

**Response to the Sentencing Council's
professional consultation on the draft
guideline on assault**

January 2011

About the Criminal Justice Alliance

The Criminal Justice Alliance (CJA) is a coalition of 51 organisations - including campaigning charities, voluntary sector service providers, research institutions, staff associations and trade unions - involved in policy and practice across the criminal justice system. The CJA's current member organisations are: Action for Prisoners' Families; Adullam Homes Housing Association; the Apex Charitable Trust; the Association of Black Probation Officers; the Association of Members of Independent Monitoring Boards; Bindman and Partners; Birth Companions; Catch22; the Centre for Crime and Justice Studies; the Centre for Mental Health; Chance UK; the Children's Society; the Churches' Criminal Justice Forum; Clean Break; Clinks; DrugScope; the Fawcett Society; the Griffins Society; INQUEST; the Institute for Criminal Policy Research; JUSTICE; Leap; Nacro; the National Appropriate Adult Network; the New Bridge Foundation; Pact; Penal Reform International; the Police Foundation; the Prison Officers' Association; the Prison Reform Trust; Prisoners Abroad; Prisoners' Advice Service; the Prisoners Education Trust; the Prisoners Families and Friends Service; the Public and Commercial Services Union; the Quaker Crime, Community and Justice Group; RAPT; Release; the Restorative Justice Council; Rethink; Revolving Doors Agency; the RSA Prison Learning Network; SOVA; the St Giles Trust; Transform Drug Policy Foundation; UNLOCK; Women in Prison; the Womens' Centre Forum; Working Chance; the Young Foundation; and Young Minds.¹ The Criminal Justice Alliance works to establish a fairer and more effective criminal justice system.

Introduction

The CJA is pleased to have the opportunity to participate in the Sentencing Council's consultation on the draft assault guideline. The CJA welcomes the creation of the Sentencing Council and the approach that it has taken in conducting its work to date. The CJA supported the establishment of a new Sentencing Council and believes that the Council can promote stability and consistency in sentencing, as well as help to revive public confidence in the sentencing process and maintain judicial confidence. The CJA recognises that the Sentencing Council will also play an important role in improving the availability of data and other information about sentencing, and particularly welcomes the publication of a resource assessment alongside this draft guideline. Resource assessments will make a much-needed contribution to improving the recognition of the impact of sentencing changes, to projecting the future number of prison places required, and to planning for the provision of probation and youth justice services. The CJA hopes that, in addition to publishing resource assessments which consider the likely effects of a guideline, the Sentencing Council will also publish assessments that look at the actual impact of guidelines on the resources required for the provision of prison places, probation and youth justice services. This would provide invaluable information for the future, both for government and for the Sentencing Council itself, by informing the development of resource assessments that accompany future guidelines.

Response to the consultation questions

We have responded to the consultation questions on which we have a view below.

Question 1

Do you agree that the proposed structure of the draft guideline incorporating an individually tailored sentencing process for each offence is the right approach?

The structure of the draft guideline, which sets out in a more accessible way the process taken to determine a sentence, is an improvement on its predecessor. The CJA believes that, by incorporating an individually-tailored sentencing process for each offence, the guideline sets the decision-making process out more clearly, both for the sentencer and,

¹ Although the CJA works closely with its members, this submission should not be seen to represent the views or policy positions of each individual member organisation.

indeed, for the public. It is important in maintaining public confidence in sentencing that the decisions that are made in reaching a sentence are clear and can be explained, and this process should help to make this possible. The clear structure of the guideline should also help to promote consistency in sentencing.

Question 4

Are there any other factors determining harm and culpability that should be taken into account at step 1 of the decision making process?

The CJA particularly welcomes the inclusion of mental illness or disability as a factor indicating lower culpability (see Question 6, below).

The CJA also feels that it would be appropriate to recognise youth/lack of maturity or age at Step 1. There is growing evidence, both social and cognitive, that young adults (aged 18-24) constitute a distinct age group and that young adulthood is a distinct stage in life, with young adults in trouble with the law having specific needs that may make them more vulnerable than older offenders and many exhibiting immaturity that may be related to their offending. Research into brain development has identified a range of developmental changes that continue through the young adult age range. Particularly relevant is the finding that young adults potentially face greater difficulties in controlling behaviour, are more prone to risky behaviour and are less able to plan for the future. Or, as one researcher has put it, “the human brain continues to mature until at least the age of twenty-five, particularly in the areas of judgment, reasoning, and impulse control.”² Clearly, this may be related to the commission of the sorts of unpremeditated, violent offences that are covered by this guideline. Moreover, as has been argued by the Transition to Adulthood Alliance - the work of which the CJA has contributed to and whose submission to this consultation the CJA endorses - young adults are the most likely group to desist from crime and interventions should be tailored to facilitate this.³

