



Prison Reform Trust response to the Sentencing Council Assault Offences draft guidelines – September 2020

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families
- promote equality and human rights in the criminal justice system.

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General remarks

We welcome the fact that the Council has commissioned and published the accompanying evaluation analysis of the existing sentencing guidelines. This assists both the Council and stakeholders in assessing the impact of guidelines and whether they have resulted in the intended aims. We would encourage a similar assessment to be conducted on the impact of the new guidelines, and other guidelines in future.

Common assault

1. Do you have any comments on the proposed culpability factors?

Age and / or lack of maturity should be included as a factor indicating lower culpability at step one. We appreciate that the Council has recognised the importance of maturity in mitigation at stage two. However, it is important to recognise the impact that maturity has in assessing the level at which a person is culpable for their actions. Where maturity it is linked to the commission of an offence, it should be recognised as a factor indicating lower culpability.

For assault offences, the case for recognising age and / or lack of maturity as a factor indicating lower culpability is compelling. Neurological and psychological evidence shows that the development of the frontal lobes of the brain does not cease until around 25 years old. It is this area of the brain which helps to regulate decision-

making and the control of impulses that underpins criminal behaviour.¹ In terms of brain physiology, the development of traits such as maturity and susceptibility to peer pressure appear to continue until at least the mid-twenties.²

We note that this approach to include maturity as a relevant factor in both step 1 and step 2 has already been accepted by the Council in its child cruelty offences sentencing guidelines, and recommend that this is adopted within assault guidelines as well.

Whilst we welcome the addition of “significant degree of provocation” as an additional mitigating factor in assessing lesser culpability, we are unclear why the Council has removed “lack of premeditation”. This is particularly confusing given that common assault offences are by definition less serious in nature, and do not require any injury to be caused. We are particularly concerned that this could potentially disadvantage young adults, with lower levels of maturity and whom may act on impulse without thinking through the consequences of their actions. This is further reason why age and / or lack of maturity should be recognised as a factor indicating lower culpability.

We welcome the addition of new relevant factors in step 1 and step 2 in relation to ABH (currently for step 2 only), s.18 offences and attempted murder, indicating lesser culpability where a defendant has “acted in response to prolonged or extreme violence or abuse by the victim’ and providing mitigation where there is a ‘history of significant violence or abuse towards the offender by the victim”.

Our research into domestic abuse as a driver of women’s offending in particular indicates that a wide range of offences at all levels of seriousness can result from the experience of domestic abuse, and that these links are insufficiently recognised within the criminal justice system (click [here](#) to download our 2017 report ‘There’s a reason we’re in trouble’ and further materials about our calls for the introduction of new statutory defences for individuals whose offending is attributable to their experience of domestic abuse). We recommend that the same new relevant factors should be added here, in relation to common assault offences.

2. Do you agree with the revised approach to assessing harm, and with the factors included?

Yes

3. Do you have any comments on the proposed sentence levels?

As we previously stated in our response to the existing guidelines, the starting point for category 1 and 2 common assault should be a community order. The starting

¹ Blakemore S-J., Choudhury, S. (2006) Development of the adolescent brain: implications for executive function and social cognition. *Journal of Child Psychology and Psychiatry*, 47:3, 296–312; and Prior, D. et al (2011) Maturity, young adults and criminal justice: A literature review, University of Birmingham: Birmingham

² Royal College of Psychiatrists (2015) Written evidence submitted by the Royal College of Psychiatrists to the House of Commons Justice Committee inquiry into young adult offenders, HC 937, 13 October 2015. Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/the-treatment-of-young-adults-in-the-criminal-justice-system/written/22190.html>

point for category 3 common assault should be a fine, and we are pleased that the council has decided to maintain these levels in the revised guideline.

4. Do you have any comments on the proposed aggravating and mitigating factors?

The comments in our response to this question are shared with a number of offences included within these guidelines.

Spitting or coughing

Whilst we recognise the Council's intention to ensure that the guidelines include a specific reference to spitting and coughing, it is important that the court is unequivocally clear that a person's actions were deliberate and intentional if this is to have a bearing on sentence length.

We would therefore recommend that the Council amends the aggravating factor to read "*Deliberate* spitting or coughing".

