

Prison Reform Trust response to the Sentencing Council Assault on a police constable consultation – May 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
- promote equality and human rights in the criminal justice system.

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Introduction

The Prison Reform Trust welcomes the opportunity to respond to this consultation. Since its introduction, the Assaults on Emergency Workers (Offences) Act 2018 has had a punitive impact on sentencing for common assault and led to disproportionate outcomes for certain groups, including women¹ and Black people². Prosecutions under the legislation have also contributed to a growing backlog of cases in the Crown Court.³ We therefore welcome the recent policy decision by the Crown Prosecution Service (CPS) to resume charging lower-level cases under the offence of assault on a police constable. The CPS' decision, which has necessitated the consultation on this guideline, provides an important opportunity to develop a more

¹ Gauke, D. (2025). *Independent Sentencing Review: Final report and proposals for reform*. Ministry of Justice. p.101. <https://www.gov.uk/government/publications/independent-sentencing-review-final-report>, See also Norris, S. (2025, May 1). *Hundreds of domestic abuse victims face jail under new law*. openDemocracy. <https://www.opendemocracy.net/en/domestic-abuse-victims-criminalised-tory-law/>

² Home Office. (2023). *Assault on emergency workers in the Police, Crime, Sentencing and Courts Bill: Equalities Impact Assessment*. <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-equality-statements/assault-on-emergency-workers-in-the-police-crime-sentencing-courts-bill-equalities-impact-assessment>

³ See The Times. (2025, May 19). *Courts backlog traps 3,700 cases of assaults on emergency workers*. <https://www.thetimes.com/uk/law/article/crown-court-backlog-emergency-workers-assaults-50q02hgzr> and Ministry of Justice. (2026, February 24). *Deputy Prime Minister sets out vision for the justice system*. <https://www.gov.uk/government/news/deputy-prime-minister-sets-out-vision-for-the-justice-system>

practical and proportionate approach to the prosecution and sentencing of this offence group. This response focuses on strengthening the clarity and consistency of the guideline and ensuring appropriate culpability, harm, aggravating and mitigating factors are taken into account.

Questions

1. Do you have any comments on the proposed culpability factors (including from the perspective of equality and diversity)?

Impulsive/spontaneous and short-lived assault

We recommend the inclusion of “impulsive, spontaneous and short-lived assault” as an indicator of lower culpability.

This factor would better reflect the reality that many assaults on police constables occur in highly charged, fast moving situations, where individuals may react instinctively rather than with sustained intent. Such responses may arise from fear, confusion, panic or distress, including where individuals are experiencing a mental health crisis or the effects of trauma or reacting impulsively as a result of immaturity.

People in contact with the criminal justice system frequently present with unmet mental health needs⁴, histories of trauma⁵ and neurodiversity.⁶ These factors can significantly affect decision making, emotional regulation and impulse control, increasing the likelihood of reactive and short-lived behaviour in stressful, confrontational situations.

Recent work from the charity Revolving Doors illustrates this dynamic through a case study of L’s first-hand experience of being prosecuted for an assault on an emergency worker.⁷ L said:

“Looking back, I can see how trauma responses played a role. If someone grabs you from behind while you’re already in fight-or-flight mode, you react instinctively. But instead of recognising that, I was charged.”

In this context, an assault may be more appropriately understood as a short-lived, reactive incident rather than a deliberate premeditated act.

⁴ HM Chief Inspector of Prisons (2025). *Annual report 2024–25*. See also Criminal Justice Joint Inspection. (2021). *Criminal justice system failing people with mental health issues – with not enough progress over the past 12 years*. <https://ciji.justiceinspectorates.gov.uk/press-release/criminal-justice-system-failing-people-with-mental-health-issues-with-not-enough-progress-over-the-past-12-years/>

⁵ See Prison Reform Trust. (2026). *Bromley Briefings Prison Factfile: February 2026*. p.38. <https://prisonreformtrust.org.uk/wp-content/uploads/2026/02/Winter-2026%E2%80%9393factfile.pdf>

⁶ Criminal Justice Joint Inspection. (2021). *Neurodiversity in the criminal justice system: a review of evidence*.

