

The Association of Directors of Adult Social Services (ADASS) is a membership organisation for those working in adult social care. As a charity we work with professionals, other organisations and people with lived experience to influence decision makers, policy and legislation. Our membership is drawn from serving statutory Directors of Adult Social Services employed by local authorities and their direct reports.

This submission (in italics) follows The Sentencing Review Guidance as follows:

1. Three principles:

1.1 Punish offenders and protect the public

There has been too big a gap between criminal justice agencies and local communities, which has contributed to the reduction of trust in criminal justice. ADASS supports a closer relationship between criminal justice agencies and local communities, including representative local authorities to achieve a better balance between punishment and protection of the public.

1.2 Encourage offenders to quit and reduce reoffending

There has been an up-tariff trend in sentencing over the last decade, with an increasing focus on punishment, at the expense of rehabilitation and reduction of reoffending. ADASS supports the focus upon the reduction in offending and in reoffending through this review. This would include a greater input to the Sentencing Panel of the views of victims and communities, on the causes and impact of offending and the potential for the reduction of offending.

1.3 Expand and make greater use of punishment outside prison

The gradual reduction by courts in use of punishment outside prison has resulted in community sentences being 50% less in the last year, compared with 2010 with a corresponding increase in custodial sentences. ADASS strongly supports the expansion and use of punishment outside prison to improve the potential for rehabilitation and reduction in reoffending.

2. Seven themes:

2.1 History and trends in sentencing – What have been the key drivers in changes in sentencing, and how have these changes met the statutory purposes of sentencing?

There are two key trends in sentencing which this review should consider:

- the increasingly up tariff element of punishment which has resulted in high numbers in custody, low numbers on community sentences and the current crisis in prisons with the disastrous rates of over 55% reoffending by those released from prison.*
- it has also resulted in a disproportionate number of women, black and other minorities being in custody.*

ADASS asks this review to consider how to deliver greater safety to victims and communities through sentencing in a way which improves the balance of

punishment, rehabilitation and fairness that promotes confidence in criminal justice in all communities.

2.2 Structures – How might we reform structures and processes to better meet the purposes of sentencing whilst ensuring a sustainable system?

The Government and the Sentencing Council should consider more carefully how legislation and guidance on sentencing can carry the trust and confidence of those disproportionately impacted both as victims and offenders i.e. women, black and other minority communities (such as faith, LGBT and disabled people).

ADASS members and their local authorities have statutory duties such as under the Care Act and the Mental Health Act for services to people from these categories, which cannot be effectively delivered through custodial sentences.

This review could also consider how the judiciary, prison and probation services can better reflect the diverse communities they serve to increase confidence and sustainability in sentences.

A flexible and efficient way for courts to deal with high volumes of serious offences would be to expand the use of “intermediate courts” with both a judge and magistrates (rather than rely solely upon either Magistrates and/or Crown Courts). In particular to expand the use of “problem solving” courts in this format that examine the potential causes and best solutions to offending and appropriate punishment that connect to the local communities.

2.3 Technology – How can we use technology to be innovative in our sentencing options, including considering how we administer sentences and manage offenders in the community?

ADASS members have no direct involvement in the use of technology in sentencing. We would suggest that from the experience of people receiving social care in using technology – it needs to be closely connected to and administered by well trained staff responsible for the outcomes of their care/intervention roles. This would help ensure it is accepted and used by the person to achieve therapeutic goals. The same principle should apply to the criminal justice system – there is a risk of failure from a separation of technology from the enablement/supervisory functions and staff. This would mean sentencing combines the appropriate use of technology with supervision and agreed rehabilitation goals with the offender.

2.4 Community sentences – How should we reform the use of community sentences and other alternatives to custody to deliver justice and improve outcomes for offenders, victims and communities?

ADASS considers this to be the most important aspect of this review, as community sentences should be the cornerstone of prevention of offenders from requiring prison sentences and reducing the risks of reoffending. ADASS considers the principles of the Care Act in maximising the social capital of people with needs related to offending should be incorporated in sentencing – i.e. ensuring relationships, employment, housing and wellbeing meet the offender’s needs as well as appropriate punishment.

