an outcome. Some respondents also discussed the additional pressure that monitoring and enforcement of community sentences can put on the Probation Service, local councils and the courts.

Respondents discussed challenges to the delivery of community sentences, particularly due to strain on probation capacity. Respondents highlighted that high and increasing probation caseloads, underfunding of services delivering requirements, high staff turnover, a risk-adverse culture and overly complex supervisory conditions as contributing to the challenge. Some felt that, as a result, offenders serving community sentences are not currently being supervised effectively.

Roundtable attendees also highlighted how the underfunding of probation services inhibits the effective provision of support to offenders. Individuals with lived experience of the justice system felt that what aided them most was feeling "respected, listened to and believed in" as opposed to probation officers treating interactions as a superficial tick boxing exercise due to "lack of time, resources, and trauma-informed training". Many of these individuals shared how their lives changed when one

individual delivering support took a real interest in who they were and what they needed.

Respondents expressed positive views and called for an increase in the use of home detention curfew. However, some respondents suggested that eligibility for home detention curfew should be judged on individual merit opposed to offence type taking account of, for example, accommodation needs and risk (e.g. risk to partners of domestic abusers).

Respondents suggested removing unnecessary community orders for offences which could be better managed via disposals such as fines or bans. Respondents proposed that magistrates should be encouraged to use the lowest possible sanction available for low level crime such as failure to provide a breath specimen, such as driving bans and fines rather than community orders. In UNISON's response to the Call for Evidence, they suggested this would "remove unnecessary workload from probation service staff to enable them to concentrate on higher risk work".

Respondents had mixed views on community payback schemes. Some respondents felt the process was "overly onerous and ineffective", whilst other respondents felt it works well as a form of reparation and called for an increase in its use.

Respondents perceived fines were appropriate for non-violent offenders but presented a risk of disproportionately punishing low-income offenders, and an inability to pay could place additional pressure on the courts.

4.4c Suggested changes to court processes and judicial decision making

Summary: Suggested changes to court processes

- Respondents suggested a re-structure the criminal courts into 4-tiers (pre-court disposal, magistrates court, intermediate court and Crown Court) and remove the lowest level cases from the magistrates' courts.
- Respondents called the justice system to consider victims needs in court through improved drafting of community and victim personal statements.
- Respondents wanted to increase the speed of sentencing to reduce the backlog and time between charge and sentence.
- Respondents felt that more information should be included in pre-sentence reports. If probation don't have the capacity, it was suggested that an independent service could help with this process.
- Respondents called for increases in judicial knowledge of non-custodial sentencing options to foster greater confidence and train the Judiciary regarding vulnerable offenders (such as victims of modern slavery).
- Respondents wanted to remove magistrates' ability to impose custodial sentences.

4.4c.i Court processes

Respondents argued that court processes could be improved through re-structuring of the criminal courts. For example, the Office of the Police and Crime Commissioner for Warwickshire suggested that the two-tiered criminal court system could be revised into 4 tiers (pre-court disposal, magistrates courts, intermediate court and Crown Court). Respondents also felt the lowest level cases should be removed from the magistrates' courts, and dealt with through out of court disposals. Respondents also proposed that routine court reviews for orders like drug rehabilitation requirements should be reinstated to provide magistrates with confidence sentences are being effectively implemented.

Respondents suggested that triable either way offences could be reviewed in order to keep more in the magistrate's court. Other suggestions included raising the evidential threshold for conviction, and increasing access to free, quality legal advice for those being sentenced.

Respondent felt that courts should better consider victims views. Respondents felt victims' views could be better accounted for in court through improved drafting of community and victim personal statements.

Respondents felt the sentencing hearings should also meet the needs of offenders. Individuals with lived experience who the Panel engaged also highlighted the impact that their sentencing hearing had on them, which felt like a "punishment in itself". They also felt the language used during their sentencing was often incomprehensible and like a "foreign language" which was "very daunting and

stressful". They agreed it took time to "recover emotionally" from the experience which "stop[ped them] feeling human".

Respondents felt that improvements to both the speed of sentencing and coordination between courts is required. The high backlog of criminal court cases was raised by some respondents. Respondents expressed a desire to reduce the court backlog and delays between charging and sentencing, especially for sexual assault and domestic abuse cases. These delays impact both offenders and victims.

Individuals with lived experience, who the Panel engaged during the review also stated that the lengthy time waiting for their sentencing hearing was detrimental to their rehabilitation as they were "in limbo worrying about what the sentence would be". Some also felt that the experience made them "more likely to reoffend because you close yourself off from society due to shame".

4.4c.ii Pre-sentence reports (PSR)

Some respondents felt pre-sentence reports (PSRs) are currently underutilised and highlighted issues with their use. Respondents noted that high-quality PSRs can increase judicial confidence in community sentences. Many respondents felt, however, that there has been a shift towards faster, less comprehensive PSRs and criticised the quality of PSRs, highlighting issues such as lack of information included, perpetuation of racial inequality and lacking a person-centred approach. Some respondents felt that this has compromised sentencers ability to make fully informed decisions, particularly around the use of community sentences. Respondents also highlighted that long wait times for PSRs are contributing to the remand population.

Roundtable attendees agreed, noting that sentencers lacked integral information in PSRs. Many individuals with lived experience of the criminal justice system, noted that pre-sentence reports "fell short" and should be trauma-informed, explaining the root causes of offending to enable judges to pass sentences that can address these issues. One individual noted there were "serious mental health issues associated with his offending that was not addressed in the report and therefore his sentence". Another attendee noted PSRs sometimes even lacked basic information the gender and background of those being sentenced.

Roundtable attendees suggested that independent service may aid in providing detailed PSRs if probation's resource is limited.

Organisations representing victims of violence against women and girls and those representing female offenders that the Panel met through their engagement activities suggested that PSRs should include detailed inquiries into women's lives, such as their childcare responsibilities and history of domestic violence.