The CJA therefore believes that it would be appropriate to recognise youth/lack of maturity or age, where it is linked to the commission of an offence, as a factor indicating lower culpability. This would recognise the vulnerability of young adults, and would encourage sentencers to impose appropriate disposals that are more likely to recognise and address their complex set of needs. If it was considered by a sentencer that youth or lack of maturity was present but not linked to the commission of the offence, it should still be considered as a mitigating factor at Step 2.

Question 5

Do you agree with the revised approach to premeditation as an aggravating or mitigating factor proposed to be included in the new assault guideline?

The CJA recognises that the previous approach posed problems for sentencers and agrees with the revised approach to premeditation.

Question 6

Do you agree that consideration for mental illness should be included at step 1 of the process and/or do you think that it should be built into the guideline in any other way?

The CJA fully agrees that consideration for mental illness should be included at Step 1 of the process as a factor indicating lower culpability. However, the CJA believes that the phrase that is used in the guideline should be reworded. For some sentencers, ‘mental illness’ may suggest only acute psychiatric illnesses; less severe and more common conditions that affect a high proportion of people within the criminal justice system - a

² Caulum, M. (2007) *Postadolescent Brain Development: A Disconnect Between Neuroscience, Emerging Adults and the Corrections System*, cited in Transition to Adulthood Alliance (2009) *Universities of Crime: Young Adults, the Criminal Justice System and Social Policy* - available at <http://www.t2a.org.uk/publication-download.php?id=15>

³ For further information, see the Transition to Adulthood Alliance’s website - <http://www.t2a.org.uk/>

2008 study of newly sentenced prisoners, for instance, found that only 18% reported no signs of anxiety or depression⁴ - may not, consequently, be taken into consideration by the sentencer.

The CJA is also concerned that the current wording may not, for some sentencers, clearly include those with learning disabilities or difficulties. Research has shown that 20%-30% of offenders have learning disabilities or difficulties that interfere with their ability to cope within the criminal justice system;⁵ this is, therefore, a significant group that needs to be recognised within the sentencing framework. We would recommend that the wording should be changed to read 'Mental health problems or disability, including learning disabilities or difficulties, where linked to commission of offence'.

The CJA also thinks that mental health issues should be incorporated into Step 2 of the process - see Question 10 below.

Question 8

Do you agree that the starting point and category ranges should be applicable to all offenders, not just first time offenders, and regardless of plea entered?

The CJA agrees that starting points and category ranges should be applicable to all offenders, not just first time offenders. This is important in order to avoid 'double-counting' of previous convictions, which is a statutory aggravating factor and, according to the design of the draft guideline, should be taken into account at Step 2.

Question 9

Do you agree that starting points should be set out in the assault guideline?

The CJA believes that starting points are an important feature of the assault guideline. We agree with the Sentencing Council that the inclusion of starting points in the guideline is likely to promote greater consistency of sentencing and, as such, is a key way of ensuring that offenders are sentenced fairly and proportionately as well as helping to enable the Council to fulfil its statutory duty, under section 120(11) of the *Coroners and Justice Act 2009*, "to have regard to ... the need to promote consistency in sentencing".

Question 10

Are there other additional aggravating and mitigating factors that should be included at step 2 of the decision making process?

The draft guideline currently identifies mental illness or disability, where it was wholly or partly responsible for the commission of an offence, as something that should be taken into account at Step 1 of the process as a factor indicating lower culpability. It then states that "where an offender has a mental illness or disability but it is proved that it was in no way responsible for the commission of the offence, it should not be considered a mitigating factor". During Step 2, however, "serious medical conditions requiring urgent, intensive or long-term treatment" are identified as a potential factor reducing seriousness or reflecting personal mitigation. It is not clear whether this includes mental ill health and disability, but the CJA would support an approach where even if mental ill health or disability is not responsible for the commission of an offence, it could be taken into account as a personal mitigating factor in the sentencing process.