Offences committed in prison

Violence and harm in our prisons is currently at some of the highest rates ever recorded. Prisons have become significantly more dangerous and violent during the last decade, and prisoners report feeling less safe. Prisoners are more likely to be the victims of violence than staff, and the overwhelming majority of violence in prison does not result in prosecution. The rights of prisoners as victims are systematically overlooked. But there is no evidence that harsher sentencing is likely to reduce violence. A reduction in violence requires attention to the conflict that drives it, and the poor environment created by overcrowding and underfunding, severely exacerbated by cuts to prison resourcing over the last decade. Writing in his most recent Annual Report, HM Chief Inspector of Prisons stated:

"Despite the continued increase in violence, many prisons had poorly defined violence reduction strategies and failed to address the causes of violence effectively."

It follows that we do not believe that the guideline should include such a blanket provision, and do not agree that an offence committed in prison is in and of itself indicative or deserving of a more serious categorisation than had the same offence been committed in the community. It risks creating the appearance of action to tackle violence in prison, and diverting attention from the policies that are actually effective in an institutional setting.

We would urge the Council to remove this from the list of aggravating factors.

Commission of offence whilst under the influence of alcohol/drugs

The Council is correct in recognising the importance of alcohol and drug use. The link between the use of alcohol and drugs and crime is already a well-established. However, we do not agree with the Council's assessment that the presence of alcohol or drugs is indicative that a more serious offence has been committed—particularly given the impulsive nature of these offences. The presence of such factors is more likely to indicate a need for treatment than a justification for more severe punishment.

The most recent survey by HM Inspectorate of Prisons reveals that one in seven men (14%) and nearly a third of women (32%) reported an alcohol or drug problem on arrival to prison.

The Alcohol and Crime Commission revealed that 70% of people in prison with a self-identified alcohol problem said they had been drinking when they committed the offence for which they were in prison.

Coupled with the higher reported levels of previous trauma and abuse by people in prison than in the general population, as well as higher levels of mental illness, alcohol and/or drug addiction and misuse is more widespread.

We would urge the Council to remove this from the list of aggravating factors.

Offence committed against a person coming to the assistance of an emergency worker

It is clear that the guidelines required amendment following the Assaults on Emergency Workers (Offences) Act 2018. However, the inclusion of people coming to the assistance of an emergency worker goes beyond Parliament's intention.

Section 3 of the Assaults on Emergency Workers (Offences) Act 2018 is very clear on which groups are defined as 'emergency workers' and that specified offences committed against them should be treated as an aggravating factor. The legislation makes no specific provision or reference to those assisting them, e.g. a member of the public intervening, and it is therefore unclear why the Council has chosen to include them in the draft guideline.

We would urge the Council to remove this from the list of aggravating factors.

Recommended addition of new mitigating factor – history of domestic abuse

We refer to our response to question 1 above and recommend the addition of a new relevant mitigating factor where there is a history of significant violence or abuse towards the offender by the victim.

5. Do you have any other comments on the Common assault guideline?

No

Assaults on emergency workers

6. Do you agree with the approach to assessing culpability and harm, and with the factors included?

We refer to our answer to question 1 above and recommend the inclusion of a new relevant factor indicating lesser culpability, where the defendant acted in response to prolonged or extreme violence or abuse by the victim. This may be needed in cases where there is a personal relationship between the defendant and victim.

We further recommend that the Council should consider how to address circumstances in which a victim of domestic abuse may 'lash out' at the police or

other emergency workers attending a domestic abuse incident, as a result of their own distress. Our qualitative research with women, and previous academic research, collated in our report '[There's a reason we're in trouble](#)', indicates that victims of domestic abuse may lash out in these circumstances amid the distress of an incident and the perception that they are not being believed or supported. As one woman told us:

"When the police do arrest you after a domestic incident, maybe because you're the one that's suffering you tend to be the one that's going to kick out at the police. And the chap, you know your abuser tends to be...dead calm...You just think, 'I'm trapped again, I'm trapped.' And my arrests have been when I feel trapped and then it's just like everything's like a volcano because you think, I'm getting framed here by my abuser and nobody seems to understand..."

We recommend that the Council should consider adding a further relevant factor indicating lesser culpability to address this, such as 'acted following experience of violence or abuse'.