Respondents had mixed views about the use of PSRs. Some felt they should be mandatory for all offenders, whilst others felt they should be used for high-risk offenders only.

4.4c.iii Magistrates and judges

Respondents identified a need for increased training and awareness among sentencing decision makers on the range of sentencing options available, the merits of alternative non-custodial sentences and the importance of trauma-informed and culturally competent approaches.

Some respondents highlighted a need to enhance the Judiciary's knowledge and understanding of how money laundering and serious organised crime operates in practice, to ensure sentences reflect the impact of the criminal activity.

Respondents identified a widespread need for mandatory training across the criminal justice system on the dynamics of domestic abuse and coercive control. The gendered nature of these issues was identified by respondents. Specific training such as on the indicators of modern slavery was also suggested.

Respondents made suggestions about the role of judges and magistrates.

Respondents suggested the sentencer should work with the offender manager to increase judicial oversight of the progression of sentences, including approaches like the problem-solving courts. A few respondents proposed changes to the powers of magistrates, such as removing their power to impose custodial sentences for lower-level crime, whilst the Magistrates Association stated that "magistrates need more tools to sentence creatively and constructively" and "the ability to use ancillary orders where they are punitive in the individual case must be better promoted and publicised".

4.5 Suggested changes to the management of sentences and progression

4.5a Suggested changes to the management of custodial sentences

Summary: Suggested changes to the management of sentences and sentence progression

- Respondents called for increase meaningful activity, education, work schemes, peer support and mentorship for offenders in custody.
- Respondents asked for longer, more specialised training to prison officers, so they can deliver rehabilitation and trauma-informed support in prison.
- Respondents called for clear incentives and pathways for prisoners to demonstrate progress and rehabilitation.
- Respondents suggested access to open prisons for non-violent, low risk, first-time offenders, who have demonstrated progress.
- Respondents noted that there should be a greater focus on preparation for release, including thorough pre-release planning, including support with employment and accommodation.
- Respondents felt that the use of release on temporary licence should increase.
- Respondents felt that the Parole Board should be given more independence, resources and case management powers to ensure timely reviews.
- Respondents felt that post-sentence supervision should be removed for those who have served short custodial sentences.
- Respondents called for more incentives to encourage compliance with licence requirements.
- Respondents said recall should be used as a last resort in response to increased risk, rather than for minor breaches.
- Respondents said that coordination of services between prison, probation and community needs to be improved to enable more holistic and more effective approach to managing offenders.

Respondents noted that there are barriers to rehabilitation in custody.

Respondents felt that there is currently no evidence that neither long nor short custodial sentences aid rehabilitation and respondents noted several barriers to rehabilitation in custody. These included:

- Lack of funding.
- Lack of staff capacity and training.
- Lack of incentives for prisoners to engage.
- Difficulties in supporting prisoners to maintain family connections.
- Ineffective rehabilitation programmes and rehabilitation not starting until the end of a sentence.
- Poor prison environment including overcrowding, dehumanising language, drug abuse, violence, poor sanitation and a lack of regime.

Respondents' suggestions about how to promote rehabilitation in custody are presented in **Table 5**, below.

Table 5. Suggestions for improving the management of custodial sentences.

Suggestion	Details
Improve prison environment	Improving prison infrastructure and living conditions.
	Increasing access to mental health resources, holistic interventions, outdoor time, better nutrition, and mindfulness practices.
Provide specialised support	Implementing specific support for vulnerable groups e.g. gender-specific, trauma-informed rehabilitation programmes, especially for women and those with neurodiversity.
	Addressing the prevalence of gambling and drug addiction within prisons through targeted treatment and support.
Strengthen community ties	Strengthen ties between prisons and local communities and involving more community organisations in prison programmes.
Increase access to meaningful activities	Ensuring prisoners have access to meaningful activities, education, and vocational training to prepare them for life after release.
Help offenders rebuild family ties	Strengthening family relationships through video calls, and family therapy.

4.5a.i Meaningful activity in custody

Respondents felt prisoners do not engage in enough meaningful activity whilst in custody and felt more opportunities should be provided. Respondents described how prisoners spend long periods in their cells, hindering their ability to address risk factors and develop the skills to prevent recidivism upon release. At several prisons visited by the review, prisoners and staff suggested that access to purposeful activities was poor. At one roundtable, it was suggested that programmes within prison need to be much more targeted for individual needs. Organisations representing victims stressed that men convicted of sexual offences often don't receive adequate rehabilitation in custody, meaning victims of violence against women and girls offences do not feel safer after a sentence is served thereby also eroding their confidence in the system. Respondents suggested other meaningful activities including physical exercise, creative and artistic activities, restorative justice and community engagement to prepare prisoners for release.

Many respondents highlighted a need for increased access to education in custody. Respondents called for access to education, from basic literacy and numeracy to higher education and vocational courses. Some respondents also

proposed education on rebuilding healthy relationships and impact of their choices. A few barriers to effective education in custody were identified by respondents, including staffing and capacity issues, courses being inaccessible due to the current literacy levels of prisoners and moves between prisons disrupting education.

The Traveller Movement suggested in their response to the Call for Evidence that particular attention should be paid to ensuring marginalised groups like Romani and Irish Traveller prisoners can access education, given their often-negative prior experiences with education.

Some respondents highlighted the importance of work schemes in custody.

Respondents stated that such schemes provide prisoners with the opportunities to gain skills, training, work experience and qualifications which can improve their employability and reintegration into society upon release, which in turn can reduce reoffending. Specific suggestions included training prisoners to fill skills shortages, paying prisoners a fair wage and voluntary community work.

Roundtable attendees agreed that meaningful activity in custody was lacking and necessary for successful rehabilitation. Several attendees highlighted examples of successful therapeutic communities such as in Grendon Prison, a therapeutic community, where prisoners undergo an intensive programme of therapy. One roundtable attendee suggested that individual placement and support (IPS) schemes have been successful in the community and should be brought into prison too.

