

Submitted to Law Commission consultation on homicide offences
Submitted on 2026-09-30 11:37:02

About you

What is your name?

Enter your name:

Are you responding to this consultation in a personal capacity or on behalf of your organisation?

Response on behalf of organisation

If other, please state::

What is the name of your organisation?

Enter the name of your organisation:

Prison Reform Trust

What is your email address?

Email address:

Which of the following categories would you consider apply to you? (please tick as many as applicable)

Other

Anonymity and confidentiality

No

No

If yes, please explain why you would like your responses to be treated as confidential (if you answered no, please put "n/a"):

n/a

Chapter 4: A new homicide structure

Consultation Question 1

Yes (the structure of the general homicide offences should have three tiers)

Please expand on your answer :

In principle, the Prison Reform Trust supports the three-tier model, on the basis that it better reflects the moral sense that prisoners make of their offences and sentences, which enhances the legitimacy of punishment: a crucial precursor for people to make meaningful progress in prison. It (theoretically) allows more nuance, and therefore proportionality. The model also presents a valuable opportunity to reset the disastrous rise in minimum term lengths for murder since the Criminal Justice Act 2003, which have had serious knock-on effects for managing the prison population, and for individuals, particularly children and young adults.

However, we have some concerns about unintended consequences of the model in practice, which should be thoroughly considered and guarded against. These concerns relate to the post-conviction stage. At present, the discretionary life sentence remains functionally distinct from the mandatory life sentence in being used (relatively) sparingly, and serving a defined public protection purpose. It is imposed on the basis of risk of future harm. However it is structurally identical to the mandatory life sentence and is handled almost identically in practice once a person enters the prison system.

The three-tier model is likely to mean more people being given discretionary life sentences than they are at present, under a different basis than is used today. This means there is a risk that the purpose and function of the discretionary life sentence becomes diluted in a way that undermines its effectiveness.

There is also a risk of expanding the life sentenced population, and compounding existing issues with sentence inflation and expansion of the prison population, depending on how sentencing guidelines are developed. "Sweeping down" from a mandatory to a discretionary life sentence means something in moral terms, but in practical terms it will make little difference to how they are handled in prison, as all life sentences have the same

structure. Release is dependent on the Parole Board, and official statistics indicate that, on average, discretionary lifers serve longer before being released than mandatory lifers.

In contrast, "sweeping up" to more discretionary life sentences for manslaughter would make a tangible difference, as determinate sentences are handled differently, having an eventual automatic release date.

Any implementation of the three-tier model must therefore ensure that it takes account of how the discretionary life sentence is actually administered, and that sentencing guidelines do not unintentionally inflate that population in a way that causes serious consequences to effective sentence management. There is much we simply do not know about the discretionary lifer population and how it is managed, and the evidence should be thoroughly examined before changes are made.

Chapter 5: First-degree murder

Consultation Question 2

Yes

Please expand on your answer :

We agree that intention to kill is a legitimate basis upon which to distinguish first degree murder. In our experience, this distinction goes some way to capturing how prisoners think about culpability for their offences, though additional factors also matter.

Chapter 6: Second-degree murder

Consultation Question 3

Other (please specify)

Please expand on your answer :

We support the introduction of an offence of second-degree murder where the maximum sentence is life imprisonment, but only on the basis of carefully drafted sentencing guidelines that guard against unintended inflation of discretionary life sentences, preserve the primary public protection purpose of that sentence, and guard against the inflation of determinate sentence length.

Chapter 7: The role of partial defences

Consultation Question 4

Yes

Please expand on your answer :

We agree, with the provisos we have already made about appropriate sentencing guidelines.

Consultation Question 5

No (partial defences should be available for second degree murder)

Please expand on your answer :

While we are not a legal charity and therefore have limited expertise in the application of partial defences, we are concerned that, as a broad principle, partial defences reduce the severity of the conviction, and therefore potentially of the sentence, and could therefore act as an important threshold between discretionary life and a determinate sentence, which is arguably a more fundamental distinction in practice than between the mandatory and discretionary life sentence.