⁷ Revolving Doors. (2026, February 26). *Revolving Doors responds to Government ‘blitz courts’ plans for assault on emergency worker offences*. <https://revolving-doors.org.uk/revolving-doors-responds-to-government-blitz-courts-plans-for-assault-on-emergency-worker-offences/>

A lack of maturity (which the Council already recognises in mitigation) may be particularly relevant to such behaviour. There is substantial evidence that shows individuals “do not enter adulthood as they turn 18 or 21 years of age; instead, maturation is a slow process that can last until a person’s mid- or, in some cases, late-20’s”.⁸ Neurological and psychological evidence also demonstrates that the parts of the brain responsible for impulse control and decision making continue to develop until around the age of 25.⁹ The process of maturation can impact on the development of cognitive skills, with immature individuals more likely to behave impulsively and without consideration of consequence.¹⁰

Similarly, individuals with certain mental health conditions, cognitive impairments or neurodivergence may be more likely to respond impulsively in stressful or confrontational situations.

Recognising “impulsive, spontaneous and short-lived assault” as an indicator of lower culpability would therefore support a more accurate and proportionate assessment of culpability. It would also ensure consistency with other assault-related guidelines, such as Assault occasioning actual bodily harm/racially or religiously aggravated ABH.¹¹

Mental disorder or learning disability, where linked to the commission of the offence

In line with our comments above, we welcome the inclusion of “mental disorder or learning disability, where linked to the commission of the offence”. However, in keeping with the terminology used by NHS England (Health and Justice) and the Ministry of Justice/HMPPS¹², the Council should adopt a broader and more inclusive terminology. We would suggest the following wording:

“Mental disorder, learning disability **and difficulty or neurodiversity**, where linked to the commission of the offence”

This would better reflect the range of cognitive and developmental conditions which may be relevant when considering culpability and support the more consistent identification of relevant needs at sentencing.

Intention to cause fear of serious harm, including disease transmission

We are concerned that, drafted as is, the guideline lacks clarity on how intention will be determined. Without this clarity, certain individuals may be treated more punitively

⁸ HM Inspectorate of Prisons. (2021). *Outcomes for young adults in custody*. p.9.

⁹ Blakemore S-J. & Choudhury, S. (2006). *Development of the adolescent brain: implications for executive function and social cognition*. *Journal of Child Psychology and Psychiatry*, 47:3, 296–312; and Prior, D. et al. (2011). *Maturity, young adults and criminal justice: A literature review*. University of Birmingham.

¹⁰ Johnson, S., Blum, R. & Giedd, J. (2009). Adolescent maturity and the brain: the promise and pitfalls of neuroscience research in adolescent health policy. *Journal of Adolescent Health*, 45(3), 216– 221, referenced in HM Inspectorate of Prisons. (2021). *Outcomes for young adults in custody*. p.9.

¹¹ See [Assault occasioning actual bodily harm / Racially or religiously aggravated ABH](#)

¹² See Criminal Justice Joint Inspection. (2021). *Neurodiversity in the criminal justice system: A review of evidence*.

purely because of their health status. Someone who has a communicable disease such as HIV or TB should not be treated more punitively just because they have a disease. Therefore, intention needs to be clearly determined. There needs to be clear evidence that the individual intended to cause fear, for instance with a clear verbal threat or an action clearly intended to transmit disease. We would suggest, therefore, that the Council includes additional guidance to sentencers in how they establish intention in these cases.

Balancing culpability factors

We welcome the Council's recognition that culpability factors may be in conflict and will need to be carefully balanced. However, we suggest further guidance is needed on how such conflicts should be resolved in practice.

Where factors indicating lower culpability are directly linked to the behaviour in question, these should carry significant weight, even where other factors might suggest higher culpability. For example, a higher culpability factor of "prolonged/persistent assault" may be directly linked to the defendant's experience of "mental disorder or learning disability" — a lesser culpability factor. Without this clarification, there is risk of inconsistent application of the guideline.

We recommend the Council carefully monitor the impact of the balancing of culpability factors relating to this guideline.

2. Do you have any comments on the proposed sentences?

We have concerns around the subjectivity involved in categorising harm, particularly in relation to psychological distress. The guideline should clearly specify how psychological harm is to be assessed and how it should be balanced against actual physical harm. For example, significant distress may arise from fear of disease transmission even where no transmission occurred and no intent was present. Therefore, without clear parameters, there is a risk that sentencing outcomes will be driven by subjective perceptions of psychological harm rather than actual harm caused by the offence.

