

Name

Jt Faiths Board on Community Justice

Publication consent

Publish response with name

Q1) Do you agree or disagree with the Council’s approach to the distinction between a ‘principle’ and a ‘purpose’ of sentencing?

Agree

Please provide any reasons for your response.

completely separate terms

Q2) Should there be an overarching principle of “fairness and proportionality”?

No, there should not be an overarching principle

Please provide any reasons for your response.

not at all sure about fairness -seems highly subjective and difficult to define or explain in any meaningful way -am very surprised this is being proposed

proportionality is an important concept although also open to challenge -used in any other arenas and well accepted as foundation on which to build

at the risk of being pedantic and raising an unproductive debate about grammar but is principle not essentially a singular term? Should 'fairness and proportionality' not be seen for what they are as 2 separate principles?

I think sentencing is highly complex and justifies more than one principle

Q3) Are the supporting principles which underlie the overarching principle of fairness and proportionality (as listed at paragraph 2(i)-(vi)) appropriate?

Yes

Please provide any reasons for your response.

pleased also about what is not there:

- 1 no reference to deterrence and sending out a message
2. no reference to using prison as a place of respite

Q4) Are the supporting principles expressed clearly and accurately?

Yes

Please provide any reasons for your response.

slight concern under 3 use of the term 'treating'. Suggest this term is not used because of its medical overtones

Q5) Are there any other supporting principles which should be included at paragraph 2?

see 3 above -hope there is no pressure to include these

Q6) Do you agree or disagree with the approach to the purposes of sentencing as set out at paragraph 4 of the draft guideline?

Disagree

Please provide any reasons for your response.

as above fairness is a subjective term. It is unlikely that on many occasions both the victim(s) and the offender will agree that a sentencing decision is fair.

Is the real question whether society considers the sentence in question as 'fair'. Very few cases will register with the public and surveys suggest broadly the public do not know at all accurately what sentences are given for a range of crimes.

Q7) Are the purposes as listed at paragraph 5(a)-(d) appropriate?

No

Please provide any reasons for your response.

concern re 5 b (ii) not clear what 'preventative measures' means. there is a question about how 'legal' such measures may be. I can only think of the OLR sentence here and this is for a tiny number of very extreme cases. if this is being retained I think at the very least 'serious violent ' should be added before crime disappointed at deterrence being slipped in here -see comments above. The Sentencing Council should be examining the latest research on deterrence. They should be evidence led and be consistent and upfront i.e. either deterrence is a stated principle or not On a personal basis based on 38 years experience of working with and listening to prisoners deterrence is not part of their vocabulary and mind-sets. Controversially I would suggest statements around deterrence made by certain sentencers and police are essentially a 'feel good' response tapping into a perceived public concern or moral panic

Q8) Are the purposes expressed clearly and accurately?

No

Please provide any reasons for your response.

concern about d. This seems to be a link to restorative justice and restorative principles. If so this is very welcome. Ideally the term restorative should be included. Language such as 'repairing' is helpful and appropriate but not consistent with 'requiring' as process here must be voluntary for all parties.

Q9) Are there any other purposes which should be included?

no

Q10) Do you agree or disagree with the approach set out at paragraph 6 of the draft guideline in relation to the efficient use of public resources?

Agree

Please provide any reasons for your response.

I think the debate here is about what does 'early' and 'recognised' mean?

Also early pleas can help the victim and can surely be justified on that basis. This argument will resonate more with the public than inevitably vague references to efficiency.

Q11) Is it appropriate to consider efficient use of public resources during the sentencing process?

Yes

Please provide any reasons for your response.

'consider' is a very 'soft' term. Appreciate this is a controversial area and needs to be handled with due care. Sentencers may view this as tantamount to government interference. However as a principle surely it is acceptable for all public servants to take into account the use of public resources. The term used 'consider' is mild and should be acceptable to all but at some point the debate will need to move on and be more specific.

Interesting to note the other document draft impact assessment para 22 presumes any additional costs 'would be minimal'. There are IT solutions to some problems such as para 23 but require up front capital investment and senior commitment for the Justiciary and the Crown plus an exceptional level of and commitment to partnership working and project management . It will be a major step forward if the SSC accepts this area is within their remit.

Another example is use of remand which is arguably an inefficient use of public resources especially when imprisonment is used for a small percentage of those remanded. Accept use of remand may not be viewed as part of the sentencing process but an interesting example.

Q12) Do you agree or disagree that the guideline would lead to an increase in public understanding of how sentencing decisions are made?

Agree

Please provide any reasons for your response.

my agreement is tentative. This will surely depend on the scale and style of the communication process which will accompany its publication and to what extent it is endorsed or criticised by criminal and community justice agencies, the voluntary sector and politicians.

How will an 'increase' be measured and when?

Q13) Do you agree or disagree that the guideline would lead to an increase in public confidence in sentencing?

Agree

Please provide any reasons for your response.

it will help but as above will need to be launched carefully and effectively. Also the publication by itself should be not be seen as one-off box ticked exercise. Ongoing work will be required and should be planned for and resourced.

Q14) What costs (financial or otherwise) do you see arising from the introduction of this guideline, if any?

there will be the financial costs of publication whatever forms that will be utilised including hard copies and social media dissemination.
Depends whether this is seen as a one-off launch or not.
I would suggest all SSC members commit to a variety of initiatives to encourage awareness and understanding. There should be road shows and stakeholder events

Q15) What benefits do you see arising from the introduction of this guideline, if any?

Could and should improve delivery of justice and help inform public opinion but depends on the substance of the guideline as well as its acceptance and positive endorsement by everyone involved.

'benefits' to whom, when and how will they be measured?

As always there are more questions than answers especially at this early stage.

Q16) Would you like to make any other comments in relation to any matter arising from this consultation?

This consultation is most welcome but could have been enhanced by greater clarity and detail.

This is difficult to raise as arguably not part of sentencing but wonder if the SSC is going to look at the use of remand in custody. There is a widespread perception that some Sheriffs use remand as a punishment i.e. as a sentence and the SSC will be aware a relatively small number of those remanded receive a custodial sentence. This may well be outwith the SSC remit but this practice is long-standing, generally denied and not subject to any form of scrutiny or investigation. This is offered more in hope than expectation.