For those with learning disabilities or difficulties, the experience of the criminal justice system, and particularly of custody, can be especially difficult. A report by the Prison Reform Trust, which is a member of the CJA, has highlighted areas of significant difficulty: people with learning disabilities or learning difficulties are likely to find it hard to understand and adjust to the rules and regimes of custody; they are vulnerable to

⁴ Stewart, D. (2008) *The Problems and Needs of Newly Sentenced Prisoners: Results from a National Survey*, London: Ministry of Justice.

⁵ Loucks, N. (2007) *No One Knows: Offenders with Learning Difficulties and Learning Disabilities - Review of Prevalence and Associated Needs*, London: Prison Reform Trust.

targeting by other prisoners; and they may respond to their distress by lashing out at others or by isolating themselves, or being isolated by prison staff for their own protection, which in turn increases their vulnerability to problems such as mental distress and suicide.⁶ Recognising learning disabilities or difficulties as a mitigating factor at Step 2 would encourage sentencers to look at non-custodial sentences which, in many cases, will provide a more appropriate and constructive response to an individual's offending behaviour. Additionally, the CJA believes that, since those with learning disabilities or difficulties may find custody unusually distressing, encouraging sentencers to look at non-custodial disposals in these cases may be more in keeping with the demands of proportionality.

Similar issues arise with regard to those with mental health problems. Research by the Centre for Mental Health, which is a member of the CJA, has identified a number of factors within the custodial environment that may have a negative impact on an individual's mental health, including separation from family and friends, bullying, having limited access to meaningful activity, including physical exercise, and difficulty accessing services, including health care and counselling.⁷ Current levels of overcrowding and the subsequent pressure on prison places means that there is significant movement of prisoners - 'churn' - within the prison estate; this disruption can also have a harmful effect on prisoners' mental well being.⁸ For those who enter prison with pre-existing mental health problems, then the impact of custody can be extremely damaging. Additionally, prisoners with mental health problems may be disconnected from the support services they were linked in with in the community as a result of imprisonment; unfortunately, the mental health care provided in prison is often a poor substitute for community-based services. There is, as the Bradley Report recognised, "growing consensus that prison may not always be an appropriate environment for those with severe mental illness and that custody can exacerbate mental ill health, heighten vulnerability and increase the risk of self-harm and suicide".⁹ The CJA believes that, by clearly recognising mental health problems as a mitigating factor at Step 2, the guideline would encourage sentencers to respond appropriately and proportionately to those experiencing mental ill health.

The CJA strongly welcomes the inclusion of 'youth/lack of maturity or age' as a mitigating factor at Step 2. As stated above, the CJA feels that it should also be included at Step 1, as a factor indicating lower culpability. The CJA also believes that it would be helpful for sentencers to receive training on lack of maturity, as well as on learning disabilities and difficulties and mental health problems, in order to aid their understanding and recognition. The Sentencing Council has an important role to play in ensuring that such training is made available to sentencers as part of its work to ensure the successful implementation of this guideline.

At present the draft guideline does not make any provision for sentencers to look at the impact of a sentence on individuals other than the offender when sentencing, particularly in cases where the offender is a parent or carer. The imprisonment of a parent is particularly damaging, with children of prisoners having about three times the risk of developing mental health problems compared to their peers and experiencing higher levels of social disadvantage, yet about 160,000 children a year have a parent sent to custody

⁶ Loucks, N. (2007) *No One Knows: Offenders with Learning Difficulties and Learning Disabilities - Review of Prevalence and Associated Needs*, London: Prison Reform Trust.

⁷ Durcan, G. (2008) *From the Inside: Experiences of Prison Mental Health Care*, London: Centre for Mental Health.

⁸ *Ibid.*

⁹ p.7: Bradley, K. (2009) *The Bradley Report: Lord Bradley's Review of People with Mental Health Problems or Learning Disabilities in the Criminal Justice System*, London: Department of Health.

and 7% of all children will see a parent imprisoned during their school years.¹⁰ The recognition of caring responsibilities as a mitigating factor would be of particular relevance to female offenders. 66% of women prisoners are mothers with dependent children under 18.¹¹ At least one third of women offenders are lone parents prior to being imprisoned, and it is estimated that up to 17,700 children each year are separated from their mothers due to imprisonment. Just 5% of the children of women offenders remain in their own home once their mother has been sentenced.¹² The effect of a custodial sentence on a female offender who is the sole carer for her children can, therefore, be severe, not only for her but also for her children. The Commission on Women and the Criminal Justice System (run by the Fawcett Society, which is a member of the CJA) consistently recommended that the sentencing of female offenders should take into account the impact on their families¹³, and introducing this as a potential mitigating factor would ensure that it was given consideration if relevant. The CJA therefore recommends that the Sentencing Council should consider whether personal obligations to others could be introduced as a potential mitigating factor to be considered in sentencing. This would enable sentencers to consider the impact on an offender's dependants when weighing-up the available sentence options.