We suggest that the Council provides additional guidance to ensure a consistent and proportionate approach to objectively assessing psychological harm.

We welcome the inclusion of community orders in all but one category of sentence. The harms of short prison sentences are well-evidenced. Short sentences disrupt family relationships, housing, employment and access to community support, often without providing any meaningful rehabilitation. Evidence from the Ministry of Justice also shows that short prison sentences are less effective at reducing reoffending compared with community sentences.¹³ Therefore, custody should remain the last resort. Where custody is indicated, the guideline should explicitly state that **suspended sentences** remain available at all custodial starting points.

¹³ Hillier, J. & Mews, A. (2018). *Do offender characteristics affect the impact of short custodial sentences and court orders on reoffending?* Ministry of Justice.

3. Do you have any comments on the proposed aggravating factors?

Aggravating factors

Commission of the offence whilst under the influence of alcohol/drugs

We do not agree that commission of the offence whilst under the influence of alcohol or drugs should be treated as an aggravating factor.

The relationship between the use of alcohol and drugs and crime is well established. HM Inspectorate of Prisons state 22% of men and 45% of women report having a problem with drugs or alcohol on entry to prison.¹⁴ The relationship between substance misuse and mental ill health is complex, and this should be better reflected in the guideline. For example, people may self-medicate because they find it difficult to access services, and dependence can hide underlying mental health conditions or disorders.

We would argue, therefore, that the presence of this factor is more often indicative of an unmet treatment need. This should not be a justification for more severe punishment. Treating this as an aggravating factor risks disproportionately penalising individuals with such needs, without addressing the underlying causes of their offending.

We recommend that this factor is removed.

Offence committed in prison

We strongly oppose the inclusion of “offence committed in prison” as an aggravating factor.

Prisoners have no choice over the environment in which they are detained. Levels of violence in prison have risen significantly in recent years and have been linked to factors including high levels of overcrowding, staff shortages and poor quality of prison regimes.¹⁵ In the year to March 2025, out of 38 prisons inspected, HM Inspectorate of Prisons found “concerns in relation to violence and managing behaviour in 18 prisons, usually in conjunction with concerns around poor regimes, relationships and living conditions”.¹⁶

The proposed guideline would make being a prisoner an automatic aggravating factor, regardless of the circumstances of the offence. Furthermore, there is no

¹⁴ HM Inspectorate of Prisons. (2025). *HM Chief Inspector of Prison for England and Wales: Annual Report 2024-25*. p.23.

<https://cdn.websitebuilder.service.justice.gov.uk/uploads/sites/19/2025/07/Annual-report-FINAL.pdf>

¹⁵ Ministry of Justice. (2025). *The impact of overcrowding on assaults in adult public prisons*. <https://www.gov.uk/government/publications/the-impact-of-overcrowding-on-assaults-in-adult-public-prisons>, see also HM Chief Inspector of Prisons for England and Wales. (2025). *HM Chief Inspector of Prisons for England and Wales Annual Report 2024-25*. https://hmiprisons.justiceinspectorates.gov.uk/hmipris_reports/annual-report-2024-25/

¹⁶ HM Inspectorate of Prisons. (2025). *HM Chief Inspector of Prison for England and Wales: Annual Report 2024-25*. p.23.

<https://cdn.websitebuilder.service.justice.gov.uk/uploads/sites/19/2025/07/Annual-report-FINAL.pdf>

evidence that harsher sentencing would act as an effective deterrence in reducing violence in prisons.

The offence should not be treated as more serious solely because it occurred in a custodial setting rather than in the community. Therefore, we urge the Council to remove this aggravating factor and instead allow courts to consider the specific circumstances of the offence.

