

Summary of Consultation Questions

We would encourage you to respond to the consultation using the on-line facility on citizen space, accessible via: <https://consultations.nidirect.gov.uk/doj-corporate-secretariat/sentencing-review-northern-ireland>.

Chapter 1: Principles and Purposes of Sentencing

Q.1 Do the proposed principles provide the appropriate standards for sentencing?

Yes		No		No View	x
Please provide reasons for your response.					
This is not within the expertise of psychiatry.					

Q.2 Are there other principles that should be included?

Yes		No		No View	x
Please identify and provide reasons for your response.					
This is not within the expertise of psychiatry.					

Q.3 Are the proposed purposes of sentencing appropriate?

Yes		No	x	No View	
Please provide reasons for your response.					
We do not believe that sufficient attention has been given to the public protection aspects of sentencing. There is considerable evidence that adding a component to a sentence which requires engagement in a specific activity reduces recidivism. We are particularly concerned at the lack of					

Mental Health Treatment Requirements as found in the Criminal Justice Act 2003. These were not applied in NI. The evidence base for the use of MHTRs is considerable.

Q.4 Are there any other purposes which should be included?

Yes		No		No View	x
Please identify and provide reasons for your response.					
This is not within the expertise of psychiatry.					

Q.5 Should a definition of the principles and purposes of sentencing be created in legislation?

Yes		No		No View	x
Please provide reasons for your response					
This is not within the expertise of psychiatry.					

Chapter 2: Public Perceptions of Sentencing

Q.6 Are there other methods of communicating with the public, not identified in this chapter, that would help to improve knowledge and perceptions of sentencing matters?

Yes		No		No View	x
Please identify and provide reasons for your response.					
This is not within the expertise of psychiatry.					

Q.7 Can any steps be taken to improve the provision of a victim personal statement to the court and its use?

Yes		No		No View	x
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<p>Please identify and provide reasons for your response.</p> <p>This is not within the expertise of psychiatry.</p>
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Q.8 Can any steps be taken to improve the awareness or use of community impact statements?

Yes		No		No View	x
<p>Please identify and provide reasons for your response.</p> <p>This is not within the expertise of psychiatry.</p>					

Chapter 3: Sentencing Guidance

Q.9 Should the power and remit of the Northern Ireland Court of Appeal to issue a guideline judgment be established in legislation?

Yes		No		No View	x
<p>Please provide reasons for your response.</p> <p>This is not within the expertise of psychiatry.</p>					

Q.10 If yes to Q.9, should legislation require the Northern Ireland Court of Appeal to consider relevant information on sentencing before issuing a guideline judgment?

Yes		No		No View	
<p>Please provide reasons for your response.</p>					

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Q.11 Should a statutory duty be placed on relevant sentencing judges requiring them to:

have regard to sentencing guidelines	x
follow sentencing guidelines	
No View	
Please indicate preferred option and provide reasons for your response.	
Sentencing guidance provides some structure to expectations. We as psychiatrists are frequently required to future plan for the outcome of a criminal matter with mentally disordered offenders. Sentence guidance gives us an idea what to expect.	

Q.12 Should sentencing judges have power to depart from sentencing guidelines:

in the interests of justice	x
having provided reasons for that departure	
No View	
Please indicate preferred option and provide reasons for your response	
In the case of mentally disordered offenders, flexibility in sentencing is a key component.	

Q.13 Is there sufficient transparency in sentencing within Northern Ireland?

Yes	x	No		No View	
Please provide reasons for your response.					
Judicial statements are freely available and accessible.					

Q.14 Should a sentencing guidance mechanism be established that builds on the current arrangements, namely, guideline judgments and the work of the Sentencing Group?

Yes	x	No		No View	
Please provide reasons for your response.					
This would allow for a more evidence based approach to sentencing - to take into account the criminogenic factors and possible remediation.					

Q. 15 If yes to Q.14, should the mechanism be created in legislation?

Yes		No		No View	x
Please provide reasons for your response					
This is not within the expertise of psychiatry.					

Q. 16 If yes to Q.15, should the legislative purposes include the promotion of consistency of approach and public confidence in sentencing?