Respondents noted that peer support and mentorship provide offenders with support, accountability and a sense of hope, which is crucial for rehabilitation.

Respondents highlighted the value of utilising the skills and experiences of people with lived experience of the criminal justice system as peer mentors, to benefit both the mentor and individual receiving support.

4.5a.ii Use of incentives in custody

Respondents felt that prison should provide clearer incentives and pathways for prisoners to demonstrate progress and rehabilitation, particularly for prolific offenders. Respondents suggested structured progression pathways with staged incentives such as enabling family visits, moves to lower category prisons, removing criminal records after a set period and opportunities for early release. Some respondents proposed that prisoners could gain credits for undertaking training or education, developing skills and engaging in productive voluntary work to earn these privileges.

JUSTICE proposed a dynamic approach, whereby the sentence can evolve based on the circumstances, behaviour and progress of the offender through their sentence. This would mean sentences can be adapted weeks or even months after a conviction. They noted a similar system is seen in France, where specialised judges are tasked with reassessing an offender's progression through their sentence and making changes as appropriate.

Many roundtable attendees agreed with this suggestion, recommending that a model of dynamic sentencing would lead to better outcomes. Attendees suggested that individuals could be incentivised to progress through their sentence (i.e. moving from custody to the community) based on their behaviour, moving away from the notion that sentencing is an individual, unmalleable event.

However, some respondents flagged risks with incentives schemes in prisons.

Conversely, prisoners in one prison visited by the review's Panel felt there was a risk that prisoners may be able to manipulate incentive schemes within prison. This was reflected in the views of organisations representing victims of violence against women and girls offences and female offenders the Panel engaged, who observed that perpetrators of domestic violence were often manipulative. They argued services lacked "understanding of the risk" domestic abuse perpetrators pose, and that "good behaviour" should not indicate that abuse will not continue to occur upon release.

Some respondents acknowledged that the use of incentives would require reform to risk assessment processes to recognise positive evidence of change and rehabilitation, as well as robust administrative systems to track prisoner progress and ensure equitable access to progression opportunities across different sentence types.

4.5a.iii Increased access to the right type of prison

Some respondents highlighted a need for increased access to open prisons for non-violent, low-risk, first-time offenders who have demonstrated progress, as in prisons in Finland and Norway. Some respondents suggested increasing the number of open prison places, especially for women, enabling earlier access to open conditions for prisoners demonstrating good behaviour instead of waiting to the end of their sentence, and improving the process of transitioning to open prisons, including initiating risk assessments and release on temporary licence opportunities earlier.

However, some respondents also identified barriers, including limited open prison spaces and delays in moving prisoners due to inconsistent policies and a lack of communication with prisoners.

Respondents, including HMI Prisons, raised the importance of being able to move offenders to a prison where a particular accredited programme is suggested as part of their sentencing plan. Respondents gave details of situations in which prisoners had been unable to complete the accredited programme on their sentence plan as it wasn't available in the prison they were in, leading to their application for parole being denied.

Respondents held mixed views about building more prisons. Some respondents called for more prisons and approved premises to be built, as well as therapeutic units in prisons. Other respondents had concerns around the cost of building more prisons, and in relation to Ministry of Justice plans to build 500 new prison places for women despite the strategic emphasis on imprisoning fewer women.

4.5a.iv Preparation for release

Many respondents felt that prisons lack a clear resettlement ‘offer’ and suggested greater preparation for release and post-release support was required. Prisoners who met the Panel as part of the review’s engagement activity said that they were not given enough support upon release and were therefore “set up to fail”. Many roundtable attendees were concerned that offenders were often released into unstable housing, which caused high levels of recidivism, noting “it is a battle to find accommodation for people leaving prison”. Respondents suggested that to reintegrate prisoners effectively, they should place in prisons that are close to their social networks and resettled in areas they intend to stay and structured re-entry including check-ins and peer support should be provided.

The importance of centring families in sentencing and preparation for release was noted by roundtable attendees who observed that familial involvement in resettlement planning can significantly aid rehabilitation. Incorporating family impact assessments in sentencing and carrying this forward until release was suggested instead of the current approach where “families are treated as collateral damage”. Roundtable attendees noted that an offender’s relationships with friends and family were a protective factor against reoffending by third sector organisations who took part in the review’s engagement programme.

Evidence from the Panel’s engagement activity indicated that there was a “postcode lottery” in relation to support services in the community for offenders, meaning some offenders would have access to much better services than others. This was reiterated by some prisoners during prison visits as well as organisations focused on reducing reoffending. These organisations also observed that not all prisons offer “effective intensive interventions” meaning access to effective intervention both inside and out of prison is a matter of luck.

Respondents noted that preparation for release requires thorough pre-sentence planning. Respondents felt exit plans should be carried out with offenders early on (at least 12 weeks before release) and that prison, probation and liaison and diversion teams could support successful reintegration through collaboration with local services to ensure plans are put in place upon release.

Respondents felt better coordination of services (a “one stop shop”) would enable a more holistic and effective approach to managing offender’s post-release. Some respondents suggested that justice services could be co-located with housing, employment etc.

4.5a.v Parole and release on temporary licence

Many respondents felt that improvements to the parole system and Parole Board are necessary. This included giving the Parole Board more independence, resources and case management powers. JUSTICE suggested replacing the Parole Board with a

Parole Tribunal and giving the tribunal oversight of sentence progression in line with dynamic sentencing principles. Some respondents felt parole panels should be given increased powers to require certain activities be made available to an offender upon release.

Respondents were positive about increasing the use of release on temporary license (ROTL). Respondents felt that ROTL is crucial in supporting employment, family ties and successful reintegration into the community. However, respondents also noted that access to ROTL is currently limited, especially for those in closed prisons.

