

**Name**

**Publication consent**

Publish response only (without 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.**

**Q2) Should there be an overarching principle of "fairness and proportionality"?**

Yes

**Please provide any reasons for your response.**

Fairness and proportionality are not evident in our Judiciary due to the manner in which cases are managed. Defenders left to exist in limbo, often for years is neither fair nor proportionate in many cases.

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

No

**Please provide any reasons for your response.**

Not sufficient to address the unfairness many defenders endure.

**Q4) Are the supporting principles expressed clearly and accurately?**

Yes

**Please provide any reasons for your response.**

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

Consideration of all the available facts and evidence at the time of setting bail conditions and sentencing would avoid defenders

- being pressured into pleading guilty when indeed they are not guilty
- being traumatised by their bullies' false allegations to then be put through horrendous experiences
- being left homeless for over one year and counting, having to endure multiple court appearances for witnesses to repeatedly claim at the 11th hour they are unable to attend and shockingly having to undergo major surgery and radiotherapy whilst in this homeless position
- defenders with mental health issues being criminalised and/or traumatised
- xxxxxxxx

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

Agree

**Please provide any reasons for your response.**

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

Yes

**Please provide any reasons for your response.**

**Q8) Are the purposes expressed clearly and accurately?**

Yes

**Please provide any reasons for your response.**

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

Clear limit to the number of times a case is continued as the stress of multiple continuances over months and in some cases years impacts upon stress and/mental health.

**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?**

Disagree

**Please provide any reasons for your response.**

The 'haggling' concept of early pleas has led to innocent people pleading guilty due to ignorance/stress/fear/mental health issues and such like.

Better case management and all available facts and evidence being considered prior to deciding to take cases to trial would save both the public purse and the accused from unnecessary costs and stress.

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

Yes

**Please provide any reasons for your response.**

Summary justice? Good use of public purse?

Sixty-six per cent of sheriff court trials have been adjourned in the past five years because of a lack of court time.

Data from the Scottish Courts and Tribunals Service (SCTS) indicated that between 2011-12 and 2015-16 the number of trials adjourned because of a lack of time rose sharply, from 2,141 to 3,560.

The figures comprise 3,218 summary trials, which jumped from 1,908 and 342 solemn trials, which rose from 233 – increases of 69 and 47 per cent respectively.

The number of trials postponed by prosecutors also saw an increase. Summary trials adjourned following motions from the Crown Office and Procurator Fiscal Service (COPFS) went up by 32 per cent to 8,387, while the number of solemn trials adjourned at the request of the Crown more than doubled, reaching 1,572.

Trials adjourned following defence motions also increased – by 28 per cent in summary trials and 50 per cent in solemn ones, meaning figures of 5,243 and 501 respectively.

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

Disagree

**Please provide any reasons for your response.**

Past consultations, reports and reforms have looked good on paper but in practise the old adversarial and terrifying procedures, language etc remain.

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

Disagree

**Please provide any reasons for your response.**

As above

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

Administration and excessive state personnel salary.

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

None if the past reforms impact are the benchmark.

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

I have lost all good faith that our justice system exercises the Rule of Law or treats everyone fairly and accused persons are innocent until proven guilty is a myth.

My experience of the wholly disproportionate decisions of the court in view of the evidence it was provided has shocked all who have viewed same. To remove a disabled, middle aged woman with mental health issues for which she was being treated at the time of said decisions, from her privately owned home and deny her the use of her disability adaptations which she paid for herself, after being provided evidence that her accusers were actually bullying her and she was in the midst of putting her home on the market to flee said bullying is neither just nor proportionate. Furthermore, that said judicial decision to remove someone from their home based on allegations of one person that are neither criminal nor violent in nature but indeed, vexatious is neither just, proportionate nor humane.

The stress of multiple arrests, court appearances homelessness, etc upon allegations that her accusers are distressed shocks those aware that her accusers were indeed bullying her and the state did nothing to help her, albeit were provided evidence. Indeed said woman's mental health treatment was stopped, she slept

rough for months throughout the first winter, she remains homeless more than a year later due to witnesses unavailability, has recently had a double mastectomy and embarking on a course of radiotherapy, was unable to sit her exams after four years of study, is unable to help her 77 year old mother care for her 80 year old father who now has to be placed in a hospice and every three months her chance to be tried and have her situation considered is continued. That is neither just, fair nor proportionate in a peace-time democratic society.

No amount of consultation will want me to continue living in a society where the state not only allows, but adds to, such bullying and suffering of one individual to the extent the individual struggles with suicidal thoughts.

I exist solely to clear my name.