

The sentencing process

A Scottish Sentencing Council consultation

June 2019

Website: www.scottishsentencingcouncil.org.uk

Email: sentencingcouncil@scotcourts.gov.uk

Contents

Chair's foreword	page 3
Responding to this consultation	page 5
Introduction	page 6
Part 1	
Developing the guideline – rationale and approach	page 9
Part 2	
The draft guideline explained	page 11
Annex	
Consultation questions	page 27

Chair's foreword



The Scottish Sentencing Council was established in October 2015 as an independent advisory body to promote consistency in sentencing, including through the preparation of sentencing guidelines for the courts.

In our first business plan we set out our priorities for the Council. As part of that we indicated that, as a first step, we would develop guidelines on the general principles and purposes of sentencing, and on the sentencing process: a commitment which we reaffirmed in our second business plan, published in October of last year.

The first of these guidelines, 'Principles and purposes of sentencing', was approved by the High Court in October 2018, and came into force in November 2018. I am now pleased to introduce this public consultation on the Council's second draft guideline, 'The sentencing process'. This guideline seeks to set out the various steps taken by judges in making a sentencing decision, and factors which may be taken into account.

Our intention is that these first two guidelines will provide a framework for every sentencing decision in Scotland, as well as informing the development of a further general guideline, on the sentencing of young people, and providing a basis on which to develop future offence-specific guidelines. In addition, it is our hope that these guidelines will promote consistency in approach, and help to explain to the public how sentencing decisions are made.

This draft guideline has been developed following research and discussion with stakeholders, with a particular focus – given the subject of the guideline – on engagement with the judiciary. However, we regard it as vital that we seek and obtain the widest possible range of views on our guidelines before finalising them. For that reason, one of the Council's very first decisions was to conduct a full public consultation on all of our guidelines. By participating in this consultation exercise, therefore, you will be playing an important part in

the development of our second guideline. This will help to ensure that it is of use to the courts, to all court users, and to the public in general.

I hope that you take the time to consider and respond to this consultation, and I look forward to receiving your views.

Rt. Hon. Lady Dorrian
Lord Justice Clerk and Chair of the Scottish Sentencing Council

Responding to this consultation

Responses to this consultation are welcomed by **23:59 on 06 September 2019**.

Responses should be submitted electronically at:

<https://consultations.scottishsentencingcouncil.org.uk/ssc/the-sentencing-process>.

If you cannot respond online, please contact the Scottish Sentencing Council to discuss alternative arrangements. The Council can be contacted by email at:

sentencingcouncil@scotcourts.gov.uk or by mail at:

Scottish Sentencing Council
Parliament House
Parliament Square
Edinburgh
EH1 1RQ

The Scottish Sentencing Council will publish the responses it receives, except where respondents request confidentiality. Where confidentiality is sought it should be noted that the Scottish Sentencing Council is subject to the Freedom of Information (Scotland) Act 2002 and may be required to release some information if requested.

If you have any questions about the consultation process, or encounter any difficulties with the online response form, please contact us by email at:

sentencingcouncil@scotcourts.gov.uk or by phone on 0300 790 0006.

Introduction

The Scottish Sentencing Council

The Scottish Sentencing Council was established in October 2015.¹ It is chaired by the Lord Justice Clerk, the Rt. Hon. Lady Dorrian, and is made up of judicial, legal, and lay members.²

The Council has three statutory objectives. In carrying out its functions, it must seek to:

- promote consistency in sentencing practice
- assist the development of policy in relation to sentencing
- promote greater awareness and understanding of sentencing policy and practice

Our main responsibilities include:

- preparing sentencing guidelines for the Scottish courts
- publishing guideline judgments issued by the Scottish courts
- publishing information about sentences imposed by the Scottish courts

We also publish information about sentencing, carry out research into sentencing, and provide advice and guidance of a general nature on sentencing matters.

Our current business plan, for the period 2018-21, is available on our website. It has more information about our work programme.³ The Council's website also contains a [jargon buster](#) which may be helpful in explaining some of the terms used in this consultation.