7. Do you have any comments on proposed sentence levels?

We accept that the Council has set out the proposed sentence levels in response to the Assaults on Emergency Workers (Offences) Act 2018. However, we are concerned that in the most serious cases, which the Council acknowledges—"will involve a high culpability factor and an injury which is of a temporary nature such as bruising or more than minor distress"—provide no option for sentencers to impose a non-custodial sentence within the category range.

The Council is right that it was the intention of Parliament to increase the maximum sentence available to the courts, but it was not its intention to remove judicial discretion. The court must be able to decide whether the threshold of custodial sentence has been met.

Furthermore, we are concerned about the impact that the proposed sentence levels have on other related offences. For example, the highest starting point for assault with intent to resist arrest offences has been increased by 50%, in order to take account of the draft assault on emergency workers guideline.

We acknowledge that the Council has sought to strike a balance, and that it felt that an increase beyond this would be disproportionate. However, we remain concerned that this is significant increase in the potential amount of time a person could be sentenced to custody for an offence in which the Council acknowledges will involve "an injury which is of a temporary nature such as bruising or more than minor distress" at its most serious level.

8. Do you agree with the proposed aggravating and mitigating factors?

Spitting or coughing

As we highlight in our response to question 4, we have similar concerns about the current wording of "spitting or coughing" and recommend that this is amended throughout the guidelines.

Commission of offence whilst under the influence of alcohol/drugs

We also share the same concerns on the inclusion of “commission of offence whilst under the influence of alcohol/drugs” given the high levels of alcohol and drug addiction amongst people in contact with the criminal justice system, and comorbidity with mental illness and trauma. As we recommended in our response to question 4, we believe this should be removed.

Significant degree of provocation

We do not support the removal of “significant degree of provocation” from personal mitigating factors and recommend it is retained. Evidence of police brutality and discrimination is sufficient, including from statutory bodies such as the IPCC and PPO, to demonstrate that there are likely to be occasions when a person has been provoked and lashed out in response—or perhaps has witnessed unfair treatment of a friend or companion.

In prison, relationships between prison staff and prisoners may last over a period many years. The influence that prison staff have on the daily lives of individuals cannot be overstated. This will range from what time you are unlocked; assisting prisoners to resolve issues they might be experiencing; providing rehabilitative support; acting as a first responder to incidents; conducting cell searches; and completing records and reports necessary to assist decision making about various aspects of a prisoner’s life in custody.

Prison staff have a level of control over individuals’ lives that persists throughout their time in custody. Positive relationships are the bedrock of a safe and decent prison environment, and prisoners rely on prison staff in order to enable almost all aspects of their lives, from daily challenges, to potentially more significant decisions affecting how they progress through their sentence.

Staff are not always able or willing to resolve issues or give the decision that a prisoner would like, and this can result in conflict. This is why a well-functioning appeals or complaints process is so important—to provide a legitimate way to scrutinise and re-examine decision making. When these systems are not seen as procedurally just or fair then conflict escalates. Rather than providing the necessary release valve to resolve disputes, and a sense of grievance is allowed to take hold.

Recommended additional mitigating factors

We refer to our response to question 6 above and recommend that the Council should add a mitigating factor where there is a ‘history of significant violence or abuse towards the offender by the victim’, and that the Council should consider adding a new relevant mitigating factor where the defendant ‘acted following experience of domestic abuse’.

9. Do you have any other comments on the Assault on emergency workers guideline?

No

Assault with intent to resist arrest

10. Do you agree with the approach to assessing culpability and harm, and with the factors included?

As we have already stated in our response to question 1, we recommend that the Council include maturity as factor in assessing culpability, particularly given the nature of attempting to evade arrest.

We welcome the inclusion of “mental disorder or learning disability, where linked to the commission of the offence” as a factor indicating a lower level of culpability, particularly given the potential for failure to comprehend what is happening in what is likely to be a stressful experience. It could be argued that similar circumstances could also equally apply in maturity.

We support the Council’s approach to assessing harm.

We refer to our response to question 6 above and recommend that the Council should consider adding a new relevant factor where the defendant acted ‘following experience of violence or abuse’.