There needs to be investment in the Probation Service alongside reform for greater clarity of the role and powers of the Service. The workforce retention and skills gap issues in the Probation Service hinder its effectiveness. These need to be resolved preferably by professional social work training and qualifications as well as existing specialist skills development to ensure it is efficient and effective. Confidence of the courts and the public in community sentences needs to be restored through this review and government policy. The current limitations of the Probation Service are set out in the last two Chief Inspectors of Probation annual reports 2022/23 and 2023/24 and in brief are due to:

- insufficient capacity to meet demand especially in the courts*
- skills to deal effectively with the full range of the causes of (re)offending*
- governance that is local (not civil servant controlled) to ensure appropriate networks, professional co-ordination across agencies and community ownership of restorative and rehabilitative justice*

The use of financial penalties by courts and in Sentencing Guidelines needs to be carefully matched to income and the family, caring or other aspects of an offender's situation to avoid adverse impact on children or vulnerable members of the offender's family.

2.5 Custody – How should custodial sentences be reformed to deliver justice and improve outcomes for offenders, victims and communities?

The deprivation of liberty in prison has always been the source of punishment in British criminal justice. The conditions in prisons have increasingly been overcrowded, insecure against drugs and other ill health regimes, and void of meaningful education, training or rehabilitation. In addition, most people in prison are also removed geographically from their home areas making it extremely difficult for community and family ties to be kept. Local authorities have a key role in supporting women and families of men and women in custody and the impact of the high frequency of breakdown in these relationships.

2.6 Progression through custody – How should we reform the way progress through their custodial sentences to ensure we are delivering justice and improving outcomes for offenders, victims, and communities?

ADASS suggests that sentencing and custodial delivery needs to provide incentives and opportunities for meaningful activity, education, training and rehabilitation (lacking in the majority of cases) to ensure the maximum reduction of reoffending on release and to reduce time in custody. The use of open prisons closer to offenders' homes linked to incentives to tackle addictions, trauma, and other causes of crime.

An example of best practice was a family mediation scheme linked to drug and addiction rehabilitation which were proven to be highly effective in reducing reoffending when piloted previously in Oldham in 2015 (there are no known current schemes). It had a disciplined approach and incentive for those in prison to enter into a programme of reduction, or clean preparation for release, and a holistic support post release including housing, employment and family mediation co-ordinated by the Probation Service with the Depaul charity, the council and voluntary organisation.

2.7 Individual needs of victims and offenders – What, if any, changes are needed in sentencing to meet the individual needs of different victims and offenders and to drive better outcomes?

There is a disproportionate number of women, black, and other minorities in custody. ADASS considers there needs to be a concerted change in the courts and sentencing as well as investment in a reformed Probation Service to address this. Over 60% of women in custody have experienced domestic violence, and yet courts have little or no opportunity for this to be considered in sentencing due to the lack of pre-sentence reports and community sentences to address this.

The lived experience of victims of crime and offenders are not often reflected in sentencing – greater input from the Probation Service through pre-sentence reports and problem solving courts would help address this.

Trauma related support in the Probation Service is currently limited due to the disconnect of the Probation Service and courts from local community organisations supporting victims, councils and safeguarding boards, mental health and drug/addiction treatment NHS services.

All of these could be better accessed through problem solving courts and appropriately resourced Probation Service Pre-sentence Reports.

Over 40% of male offenders in custody are care leavers – though the role of local authorities in working with the courts and the Probation Service on the underlying reasons for this is absent in Sentencing Guidelines.

The length of custodial sentences has increased in the last two decades inevitably leading to an expanding aging population in prisons without appropriate support and care to meet their health and care needs. Greater support to prisons through the Probation Service with adult social care (properly resourced) would help address this.

Tailored addiction, trauma, mental health and other rehabilitation programmes should form part of the sentences for those with those particular needs. Expanded Probation Service input to the courts and greater use of pre-sentence reports would support this approach in reducing the causes of reoffending.

3. Conclusion:

ADASS supports the co-ordination of this Sentencing Review with that of the review of courts and the Justice Committee's review of rehabilitation currently underway. All three reviews present a good opportunity for a "whole system" approach to reform and renewal of confidence in the criminal justice system as a whole.

The current situation creates greater damage to individuals, their families and communities through an emphasis on custody, for many non-violent offenders, and which impacts on the social care local authorities then have to provide.

Keith Skerman ADASS Associates Co-chair on behalf of ADASS 8 January 2025

Contact via : team@adass.org.uk