We suggest that, rather than discounting partial defences for second degree murder at this stage, the possibility is retained and considered in more detail in the separate forthcoming examination of partial defences.

Chapter 8: Manslaughter

Consultation Question 6

Other (please specify)

Please expand on your answer :

We do not consider that we have the necessary expertise to comment on the legal dimensions of manslaughter offences.

Consultation Question 7

Other (please specify)

Please expand on your answer :

We do not consider that we have the necessary expertise to comment on the legal dimensions of manslaughter offences.

Consultation Question 8

Not Answered

Please expand on your answer :

We do not consider that we have the necessary expertise to comment on the legal dimensions of manslaughter offences.

Consultation Question 9

Please share your views below:

We do not consider that we have the necessary expertise to comment on the legal dimensions of manslaughter offences.

Consultation Question 10

Not Answered

Please expand on your answer :

We do not consider that we have the necessary expertise to comment on the legal dimensions of manslaughter offences.

Consultation Question 11

Please share your views below:

We have no concrete suggestions of a specific alternative word, but as a general principle we support the use of a gender neutral term such as "person" rather than "man". Given that the term homicide is already widely understood, adapting its use may be the most sensible approach, combined with an indication that the offence is short of first/second degree murder, e.g. third-degree homicide.

Chapter 9: Infanticide

Consultation Question 12

Yes

Please expand on your answer :

We agree that both the offence and defence of infanticide should be retained for the reasons outlined in the consultation paper.

Chapter 10: Other homicide offences

Consultation Question 13

Please share your views below:

The consultation paper invited further evidence on prevalence and causation that could inform the justification for a new offence.

There were 9,605 convictions for production, supply, or possession with intent to supply drugs in 2025. Most (78%) concerned Class A drugs, followed by Class B (22%). The number of convictions has risen by almost a quarter (24%) since 2017, with a particularly steep rise since the pandemic which shows no signs of abating. We are not aware of any evidence on what proportion of those offences could empirically be linked to the death of another person.

The vast majority of sentences for adults since 2017 have been a Standard Determinate Sentence, with only one incident of an Extended Determinate Sentence recorded in official statistics during this period. Extended sentences are reserved for people considered to pose a serious risk of future harm.

465 sentences have been passed for children in this period, of which 51 were a more serious extended form of determinate sentence and one was a life sentence.

According to the Office for National Statistics, there were 5,565 deaths from drug poisoning in 2024 (the most recent year available), and the mortality rate for deaths of this nature has risen every year since 2012. Around two thirds (67%) of deaths by drug poisoning were owing to drug misuse. There are demographic trends in deaths, with higher rates among men, those aged 40-49, and in northern regions of England. We are not aware of any evidence quantifying how many of these deaths resulted in conviction (of drug supply) of the person who supplied the substance to the person who died, or the nature of that link.

This apparent empirical gap in prevalence of drug supply incidents that resulted in death (though we acknowledge we are not subject experts in drug

crime and such evidence may be uncovered through further systematic review) should be more substantially examined before passing any legislation that further criminalises drug supply. The annual number of people convicted for supply is substantial, and so is the number of deaths. The extent to which the supplier of the substance that caused those deaths is held responsible could significantly affect the number of people sentenced for homicide, and the severity of the sentence given. This risks an unintended inflation of the prison population serving lengthy sentences for homicide.

We understand that the suggestion of a bespoke offence is likely driven by difficulty in securing a manslaughter conviction in cases where responsibility for death appears evidently heightened. However we suggest that this issue could be more safely and effectively dealt with through consideration of how the legal structure of manslaughter could accommodate certain incidents of drug supply and under what circumstances, rather than the introduction of a separate offence.