4.5a.vi Licence Periods

Some respondents felt that license periods do not meet their statutory purpose and are used too often. Respondents discussed a lack of alignment between offence and licence conditions and suggested supervision should reflect risk, which respondents felt isn't always necessary for minor crime. HMI Probation suggested, in their response to the Call for Evidence, that sentencers should have discretion to set the license period at the point of sentence, to account for individual needs.

A few respondents expressed a desire to remove post-sentence supervision for those who have served short custodial sentences. Respondents felt post-sentence supervision is currently ineffective at rehabilitation. Therefore, respondents called for an end to post-sentencing supervision for short prison sentences. However, a few respondents were against ending post sentencing supervision and highlighted the need for increased consequences for breaches of licence conditions, as well as more incentives to encourage compliance with license requirements.

4.5a.vii Recall

Respondents felt that recall happens too often and has negative consequences for offenders and victims. Respondents suggested that recall to custody should be a last resort used only in response to increased risk. In his response to the Call for Evidence, Peter Dawson, Radzinowicz Fellow at the Institute of Criminology, University of Cambridge stated that "Taking parole, recall and remand decisions together, at least a third of all people in prison are there as the consequence of decisions that are an administrative response to perceived risk, rather than punishment". Respondents highlighted that recalls are often for minor breaches or failure to report, rather than new criminal charges.

During a visit the Panel made to a women's prison, prisoners told the review that they were often recalled through no fault of their own, such as electronic monitoring tags being set up incorrectly. Prison officers in the male estate who took part in the review's engagement programme felt that probation was often "overly cautious" and more likely to recall offenders, potentially as a result of high-profile cases in the media.

The Panel's international engagement activity highlighted that, in France and other European countries, recall is not widely used. Non-compliance with license conditions, for example, would not result in a recall but different penalties such as the tightening of curfew.

Respondents suggested excluding those serving sentences under 12 months from recall eligibility, reducing short-term recalls to a minimum of 28 days and maximum of 4 months and simplifying breach handling through electronic monitoring or check-ins at staff-run centres instead of prison.

Respondents suggested increasing community support, especially access to substance abuse support and Women's Centres, along with granting probation officers more authority to manage minor breaches and introducing judicial oversight to prevent unnecessary recall. In one roundtable, an attendee raised that shifting from a fixed recall model to an intensive mentoring programme in the community for those released from prison would aid the reduction of reoffending.

4.5b Suggested changes to the management of community sentences

Summary: Suggested changes to the management of community sentences

- Respondents felt rehabilitation in the community should be prioritised, including increasing the use of community sentences - especially for women, those with underlying problems leading to their offence (mental health problems, addiction), non-violent and lower-risk offenders – and support the root cause of offending in community sentences through specialised programmes and wrap-around services.
- Respondents wanted improved public knowledge around community sentences, so it is not viewed as a “soft option” and increase judicial confidence in the use of community sentences. Some suggested increased judicial involvement in the oversight of community sentences, such as setting goals with the offender.
- Respondents wanted significant increase in investment in the Probation Service to support recruitment and retention of probation staff, therefore bolstering the capacity of the service.
- Respondents wanted training for probation officers on trauma-informed approaches, risk assessment, guidance around recall and knowledge on local interventions and how to access them.
- Respondents asked for increase investment in community services, both statutory and those delivered by the third sector, and ensure join-up between service providers.

Many responses highlighted the importance of rehabilitation in the community recognising that most prisoners will return there. In relation to community sentences, the Metropolitan Police stated that “rehabilitation of offenders needs to be

the spine of all work to secure crime reduction and crime prevention”. Suggestions put forward by respondents to promote rehabilitation in the community are presented in Table 6, below.

Table 6. Suggestions for improving the management of community sentences.

Suggestion	Details
Community-based sentences	Allow offenders to continue rehabilitation efforts and reintegrate into society, include mental health, drug, and alcohol treatment requirements.
Probation and post-release support	Better resourced and focused on rehabilitation, improving coordination with local support services, providing more long-term pastoral care.
Specialised programmes	Needed for different types of offenders, such as domestic abuse perpetrators, sex offenders, and those with substance abuse or mental health issues.
Community service	Expanding the use of community service, unpaid work, and other community-based programmes.
Effectiveness evaluation	Effectiveness of current rehabilitation programmes and community sentences should be closely evaluated, develop and implement new evidence-based approaches.

See also Section Six for information on responses that highlighted the potential use of different technologies to support rehabilitation in the community.

4.5b.i New Community Sentences

Respondents suggested introducing new forms of community sentences and orders. The Centre for Social Justice proposed an “Intensive Control and Rehabilitation Order” as an immediate sentence including requirements such as unpaid work, alongside a package of rehabilitation, whereby offenders are accountable to the courts and the sentence remains subject to changes deemed appropriate by a judge that would review progress. Introduction of an “Intensive Correction Order”, as used in Australia and a “Community Reparation Order” to combine probation supervision, training and service in the community, were also proposed by respondents.

Some respondents proposed relocation as a form of community sentence, to get them away from criminal contacts in their area and give them an opportunity to start again. However, other respondents felt that non-violent crimes should serve their community sentences in their own communities by supporting local projects. Respondents felt this would be particularly beneficial for individuals whose offending was drug related, but noted intensive supervision would be needed to support this.

Respondents expressed that public knowledge of community sentences must be improved. Respondents highlighted a need to reframe the narrative around the

use of community sentences to emphasise that they are a form of meaningful punishment, deterrence and reparation, rather than a “soft” alternative to prison. Roundtable attendees noted community alternatives were underused as sentencers were “not always clear what resources are available” and lacked confidence in their use. Attendees referred to community services for women such as Hope Street which modelled best practise in the third sector but who they believe still faced issues receiving referrals.

