



# Coroners and Justice Act 2009

## 2009 CHAPTER 25

### PART 4

#### SENTENCING

#### CHAPTER 1

##### SENTENCING COUNCIL FOR ENGLAND AND WALES

##### *Other functions of the Council*

#### **127 Resource implications of guidelines**

- (1) This section applies where the Council—
  - (a) publishes draft guidelines under section 120 or 122, or
  - (b) issues guidelines as definitive guidelines under either of those sections.
- (2) The Council must publish a resource assessment in respect of the guidelines.
- (3) A resource assessment in respect of any guidelines is an assessment by the Council of the likely effect of the guidelines on—
  - (a) the resources required for the provision of prison places,
  - (b) the resources required for probation provision, and
  - (c) the resources required for the provision of youth justice services.
- (4) The resources assessment must be published—
  - (a) in a case within subsection (1)(a), at the time of publication of the draft guidelines;
  - (b) in a case within subsection (1)(b), at the time the guidelines are issued or, where the guidelines are issued by virtue of section 123, as soon as reasonably practicable after the guidelines are issued.

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*Status: This is the original version (as it was originally enacted).*

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- (5) The Council must keep under review any resource assessment published under this section, and, if the assessment is found to be inaccurate in a material respect, publish a revised resource assessment.

## **128 Monitoring**

- (1) The Council must—
- (a) monitor the operation and effect of its sentencing guidelines, and
  - (b) consider what conclusions can be drawn from the information obtained by virtue of paragraph (a).
- (2) The Council must, in particular, discharge its duty under subsection (1)(a) with a view to drawing conclusions about—
- (a) the frequency with which, and extent to which, courts depart from sentencing guidelines;
  - (b) the factors which influence the sentences imposed by courts;
  - (c) the effect of the guidelines on the promotion of consistency in sentencing;
  - (d) the effect of the guidelines on the promotion of public confidence in the criminal justice system.
- (3) When reporting on the exercise of its functions under this section in its annual report for a financial year, the Council must include—
- (a) a summary of the information obtained under subsection (1)(a), and
  - (b) a report of any conclusions drawn by the Council under subsection (1)(b).

## **129 Promoting awareness**

- (1) The Council must publish, at such intervals as it considers appropriate—
- (a) in relation to each local justice area, information regarding the sentencing practice of the magistrates' courts acting in that area, and
  - (b) in relation to each location at which the Crown Court sits, information regarding the sentencing practice of the Crown Court when it sits at that location.
- (2) The Council may promote awareness of matters relating to the sentencing of offenders by courts in England and Wales, including, in particular—
- (a) the sentences imposed by courts in England and Wales;
  - (b) the cost of different sentences and their relative effectiveness in preventing re-offending;
  - (c) the operation and effect of guidelines under this Chapter.
- (3) For the purposes of subsection (2), the Council may, in particular, publish any information obtained or produced by it in connection with its functions under section 128(1).

## **130 Resources: effect of sentencing practice**

- (1) The annual report for a financial year must contain a sentencing factors report.

- (2) A sentencing factors report is an assessment made by the Council, using the information available to it, of the effect which any changes in the sentencing practice of courts are having or are likely to have on each of the following—
- (a) the resources required for the provision of prison places;
  - (b) the resources required for probation provision;
  - (c) the resources required for the provision of youth justice services.

### **131 Resources: effect of factors not related to sentencing**

- (1) The annual report for a financial year must contain a non-sentencing factors report.
- (2) The Council may, at any other time, provide the Lord Chancellor with a non-sentencing factors report, and may publish that report.
- (3) A non-sentencing factors report is a report by the Council of any significant quantitative effect (or any significant change in quantitative effect) which non-sentencing factors are having or are likely to have on the resources needed or available for giving effect to sentences imposed by courts in England and Wales.
- (4) Non-sentencing factors are factors which do not relate to the sentencing practice of the courts, and include—
- (a) the recalling of persons to prison;
  - (b) breaches of orders within subsection (5);
  - (c) patterns of re-offending;
  - (d) decisions or recommendations for release made by the Parole Board;
  - (e) the early release under discretionary powers of persons detained in prison;
  - (f) the remanding of persons in custody.
- (5) The orders within this subsection are—
- (a) community orders (within the meaning of section 177 of the [Criminal Justice Act 2003 \(c. 44\)](#)),
  - (b) suspended sentence orders (within the meaning of section 189(7) of that Act), and
  - (c) youth rehabilitation orders (within the meaning of Part 1 of the [Criminal Justice and Immigration Act 2008 \(c. 4\)](#)).

### **132 Duty to assess impact of policy and legislative proposals**

- (1) This section applies where the Lord Chancellor refers to the Council any government policy proposal, or government proposal for legislation, which the Lord Chancellor considers may have a significant effect on one or more of the following—
- (a) the resources required for the provision of prison places;
  - (b) the resources required for probation provision;
  - (c) the resources required for the provision of youth justice services.
- (2) For the purposes of subsection (1)—
- “government policy proposal” includes a policy proposal of the Welsh Ministers;
- “government proposal for legislation” includes a proposal of the Welsh Ministers for legislation.

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- (3) The Council must assess the likely effect of the proposal on the matters mentioned in paragraphs (a) to (c) of subsection (1).
- (4) The Council must prepare a report of the assessment and send the report—
  - (a) to the Lord Chancellor, and
  - (b) if the report relates to a proposal of the Welsh Ministers, to the Welsh Ministers.
- (5) A single report may be prepared of the assessments relating to 2 or more proposals.
- (6) If the Lord Chancellor receives a report under subsection (4) the Lord Chancellor must, unless it relates only to a proposal of the Welsh Ministers, lay a copy of it before each House of Parliament.
- (7) If the Welsh Ministers receive a report under subsection (4) they must lay a copy of it before the National Assembly for Wales.
- (8) The Council must publish a report which has been laid in accordance with subsections (6) and (7).
- (9) In this section “legislation” means—
  - (a) an Act of Parliament if, or to the extent that, it extends to England and Wales;
  - (b) subordinate legislation made under an Act of Parliament if, or to the extent that, the subordinate legislation extends to England and Wales;
  - (c) a Measure or Act of the National Assembly for Wales or subordinate legislation made under such a Measure or Act.