Yes		No		No View	
Please provide reasons for your response.					

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Q.17 Should any mechanism established in Northern Ireland for providing sentencing guidance carry out the following ancillary functions:

Analysis and research on sentencing			X
research on the impact of any guidelines or guidance judgments issued			X
Outreach to the community to improve understanding of the sentencing process			X
Other		No View	
Please indicate options that you agree with and comment as appropriate.			
All of the above. There is a paucity of research into the impact of sentencing - which should be addressed. The development of meaningful policy would be greatly assisted by systematic review of high quality research.			

Q.18 Should Northern Ireland criminal justice agencies, such as the Public Prosecution Service, Police or Probation Board be included in or excluded from a sentencing guidance mechanism for Northern Ireland?

Yes		No		No View	
Please provide details of which bodies should be included or excluded and reasons for your response.					
The Royal College of Psychiatrists in Northern Ireland could provide meaningful input into sentencing guidance for mentally disordered offenders as the subject matter experts in forensic psychiatry.					

Q.19 Should prospective non-judicial members of a sentencing guidance mechanism compete for selection based on their expertise, knowledge and skills relevant to sentencing and criminal justice?

Yes	x	No		No View	
Please provide reasons for your response.					
This would quality assure the content of guidance.					

Chapter 4: Tariff Setting for Murder

Q.20 Do the starting points currently operated in Northern Ireland adequately reflect your concerns and the culpability of the offender?

Yes		No		No View	x
Please provide reasons for your response.					
This is not within the expertise of psychiatry.					

Q.21 Should starting points be recorded in statute or continue to rely on case guidance from the Northern Ireland Court of Appeal?

Yes		No		No View	x
Please provide reasons for your response					
This is not within the expertise of psychiatry.					

Q.22 Should legislation introduce different starting points for Northern Ireland than currently apply?

Yes		No		No View	x
Please provide reasons for your response.					
This is not within the expertise of psychiatry.					

Q.23 If yes to Q.22, should the lowest starting point be:

12 years		15 years		16 years		No View	
Please provide reasons for your response.							

Q.24 Should legislation introduce a range of statutory starting points for categories of victims or murders?

Yes		No		No View	x
Please provide reasons for your response.					
This is not within the expertise of psychiatry.					

Q.25 Should any legislation to introduce a specific statutory starting point for certain murders occurring in Northern Ireland include:

Multiple Murders	Murder of public servants like police and prison officers who are exposed to risk by nature of their employment	Child murders
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20 years	25 years	30 years	No View	20 years	25 years	30 years	No View	20 years	25 years	30 years	No View
<p>Please indicate the preferred starting point for any category selected: 20, 25 or 30 years, and provide reasons for your response.</p> <p>No view. This is not within the expertise of psychiatry.</p>											

Q.26 Are there any other categories of victims not listed at Q.25 which should be included?

Yes		No		No View	
<p>Please specify the category or categories of victim and indicate preferred starting point: 20, 25 or 30 years and provide reasons for your response.</p> <p>No view. This is not within the expertise of psychiatry.</p>					

Q.27 Should any category of victim listed at Q.25 be excluded?

Yes		No		No View	
<p>Please indicate the category or categories of victim and provide reasons for your response.</p> <p>No view. This is not within the expertise of psychiatry.</p>					

Q.28 Should existing whole life tariff provisions be:

Retained	
Replaced with a tariff period of 30 years	
Replaced with a tariff period greater than 30 years	
No View	x

Please provide reasons for your response.

This is not within the expertise of psychiatry.

Chapter 5: Unduly Lenient Sentences

Q.29 Should the Director of Public Prosecutions have the power to refer:

All sentences imposed in the Crown Court (including those imposed where the defendant elected for jury trial - Option B)	
All sentences imposed in the Crown Court and sentences for offences with a maximum penalty of 12 months' imprisonment or more when tried in a Magistrates' Court (Option C)	
No View	x
Please select your preferred option and provide reasons for your response.	
This is not within the expertise of psychiatry.	

Q.30 We would welcome your views on the provision of information and advice, at court, about unduly lenient sentencing, to better inform victims and their families on whether or not to pursue an unduly lenient sentence referral.