4.5b.ii Judiciary and Community Sentences

Respondents proposed that changes to the Judiciary in relation to community sentences. Respondents noted the need for sentencers to have more confidence in community-based sentences as an effective form of punishment and rehabilitation. Respondents suggested that investment in community services and increasing the number of mandatory mental health, drug and alcohol assessments could help to improve judicial confidence. Women’s advocates informed the review that services delivering drug and alcohol treatment requirements for community sentences have been historically underfunded. Some respondents also called for judges to have more involvement in the delivery of community sentences, for example by actively setting goals for offenders to meet.

4.5b.iii Probation and Community Sentences

Respondents made suggestions for improving the delivery of community services through probation. Some respondents called for local devolution of probation to improve the management of community sentences, suggesting that community alternatives to custody should be run by independent local probation services, funded by Ministry of Justice and managed and held to account at a local level. A few suggested that the re-introduction of Probation Day Centres could offer more structured support for offenders.

Some respondents noted that significant investment in the Probation Service was required to ensure community sentences are managed effectively. Respondents also highlighted the need for improved probation officer training about trauma-informed approaches, risk assessment and guidance surrounding recall decisions, particularly in cases of domestic abuse. The need for training and knowledge about local interventions and access them was also highlighted by respondents.

Some respondents also suggested changes to the powers and responsibilities of probation, including giving probation powers to determine licence length for good behaviour. Probation officers noted during a roundtable that they felt they would like more freedom to use their professional judgement when supporting clients on community orders, rather than having to rely on formalised toolkits.

4.5b.iv Requirements

Roundtable attendees suggested that community orders should contain fewer requirements, as lengthy requirements can often cause conflict and increase the likelihood of a breach. Roundtable attendees highlighted that a “focus on menial tasks” in the community inhibited upskilling amongst offenders. Individuals with lived experience reiterated this sentiment, stating unpaid work is currently “very restricted” to “show that people are being punished”.

Furthermore, an individual observed that activities she completed as a part of a Rehabilitation Activity Requirement (RAR) order were not “useful” to developing skills or rehabilitation. Attendees suggested unpaid work be expanded to include options such as working in soup kitchens or foodbanks, to be able to “give back to the community” and gain a sense of “purpose”.

4.5b.v Community Sentences delivery through other agencies

Respondents also highlighted the need for multi-agency partnerships to improve the management of community sentences. Individuals with lived experience of the justice system noted the need for holistic health and social care support in the community that is linked with probation services. Some organisational respondents specifically called for multi-agency partnerships and funding for third-sector organisations such as Women’s Centres. They felt the use of person-centred approaches such as liaison and diversion services “saved lives”, especially when mental health or other crises precipitating offending and some suggested that victim liaison officers are embedded in probation teams for cohesive decision making.

Respondents called for increased investment into both statutory and third-sector community services to effectively support offenders in the community. Respondents noted that effective community sentences require accessible mainstream services to address offender’s needs such as housing and healthcare. Respondents called for increased investment into community-based support services like mental health, drug/alcohol treatment (such as Drug and Alcohol Rehabilitation Centres). Some respondents suggested funding could be re-directed from prison expansion to community services to support community sentences and treatment programmes.

Many roundtable attendees also raised the need for increased investment into substance misuse and mental health treatments for offenders in the community noting “over half of the prison population have drug and alcohol problems”. The attendees felt strongly that prisons should not be used as a “place of safety” for these people who are often unable to access effective rehabilitative services. Individuals with lived experience of the justice system who took part in the review’s engagement program felt that prison could be useful in demonstrating that “[they] could go without drugs” but that these lessons would be more applicable if learned in the community.

However, Clinks raised the point that “the prevalence of short-term funding cycles acts as a significant barrier for voluntary organisations in being able to provide the most effective service - intensive, sustained support”.

Some respondents proposed the Government could commission the third sector to work alongside probation. Respondents suggested that co-located services could be developed to support specific cohorts, such as vulnerable men and victims of violence against women and girls. Respondents highlighted the benefits of Women’s Centres in offering holistic, trauma-informed care, as it was felt statutory services may be ineffective in supporting the complex needs of some female offenders. These respondents therefore called for Women’s Centres to be utilised by probation as both an alternative to custody and recall, and as a safe space for probation to deliver their sessions for female offenders.

Respondents noted that Norway and Japan’s approach to rehabilitation and reintegration highlight the importance of better collaboration between statutory and third sector organisations in providing community support.

4.5b.vi Early Diversion

Respondents proposed there should be increased efforts to divert people from crime, to reduce the prevalence of crime and therefore the prison population. Respondents discussed the benefits of early intervention, such as expanding diversion programmes and restorative justice approaches - particularly for first-time and non-violent offenders - would help address underlying causes of offending. The importance of diversion programmes for young people was highlighted, with respondents calling for investment in youth programmes, mentoring and activities to engage young people and provide positive alternatives to crime.

4.6 Respondents' views on using technology in sentencing

This section summarises the findings from responses that explored how technology could be leveraged to enhance the sentencing and the management of offenders.

Summary: Respondents' views on using technology in sentencing

- Respondents were generally positive about the use of technology in sentencing but felt that technology should not replace human involvement in sentencing and raised concerns that outdated infrastructure would hamper the implementation of technology in the justice system.
- Respondents were in support of electronic monitoring due to cost savings, for example, and felt that the use of electronic monitoring should be expanded. However, concerns were raised relating to the effectiveness of the technology and whether it disproportionately impacts certain groups.
- There was support for the use of digital apps to communicate with offenders, to facilitate restorative justice and to deliver rehabilitative programmes.
- The uses and associated merits of new and emerging technology were discussed, including data analytics, AI, biometrics, virtual reality (VR), blockchain enabled technology and system management updates.
- Whilst there was mixed support the use of biometrics technology, there was support the use of VR and strong support for the use of AI, particularly in terms of standardising sentencing decisions, managing risk of offenders and enhancing offender management.
- However, implementation challenges were raised relating privacy and security, biases and practical issues.