We also make a practical observation from our experience of engaging with this consultation, which is that in comparison to prisoners convicted of murder, much less is known about prisoners convicted of manslaughter, and much less again about people convicted of other forms of homicide. Capturing the nuances of a homicide through proliferating offence categories appears to be unhelpful in making the needs, experiences and management of this population effective in prison.

Consultation Question 14

Please share your views below:

We do not consider that we have the necessary expertise or insights to answer this question. However, our general points expressed throughout this response about risks of unintended inflation of the prison population and a lack of evidence on prevalence of specific kinds of homicide offending also apply here. In general, we suggest that the introduction of any new offence should be based on a careful weighing up of the evidence on nature, prevalence, and modelling of the effects of its introduction.

Consultation Question 15

Yes (specific homicide offences should not be incorporated into the three-tier homicide structure)

Please expand on your answer :

While, as expressed above, we have reservations about the continued proliferation of specific homicide offences, we agree with the consultation paper's reasoning that offences already in existence have been introduced and designed with specific social issues in mind, and that amalgamation, unless done extremely carefully, carries the risks of impracticality and unfair/inaccurate labelling, as described.

Unlike murder and manslaughter offences, much less is known (including by us) of the views and experiences of people serving sentences for specific homicide offences, and at present we cannot be certain that the conclusion that the costs of amalgamation outweigh the benefits would be supported by the experiences of prisoners and prison staff.

Consultation Question 16

Please share your views below:

We are not sufficiently expert on the substantive elements of specific homicide offences to offer a detailed view on what reforms are needed. However, in our submission to the call to evidence, we observed that there has been considerable rise (46%) in the number of driving-related homicide convictions in the last decade, and accompanying inflation in the average sentence length for these offences, rising by almost 3 years since 2015. While numbers are still relatively small (267 sentences in 2024), the rise is particularly steep within the last two years and it is not clear why, or whether this will continue. This trend merits further exploration and any implications for reform examined.

Chapter 11: "Mercy" and consensual killings

Consultation Question 17

Yes (a separate homicide offence for mercy and consensual killings is not justified)

Please expand on your answer :

We agree that in principle, a separate offence would undermine the coherency of a framework built around intent. However, we think that the most important principle at hand must be to meaningfully enact leniency in compassionate and mercy cases. For this to be achieved without the creation of a separate offence, it is absolutely vital that there is reform of defences, and of the upper limits of sentencing in such cases, with life sentences only used in exceptional circumstances. We agree with the concerns summarised in the paper that current defences are insufficient.

Consideration could also be given to the fact that the very word "murder" can be extremely morally distressing to people convicted in such cases, despite the legal parameters of the term. Some recognition of the compassionate or merciful nature of the offence could be reflected in the name of the offence.

Chapter 13: Attempted murder

Consultation Question 18

Yes

Please expand on your answer :

We agree with the consultation paper's reasoning on restricting attempt liability to first degree murder.

Consultation Question 19

Yes (there should not be an offence of attempted second-degree murder)

Please expand on your answer :

See question 18.

Chapter 14: Victims of domestic abuse and homicide

Consultation Question 20

Please share your views below:

The link between domestic abuse and suicide is now much more widely understood, with growing evidence of its prevalence, and of the role abuse frequently plays in suicide. We lack the legal expertise to comment in detail on the best solution of those proposed in the consultation paper, but we agree that the time is right to more effectively recognise the suicide of abuse victims in the convictions of perpetrators.

As with the proposed introduction of other new homicide offences, our concerns remain about the potential risks of net widening, sentence inflation and expansion of the prison population that may come with the creation of a new offence. This is especially true given the high prevalence of domestic abuse, both in society and in the prison population, which represents both a greater reason to act on the issue, and a greater risk of expansion/inflation.

Any proposed solution should therefore be thoroughly grounded in the empirical evidence on prevalence, and modelling of effects on the prison population before proceeding.

