

Name

Chris Ross

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?

Disagree

Please provide any reasons for your response.

The issue for me is that the principle is part of the purpose. The explanatory narrative states that 'For example, a principle of sentencing might be that all sentences should be fair' - this is stating the obvious and does it really need explained? Any judge should always try and achieve fairness and proportionality, so these are both principles and purposes.

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

Yes

Please provide any reasons for your response.

As per comment re Q1 - these can be considered purposes too.

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.

2(i) - I think the 'impact on the victim' aspect should be a standalone supporting principle as my perception is that this is not currently given enough weight when arriving at sentencing decisions. For example, a burglary may not be considered to be a serious offence but it is more likely to have a significant impact on an elderly person living alone than on a young couple living together. My concern is that this factor will be mitigated if 'impact on the victim' is just one of at least three factors within one principle. In addition, the way the supporting principle is currently written, it does not give an indication as to the relative influence of the component factors -

'impact on the victim' should be given a much higher weighting in a sentence than 'circumstances of the offender' but this is not apparent at present.

2(ii) Only comment here is that I think the offender's previous criminal record should also be a factor in sentencing - e.g. a burglary carried out by John might be similar to another burglary carried out by Tom in respect of seriousness and victim impact, but if John has 10 previous convictions and Tom has none then John should be given the longer sentence as he is clearly not being rehabilitated.

2(iii) Concern here is that 'severe' is highly subjective - what is severe to one judge may not be severe to another - although I realise that 2(ii) should help to address this.

2(iv) - OK

2(v) and 2(vi) - state the obvious

Q4) Are the supporting principles expressed clearly and accurately?

No

Please provide any reasons for your response.

See response to Q3

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

a) Expand on 'circumstances of the offender' in 2(i) to include narrative such as (e.g. previous criminal record)

b) Perhaps incorporate 'impact on the victim's family' too, particularly relevant when children are victims.

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.

Question here relates not to para 4, but the following comment included within the Consultation document itself, under 'Purposes of sentencing' on p15:

'None of the purposes listed are more important than others'

I don't understand this sentence - surely the 'Reduction of Crime' purpose is by far

the most important - particularly when compared to 'Giving the offender the opportunity to make amends'?

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?

No

Please provide any reasons for your response.

5a - ok

5b - would have 5b(ii) as a separate purpose, not as a component of a larger one.

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.

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

Yes

Please provide any reasons for your response.

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.

Subject to clarifications arising from earlier comments.

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.

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

Can't think of any significant ones.

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

Transparency of sentencing for the public; a lessening of the perception that judges are 'out of touch'; more appropriate sentences if victim impact is considered more

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

No