4.6a Overarching sentiments towards the use of technology

Respondents generally shared positive sentiments regarding the use of technology. Perceived, over-arching benefits included:

- **Increased efficiency**, particularly in relation to information processing and case management, e.g. speeding up sentencing hearings by using live links to allow offenders, victims, and witnesses to participate remotely.
- **Improving communication** between criminal justice system services and offenders by linking IT existing systems; thus, improving the system's ability to more efficiently share data as needed. More specifically, many mentioned updating the digital sentencing platforms e.g. the Common Platform,¹⁰ to enable more efficient administration and tracking of sentences and help avoid unnecessary recalls.

¹⁰ The HMCTS Common Platform allows the police, Judiciary, solicitors, barristers and criminal justice agencies to access and edit case information.

- **Greater use of data** to offer insights for different services within the criminal justice system e.g. identifying crime hotspots to better allocate resource, improved risk management (through use of a digital ID), as well as supporting the use of more data-driven, evidence-based approaches. Some respondents pointed to the need for the justice system (and Ministry of Justice) to share data with academics to help analyse and understand judicial biases.

However, some implementation concerns were raised (see 6.d for further detail):

- **Bureaucratic issues and outdated technological infrastructure:** Roundtable attendees felt this has and will prevent criminal justice system organisations from sharing data effectively and making the best use of potential new, and existing, technology. Some also felt that there has historically been an inertia and risk aversion within Ministry of Justice to implementing more technology into the justice system, which may hamper innovation.

Respondents also shared considerations, including:

- **Putting the individual at the centre of the technological tool:** At a tech roundtable, organisations such as Unilink, discussed how the NHS has engaged with the tech sector develop 'patient 360' which brings together all the information about a patient, such as their NHS mental health data and their local authority data to understand what services are available in to support.
- **The need for consistent evaluation and oversight of new technology:** Particularly AI, which they felt should be carried out by a human.

Suggestions: The use of technologies in the CJS should be increased but it should be focused on assisting and enhancing human decision-making and service delivery, rather than replacing it entirely.

4.6b Technology currently used in Sentencing

4.6b.i *Electronic monitoring*

Respondents felt that the use of electronic monitoring to manage offenders in the community was positive and should be increased. Respondents viewed electronic monitoring as cheaper than custody and offers greater opportunity for rehabilitation by giving offenders more opportunities to integrate with society. Roundtable attendees felt that European countries such as Norway make better use of electronic monitoring, particularly to help reintegrate people into society during the last 6 months of a custodial sentence.

Respondents noted the benefits of electronic monitoring in relation to compliance. Additionally, respondents noted the potential for such technologies to be used to conduct new types of virtual sentence e.g. “Intensive Control Rehabilitation Order (ICRO)” (mentioned in section 5.2), as well as being used to expand the use of home detention curfew as part of a community sentence.

Roundtable attendees flagged several studies of the successful regional use of electronic monitoring combined with GPS-tracking and rehabilitative support to encourage compliance amongst offenders in the community. In these cases, electronic monitoring also enabled offenders to demonstrate their own progress. Attendees suggested that such approaches should be rolled out nationally.

Respondents noted compliance benefits of electronic monitoring, particularly with regards to monitoring perpetrators of domestic abuse to keeping victims safe. Roundtable attendees proposed that tags could be linked in real time to exclusion zones based on the perpetrator's proximity to victims, as is the case in Spain.

4.6b.ii Digital platforms / phone applications

Respondents were positive about increasing app usage, primarily to support rehabilitation of offenders in custody and the community. Respondents were positive about expanding app usage. Examples of different platform and application uses were discussed, including:

- **To communicate with offenders** (e.g. probation officers could set goals for offenders, and these could be monitored through an app. Progress could then be rewarded, such as offenders having time taken off their sentence).
- **To facilitate virtual restorative justice, counselling and improve community involvement in rehabilitation** (partnerships with businesses, charities, and educational institutions to offer training and mentorship).
- **To support the delivery of educational programmes to offenders** (e.g. financial literacy, digital skills, mental health e.g. resilience). Video conferencing was also mentioned for supporting learning and drug interventions. Respondents suggested the course(s) could also be tailored to the crime(s), and the factors known or suspected to lead to reoffending.

Roundtable attendees, such as the Tony Blair Institute, also discussed the potential impact of an AI app or tool used by offenders to act as a “digital twin” of an individual’s probation officer. Attendees felt that a tool like this could offer advice and forward information to offenders outside of a probation officer’s core working hours but also provide reports on an offender’s queries and behaviour back to their probation officer. However, concerns were raised by roundtable attendees about offenders having “relationships” with bots, given their offenders’ increased vulnerability.

Roundtable attendees also raised that an app for people on probation could also involve educational functions to help train offenders in different skills and help provide them with a “sense of purpose”. Such technology is already used for this purpose in some states in America and elsewhere.

Suggestions: Increase the use of electronic monitoring, digital platforms and apps.
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4.6c New and emerging technology

4.6c.i Data analytics

Respondents discussed a range of potential uses for data analytics, including:

- Identifying crime hotspots and trends in offender behaviour.
- Measuring the effectiveness of programmes.
- Making immediate, informed operational decisions e.g. personalising probation conditions and adapting supervision levels to minimise recourse to the criminal justice system.