Please provide any views and reasons for your response.

No view. This is not within the expertise of psychiatry.

Chapter 6: Community Sentencing

Q.31 Should greater use of community sentences be made by the courts as an alternative to short prison sentences?

Yes	x	No		No View	
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Please provide reasons for your response.

There is considerable evidence for the use of alternatives to prison **if** the criminogenic factors that have contributed to the offence cycle are addressed. This illustrates the need (with mentally disordered offenders) for:

- a. Mental Health Treatment Requirements
- b. A Mental Health Court Liaison Service

([Bradley Report, 2009](#), [Not a Marginal Issue, 2010](#))

There are similar requirements for factors other than mental illness.

In the absence of such measures, alternative sentences will merely contribute to further offending.

Q.32 Should all community orders include a restorative or reparative element?

Yes		No		No View	x
<p>Please provide reasons for your response.</p> <p>This is not within the expertise of psychiatry.</p>					

Q.33 Should the public be made aware of the benefits achieved through unpaid work and reparative activities as a result of community sentences?

Yes		No		No View	x
<p>Please provide reasons for your response.</p> <p>This is not within the expertise of psychiatry.</p>					

Q.34 Is there value in non-justice agencies becoming involved in the delivery of programmes for use in community sanctions?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	No View	<input type="checkbox"/>
<p>Please provide reasons for your response.</p> <p>The evidence base for mental health interventions with mentally disordered offenders is extensive. This does, however, need to be within established best practice.</p> <p>In order for this to work, there needs to be a Mental Health Court Liaison service available to all Courts (Not a Marginal Issue, 2010).</p> <p>Community Forensic Mental Health Teams will also need to be adequately resourced.</p>					

Q.35 Should the enhanced community order be implemented as an alternative to short prison sentences of up to 12 months?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	No View	<input type="checkbox"/>
<p>Please provide reasons for your response.</p> <p>With Mental Health Treatment Requirements where appropriate.</p>					

Q.36 Would additional judicial involvement during community sentences benefit such orders and promote greater likelihood of change by the offender?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	No View	<input checked="" type="checkbox"/>
<p>Please provide reasons for your response.</p> <p>This is not within the expertise of psychiatry.</p>					

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Q.37 Should a conditional discharge sentence have the option to include community sanctions, administered by the Probation Board for Northern Ireland and/or a restorative justice element?

Yes	x	No		No View	
Please provide reasons for your response.					
Again, the use of Mental Health Treatment Requirements would materially assist in reducing recidivism.					
The Community Forensic Mental Health Teams could play a significant role.					

Q.38 Would a 'structured deferred sentence' be a useful new sentencing option?

Yes	x	No		No View	
Please provide reasons for your response.					
The proposed structure would need to include measures to address criminality. This should include Mental Health Treatment Requirements.					
In the absence of a Mental Health Court Liaison Service to all Courts, this is not likely to be effective.					

Q.39 Would a 'supervised suspended sentence' be a useful new sentencing option?

Yes	x	No		No View	
<p>Please provide reasons for your response.</p> <p>The proposed structure would need to include measures to address criminality. This should include Mental Health Treatment Requirements.</p> <p>In the absence of a Mental Health Court Liaison Service to all Courts, this is not likely to be effective.</p>					

Q.40 Would a diversionary type community intervention be appropriate for minor first time offences for adults?

Yes		No	x	No View	
<p>Please provide reasons for your response.</p> <p>The use of diversionary schemes needs to be very carefully considered. Excusing criminality inevitably leads to more offending. The Sainsbury Centre no longer talk about diversion from criminal justice but diversion within.</p> <p>Attention would be better focused on addressing the criminogenic factors.</p>					

Chapter 7: Hate Crime

Q.41 When a hate crime has been identified during the prosecution process, should prosecutors be under a duty to flag this to the court?

Yes		No		No View	x
Please provide reasons for your response. This is not within the expertise of psychiatry.					

Q.42 When dealing with a hate crime, should the courts be required to record the fact that aggravation due to hostility has been considered in the sentencing decision?

Yes		No		No View	x
Please provide reasons for your response. This is not within the expertise of psychiatry.					