¹ The Council was established under Part 1 of the [Criminal Justice and Licensing \(Scotland\) Act 2010](#).

² <https://www.scottishsentencingcouncil.org.uk/about-us/membership-and-recruitment/>

³ <https://www.scottishsentencingcouncil.org.uk/media/1926/scottish-sentencing-council-business-plan-2018-21.pdf>

Developing sentencing guidelines

A key part of our role in promoting consistency is to prepare sentencing guidelines for the Scottish courts. These guidelines must be approved by the [High Court of Justiciary](#) before they have any effect. When sentencing an offender, a court⁴ must have regard to any relevant sentencing guidelines in relation to the case. If a court decides not to follow the guidelines, the judge must state the reasons for that decision.

Sentencing guidelines can be general and cover all offences. Or they can be more specific and cover a particular offence or group of offences.

As a first step, we have decided to prepare a set of three general guidelines. We held a public consultation on our first guideline, '[Principles and purposes of sentencing](#)', in summer 2017. It was approved by the High Court in October 2018 and took effect in November 2018.

This consultation asks about our second proposed guideline, setting out the sentencing process. The guideline explains the steps taken by courts when they decide what sentence should be imposed, and the various [factors](#) that they consider.

And we are preparing another general guideline, on the sentencing of young people, to reflect the complexities in dealing with such cases.

In addition to these introductory guidelines, we announced in our business plan our intention to develop guidelines which apply to particular offences. We expect that the first of our offence guidelines will relate to offences of causing death by driving. Further information about the guidelines we are developing, and the way in which we do that, can be found on our [website](#).

⁴ The word "court" is used in this consultation paper and in the guideline to include judges in the High Court, sheriffs principal, sheriffs, summary sheriffs, and justices of the peace, when presiding over a court.

Approval process and consultation

Sentencing guidelines developed by the Council must be approved by the [High Court of Justiciary](#) before they apply to decisions about sentencing. Before submitting a guideline for approval, we must publish a draft of the proposed guideline. We also have to publish a draft impact assessment setting out our views on the likely impact, costs, and benefits of the guideline.

We must also consult on all of our guidelines. We are required to consult the Scottish Ministers, the [Lord Advocate](#), and anyone else we consider should be consulted. We are keen to hear from all those who want to comment on a guideline. We aim to engage with as wide and diverse an audience as possible in developing our guidelines to ensure that they are fit for purpose. This includes the wider public as well as criminal justice organisations, charities, and other organisations which have an interest in the guideline. With this in mind, we intend to consult publicly on all our draft guidelines.

Consultation exercise on the sentencing process guideline

This consultation exercise seeks your views on the draft guideline on the sentencing process, which can be found at:

<https://consultations.scottishsentencingcouncil.org.uk/ssc/the-sentencing-process>.

Part 1 of the consultation paper sets out the reasons why we have developed a guideline on the sentencing process, and provides an outline of the approach we are taking.

Part 2 explains the various parts of the draft guideline, and sets out the consultation questions in context.

A list of all the consultation questions can be found at the **Annex** to this consultation paper. The consultation should be completed online at:

<https://consultations.scottishsentencingcouncil.org.uk/ssc/the-sentencing-process>.

Part 1: Developing the guideline – rationale and approach

Why are we developing this guideline?

On a daily basis, criminal courts throughout Scotland impose sentences on offenders. However, the sentencing process itself is not always fully understood by the public. We therefore believe that a guideline on the sentencing process will help to increase public knowledge and understanding of how courts make sentencing decisions. We think that it will help to promote greater consistency in sentencing, by providing a useful framework which applies to all sentencing decisions. And it will also provide the foundation for future guidelines dealing with specific offences.

This guideline is the second in a set of three general guidelines. The first, outlining the principles and purposes of sentencing, was approved by the High Court in October 2018. The sentencing process guideline complements the principles and purposes of sentencing guideline, and courts should have regard to both when sentencing. We are currently developing the third guideline, on sentencing young people, and intend to consult on that before the end of 2019.