4.6c.ii Artificial Intelligence (AI)

Respondents advocated the use of AI. Respondents cited international examples of governments exploring the use of AI in their judicial systems to drive reform and improve outcomes, namely Canada and China. A variety of uses and associated benefits were discussed by respondents including:

- **Resource management:** Some respondents noted that AI could enhance the efficiency of court systems by implementing digital case management, enhancing scheduling and resource allocation, alongside triaging cases to speed up sentencing and help reduce backlogs. Roundtable attendees also emphasised the potential use of existing software to free-up time for probation officers if used to complete administrative tasks such as notetaking and felt government should invest in such software now.
- **AI to support the standardisation of sentencing:** There was some disagreement from respondents as to whether AI could be used to assist judges in sentencing decisions, as some respondents believed it would help reduce bias by providing insights into sentencing patterns. However, other respondents noted the risk that AI could systematise biases which disproportionately affect certain groups. These respondents noted that the lack of transparency in AI methods (algorithms) makes it difficult for the Judiciary to trust or challenge the predictions. Some respondents also supported using for AI to facilitate the delivery of better outcomes when evaluating the effectiveness of interventions.
- **Managing risk: Many respondents suggested the use of AI to predict and manage risk.** For example, to recommend probation conditions and interventions based on the likelihood of re-offending. Respondents identified specific uses including using live facial recognition in the community. As noted above, respondents warned again of the risk that using AI in this way could systematise biases which disproportionately affect certain groups.
- **Using AI to enhance offender management and rehabilitation:** Many respondents suggested that AI could be used to personalise probation and rehabilitation plans. This includes improving education through AI-powered tutoring tools (e.g. gamified learning to boost engagement). There was also

support from respondents for AI to support the delivery of better outcomes when evaluating the effectiveness of interventions.

- **Digital ID:** A number of respondents suggestion developing digital IDs to gather all relevant information on an individual (e.g. points of contact with government services) to better enhance risk management, and rehabilitation of an offender. For example, data collected via the Digital ID could be used by AI to create more accurate and detailed risk assessments.

Attendees at roundtables gave evidence on the potential to use AI to better assess the dynamic risk of individuals prior to arrest and of offenders in the community. Roundtable attendees highlighted how a “digital identity, meaning individuals [and public services] have a single point of access to all data (health, education, criminal justice system) could help build a real understanding of a person and their risk”. Denmark and Estonia were flagged as countries that use this successfully.

4.6c.iii Biometrics

There was variation in the extent to which respondents supported the use of biometrics technology to monitor behaviour. Biometric technologies were viewed by respondents as possible alternatives to incarceration, with the aim of disrupting offending behaviours and supporting rehabilitation. However, some respondents raised concerns regarding their long-term use (especially for those with alcohol dependence), with respondents noting the need to implement them alongside appropriate treatment. Respondents felt the need to ensure accessibility was crucial when implementing these technologies.

Respondents noted the potential use of various technologies, including:

- **Biometric scanning** authentication for regular check-ins and voice recognition were suggested to comply with conditions.
- **Biometric identification**, for gamblers, integrating biometric identification with the online exclusion scheme.
- **Behavioural biometrics and emotional AI** (soft biometrics), uses data to categorise individuals, not uniquely identify them.
- **Skin patches** for substance abstinence monitoring, suggesting these could be used to prevent overdoses and support treatment and recovery.
- **Wearable devices** can identify erratic behaviour, alert authorities, and interact with at-risk individuals. They can also protect people with substance use issues from poisoning. For example, data collected through the standard GPS SOLO in the UK enables the use of naloxone (to counteract an overdose) remotely at a time of vulnerability.
- **Digital monitoring of behaviour patterns:** Respondents were generally supportive of using technology to better monitor ongoing behaviours for public

protection and rehabilitation purposes (e.g. smartwatches, and rings), but varied with regards to the extent. Some felt that utilising smart watches in the same way as GPS tagging would be beneficial whilst some went as far as to suggest that short spikes in heart rate, sleep activity and exercise should be monitored, to encourage a healthier and more productive lifestyle for young offenders.

Roundtable attendees suggested taking advantage of the widespread use of smartphones and the potential to monitor an offender's keystrokes to understand their behaviour and risk.

4.6c.iv Virtual reality (VR)

Respondents supported using virtual reality (VR) for offender rehabilitation.

Respondents suggested that VR could aid offenders through delivering behaviour change interventions and immersive learning courses to help them develop social and vocational skills, thus preparing them for community reintegration. Respondents gave specific examples including restorative justice meetings, job interview preparation, conflict resolution, risk management assessments, public speaking practice, and practice / learning on how to use public transport.

However, a few respondents noted specific challenges with using VR such as operational feasibility, ethical considerations, and health risks (e.g. mental health impacts) which would need to be addressed before broader implementation.

4.6c.v Sentencing management systems

Respondent supported the increased use of sentencing management system updates, such as automated breach alerts to prevent avoid unnecessary recalls.

However, respondents noted that significant investment in the back-end system would be needed, i.e. the IT infrastructure behind the breach notifications, to enable this.

4.6c.vi Digital Identification

A number of respondents suggested developing digital IDs to gather all relevant information on an individual (e.g. points of contact with government services) to better enhance risk management, and the rehabilitation of an offender. For example, data collected via the Digital ID could be used by AI to create more accurate and detailed risk assessments. Roundtable attendees had mixed views about "digital IDs".

Suggestions: Increase the use of AI – for a range of purposes including risk management, administrative tasks – VR and sentencing management systems.

4.6d Challenges and considerations

4.6d.i Lack of human contact

Respondents noted that while technology can play a role in improving outcomes for community-based sentencing, it shouldn't replace human contact entirely.

Respondents suggested community-based sentences must prioritise rehabilitation, reintegration, and addressing the underlying causes of offending behaviour. Respondents suggested that digital intervention may not offer the same opportunities to build relationships as those delivered in person, which could dehumanise offenders and limit rehabilitation. The Centre for Crime and Justice Studies expressed concerns that “unregulated expansion of electronic monitoring risks squeezing and thinning the stock of human supervision, programmes and support necessary for any rehabilitation to occur”. Respondents felt that technology should be balanced with, and not replace, human contact. Roundtable attendees agreed.

4.6d.ii Implementation of technology

Respondents noted that the use of technology in sentencing and offender management must be approached cautiously. Some respondents flagged practical challenges such as the battery life of electronic monitoring devices, necessary IT infrastructure, and the digital literacy and skills needed to use new technologies.