Q.43 When dealing with a hate crime, should the courts be required to explain how the fact that the offence is aggravated due to hostility has affected the sentence?

Yes		No		No View	x
Please provide reasons for your response. This is not within the expertise of psychiatry.					

Q.44 Should any other changes be made to ensure appropriate sentencing for hate crimes?

Yes		No		No View	x
<p>Please provide details and reasons for your response.</p> <p>We would be keen to examine any evidence that treating “Hate Crimes” differently from any other criminality is effective.</p>					

Chapter 8: Attacks on Frontline Public Services

Q.45 Is the current range of offences and penalties combined with sentencing guidelines adequate to deal with assaults on those providing frontline public services in Northern Ireland (Option A)?

Yes		No	x	No View	
<p>Please provide reasons for your response.</p> <p>Within healthcare, attacks on staff are not adequately dealt with. Regardless of sentencing provisions, the proportion of serious assaults that progresses to conviction is tiny.</p> <p>Courts have historically dealt with mentally disordered offenders more leniently - without regard to the significance of the mental disorder. This illustrates the need for a Mental Health Court Liaison Service to all courts - so that sentencing Judges can be adequately advised (Not a Marginal Issue, 2010).</p> <p>The assumption that offending is linked to mental disorder is only occasionally valid.</p> <p>The attitude that violence within a healthcare setting is not criminal, needs to change.</p>					

Q.46 Should the maximum penalty on summary conviction for attacks on specified public workers be increased to 12 months' imprisonment (Option B)?

Yes		No		No View	x
<p>Please provide reasons for your response.</p> <p>The issue within healthcare is not one of sentencing, but rather of proceeding with prosecution.</p> <p>Violence within a healthcare setting is not acceptable, regardless of mental state - and this needs to be reflected in the criminal justice process.</p>					

Q.47 If yes to Q.46, should any increased sentence for specified public workers be extended to include those involved in the provision of front-line healthcare in hospitals, prison officers, social workers and others providing direct care in the community (Option C)?

Yes		No		No View	
<p>Please indicate any occupation an increased sentence should apply and provide reasons for your response</p>					

Q.48 In other assault offences, should the fact that the victim was a specified category of public servant be made a statutory aggravating factor (Option D)?

Yes		No		No View	x
<p>Please provide reasons for your response.</p> <p>This is not within the expertise of psychiatry.</p>					

Q.49 If yes to Q.48, should there be an obligation to state publicly that aggravation occurred; and record both that fact and the impact the fact had on the sentence imposed?

Yes		No		No View	
Please provide reasons for your response.					

Chapter 9: Crimes against Older and Vulnerable People

Q.50 Reflecting our stakeholders' views, should any new legislation deal with 'vulnerable' people, whether by age or other personal circumstances, as opposed to simply 'older' people?

Yes		No		No View	x
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Please provide reasons for your response.

This is not within the expertise of psychiatry.

Q.51 If yes to Q.50, should a definition like the one found in the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 be used?

Yes		No		No View	
Please provide reasons for your response.					

Q.52 Are current guideline judgments and sentencing guidelines sufficient for sentencing purposes as they stand as regards crimes against older/vulnerable victims (Option A)?

Yes		No		No View	x

Please provide reasons for your response.

This is not within the expertise of psychiatry.

Q.53 Should either of the following be a statutory aggravating factor (Option B):

The vulnerability of a person (by virtue of their age or other factors)			Motivation on the basis of the victim's perceived vulnerability (by virtue of their age or other factors)?		
Yes	No	No View	Yes	No	No View
		x	x		
<p>If yes, please tell us which and provide reasons for your response.</p> <p>Targeting of an individual on the basis of vulnerability is clearly an aggravating factor.</p>					

Q.54 Should a new offence of assault on a vulnerable person (by virtue of their age or other factors) be created (Option C)?

Yes	No	x	No View
<p>Please provide reasons for your response.</p> <p>Violence in any setting against any person is not acceptable. By creating such offences, this reinforces the distorted view that assaulting a person outside this group is in some way more acceptable.</p>			

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Chapter 10: Driving Offences Causing Death or Serious Injury

Q.55 Does the existing maximum sentence of 14 years for each of our 3 offences provide the court with sufficient powers to reflect the most serious culpability of that offending behaviour?