Consultation Question 21

Please share your views below:

Given the reservations expressed in response to question 20, and our previous comments on the proliferation of new offences, we suspect that adding an aggravating factor to offences commonly charged in domestic abuse cases represents the best compromise to this complex area. It would require a burden of proof, and would be rooted in legislation/offences that have been developed with a better understanding of domestic violence, abuse and coercive control in mind than homicide sentencing, which may increase the chance of the factor being considered effectively.

However, we understand that victims and their families may reasonably feel that the upper limits on punishment for commonly charged offences may simply be too low to reflect the seriousness of an incident where suicide has occurred, and this is a moral limitation on the proposed approach.

Chapter 15: Equality impact

Consultation Question 22

Please share your views below:

In theory, women, children, young adults and racially minoritised groups should stand to benefit from the increased granularity of the three-tier model, as many of the issues considered around intent and circumstance relate to those experienced by people in these groups who are convicted of murder.

However, the overarching trends in homicide sentencing indicate a worsening sentence severity for children and young adults, and continued racial disproportionality (see our original evidence submission). There is no reason to believe that these trends will be any different under new legislation introduced, without active efforts to avoid them. Rather than looking for evidence of disadvantage in the proposed reforms, we suggest that the evidence of disadvantage across the entire criminal justice system is already present, and it is therefore crucial to design and implement the new model in close conjunction with relevant experts in youth justice and in anti-racist approaches.

In our evidence submission, which reviewed available evidence on homicide sentencing for people with various protected characteristics, we concluded that the main implications of the three-tier model were:

Women convicted of homicide have distinctly high levels of factors that may be considered to reduce culpability when the offence is committed within the context of domestic abuse or coercive control. The law needs to properly reflect the role of these factors in homicides committed by women.

The very low use of life and extended determinate sentences for women convicted of homicide other than murder means that they are at greater risk of sentence inflation if the sentencing criteria for discretionary life are not carefully formulated.

Children convicted of murder are being increasingly acutely punished to the

exclusion of other sentencing purposes. To reset the balance, a discretionary life sentence for children convicted of second degree murder could either be made unavailable or only used in the most exceptional circumstances.

Sentence and minimum term lengths should be rebalanced with sentencing aims other than punishment, as well as full recognition of the sentencing guidelines for children and young people, including children's rapid development.

At an absolute minimum, the opportunity for a mid-term review for all prisoners sentenced as children should be restored.

The young adult population in prison convicted of murder (particularly 18-20 year-olds) is growing much faster than the mandatory life sentenced population as a whole. Schedule 21 should be reviewed with the intention of restoring more distinction in the sentencing of young adults and arresting this growth.

The sentencing framework for homicide as a whole should adopt the now widely accepted evidence-based definition of young adults (18-25). The legal definition is too restrictive and not appropriate to what is now known about maturation.

The post-conviction disproportionalities and struggles to progress experienced by ethnic minority life sentenced prisoners (as outlined in our original evidence submission) will not be addressed by sentencing reform alone, and more ethnically and culturally sensitive reforms are needed to the entire sentence structure.

The three-tier model stands as an opportunity to deflate the lengthy terms given to people convicted of murder under the law on complicity, which is widely recognised to disproportionately, and unfairly, affect women, young adults and people from ethnic minority backgrounds. However, we are disappointed by the Commission's decision to omit reforms of this law, and we do not believe the improved functioning of the law that may come from the three-tier model will go far enough. In our view, the benefits of addressing this longstanding and pervasive issue with homicide law outweigh the risks of creating a separate treatment of complicity for homicide, which is the justification put forward in the consultation paper for not proceeding with reform in this area. This is effectively a decision not to address unequal outcomes experienced by people with protected characteristics.

Additional comments

Consultation Question 23

Please share your views below:

As a broad principle, we encourage the Commission to consult closely with both serving prisoners and staff in the granular design of law changes. Some of the gravest injustices have arisen from a failure to foresee the unintended consequences of legislation. This lack of foresight is avoidable through proper consultation with people who live and work in prisons daily, and due attention to the post-conviction stages of sentences.

Support and resources