Prison Reform Trust response to the Sentencing Council Strategic Objectives 2027–2030 consultation – October 2026

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families
- promoting equality and human rights in the criminal justice system.

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1. What is your name?

Mark Day

2. What is your email address?

[redacted]

3. Are you answering as an individual? If so, are you happy for your name to be included in the consultation response document?

No – organisation.

4. If you are answering on behalf of an organisation, group or bench, please provide the name of the organisation, group or bench.

Prison Reform Trust

5. Do you agree that the Council's focus for guidelines should shift to evaluation, revision and maintenance?

Yes. Given the maturity of the guideline framework, the Council should place greater emphasis on evaluation, revision and maintenance. This should be a substantive programme, not merely technical updating. The Council should assess whether guidelines

- produce consistency of approach without entrenching unjustified differences or increasing severity;

- support proportionate sentencing and an appropriate balance between the statutory purposes of sentencing;
- contribute inadvertently to sentence inflation.

Consistency is not an end in itself: pursued without sufficient regard to equality and proportionality, it can regularise overly severe practice. Earlier impact assessments of the assault and burglary guidelines found unexpected increases in severity for some offences, including a 13% increase in average custodial sentence lengths for non-domestic burglary between 2011 and 2014.

Where severity continues to rise after a guideline is introduced—even if an upward trend pre-dated it—the Council should treat that as a potential unintended impact requiring investigation, rather than assuming that reproducing existing sentence levels validates the trend. Evaluation should examine cumulative effects on custody rates, sentence length, suspended sentence orders, community orders, prison and probation demand, and outcomes for different groups. High-volume guidelines should be prioritised because even modest shifts can have substantial system-wide consequences. The Council should publish a clear timetable for impact assessment and set criteria for reopening a guideline where effects are problematic, whether or not they were anticipated.

6. Are the projects listed above the right ones?

Broadly, yes. The projects identified reflect a sensible shift towards ensuring that existing guidelines remain accurate, accessible and evidence-based. PRT particularly welcomes the proposed revision of the guideline on sentencing offenders with mental disorders, developmental disorders or neurological impairments, and the proposed evaluation of the drug offences guideline. We agree that the Council should retain flexibility for legislation, case law, new offences and technological change. However, new work should not displace evaluation of high-volume guidelines or those most likely to affect sentence length, prison demand, disparity and rehabilitation. Limited amendments should remain subject to proportionate consultation and impact assessment so that substantive changes are not introduced without scrutiny.

7. Are there other offences or areas on which consultees would like to see new or revised sentencing guidelines?

PRT would like the Council to prioritise areas where sentencing practice may contribute to unnecessary imprisonment, sentence inflation or unequal outcomes. In particular, new overarching guidelines would be beneficial for the following groups:

- **Sole or primary carers**: We welcome the inclusion of consideration of caring responsibilities in the vast majority of offence-specific guidelines and overarching principles. An overarching guideline would ensure consistent consideration of caring responsibilities across all offences. Courts should be required to establish whether a defendant has dependent children and primary caring responsibilities, obtain the information needed to assess the child's rights and best interests, and explain how those interests have been considered—especially where custody is imposed. This would improve consistency, transparency and scrutiny of decisions whose consequences extend well beyond the defendant.
- **Young adults aged 18–25**: Evidence on neurological development and desistence (offending decelerates particularly rapidly in the early twenties)

makes maturity directly relevant to consideration of sentence effectiveness, personal mitigation and the choice between custody and a community sentence. While case law (*Clarke*, *Oghene*) and updates to the Sentencing Council guidelines acknowledge maturity as mitigation, piecemeal consideration is insufficient compared to the formal overarching principles established for children.

8. Are there any other areas of analysis and research that the Council should look into?

PRT would encourage the Council to analyse the availability and use of pre-sentence reports, including oral and written reports, and the extent to which reports influence sentencing outcomes. This should include whether particular groups are less likely to receive a report, whether sentencers receive sufficient information about personal circumstances and rehabilitative options, and whether the absence of a report is associated with greater use of custody. Recent changes to legislation restrict how the Council can refer to pre-sentence reports in its guidance. Therefore, it is important to understand how courts are currently using pre-sentence reports and whether changes to the legislation have altered sentencing practice.

PRT would also encourage the Council to pay particular attention to the impact of the greater diversity of determinate sentences created in recent years, in any update to evidence on the effectiveness of sentences. This should include SDS; SDS+; EDS; SOPC and STS, and include the variants for terror offences that require individuals to serve a larger proportion of their sentence in custody.

9. Are there any other sources of quantitative or qualitative evidence that the Council could use that are not mentioned above?

The Council should make greater use of qualitative evidence from people with direct experience of sentencing and imprisonment, including people in prison, people serving community sentences, families, defence practitioners, probation staff, liaison and diversion services, women's centres, youth-to-adult transition services, and organisations working with racialised minorities and disabled people. There is no equivalent to the Council's duty to consider victims' perspectives that ensures defendants' experience is heard, yet their understanding of fairness can affect compliance and progression through a sentence. Routine consultation with people with lived experience would help identify where guidance is unclear, inaccessible or experienced as unfair. It should be complemented by stronger defence, mental health and addictions expertise.