The Council is also working on offence guidelines. These will provide more detailed guidance on sentencing for particular offences. It should not be necessary in offence guidelines to repeat the terms of the sentencing process guideline. This will allow later guidelines to be concise and easy to refer to.

Where there is no guideline on a particular offence, the sentencing process guideline will provide a clear framework for the sentencing decision. The Council believes that this is one of the key benefits of issuing general guidelines as a first step. Offence guidelines, by their very nature, will apply only in select circumstances. It is our view that a set of general guidelines will lead to a consistency in approach, and greater consistency in sentencing, across all cases.

How we have developed this guideline

We developed the draft guideline with four particular aims in mind:

- to increase transparency by improving public understanding of the sentencing process
- to promote consistency in sentencing
- to reflect and build upon the approach that courts follow in practice
- to be useful to judges and legal practitioners

The guideline is expressed as clearly and simply as possible. It is not intended to cover every possible situation. We have also provided explanations of concepts wherever possible.

The guideline has been developed following research and discussion with stakeholders, which helped inform its structure and content. In particular, we have undertaken direct research with judges across Scotland, consulting them on what this guideline should contain. We have also tested different versions of draft offence guidelines to assess what best reflects the approach of Scottish judges, and what might be most useful to them.

Part 2: The draft guideline explained

The guideline will apply to all sentencing decisions. It sets out, in a table, an eight-step process for the sentencing of an offender. The guideline then provides further explanation of all of the steps.

Steps 1 to 4 apply in all cases. They deal with the decision about the most appropriate sentence taking into account the circumstances of the offence, the offender, and the harm experienced by any victim. Under these steps a court will arrive at the headline sentence (the starting point before any consideration of other factors which might affect the final sentence, such as a plea of guilty or time already spent in custody) as follows:

Step 1 – assess the seriousness of the offence

Step 2 – select the sentencing range

Step 3 – consider any aggravating and/or mitigating factors which may affect the sentence

Step 4 – determine the headline sentence

Steps 5 to 7 deal with other considerations. These steps will not apply in every case. Under these steps a court should consider whether to adjust the sentence, or to make any further orders, as follows:

Step 5 – where the offender pled guilty, take that into account in deciding what sentence to impose

Step 6 – have regard to any time already spent in custody while awaiting trial or sentence

Step 7 – make any ancillary (additional) orders that may be imposed alongside the headline sentence

The final stage of the sentencing process as set out in the guideline is:

Step 8 – select the sentence, stating reasons for the sentence, and for any decision not to follow any applicable guideline.

The process described in the guideline reflects the approach courts should adopt when sentencing. However, the sentencing decision sometimes needs to be made swiftly. This will often be the case in less serious summary offences – cases which come before a sheriff sitting without a jury, or a justice of the peace.

In practice, many judges pass sentence on a regular basis and build up considerable experience in taking these decisions. It may therefore sometimes appear as if all the relevant factors are being given simultaneous consideration rather than on a step-by-step basis. The guideline reflects this by explaining that “where a court does not expressly take any step or steps, that does not in itself amount to a decision not to follow the guideline”.

The consultation first asks questions on the individual steps set out in the guideline. Questions on the overall approach and potential impact of the guideline are asked at the end.

Step 1: assessing the seriousness of the offence

Step 1 requires the court to consider how serious the offence is, in general terms, and in the particular circumstances of the case. We see this assessment of seriousness as fundamental to the sentencing decision, as it enables the court to select an appropriate sentencing range. This is the range of sentences within which the appropriate headline sentence for the offence appears to fall, having regard to the assessment of seriousness. The court can then go on to consider other factors which may affect the final sentence.

Guidance is provided on how to assess the overall seriousness of an offence. This is to be done by assessing how culpable (blameworthy) the offender was in committing the offence

and how much harm, or risk of harm, there was to any victim(s), or to anyone else affected by the offence.

The guideline explains the concepts of culpability and harm, and how they should be evaluated to determine the seriousness of the offence. As either or both culpability and harm increase, so may the seriousness of the offence.