Mitigating factors

Mental disorder or learning disability, where not linked to the commission of the offence

We welcome the inclusion of “mental disorder or learning disability, where not linked to the commission of the offence”. However, as outlined above, we would suggest adding “neurodiversity” to be in keeping with the terminology used by NHS England (Health and Justice) and the Ministry of Justice/HMPPS. We would suggest the following wording:

“Mental disorder, learning disability **and difficulty or neurodiversity**, where not linked to the commission of the offence”

Sole or primary carer for dependent relatives(s) and pregnancy, childbirth and post-natal care

We strongly support the inclusion of both mitigating factors. The imposition guideline¹⁷ states that “the court should obtain detailed information before sentencing a mother with dependent children or a pregnant or post-natal offender or to ensure that a sentence is compatible with their support needs and childcare responsibilities, and so they can access routine healthcare and maternity appointments”. Furthermore, when the person being sentenced is a woman, the imposition guideline states that “it is important for the court to ensure that it has sufficient information about a female offender’s background.” In addition, the court should be aware that it is likely that a woman will have primary care responsibilities, and that there may be barriers to her disclosing this.¹⁸

In these cases, there should be a presumption that the court will commission a standard, written PSR over an oral on the day report. Written reports can be completed in advance. This means the woman is more likely to feel comfortable disclosing private but relevant information about her case.

History/experience of domestic abuse

Almost 70% of women in prison report experiencing domestic abuse.¹⁹ Research has increasingly recognised that a wide range of offences at all levels of seriousness can result from experience of domestic abuse, and that this is insufficiently recognised in the system.²⁰

¹⁷ [Imposition of community and custodial sentences](#)

¹⁸ See <https://prisonreformtrust.org.uk/publication/reducing-the-unnecessary-imprisonment-of-mothers-improving-the-chances-for-their-children/>

¹⁹ See <https://www.womeninprison.org.uk/what-we-do/campaigns/stop-punishing-domestic-abuse-survivors/>

²⁰ See Prison Reform Trust. (2017). “There’s a reason we’re in trouble” – Domestic abuse as a driver to women’s offending. <https://prisonreformtrust.org.uk/publication/theres-a-reason-were-in-trouble/>

It has been suggested that the offence of assault on an emergency worker offence has had a disproportionately negative impact on victim-survivors of domestic abuse.²¹ For example, in circumstances where a victim-survivor of domestic abuse has contacted the police to help them with an abusive partner. In some of these cases, it has been reported that the individual has been charged for an assault as a result of ‘lashing out’ at the police officer attending the callout, due to fear, distress, or an involuntary trauma response.

We would therefore recommend that the Council add an additional mitigating factor of “history or experience of domestic abuse, where linked to the commission of the offence”.

Equal Treatment Bench Book

Clear links should be provided throughout the guideline to the relevant sections of the Equal Treatment Bench Book to support consistent decision making.

4. Do you have any comments on the equality and diversity issues relating to the proposed guidelines?

Women

Evidence suggests that offences under Assaults on Emergency Workers (Offences) Act 2018, s.1 disproportionately affect women. In 2024, 8% of all immediate prison sentences given to women were for this offence.²² Anecdotal evidence suggests many of the women sentenced under this legislation are done so whilst in crisis. This was reflected in the final report from the Independent Sentencing Review.²³

“Evidence from stakeholders indicated that AEW incidents often involve women who are neurodivergent, victims of domestic violence or have mental health conditions. Staff at a Women’s Centre observed that women are often charged with AEW after police are called to perform a welfare check on an individual, as AEW charges can be brought for shouting threateningly if the emergency worker believes they are going to be harmed.”

There is very little evidence that criminal sanctions in these cases will deter crime. A person who has committed an assault whilst in crisis is particularly unlikely to be deterred by these sanctions.²⁴

²¹ Norris, S. (2025). *Hundreds of domestic abuse victims face jail under new law*. openDemocracy. <https://www.opendemocracy.net/en/domestic-abuse-victims-criminalised-tory-law/>

²² Ministry of Justice. (2025). Outcomes by Offence Data Tool. Criminal Justice System statistics quarterly: December 2024.

²³ Gauke, D. (2025). *Independent Sentencing Review: Final report and proposals for reform*. Ministry of Justice. p.100. https://assets.publishing.service.gov.uk/media/682d8d995ba51be7c0f45371/independent-sentencing-review-report-part_2.pdf

²⁴ Ratcliffe, F., Kimmons, A. & Gibbs, P. (2022). *Protecting the protectors? Do criminal sanctions reduce violence against police and NHS staff?*. Transform Justice. p.25. <https://www.transformjustice.org.uk/wp-content/uploads/2023/02/Protecting-the-protectors-Do-criminal-sanctions-reduce-violence-against-police-and-NHS-staff.pdf>

The Independent Sentencing Review has recommended “a study of the impact and consequences of the Assault on Emergency Workers legislation”.²⁵ In response to a recent parliamentary question, the government said it was “continuing to consider how we take forward the ISR’s recommendations that do not require legislation”.²⁶

Given the well evidenced disproportionate impact, we urge the Council to monitor the impact of this new guideline on women and work with other criminal justice partners such as the judicial college, to ensure that the possible factors underlying these disproportionate outcomes are properly addressed, for instance through the delivery of better training and guidance to sentencers.