11. Do you have any comments on the proposed sentence levels?

See our response to question 7.

12. Do you agree with the proposed aggravating and mitigating factors?

See our response to question 4. Our comments on “spitting or coughing” and “commission of offence whilst under the influence of alcohol/drugs” apply equally here.

We refer to our answer to question 8 and recommend that the Council should consider adding a new mitigating factor where the defendant acted ‘following experience of violence or abuse’.

13. Do you have any other comments on the Assault with intent to resist arrest guideline?

No.

ABH

14. Do you agree with the approach to assessing culpability and with the factors included?

Victim obviously vulnerable by age, personal characteristics or circumstances

We do not believe that this proposed wording sufficiently captures a person’s awareness of vulnerability. For example, not all disabilities are visible, but may still have a significant impact on a person’s life; or a person may not on appearance be

able to determine a person's age. Therefore, we recommend that the Council removes the word "obviously" from this factor.

In assessing culpability, it is important that the court is able to satisfy itself that a person's actions were taken with the knowledge of the victim's particular vulnerability. The existing guideline includes the word "deliberate" in order to establish intent, and we recommend that the Council amends this factor. For example "victim targeted due to age...".

Recommended additional relevant factor – defendant acting in response to abuse

We refer to our response to question 1 above and recommend that the same new relevant factor should be added here, indicating lesser culpability where a defendant has 'acted in response to prolonged or extreme violence or abuse by the victim'.

15. Do you agree with the approach to assessing harm?

We agree with the Council's approach to assessing harm and the conclusion that "the guidelines should not treat [ABH and GBH (s20)] as a continuum of each other or refer to other offences in assessing seriousness".

As these offences both share the same statutory maximum of 5 years custody, we believe that the Council's conclusion is compatible with the intention of Parliament.

16. Do you have any comments on the proposed sentence levels?

We were concerned to see that the evaluation found that contrary to expectations there was a shift to more serious disposals; sentence lengths increased; that sentencers routinely impose sentences outside of the guidelines for low harm ABH cases; and that a high proportion of sentences were imposed in excess of the highest starting point.

Furthermore, as the Council explains, the rise in the use of more serious disposals and increasing sentence lengths could be the result of incorrect charging decisions, as "the types of injury being charged as ABH involved injuries more akin to GBH, which was evidenced in analysis of cases".

We agree in principle that an increase in the number of starting points from three to nine would allow for a more consistent application of sentences, taking into consideration the spectrum of harm and culpability. However, we believe that the Council is premature in responding to sentencers' behaviour by increasing the highest starting point, given the outstanding concerns regarding appropriate charging.

We recommend that this is explored further with the CPS in advance of any amendments to the highest starting point.

17. Do you agree with the proposed aggravating and mitigating factors?

See our response to questions 4 and 8.

History of significant violence or abuse towards the offender by the victim

We refer to our response to question 1 above and welcome the specific inclusion of this mitigating factor.

18. Do you have any other comments on the ABH guideline?

No

GBH s18 and s20

19. Do you agree with the approach to assessing culpability for s20 offences and with the factors included?

As we have already highlighted, the Council should include maturity as a factor in assessing culpability. Whilst the age of the victim is considered as a relevant factor when assessing culpability, it is not for the perpetrator. We are particularly concerned that maturity is not acknowledged in s20 offences given that there is no need to demonstrate intent to cause GBH.

Use of a highly dangerous weapon or weapon equivalent

We welcome the Council's decision to explicitly distinguish between weapon types. People carry weapons for numerous and complex reasons, often including the perception it is necessary for self-protection. However, we remain concerned about the impact this could have in cases where the perpetrator is in possession of a knife because of fear for their own safety, and especially if they perceive other forms of protection such as the police to be unavailable to them. We recommend that this is explicitly acknowledged in mitigation as an additional factor.

Recommended additional relevant factor – defendant acting in response to abuse

We refer to our responses to questions 1 and 14 above and recommend that the same new relevant factor should be added here, indicating lesser culpability where a defendant has 'acted in response to prolonged or extreme violence or abuse by the victim'.

20. Do you agree with the approach to assessing culpability for s18 offences and with the factors included?

As the Council acknowledges in its commentary on the draft guidelines for ABH:

"Although the highest starting point in the existing [ABH] guideline is 1 year 6 months' custody, a high proportion of sentences were imposed in excess of this."