The guideline states that factors which aggravate and mitigate the severity of the sentence (whether in length or type of sentence) are to be considered at step 3 of the guideline. They should not be included in the initial assessment of seriousness. This is to avoid double-counting individual factors, and giving them undue weight when arriving at the overall sentence. To do so could make the sentence disproportionate.

Q1) Is the guidance on assessing seriousness - by reference to culpability and harm - helpful?

- Yes
- No

Please provide any reasons for your answer.

Q2) Is the approach to avoiding double-counting set out in the guideline appropriate?

- Yes
- No

Please provide any reasons for your answer.

Step 2: select the sentencing range

The second stage in the sentencing process is to select an appropriate sentencing range from the sentencing options available. The guideline provides that, when selecting the sentencing range, courts should have regard to:

- any relevant guideline judgments (this term is explained in the guideline)
- any relevant legislation, including any maximum and minimum sentence set out in law, the powers of the court, and any statutory presumptions relating to sentencing
- any relevant sentencing guideline

These provisions, generally, reflect the current position. Courts are already required to have regard to applicable sentencing guidelines⁵ and relevant guideline judgments, and can only competently impose sentences which are within the court's powers. They are also required to take account of statutory presumptions – such as, for example, the presumption against short term prison sentences in section 204 of the Criminal Procedure (Scotland) Act 1995.

At the time of writing, the Scottish Government is proposing to increase the period of imprisonment to which the presumption will apply, which would significantly widen the circumstances in which courts will have to consider it. Should the extension be agreed by the Scottish Parliament it is likely that, before finalising the guideline, the Council will give further consideration to whether the presumption should also be considered at a later stage in the sentencing process, for instance to take account of any reduction in sentence applied at step 5.

Step 3: aggravating and mitigating factors

Step 3 deals with aggravating and mitigating factors. Aggravating factors are facts and circumstances which may lead to the offence being regarded as more serious for sentencing purposes. Mitigating factors, including factors personal to the offender, may lead to a less severe sentence being imposed.

⁵ [Criminal Justice and Licensing \(Scotland\) Act 2010, section 6](#)

It explains how taking these factors into account may affect the sentence. Examples of the kinds of aggravating and mitigating factors which might arise most often are listed respectively at **Annexes A and C** of the guideline. Offence guidelines, when in force, may provide further examples of aggravating and mitigating factors which are specific to particular offences.

The aggravating and mitigating factors are not listed in any order of priority, and are general. The lists are not exhaustive - other aggravating and mitigating factors, either general or specific, may apply in any given case.

The examples listed are not limited to the circumstances of the offence. They also include personal factors, such as whether the offender has previous relevant convictions (an aggravating factor) or is, otherwise, of previous good character (a mitigating factor).

A list of common statutory aggravations is provided at **Annex B** of the guideline. These are factors set out in legislation as matters that increase the seriousness of the offence. The court must take these factors into account when deciding sentence.

Further explanation on the aggravating and mitigating factors listed in the guideline, and why they might affect a sentence, is provided below. (The factors listed below are grouped by theme, and therefore are not always in the same order as in the guideline itself.)

Aggravating factors

- **The offence was committed whilst the offender was on licence**
- **Any relevant previous conviction(s) which the offender has, particularly where they disclose a pattern of repeat and/or similar offending**

These factors do not increase the seriousness of the offence in itself. But if an offender has committed similar offences previously, or is on licence at the time of offending, this makes the commission of the offence more serious. A court will therefore usually consider it

appropriate to take account of the offender's relevant criminal history, and how they have responded to previous sentences.

- **The offence was committed after careful planning or premeditation**
- **The offender was operating in a group or gang**
- **The deliberate targeting of a victim who is vulnerable or perceived to be vulnerable**
- **Steps taken to prevent the victim reporting/obtaining assistance and/or from assisting the prosecution**
- **Commission of the offence for financial gain (where this is not an inherent part of the offence itself)**
- **An attempt to conceal or dispose of evidence**
- **The offence was committed whilst under the influence of drink or drugs**
- **Abuse of power or a position of trust**

These factors may indicate increased culpability on the part of the offender. For example, where a person commits an offence as part of a group or gang, this may have involved communication and organisation between the members of that group. When an offender was under the influence of drink or drugs at the time of the offence, they have knowingly taken something that is likely to affect their judgement, and may have behaved carelessly or recklessly as a result.