Quantitative datasets remain essential, but cannot by themselves explain why outcomes occur, how guidance is used in court, or whether rehabilitative options were realistically available. PRT welcomes the Council's intention to explore the application of natural language processing techniques to court transcripts.

10. Has the Council prioritised the right guidelines for evaluation?

Not entirely. PRT supports evaluation of high-impact guidelines, but the Council should place stronger emphasis on those most closely connected to prison population pressures, sentence inflation and disparity. As highlighted above, earlier assessments of the assault and burglary guidelines disclosed increases in severity that had not been adequately anticipated. That experience underlines the need to complete and publish impact assessments for high-volume guidelines before giving priority to fresh analytical work on new ones.

Evaluation should prioritise the imposition of community and custodial sentences, high volume offences frequently resulting in short custody, guidelines for offences where a large number of long determinate, extended determinate and indeterminate sentences are imposed, the impact of guidelines following the introduction of legislation that significantly increases sentencing severity, and those where there is evidence of differential outcomes. It should ask not only whether the guideline changed average outcomes, but whether it stabilised or accelerated pre-existing trends; whether outcomes remain proportionate across comparable offences; whether particular statutory purposes of sentencing have been prioritised at the expense of others; and whether the consequences can be accommodated within existing prison and probation resources. The definition of a "problematic" impact should therefore include disproportionality, avoidable pressure on resources, unequal outcomes and reduced use of effective community disposals, regardless of whether the effect was originally intended. Evaluation should also examine how guidelines are used in practice, including the availability and influence of pre-sentence reports and whether overarching guidance is being overlooked in favour of offence-specific steps.

11. The Council would welcome your views on its proposed approach to fulfilling its Public Sector Equality Duty, as set out above.

PRT welcomes the Council's commitment to its Public Sector Equality Duty. Equality must be embedded throughout guideline selection, development, impact assessment and revision rather than treated as a discrete strand. Analysis should begin early, be published transparently and be repeated after implementation. It should examine practical effects at each sentencing stage and test whether apparently neutral factors reproduce or exacerbate disparities. We welcome the Council's commitment to work with criminal justice partners to improve consistent recording of ethnicity, religion, disability—including mental health and learning disability—and other relevant characteristics. There is a particularly urgent need to improve the quality of data relating to ethnicity. We further welcome the Council's commitment to expand the evidence base and to take account of guilty pleas as part of its analysis of disparities. Where disparities cannot be explained by evidence, the Council should adopt an "explain or reform" approach: revise the guideline, improve the evidence base or identify other corrective action, rather than merely recording the disparity.

The Council should also ensure that mitigating factors relating to protected characteristics are framed clearly and consistently. This is important to avoid disadvantaged defendants being penalised for characteristics or circumstances linked to unmet need, and to support sentencers to reach a fair and proportionate sentencing decision.

We note the government's recent commitment to enact the socio-economic duty in section one of the Equality Act 2010. The Council will need to give urgent consideration to how it will factor in this duty in meeting its obligations under the Public Sector Equality Duty. Areas for consideration might include:

- Offences related to acquisitive crime and whether socio-economic disadvantage is adequately reflected as part of mitigation.
- The relationship between socio-economic disadvantage and other factors which may be considered in mitigation, such as coercion or mental ill health.
- Updating the Equal Treatment Benchbook to reflect the new duty.

12. Should the Council consider conducting analysis or research on any other themes?

We appreciate that the Council's research budget is limited. This consultation document sets out a comprehensive programme of work for the review period which we broadly support. If additional resource were available, we would suggest the following themes for further research and analysis:

- Sentence inflation, the cumulative effect of successive guideline revisions on sentence severity, and the interaction between guidelines and legislative change.
- The relative effectiveness and cost of different sentences, particularly where research favours community disposals over short custody.
- The Council's existing evidence review on reoffending could be updated, and relevant evidence could appear in each guideline's resource assessment and post-implementation evaluation.
- An examination of how the competing statutory purposes of sentencing have been balanced in sentencing practice, and the impact of guidelines on this process.
- Research could test whether personal mitigation is properly recognised and whether pre-sentence reports are available and influential.
- The Council could consider whether the current step framework gives sufficient weight to the causes and context of the offence, the factors likely to support desistance, and the consequences of different disposals.
- Resource analysis should extend beyond the immediate cost of a sentence to whether prison, probation, treatment and community services have the capacity required to deliver it effectively.

13. Should the Council continue to provide information in guidelines where apparent disparities have been found? Could the information be reframed in some way?

Yes. The Council should continue to include information where apparent disparities have been identified, but where possible it should be operational rather than descriptive. Guidance should identify the sentencing stages at which disparities arise, explain the quality and limits of the underlying data, and prompt sentencers to test whether apparently neutral factors are operating unfairly in the individual case. Information should be linked to relevant mitigating factors and overarching equality guidance. The Council should avoid implying that disparity is acceptable merely because causation is uncertain: where analysis cannot provide an evidence-based explanation, the response should be further investigation and, where appropriate, reform. Where possible, the Council should include examples of how equality information should be considered as part of sentencing practice.