Question 12

Do you agree with the Council's proposed change to include lack of maturity and/or is there any further role for the guideline to play in addressing the specific issues of offenders aged 18-24?

As stated above, the CJA welcomes the inclusion of youth/lack of maturity or age as mitigating factor at Step 2. As we also state above, the CJA feels that it should also be recognised at Step 1 as a factor indicating lower culpability. Additionally, the CJA believes that training for sentencers will be essential to enable them to recognise lack of maturity and understand this as a factor indicating lower culpability or reflecting personal mitigation. The Sentencing Council should consider what role it can play in ensuring that this training is delivered as part of the implementation of the final guideline.

Question 13

Do you agree with the eight-step proposed decision making process?

The CJA believes that the eight-step decision making process proposed in the draft guideline is clear and logical, and fully agrees with it. The CJA particularly welcomes the placing of consideration of dangerousness as a later step in the sentencing process. The CJA has particular concerns about the indeterminate sentence of imprisonment for public protection (IPP), including the steady number of offenders continuing to receive these sentences, the sluggish release rate for those prisoners serving IPPs - according to a recent report, just 4% of all prisoners who have completed their tariffs have been released¹⁴ - and the effect of this on an already overcrowded prison estate. We believe that, by positioning dangerousness towards the end of the process, the guideline will encourage sentencers to make informed decisions as to whether an IPP is appropriate. By putting the consideration of dangerous at Step 6, the guideline will allow sentencers to gather a wide range of information about the offender and the offence, which is crucial to ensuring that an appropriate decision is made; as the Justice Committee has previously noted, using IPP sentences proportionately and adequately depends to a very large extent on the

¹⁰ Action for Prisoners' Families, CLINKS, Pact and the Prison Reform Trust (2007) *The Children and Families of Prisoners: Recommendations for Government* - Parliamentary Briefing

¹¹ The Fawcett Society (2009) 'Women and the Criminal Justice System - the Facts' - available at <http://www.fawcettsociety.org.uk/index.asp?PageID=432>

¹² Smee, S. (2009) *Engendering Justice - From Policy to Practice*, London: The Fawcett Society.

¹³ <http://www.fawcettsociety.org.uk/index.asp?PageID=81>

¹⁴ Hough, M. and Jacobson, J. (2010) *Unjust Deserts: Imprisonment for Public Protection*, London: Prison Reform Trust.

presentation of quality information and evidence about an offender to the sentencer.¹⁵ The guideline also requires sentencers to decide on a determinate sentence appropriate to the seriousness of the offence before reaching a judgment about dangerousness. As such, since IPPs can now only be imposed on those convicted of a serious specified offence deserving a determinate sentence of at least four years (which may rise to ten years as a result of proposals recently published by the Ministry of Justice in ‘Breaking the cycle: Effective punishment, rehabilitation and sentencing of offenders’), the draft guideline provides safeguards against more intuitive judgments on dangerousness, and facilitates clear and rigorous decision-making in this area. The decision making process set out in the guideline also encourages sentencers to fix appropriate minimum terms for those offenders for whom it is decided that an IPP sentence is appropriate.

Question 14

Do you think that the range for category 3 GBH (section 20) cases should include custody at its upper limit or recommend only non-custodial disposals?

The CJA strongly believes that for category 3 GBH (section 20) only non-custodial disposals should be recommended. Community sentences are far more likely to help an offender address the causes of their offending than a short prison sentence. It is well known that the reoffending rates for those released from custodial sentences of less than twelve months are extremely high, and the latest research from the Ministry of Justice shows that community sentences are more effective (by 7 percentage points) at reducing one-year proven reoffending rates than custodial sentences of less than twelve months for similar offenders.¹⁶ Short prison sentences are also extremely ineffective in tackling drug or alcohol use. We therefore believe that, by recommending only non-custodial disposals in this category, the guideline could have a positive impact on the reduction of reoffending.