Respondents raised concerns around privacy and security. Respondents emphasised the need for robust security and data privacy measures. Respondents suggested that ethical frameworks to govern the use of technologies like GPS trackers, wearable monitors, and biometric authentication are required, as well as careful consideration of proportionality, consent, and potential misuse of data is required to ensure the responsible and lawful deployment of these technologies.

Respondents raised concerns about using predictive tools and algorithms (AI), like the COMPAS risk assessment tool¹¹, may perpetuate racial inequalities. Respondents raised concerns about using predictive tools and algorithms as that many cause unlawful discrimination, particularly for Black, Asian, and mixed ethnic groups. Respondents stressed the need for inclusive, culturally aware systems that address marginalised communities’ needs and avoid digital exclusion. Respondents also called for more research and guidance on the appropriate use of these tools.

Similarly, roundtable attendees raised concerns that the use of technology for risk profiling may exacerbate existing biases, especially when compounded with human intervention and unconscious bias. However, roundtable attendees agreed that the potential for discrimination exists within any system or technology used to assess risk.

Roundtable attendees discussed the challenges in sourcing and unifying the data needed to power any AI software or tools used in the criminal justice system. Attendees disagreed over whether health, education, social care and previous justice system data should be drawn from a national data library, as set out in the 2025 Department for Science, Innovation and Technology AI Blueprint,¹² and

¹¹ The COMPAS (Correctional Offender Management Profiling for Alternative Sanctions) is a risk assessment tool used in the criminal justice system to predict recidivism and identify criminogenic needs, aiding in decisions related to sentencing, parole, and rehabilitation.

¹² The Labour Government announced a plan on 13 January 2025 which agrees to take forward all 50 recommendations set out by Matt Clifford in his ‘AI Opportunities Action Plan’.

agreed that outdated technological infrastructure within the criminal justice system will also impact integration of some new technologies such as AI.

Suggestions: Ethical frameworks should be developed to govern the use of new technology, as well as considerations of lawful deployment for example ensuring that victims, businesses and communities are made aware of the use of facial recognition technologies to promote transparency and build trust.

4.6d.iii Challenges specifically raised with regards to Electronic Monitoring

Respondents were uncertain which electronic monitoring technologies most effectively reduce reoffending. Respondents expressed uncertainty around electronic monitoring technology, noting issues with managing breaches and concerns regarding the reliability and timeliness of the electronic monitoring technology, such as the tag falsely reporting a breach when the offender is at home, and the distress this could cause.

Respondents raised concerns about how electronic monitoring might disproportionately impact women, young adults, racial minorities and those with chaotic lives. Respondents raised concerns due to employment requirements (e.g. being able to see the tag), housing instability, and criminal justice disparities, creating barriers for those trying to rebuild their lives and integrate back into society. Working Chance called for more discrete technology, referring to incidences where their clients' employers had revoked offers of employment because the individual wore a tag.

For women, respondents noted additional risks of potentially of re-traumatising abuse victims, and the belief tags may negatively affect pregnant women needing to access healthcare.

Roundtable attendees shared concerns around the incorrect implementation of tags. Attendees proposed that such monitoring should be better tailored to individual needs through, for example, the adjustment of curfews to allow for greater employment opportunities to help to reduce recall (as most cases for those on fixed term recall are a result of non-compliance, rather than further reoffending). The attendees suggested assessing the impact of tagging on women before sentencing, including the impact on children and associated stigma.

Overall, respondents said that the success of electronic monitoring depended on the reliability, user-friendliness, and its integration with probation services. Respondents therefore suggested that improvements are needed in areas like tag size, battery life, and communication between monitoring companies and probation. Respondents also stated that electronic monitoring is not a solution on its own and should be used alongside other tailored interventions to support rehabilitation.

Suggestions: Tailor electronic monitoring to meet the specific needs of certain cohorts, for example gender-specific adaptations and developing a presumption against electronic monitoring for pregnant women and mothers. Improving tagging devices to ensure they work most effectively. Systems, such as AI, must be developed in a culturally aware way to prevent digital exclusions.

4.6d.iv Challenges specifically raised with regards Artificial Intelligence (AI)

Attendees at a roundtable discussed the merits of a human rights-based approach to assessing the potential impact of implementing AI into the criminal justice system as opposed to a more general and ambiguous “ethics assessment”.

Respondents noted that AI models would require increased access to data to provide useful insights. Respondents noted that, a lot of the data used may be intelligence gathered by police, rather than findings of fact in court, which may raise legal and ethical concerns in their use. Large amounts of data on risk factors may also contain inherent biases. Using this data in a way that constrains someone’s liberty, such as in sentencing, may be challenged and rejected in court. Attendees agreed that any AI models would require considerable coding to avoid biases in data, as well as consistent, human oversight and evaluation.

Suggestions: Coding AI models and providing human oversight and evaluation to avoid biases.

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6. Appendix

6.1 Call for Evidence Questions

Theme 1: History and trends in sentencing

What have been the key drivers in changes in sentencing, and how have these changes met the statutory purposes of sentencing?

Theme 2: Structures

How might we reform structures and processes to better meet the purposes of sentencing whilst ensuring a sustainable system?

Theme 3: Technology

How can we use technology to be innovative in our sentencing options, including considering how we administer sentences and manage offenders in the community?

Theme 4: Community sentences

How should we reform the use of community sentences and other alternatives to custody to deliver justice and improve outcomes for offenders, victims and communities?

Theme 5: Custodial sentences

How should custodial sentences be reformed to deliver justice and improve outcomes for offenders, victims and communities?

Theme 6: Progression of custodial sentences

How should we reform the way offenders progress through their custodial sentences to ensure we are delivering justice and improving outcomes for offenders, victims, and communities?

Theme 7: Individual needs of victims and offenders

What, if any, changes are needed in sentencing to meet the individual needs of different victims and offenders and to drive better outcomes?