

# Sentencing Council

Commission on Justice in Wales

Call for Evidence

Response from the Sentencing Council for England and Wales

The Sentencing Council for England and Wales was created by the Coroners and Justice Act 2009 to prepare sentencing guidelines to be used in criminal courts in England and Wales. All of the sentencing guidelines produced by the Council must be followed by every court in the jurisdiction unless it would be contrary to the interest of justice to do so.

This response relates to the two questions that are relevant to the work of the Council.

*8. What impact is the divergence between Welsh and English law having upon sentencing? What impact do you foresee in the future? Should Wales implement a different approach to sentencing than England? If yes, what lessons can be learnt from other jurisdictions?*

In most instances the offences covered by guidelines produced by the Council are identical in England and Wales. There has been one exception: the guidelines for sentencing food safety and food hygiene regulations note that the regulations that create the offence are different between England and Wales. The differences in the offence creating legislation makes a difference to the available sentence in some cases which is noted in the guideline.

Sentencing guidelines ensure a consistency of approach by sentencers regardless of the location within England and Wales. When assessing current sentencing practice and when developing the sentence levels in guidelines the Council does not make any distinction between the sentences passed in England and Wales (except insofar as the legislative framework is different). While any local issues or experiences are taken into account by the Council in developing guidelines as a result of research and the consultation process, such differences tend to relate to matters such as whether the offending is in a rural or urban setting, or other more localised differences, rather than a general difference between England and Wales.

It takes approximately two years for the Council to research, develop, consult on and refine a guideline before it is issued as a definitive guideline that must be followed by courts in England and Wales. Any significant, substantive divergence in the criminal law between England and Wales would require the Council carefully to consider whether sentencing guidelines would need to be modified for each jurisdiction which would have an impact on the time and resources needed to produce a guideline.

The Council would be grateful to be kept informed of any plans to legislate on matters affecting sentencing that are specific to Wales.

*13. What is the current provision for the Welsh language within the justice system and legal education in Wales? How should Welsh language provision within the justice system and legal education in Wales be improved?*

The Council is working with the HMCTS Welsh Language Unit to make all of its guidelines that are used in magistrates' courts available in Welsh. This work is ongoing; the aim is that all existing guidelines will be translated by spring 2019.