Whilst sentencers must have due regard to the sentencing guidelines, they are still able to impose sentences in excess of the category starting point, and even the category range, in cases where multiple features of culpability are present. We are unclear why this needs to be explicitly specified in the case of this particular guideline, when the Council's analysis acknowledges that sentencers already

operate outside of the category starting point and range when they believe they are justified. We recommend that this should be removed.

Revenge

The inclusion of revenge as a factor indicating a higher level of culpability is perplexing, particularly as the Council recognises “significant degree of provocation” at stage 2 in mitigation. Revenge, by its nature is a response to a previous grievance or harm, real or perceived. Its inclusion in assessing culpability appears contradictory when assessing mitigating factors.

We recommend that the Council remove this from the guidelines.

Offender acted in response to prolonged or extreme violence or abuse by the victim

We strongly welcome the inclusion of this as a factor indicating lesser culpability for the reasons outlined in our response to question 1.

21. Do you agree with the approach to assessing harm for GBH offences and with the factors included?

Yes

22. Do you have any comments on the proposed sentence levels for GBH s20?

We share the same concerns to those raised in our response to question 16. In addition, we do not feel that it is appropriate that there are currently no categories which include a non-custodial starting point. Whilst we acknowledge the Council’s finding that custodial sentences were imposed in the majority of cases, a six-month custodial sentence as the starting point for the lowest category of offence has some of the worst outcomes in achieving the purposes of sentencing. These sentences do little to reduce crime; reduce reoffending; protect the public; and fail to make any attempt of achieving restitution. On the other hand, the impact of placing someone into custody for such a short period of time can cause significant damage and is well documented. It is inappropriate that such a damaging sentence should be included as the starting point and we recommend that the Council amend the starting point for Category 3 offences to only include non-custodial starting points.

23. Do you have any comments on the proposed sentence levels for GBH s18?

No

24. Do you agree with the proposed aggravating and mitigating factors?

See our response to questions 4, 8 and 17. We welcome the inclusion of “history of violence or abuse towards the offender by the victim” as a new mitigating factor.

25. Do you have any other comments on the s20 GBH guideline?

No

26. Do you have any other comments on the s18 GBH guideline?

No

Attempted murder

27. Do you agree with the approach to assessing culpability for Attempted murder and with the factors included?

Offender acted in response to prolonged or extreme violence or abuse by victim

See our response to questions 1, 17 and 20. We welcome the inclusion of this new relevant factor.

Lack of premeditation

We welcome the recognition that a lack of premeditation is now acknowledged as a lesser culpability factor (medium culpability).

28. Do you agree with the approach to assessing harm for attempted murder offences and with the factors included?

We agree with the view of the Council that: “as death of the victim will always be the intended consequence of attempted murder, the Council considers that the harm assessment should specifically assess the level and lasting impact of any injury” rather than whether the victim may have been killed had it not been for medical intervention, or luck.

29. Do you have any comments on the proposed sentence levels?

Our response to the Council’s consultation on manslaughter guidelines in 2017 raised concerns about the upward drift of sentences, and cautioned against setting in concrete a dramatic rise for which there is no obvious justification or policy requirement. We share those same concerns with the Council’s proposed changes to the sentence levels in this case.

Sentence lengths have grown dramatically over the last three decades. Sentences of more than 10 years are the fastest growing category of prison sentence by a significant margin. In the last decade alone, the number of people sentenced to over 15 years has more than trebled and we have more people in prison on indeterminate sentences than Germany, Russia, Italy, Poland, the Netherlands and Scandinavia combined—easily the highest in Europe.

People are also spending longer in prison, with increases in tariff lengths imposed by courts; and in the legislation determining when people are eligible to be considered for release by the Parole Board.

By cementing an inflation in sentence lengths from recent history rather than taking the longer view, the proposed guideline confirms a significant additional resource requirement which no government to date has been prepared to meet, and which has resulted directly in a dramatic decline in prison conditions. The decline in those conditions, quite apart from putting the government in breach of basic human rights norms, also prevents prisons from meeting one of the core purposes of sentencing, to rehabilitate.