- **The presence of others, for example the children or partner of the victim**
- **Deliberate degradation or humiliation of a victim**
- **Multiple victims**
- **A sustained offence or repeated offences against the same victim**
- **An especially serious physical or psychological effect on the victim, even if unintended**
- **In property offences, high value (including sentimental value) of property to the victim, or substantial consequential loss (e.g. where theft or equipment causes serious disruption to a victim's life or business)**
- **Use of a weapon to frighten or injure a victim**

These factors may indicate increased physical or psychological harm resulting from an offence. For example, when a crime is committed in the presence of others who are not victims of the offence, this may indicate that greater harm has been caused because additional people have been affected by witnessing the offence.

- **An offence against a public official which arises out of the victim's status as a public official**

Offences against public officials may be treated more seriously to reflect the greater level of harm, or risk of harm, to society that such offences may cause.

Mitigating factors

- **Mental illness or disability on the part of the offender, especially where linked to the commission of the offence**
- **The offender had been provoked at the time of committing the offence**

This may indicate reduced culpability on the part of the offender.

- **The likely effect of the sentence on the offender or their family: for example, the offender is the primary or sole carer of any dependants, and a sentence of imprisonment would result in the offender's children being taken into care**

A sentence may have a negative impact on people other than the offender, such as a child for whom the offender has caring responsibilities. When this is the case a court may decide to pass a different sentence in order not to have a disproportionate effect on someone who is not an offender.

- **Cooperation with authorities: for example, voluntary surrender or assistance to the police or prosecution**
- **The offender is remorseful, and/or has been affected significantly by the offence**

- **The offender has demonstrated determination/motivation to address his or her personal problems and to change their offending behaviour, including addressing any drug, drink or mental health issues**
- **Previous good character; no previous, or recent, relevant convictions; otherwise exemplary conduct**

Treating these elements as mitigating factors may recognise the offender's otherwise good character, their acknowledgment of their actions, or steps they may have taken to address their offending behaviour. It may also encourage such behaviour in the offender, or in other offenders in a similar position.

- **The offender is in, or has good prospects of, employment**

Some sentences, particularly sentences of imprisonment, may result in the offender losing their job, or being unable to take up an offer of employment. Depending on the circumstances, this may sometimes be considered disproportionate. In addition, the fact of being in employment may assist an offender in dealing with their offending behaviour.

Q3) Is the guidance on aggravating and mitigating factors helpful?

- Yes
- No

Please provide any reasons for your answer.

Q4) Are the aggravating factors set out in Annex A of the guideline appropriate?

- Yes
- No

Please provide any reasons for your answer.

Q5) Is it helpful to include the statutory aggravations at Annex B of the guideline?

- Yes
- No

Please provide any reasons for your answer.

Q6) Should any additional aggravating factors (statutory or non-statutory) be listed?

- Yes
- No

Please provide any reasons for your answer. If answering 'Yes', please indicate what additional factors should be listed.

Q7) Are the mitigating factors set out in Annex C of the guideline appropriate?

- Yes
- No

Please provide any reasons for your answer.

Q8) Should any additional mitigating factors be listed?

- Yes
- No

Please provide any reasons for your answer. If answering 'Yes', please indicate what additional factors should be listed.

Step 4: determine the headline sentence

Step 4 provides that, having considered the seriousness of the offence and any aggravating and mitigating factors which might apply, the court should then select the “headline sentence”. This is the appropriate sentence before any adjustment as a result of steps 5 to 7 of this guideline – this might include, for example, a reduction in the sentence because the offender has pled guilty.

This step also covers the situation where a court has to impose a sentence for multiple offences. This could be because the offender was prosecuted for several offences during one course of conduct. Or it could be because the offender has been convicted in several different cases, and is being sentenced for all of the offences at the same time.

When sentencing for multiple offences, the guideline provides that the court should consider the totality of the sentences being given, and in particular whether the sentences should be:

- served at the same time (concurrently), or
- served one after the other (consecutively).