People from black and minority ethnic backgrounds

People from Black and minority ethnic backgrounds are overrepresented many stages of the criminal justice system²⁷, and are more likely to be stopped, detained and arrested by police.²⁸ Black people have also been disproportionately affected by this offence type, accounting for 8.8% of those convicted for assault on an emergency worker, compared to 3.3% of the general population.²⁹

The proposals to increase the sentence range for assault on an emergency worker from 12 months to two years in custody in the Police, Crime, Sentencing and Courts Act resulted in a number of charities raising concerns about the disproportionate impact this was likely to have on people from Black and minority ethnic groups.³⁰ Agenda Alliance found that assaults on emergency workers was the most common offence which resulted in Black young women aged 18–24 being sent to custody, making up 17% of offences.³¹

Whilst the impact assessment does not suggest there is likely to be a disproportionate impact on people from these backgrounds for this offence type, we are concerned that this is based on data from the Council where ethnicity was not known in 32% of cases. For the Council to have a proper grasp on how the guideline is likely to affect those from minority ethnic groups, there needs to be more

²⁵ Ministry of Justice. (2025). *The Independent Sentencing Review: Final Report*. p.100.

²⁶ House of Lords written question HL14935, 11 March 2026. <https://questions-statements.parliament.uk/written-questions/detail/2026-02-26/hl14935>

²⁷ Ministry of Justice. (2024). *Statistics on Ethnicity and the Criminal Justice System 2022*. <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022/statistics-on-ethnicity-and-the-criminal-justice-system-2022-html>

²⁸ See Institute of Race Relations. (2025, August 18). *Criminal Justice system statistics*. <https://irr.org.uk/research/statistics/criminal-justice/>

²⁹ Home Office. (2023). *Assault on emergency workers in the Police, Crime, Sentencing and Courts Bill: Equalities Impact Assessment*. <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-equality-statements/assault-on-emergency-workers-in-the-police-crime-sentencing-courts-bill-equalities-impact-assessment>

³⁰ See <https://www.criminaljusticealliance.org/wp-content/uploads/Ten-ways-the-PCSC-Bill-will-entrench-racial-inequality-FINAL.pdf>

³¹ Agenda Alliance. (2021). *House of Lord Briefing for Second Reading of the Police, Crime, Sentencing and Courts Bill*. p.4. https://www.agendaalliance.org/documents/38/PCSC-Bill-HoL-2nd-Reading-Briefing_final-2.pdf

consistent data collection, as recommended by the Lammy Review.³² We therefore recommend that the Council works with other criminal justice agencies to improve the consistency and accuracy of data collection on race.

Offender

We are concerned with the continued use of the word offender in the draft guidelines. The use of this term is widely recognised as stigmatising and dehumanising, and other agencies have taken steps to reduce its use. The probation service, for example, has moved away from the term offender to more “descriptive, neutral, person-centred language”, including “person on probation”.³³ Therefore we would recommend the Council considers changing references to offender in the guideline.

We would suggest the new wording could be “**person being sentenced**”.

5. Do you have any other comments on the proposed guideline for Assault PC offences?

The interaction between this guideline and recent legislative changes, including the presumption to suspend short custodial sentences in the Sentencing Act 2026³⁴, should be explicitly considered as part of any impact evaluation of the guideline. Whilst the resource assessment of the guideline suggests a limited impact on the probation service, this may have underestimated pressures on the service arising from the increased use of community supervision as a result of the provisions of the Sentencing Act.

³² Lammy, D. (2017). *The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*. <https://www.gov.uk/government/publications/lammy-review-final-report>

³³ See: <https://static1.squarespace.com/static/5ec3ce97a1716758c54691b7/t/60d9c35377db0f12778bd351/1624884051251/Language+policy.pdf>

³⁴ See <https://prisonreformtrust.org.uk/presumption-to-suspend-short-sentences-comes-into-force/>