30. Do you agree with the proposed aggravating and mitigating factors?

We share the same concerns that we raise earlier in our response about the inclusion of:

- Offence committed in prison; and
- Commission of offence whilst under the influence of alcohol/drugs.

For the reasons set out above, we welcome the inclusion of a new mitigating factor where there is a 'history of violence or abuse towards the offender by the victim (where not taken into account at step one)'.

31. Do you have any other comments on the Attempted murder guideline?

No

Equality and diversity

32. Do you consider that any of the factors in the draft guidelines, or the ways in which they are expressed could risk being interpreted in ways which could lead to discrimination against particular groups?

Yes. In order to address disproportionate outcomes, it is necessary but not sufficient simply to ensure that the factors or ways they are expressed in the guideline are non-discriminatory. It is also vital for criminal justice agencies to take active steps to address the causes of any disparities between different groups. We remind the Council in particular of recommendation 4 of the Lammy review, which was accepted by the government:

Recommendation 4: If CJS agencies cannot provide an evidence-based explanation for apparent disparities between ethnic groups then reforms should be introduced to address those disparities. This principle of 'explain or reform' should apply to every CJS institution.

We urge the Council not just to pay attention to individual factors or how they are expressed, but also to actively work with criminal justice partners such as the judicial college to ensure that the possible factors underlying disproportionate outcomes are properly addressed, for instance through the delivery of better training and guidance to sentencers.

This work should be undertaken in relation to all protected characteristics and should include consideration of intersectional discrimination and foreign national status (foreign nationals being significantly over-represented in prison)—for example against BAME women (see our [Counted Out](#) report, which found that Black women were 25% more likely than white women to receive a custodial sentence following conviction).

33. Are there any other equality and diversity issues the guidelines should consider?

We note that the data in Annex A for s18 GBH with intent offences, suggests a slightly different breakdown of characteristics when compared to less serious offences within the guideline. People sentenced are more likely to be male; younger (higher % between 18–29 years old); or from a minority ethnic group (17% black; 9% Asian).³

As we have previously highlighted in our response to the Council’s Terrorism Offence Guidelines, we remain concerned at the lack of available ethnicity data for nearly one in five people sentenced in the most serious offence categories—ABH; GBH s18 and GBH s20.⁴ This makes it particularly challenging to effectively assess the likely impact of the draft guideline on ethnicity.

The Council acknowledges as much in its explanatory notes for the ABH data:

“For a large proportion of adults sentenced (19% for assault occasioning actual bodily harm, 30% for racially/religiously aggravated actual bodily harm), their perceived ethnicity was either not recorded or it was not known. Therefore the proportions amongst those for whom data was provided may not reflect the demographics of the full population, and these figures should be treated with caution.”

We use this opportunity to highlight recommendations 2 to 4 of the Lammy review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System.⁵ We ask that the Council seeks to ensure that its own procedures for recording and analysing data meet the standards set by the review, and that it works with criminal justice partners to ensure a consistent approach to capturing data on religion and ethnicity.

Recommendation 2: The government should match the rigorous standards set in the US for the analysis of ethnicity and the CJS. Specifically, the analysis commissioned for this review – learning from the US approach – must be repeated biennially, to understand more about the impact of decisions at each stage of the CJS.

Recommendation 3: The default should be for the Ministry of Justice (MoJ) and CJS agencies to publish all datasets held on ethnicity, while protecting the privacy of

³ Table 6, Sentencing Council (2020) Assault Offences Guidelines, London: Sentencing Council

⁴ Table 4, 5 and 6, Ibid.

⁵ Lammy, D. (2017) The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, London: Ministry of Justice

individuals. Each time the Race Disparity Audit exercise is repeated, the CJS should aim to improve the quality and quantity of datasets made available to the public.

Recommendation 4: If CJS agencies cannot provide an evidence-based explanation for apparent disparities between ethnic groups then reforms should be introduced to address those disparities. This principle of 'explain or reform' should apply to every CJS institution.

In addition to race, as we have highlighted throughout our response, we are particularly concerned at the lack of recognition of age and maturity in assessing culpability.

We use this opportunity to highlight the importance of sentencers having regard to the relevant sections of the Equal Treatment Benchbook.