The court may also consider whether an overall sentence should be given covering all of the offences on a single complaint or indictment. This is known as a “cumulo” sentence.

The guideline explains these different options for sentencing multiple offences. It provides that, in all such cases, the court should consider whether the *overall* headline sentence still reflects the general principles of sentencing. The total sentence must, in particular, still be fair and proportionate.

Q9) Is the guidance on selection of the headline sentence helpful?

- Yes
- No

Please provide any reasons for your answer.

Q10) Is the guidance on multiple offending helpful?

- Yes
- No

Please provide any reasons for your answer.

Step 5: take into account a plea of guilty

By law⁶, when an offender pleads guilty (as opposed to being found guilty after a trial), a court must take into account when, and in what circumstances, the guilty plea was made when deciding on what sentence to impose. The court must state whether a different sentence has been given because of the guilty plea and if not, it must give reasons why.

⁶ [Criminal Procedure \(Scotland\) Act 1995, section 196](#)

The effect of this is that a court can consider reducing the sentence where an offender has pled guilty, applying what is called a sentence discount. This reflects the fact that a plea of guilty at an early stage in a case can result in a considerable saving of time and resources for the justice system. The High Court has given guidance as to when a discount should be given and the appropriate level of discount, with the maximum discount level usually being a third.⁷

Q11) Is step 5 on sentence discounting helpful?

- Yes
- No

Please provide any reasons for your answer.

Step 6: consideration of time spent in custody

Step 6 explains that the court must have regard to any matters specified in section 210 of the Criminal Procedure (Scotland) Act 1995. This includes any time the offender spent in custody while awaiting trial or sentence. For example a court could, if it thought it appropriate, backdate a custodial sentence - start it on an earlier date - so as to take account of that time.

Q12) Is step 6 on consideration of time spent in custody helpful?

- Yes
- No

Please provide any reasons for your answer.

⁷ See, for example, [Du Plooy v HMA](#) 2003 SCCR 640; [Spence v HMA](#) 2007 HCJAC 64; [HMA v Graham](#) 2011 JC 1

Step 7: ancillary orders

Step 7 of the guideline explains that the court may make ancillary (additional) orders when passing sentence. Some examples of ancillary orders are provided at **Annex D** of the guideline. The guideline does not attempt to provide a full list - the ancillary orders which a court may make can be amended or added to by law.

Q13) Is the list of ancillary orders at Annex D of the guideline helpful?

- Yes
- No

Please provide any reasons for your answer.

Step 8: impose sentence and give reasons

The guideline specifies that the court should, after going through the first seven steps of the sentencing process, select and impose the appropriate sentence.

The court should also provide reasons for the sentence, as recommended by the guideline on the principles and purposes of sentencing. Where the court has decided not to follow any applicable sentencing guideline, the reasons for that decision also need to be provided.⁸

Q14) Is step 8 on imposing sentence and giving reasons helpful?

- Yes
- No

Please provide any reasons for your answer.

⁸ As required by section 6(2) of the Criminal Justice and Licensing (Scotland) Act 2010

Consultation questions on the overall sentencing process

The next questions ask about the sentencing process set out in this guideline as a whole.

Q15) Is the overall sentencing process set out in the guideline appropriate?

- Yes
- No

Please provide any reasons for your answer.

Q16) Are there any additional steps which should be included?

- Yes
- No

Please provide any reasons for your answer. If answering “yes”, please note any additional steps you think should be included.

Q17) Are the steps in an appropriate order?

- Yes
- No

Please provide any reasons for your answer.

Q18) Are the steps and accompanying explanatory sections expressed clearly and accurately?

- Yes
- No

Please provide any reasons for your answer.

Potential impacts of the guideline

The Council must carry out an assessment of the likely costs and benefits of guidelines, and of their likely effects on the criminal justice system generally. We must publish this at the same time as publishing any draft guidelines. A draft impact assessment is available at <https://consultations.scottishsentencingcouncil.org.uk/ssc/the-sentencing-process>.