The CJA recognises the Sentencing Council’s concerns about maintaining proportionality with the proposed offence ranges for other offences within the guideline. However, since the Sentencing Council proposes to remove from the guideline the recommendations on the level of community order to be imposed, sentencers who feel that a more serious category 3 offence warrants a more demanding community order would be able to impose this. Additionally, should a sentencer feel that a more serious category 3 offence cannot be responded to adequately using a community order, a custodial sentence would still be available; under section 125(1) of the *Coroners and Justice Act 2009* courts are required to follow any sentencing guidelines which are relevant to the offenders case “unless the court is satisfied that it would be contrary to the interests of justice to do so”, allowing them to deviate from the guideline in exceptional circumstances. The CJA believes that the range of community sentences available means this is unlikely to be necessary, however. We also believe that the range of community sentences that could be imposed for offences within this category range means that proportionality with the offence ranges for other offences in the guideline could be maintained using non-custodial disposals only.

Question 15

Do you agree that the starting point for common assault should be a community order?

The CJA agrees that the starting point for category 1 and 2 common assault should be a community order, and that the starting point for category 3 common assault should be a fine. We believe that both the starting points proposed in the guideline for common assault, and the category ranges outlined, meet the demands of fairness and proportionality. Additionally, as set out in the resource assessment, the new guideline on common assault would lead to an estimated 1,000-2,800 fewer custodial sentences annually, and this is to be welcomed. Custodial sentences result in high rates of reoffending, and have a damaging impact on prisoners, their families and communities.

¹⁵ House of Commons Justice Committee (2008) *Towards Effective Sentencing*, Fifth Report of Session 2007-8, London: The Stationery Office.

¹⁶ Ministry of Justice (2010) *Compendium of Reoffending Statistics and Analysis* - <http://www.justice.gov.uk/compendium-of-reoffending-statistics-and-analysis.pdf>

They are, moreover, costly: the resource assessment estimates that the common assault guideline would result in a saving to the prison service of between £4 million and £10 million a year.

Question 16

Do you agree with the proposed offence ranges, category ranges and starting points for all of the offences in the draft guideline?

As stated above, the CJA believes that for category 3 GBH (section 20) only non-custodial disposals should be recommended. We would also advocate reducing the top of the Category 1 range for common assault and assault on a constable to four months rather than six months. At six months, it is at the same level as the current statutory maximum, so there would be no way for a sentence to exceed the normal range if there were exceptional aggravating factors present. We otherwise believe that the proposed offence ranges, category ranges and starting points for all of the offences in the draft guideline are fair and proportionate.

We are, however, disappointed that no mention is made of restorative justice (RJ) within the draft guideline. There is a growing body of evidence that points to the success of restorative justice processes in dealing with violent offences: a 2007 review of research on RJ in the UK and abroad found that, across the randomised controlled trials and the quasi-experiments it looked at, when RJ was used after violent crime there were, in some tests, substantial reductions in recidivism. There was, furthermore, no evidence in any of the tests of increased repeat offending.¹⁷ Indeed, one of the key findings of the report was that “RJ may work better with more serious crimes rather than less serious crimes, contrary to conventional wisdom”.¹⁸ Research published by the Ministry of Justice has also revealed high victim satisfaction rates with restorative justice; in one of the schemes evaluated, for instance, 85% of victims said they were very or quite satisfied with the RJ conferencing they experienced.¹⁹ Given these promising results, the CJA believes that the Sentencing Council should give serious consideration to restorative justice processes as suitable and effective responses to the offences covered in this guideline.

Question 17

Do you agree with removing the distinction between a high, medium and low community order from the offence ranges?

The CJA recognises that the different levels of community order specified in the existing guideline pose difficulties for sentencers, and can prevent them from imposing community orders that are tailored to the particular circumstances of an offender. As such, we support the removal of the distinction between high, medium and low community orders from the offence ranges.

Given the Sentencing Council’s clear interest in facilitating the imposition of appropriate and effective community orders, the CJA would highlight the importance of addressing the marked lack of use of two of the requirements available to sentencers, the Mental Health Treatment Requirement (MHTR) and the Alcohol Treatment Requirement (ATR). MHTRs are rarely used by sentencers: although 40% of offenders on community orders are thought to have a diagnosable mental health problem,²⁰ in 2009, only 809 MHTRs commenced out of a total of 231,444 requirements issued with community orders.²¹ The number of

¹⁷ Sherman, L. and Strang, H. (2007) *Restorative Justice: The Evidence*, London: The Smith Institute.

¹⁸ *Ibid.*, p. 68.

¹⁹ Shapland, J. et al (2007) *Restorative Justice: The Views of Victims and Offenders*, London: Ministry of Justice.

