

Sentencing Council: 'Bladed Articles and Offensive Weapons'

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The Criminal Justice Alliance (CJA) is a coalition of 120 organisations - including charities, voluntary sector service providers and research institutions - working across the criminal justice pathway. Our members employ more than 14,000 people between them. The Alliance works to establish a fairer and more effective criminal justice system.

The CJA welcomes the opportunity to respond to this consultation. This response focuses on questions most pertinent to the CJA's work.

Q.5 Do you have any comments on the sentence ranges and starting points?

The CJA appreciates the seriousness of the offences of possessing bladed articles and offensive weapons. We realise the potential impact and harm that can be caused by individuals carrying such items in public. We fully acknowledge the need to reduce the number of such offences which don't only affect victims, where there are victims, but also undermine perceptions of community safety.

However, in our view this would be best achieved through improved youth awareness and education on the consequences of carrying such items, improving relations between police and local communities and the effective rehabilitation of those previously convicted of such offences.

We are concerned that the new sentence ranges and starting points will almost certainly inflate sentences for these offences. It is a general position of the Criminal Justice Alliance that we don't support heavier sentencing in any area unless there is *firm evidence* that such sentencing would cause a reduction in offending. We don't believe that is present here.

Deterrence

There is no evidence that increasing sentencing ranges and starting points will provide a greater deterrent. There is, however, evidence that individuals are much more likely to be deterred from offending by the prospect of being caught than by an increased starting point at sentencing. It is highly unlikely, in any case, that a marginal increase in sentences would have public attention. Consequently, even if there were evidence of a deterrent effect, the proposed changes would not have a material impact on the number of such offences committed.

Severity of sentence

In 2008 the average custodial sentence length for possession of a bladed or offensive weapon was 4.9 months. It is now 7.7 months. Eighteen per cent of people convicted and sentenced for these offences received a custodial sentence in 2008. By 2016 this

figure had increased to 34 per cent. The number receiving cautions has reduced from 32 per cent in 2008 to only 13 per cent last year.

This starkly demonstrates that sentencing for these offences has already become considerably more punitive. However, in spite of this knife crime has also risen recently. In the absence of alternative evidence, this firmly undermines the suggestion that a further increase in sentencing might succeed in reducing knife crime.

Public Confidence

The remit of the Sentencing Council is to have regard to the need to promote public confidence in the criminal justice system. We find no evidence that the public believes that the punishment and levels of sentencing for these offences are currently inadequate, notwithstanding that the public is probably unaware in any case of the dramatic 'sentence inflation' in this area in recent years.

A significant public concern is that individuals are not being successfully apprehended or prosecuted, neither of which can be rectified by increased sentencing levels. We cannot see how a change in sentencing guidelines will remedy this deficiency.

The consultation document states that 'the aim of the draft guidelines is to ensure that sentence levels reflect the serious social problem of offenders carrying knives, and reflects the judgments in a number of leading Court of Appeal Cases' and that 'there has been growing concern over recent years about the number of people carrying knives and other weapons on the streets'. The only evidence provided to support this is a detail from Sir Igor Judge's judgement in *R v Povey*. This appears to be a personal view and makes no reference to substantive surveys of public opinion.

If the Council believes that the issue of possession of bladed articles and offensive weapons is becoming a more serious social problem we believe it should produce firm evidence to substantiate this claim. On the whole the number of offences has remained stable recently and decreased substantially from ten years ago.

Cost and effectiveness

There is no evidence that imprisoning an individual convicted of these offences instead of giving them a community order offers a greater prospect of rehabilitation. It is well established that custody can also have an extremely negative impact on defendants' lives and their families. Going to prison, even for a relatively brief period, can jeopardise relationships, employment and housing, all of which in turn increase the prospects of future reoffending.

There is consistent hard evidence that community sentences produce lower recidivism rates than short-term custody. Prisons are currently in a state of crisis, with extremely high levels of violence and prisoners spending increasing lengths of time isolated in their cells with no access to purposeful activities.

We believe that there needs to be considerably more substantial evidence of deterrent or rehabilitative impact if prisoners are to be committed for longer periods to such a chaotic regime, or committed for the first time as an alternative to a non-custodial sentence.

Proportionate and Consistent

The Council states that it wishes to improve the consistency of sentencing decisions for these offences. However, if the Council believes that its existing guidelines are not being consistently applied, that is not a justification for changing the guidelines. It represents an opportunity to determine *why* magistrates and judges are handing out apparently inappropriate sentences and whether they are justified. The goal of consistency should, in any case, always be balanced with the right of sentencers to apply appropriate professional discretion.

For further information contact Ben Summerskill, Director, on 0203 176 1153 ben.summerskill@criminaljusticealliance.org.uk or Stephen Moffatt, Policy Officer, on 0203 176 1153 stephen.moffatt@criminaljusticealliance.org.

This consultation response does not reflect the individual policy position of any member organisation of the CJA

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