We think that the main benefits of this guideline will be to increase public understanding of how sentencing decisions are made, and to increase public confidence in sentencing. We do not think that the guideline will result in any significant costs.

Q19) Do you agree or disagree that the guideline would lead to an increase in public understanding of how sentencing decisions are made?

- Agree
- Disagree

Please provide any reasons for your answer.

Q20) Do you agree or disagree that the guideline would lead to an increase in public confidence in sentencing?

- Agree
- Disagree

Please provide any reasons for your answer.

Q21) What costs (financial or otherwise) do you see arising from the introduction of this guideline, if any?

Q22) What benefits do you see arising from the introduction of this guideline, if any?

Further comments

The public consultation process is a critical part of developing sentencing guidelines which will assist judges and the public. We welcome any further comments on this guideline.

Q23) Would you like to make any other comments in relation to any matter arising from this consultation?

ANNEX – Consultation questions

Q1) Is the guidance on assessing seriousness - by reference to culpability and harm - helpful?

- Yes
- No

Please provide any reasons for your answer.

Q2) Is the approach to avoiding double-counting set out in the guideline appropriate?

- Yes
- No

Please provide any reasons for your answer.

Q3) Is the guidance on aggravating and mitigating factors helpful?

- Yes
- No

Please provide any reasons for your answer.

Q4) Are the aggravating factors set out in Annex A of the guideline appropriate?

- Yes
- No

Please provide any reasons for your answer.

Q5) Is it helpful to include the statutory aggravations at Annex B of the guideline?

- Yes
- No

Please provide any reasons for your answer.

Q6) Should any additional aggravating factors (statutory or non-statutory) be listed?

- Yes
- No

Please provide any reasons for your answer. If answering 'Yes', please indicate what additional factors should be listed.

Q7) Are the mitigating factors set out in Annex C of the guideline appropriate?

- Yes
- No

Please provide any reasons for your answer.

Q8) Should any additional mitigating factors be listed?

- Yes
- No

Please provide any reasons for your answer. If answering 'Yes', please indicate what additional factors should be listed.

Q9) Is the guidance on selection of the headline sentence helpful?

- Yes
- No

Please provide any reasons for your answer.

Q10) Is the guidance on multiple offending helpful?

- Yes
- No

Please provide any reasons for your answer.

Q11) Is step 5 on sentence discounting helpful?

- Yes
- No

Please provide any reasons for your answer.

Q12) Is step 6 on consideration of time spent in custody helpful?

- Yes
- No

Please provide any reasons for your answer.

Q13) Is the list of ancillary orders at Annex D of the guideline helpful?

- Yes
- No

Please provide any reasons for your answer.

Q14) Is step 8 on imposing sentence and giving reasons helpful?

- Yes
- No

Please provide any reasons for your answer.

Q15) Is the overall sentencing process set out in the guideline appropriate?

- Yes
- No

Please provide any reasons for your answer.

Q16) Are there any additional steps which should be included?

- Yes
- No

Please provide any reasons for your answer. If answering “yes”, please note any additional steps you think should be included.

Q17) Are the steps in an appropriate order?

- Yes
- No

Please provide any reasons for your answer.

Q18) Are the steps and accompanying explanatory sections expressed clearly and accurately?

- Yes
- No

Please provide any reasons for your answer.

Q19) Do you agree or disagree that the guideline would lead to an increase in public understanding of how sentencing decisions are made?

- Agree
- Disagree

Please provide any reasons for your answer.

Q20) Do you agree or disagree that the guideline would lead to an increase in public confidence in sentencing?

- Agree
- Disagree

Please provide any reasons for your answer.

Q21) What costs (financial or otherwise) do you see arising from the introduction of this guideline, if any?

Q22) What benefits do you see arising from the introduction of this guideline, if any?

Q23) Would you like to make any other comments in relation to any matter arising from this consultation?

Scottish Sentencing Council
Parliament House
Edinburgh
EH1 1RQ

sentencingcouncil@scotcourts.gov.uk
www.scottishsentencingcouncil.org.uk

© Crown copyright 2019
ISBN: 978-1-912442-10-2

June 2019