Yes		No		No View	x
Please provide reasons for your response. This is not within the expertise of psychiatry.					

Q.56 If no to Q.55, should the variation be for:

An increased fixed period of 20 years			A maximum sentence equivalent to that for the offence of manslaughter and other serious violent offences, namely a discretionary life sentence?		
Yes	No	No View	Yes	No	No View
Please indicate the preferred option and provide reasons for your response					

Q.57 Should a distinction in maximum sentence be made between any of the 3 offences:

Causing death by dangerous driving			Causing death by careless driving while under the influence of drink or drugs			Causing death by careless driving and failing to provide a specimen		
Yes	No	No View	Yes	No	No View	Yes	No	No View
		x			x			x
Please identify where any distinction should be made and provide reasons for your response.								
This is not within the expertise of psychiatry.								

Q.58 If the maximum sentence for causing death by dangerous driving is increased, should parity be maintained by similarly increasing the sentence for causing grievous bodily injury by dangerous driving?

Yes	No	No View
		x
Please provide reasons for your response.		
This is not within the expertise of psychiatry.		

Q.59 If the maximum sentence for causing death by careless driving while (i) under the influence of drink or drugs or (ii) failing to provide a specimen is increased, should the sentence for the equivalent careless driving offences which cause grievous bodily injury also be increased?

Yes	No	No View
		x
Please provide reasons for your response.		
This is not within the expertise of psychiatry.		

Q.60 Is an increase to the maximum sentence of 2 years warranted for causing death or grievous bodily injury when driving while disqualified?

Yes		No		No View	x
<p>Please provide reasons for your response.</p> <p>This is not within the expertise of psychiatry.</p>					

Q.61 If yes to Q.60, should the increased maximum sentence for causing death when driving while disqualified be:

4 years		10 years		Other		No View	x
<p>Please provide reasons for your response.</p> <p>This is not within the expertise of psychiatry.</p>							

Q.62 If yes to Q.60, should the increased maximum sentence for causing grievous bodily injury when driving while disqualified be:

4 years		10 years		Other		No View	x
<p>Please provide reasons for your response.</p> <p>This is not within the expertise of psychiatry.</p>							

Q.63 Do the current minimum periods of disqualification (2 years or 3 years for a repeat offender) remain appropriate for the causing death or serious injury driving offences which carry a maximum of 14 years imprisonment?

Yes		No		No View	x
Please provide reasons for your response.					
This is not within the expertise of psychiatry.					

Q.64 If no to Q.63, should the minimum period of disqualification of 2 years be increased to:

3 years		4 years		Other		No View	
Please indicate preferred increase and provide reasons for your response.							

Q.65 Should the current mandatory minimum disqualification for repeat offenders in a 10 year period be doubled from 3 years to 6 years minimum?

Yes		No		No View	x
Please provide reasons for your response.					
This is not within the expertise of psychiatry.					

Q.66 Should the power of the courts to reduce the disqualification period be limited, as in Ireland, so that it is not reduced below 2/3rds of the period or the mandatory minimum for the offence whichever is the greater?

Yes		No		No View	x
Please provide reasons for your response.					
This is not within the expertise of psychiatry.					

Q.67 Should a repeat offender for these 14 year maximum offences, or the offence of driving while disqualified, be prohibited from applying to remove any disqualification until the minimum period required to be imposed on a first time offender for that offence has expired?

Yes		No		No View	x
Please provide reasons for your response.					
This is not within the expertise of psychiatry.					

Q.68 Should any driving disqualification take account of the custodial component of a sentence?

Yes		No		No View	x
Please provide reasons for your response.					
This is not within the expertise of psychiatry.					

This Consultation response is submitted by Dr Gerry Lynch, Chair of the Royal College of Psychiatrists Northern Ireland & Vice Chair Royal College of Psychiatrists – on behalf of Royal College of Psychiatrists NI. We are the professional body for Psychiatrists in NI and we have approx. 400 members in NI.

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