14. Are there particular groups with which the Council could engage further to achieve the objective of supporting and improving public understanding of sentencing?

15. Do you have particular suggestions for ways in which the Council could reach a wider audience, whether via its own channels or those of others?

We answer questions 14 and 15 together.

We agree that engagement should not be limited to professional stakeholders. Public understanding of sentencing is strengthened when the Council hears from those who experience sentencing decisions and from communities most affected by criminal justice outcomes. We welcome the Council's commitment to ensure it receives the widest possible contribution from different groups as part of its consultations and stakeholder engagement. The Council should engage further with organisations representing and supporting people directly affected by sentencing, including people in prison, people serving community sentences, families, victims and witnesses, women's specialist services, racial justice organisations, disability and neurodiversity organisations, youth and young adult services, and organisations working with people experiencing homelessness, poverty, addiction and mental ill-health. This engagement should be designed in accessible formats and should recognise the practical barriers faced by people in custody or under supervision.

We take this opportunity to provide a general comment on the Council's approach to fulfilling its statutory duty to promote public confidence in sentencing.

The consultation document notes that many of the factors which influence public confidence in the criminal justice system as a whole will be out of the Council's control or its remit. It also highlights the resource and political constraints within which the Council operates in fulfilling its statutory duty. Given these constraints, the consultation document adopts a narrow interpretation of its remit: "it is difficult for the Council to take positions, or give views, on matters that might properly be considered as policy matters outside its statutory remit, or on matters of political sensitivity. It cannot be reactive to particular decisions of the courts; but it can act proactively by making its role and function well known to society at large."

We are concerned that the recent controversy over the guidance on pre-sentence reports in the imposition guideline may have been a significant factor behind the Council's decision to adopt this narrow interpretation. The Council's position is understandable, given the government's decision to legislate to restrict Council guidance on pre-sentence reports and make the Council's business plan and individual guidelines subject to executive sign off. This raises significant concerns over the willingness of the executive to uphold the independence of the Council in the face of political opposition.

Nonetheless, the controversy highlights how the Council can become embroiled in issues of political sensitivity even when it is not seeking to do so. We would draw two principal lessons from the episode:

1. There is an urgent need for the Council to better explain its role and purpose to key decisionmakers and the media. The controversy was underpinned by a lack of understanding of the role and remit of the Council and the purpose of pre-sentence reports and sentencing guidelines. Many MPs and journalists appeared to share similar misconceptions about the work of the Council as much of the general public. Given the role of Parliament in scrutinising the work of the Council and setting the statutory framework within which it operates, we believe it is important for it to be properly informed. It is also vital that the media are better informed on the role and remit of the Council in reporting on its work. We would welcome a programme of engagement in support of this aim.
2. There remains a pressing need to promote wider public understanding of the realities of sentencing. The controversy surrounding the imposition guideline highlighted poor public understanding of the role and remit of the Council.

But, more troublingly, it demonstrated a high level of public ignorance of the reality of ethnic disparities in sentencing and the necessary means to address it. This reflects poor public understanding of matters relating to sentencing more generally. Given the pressure to which the Council has been subject, its narrow interpretation of its statutory remit to promote public confidence by explaining its own role and purpose maybe politically understandable. But this leaves a question as to which body would be most suited to taking on the task of promoting public confidence in and understanding of sentencing more generally. The Council may wish to avoid issues of political sensitivity, but matters of sentencing and criminal justice are inherently so. If the Council is not willing or able to take on this important role, then we recommend the establishment of an Independent Advisory Panel on Sentencing to do so, in line with the recommendation of the Independent Sentencing Review.

16. Do you have any other comments on the proposed strategic objectives that have not been covered elsewhere?

PRT welcomes the proposed strategic objectives and supports the renewed focus on evaluation, maintenance and equality. Evaluation should recognise explicitly that guidelines inevitably influence demand for custody, even though the Council does not manage prison capacity. Given the context of the current capacity crisis, resource assessments should therefore go beyond stating estimated costs: they should assess whether the consequences of a guideline can be accommodated within existing prison, probation, treatment and community-service capacity and identify where additional provision would be required. The Council should monitor whether guidelines contribute to sentence inflation, and it should publish the evidence on reoffending and effectiveness that informs its decisions. Its criteria for prioritising new or revised guidelines should focus on demonstrable improvements in proportionality, effectiveness, equality and the statutory purposes of sentencing, rather than simply on the level of stakeholder pressure or the prospect of a “significant impact”. This would help protect the work programme from short-term or populist demands. Transparency about which statutory purposes of sentencing are being prioritised—and why—would improve accountability and public understanding. Adequate resourcing is essential: the Council cannot reasonably be expected to fulfil all its statutory duties if monitoring, equality analysis and public engagement remain under-resourced.

Across the 2027–2030 period, PRT would encourage the Council to use its influence to promote sentencing that is fair, proportionate, evidence-based and focused on reducing reoffending. This means guidelines that are clear and usable for sentencers, informed by robust analysis and lived experience, alert to inequality, and supportive of effective community solutions wherever custody is not strictly necessary.