²⁰ Khanom, H., Samele, C. and Rutherford, M. (2009) *A Missed Opportunity? Community Sentences and the Mental Health Treatment Requirement*, London: Centre for Mental Health.

²¹ Ministry of Justice (2010) *Offender Management Caseload Statistics 2009 -*

<http://www.justice.gov.uk/publications/docs/omcs-2009-complete-210710a.pdf>

requirements for alcohol treatment commencing in the same period was significantly more, at 6,485.²² However, when it is considered that almost half of probation clients are recorded as having an alcohol problem,²³ the relative underuse of the ATR is clear - it accounted for just 3% of all requirements commenced in 2009.²⁴

A 2008 survey of the views and attitudes of sentencers by the Centre for Crime and Justice Studies, which is a member of the CJA, identified a clear lack of knowledge about the availability of community order requirements amongst sentencers and, additionally, that all requirements were not available in some areas; both of these factors may be considered as contributing to the low number of MHTRs and ATRs imposed. Actual availability of these two requirements is an issue that has emerged in subsequent studies.²⁵ A 2009 survey of probation officers, also by the Centre for Crime and Justice Studies, revealed that there were problems with the availability of requirements, especially alcohol and mental health treatment.²⁶ A recently published report by the Centre for Mental Health highlights the often conflicting objectives and targets of health and criminal justice agencies as having hindered the local commissioning of the ATR, and identifies inadequate provision of alcohol interventions across both general health care and offender specific-settings as a significant issue, noting that “demand for all types of intervention and treatment exceeds supply”.²⁷

For many offenders, the MHTR and ATR will provide an appropriate response to their offence, helping them to address the root causes of their behaviour far more effectively than, for instance, other community order requirements and short custodial sentences which, as we have noted earlier, are ineffective in tackling drug and alcohol use and can actually exacerbate mental health problems. It is essential for effective and fair sentencing that all the requirements for the Community Order and the Suspended Sentence Order are available in every area and that they are used appropriately. The CJA believes that the Sentencing Council has a crucial role to play in promoting the use of all of the potential requirements of the Community Order and the Suspended Sentence Order, as well as in helping sentencers to gain an understanding of what is available their local area and to recognise accurately when and for whom it is appropriate to use these requirements.

Question 18

Do you think that the aggravating/mitigating factors of harm within the draft guideline sufficiently allow the court to take into account consideration of victims, or are there other ways in which victims could be considered?

In our view, the aggravating and mitigating factors set out in the draft guideline take into account the impact on the victim. However, the consultation document does not make any mention of Victim Personal Statements and how sentencers can use their contents to inform sentencing. Given uncertainty about the role and use of Victim Personal Statements (recent analysis by Victim Support shows that only 16% of victims both recall being offered the opportunity to give a Victim Personal Statement and felt their views

²² Ministry of Justice (2010) *Offender Management Caseload Statistics 2009* - <http://www.justice.gov.uk/publications/docs/omcs-2009-complete-210710a.pdf>

²³ Fitzpatrick R. and Thorne L. (2010) *A Label for Exclusion: Support for Alcohol-misusing Offenders*, London: Centre for Mental Health.

²⁴ Ministry of Justice (2010) *Offender Management Caseload Statistics 2009* - <http://www.justice.gov.uk/publications/docs/omcs-2009-complete-210710a.pdf>

²⁵ Mair, G., Cross, N. and Taylor, S. (2008) *The Community Order and the Suspended Sentence Order: The Views and Attitudes of Sentencers*, London: Centre for Crime and Justice Studies.

²⁶ Mair, G. and Mills, H. (2009) *The Community Order and the Suspended Sentence Order Three Years On: The Views and Experiences of Probation Officers and Offenders*, London: Centre for Crime and Justice Studies.

²⁷ Fitzpatrick R. and Thorne L. (2010) *A Label for Exclusion: Support for Alcohol-misusing Offenders*, London: Centre for Mental Health.

were taken into account when they took up this offer²⁸), it would arguably be beneficial for the Sentencing Council to examine their role in informing the sentencer about the impact of the offence on the victim. The Victim Support report also noted that “94 per cent of victims of crime said that the most important thing to them was that the offender did not commit the crime again” and that “81 per cent would prefer an offender to receive an effective sentence rather than a harsh one”, which is important as a reminder that sentencing that better considers the victim is not necessarily more punitive.

**Criminal Justice Alliance
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²⁸ Victim Support (2010) *Victims' Justice? What Victims and Witnesses Really Want from Sentencing*, London: Victim Support.