



Guideline on sentencing domestic abuse offences

Draft impact assessment

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Introduction

1. This document fulfils the Scottish Sentencing Council's statutory duty¹ to provide an assessment of the costs and benefits to which the implementation of the sentencing guideline for offences involving domestic abuse² is likely to give rise, and an assessment of the likely impact of the guideline on the criminal justice system in general.
2. The guideline will apply to all offenders who are sentenced on or after the coming into force date of the guideline, and who have been convicted of an offence involving domestic abuse. For the purposes of this guideline, an offence involving domestic abuse is any offence that is intended to cause (or where the perpetrator is reckless as to whether it causes) a partner or ex-partner to suffer physical or psychological harm.³ To assess any possible impacts arising from the guideline, should they occur, this impact assessment includes data on the following offences and statutory aggravations:⁴

¹ Under section 4 of the [Criminal Justice and Licensing \(Scotland\) Act 2010](#).

² The guideline should be read alongside our three general guidelines on the [principles and purposes of sentencing](#), on [the sentencing process](#) and, if it is applicable, on [sentencing young people](#). The guideline on domestic abuse builds on the general approach to sentencing set out in these guidelines, and provides guidance that is particularly relevant to the offences of domestic abuse.

³ The guideline should also be read alongside any other existing guidelines which apply to the case, or to the offender, where the victim is a partner or ex-partner.

⁴ The Scottish Government releases statistical data on criminal proceedings which are issued by the police and by the Crown Office and Procurator Fiscal Service (COPFS) in its Criminal Proceedings (CP) statistical bulletin. At the time of writing, the most recent dataset available is the [Criminal Proceedings in Scotland 2023-24](#) bulletin. The CP data counts people by main charge. If there are multiple charges libelled on a complaint or indictment and thereafter proven against an accused in a single proceeding, the main charge is the crime or offence receiving the most severe penalty. If a person is, for example, charged with domestic abuse and sexual assault but convicted only of the sexual assault charge they would not appear as an acquittal in the domestic abuse statistics for CP (as the main charge would be sexual assault.) Unless otherwise noted, the data provided by SCTS and used in this assessment are given at charge code disposal level (i.e. number of disposals per charge code). Charge codes are unique identifiers used to classify criminal offences within the Scottish criminal justice system. The initial charge and corresponding internal charge code is assigned by COPFS when prosecuting a case. Charge codes therefore reflect the specific offence(s) an accused is charged with. SCTS records and manages these codes within courts to track cases in the court system, ensuring consistent classification and reporting. Sentencing data classified by charge code disposal level means that each reported disposal pertains to a specific charge, however multiple charges and their respective disposals may relate to the same case, resulting in individual offenders potentially being counted more than once depending on the number of disposals associated with their case. The data in this impact assessment are therefore not strictly comparable with those in the Criminal Proceedings dataset.

- section 1 of the Domestic Abuse (Scotland) Act 2018 (hereafter 'DASA')⁵
- offences under DASA section 1 which are aggravated under section 5(1) of DASA (aggravation in relation to a child)
- charges for any offences with a statutory domestic abuse aggravation, including:
 - an offence that is aggravated under section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (hereafter 'the 2016 Act'), including those involving child aggravations.⁶

⁵ In Scotland, domestic abuse offences which took place on or after 01 April 2019 may be prosecuted under DASA, section 1(1) where a course of conduct can be established.

⁶ Section 5(1) of DASA explicitly addresses child involvement as a statutory aggravation, stating that the offence is aggravated when the perpetrator's abusive behaviour affects or involves a child. A child aggravation where it relates to an offence under the 2016 Act however, is an identifier added to a charge to provide information for operational purposes, and is not a statutory aggravation.

Rationale and aims of the new guideline

3. The Criminal Justice and Licensing (Scotland) Act 2010⁷ contains provision enabling the Council to prepare guidelines with regards to the sentencing of particular offences.
4. The key aims of the guideline on sentencing offences involving domestic abuse are to:
 - Assist judges and lawyers in the criminal courts by providing guidance in relation to matters the court should consider when sentencing domestic abuse offences, which account for a significant number of cases heard across Scottish courts
 - Promote greater consistency in the sentencing of these offences, which can be a challenge for the courts due to the potentially broad variety of circumstances of such offences, and the need to consider the protection of the victim in a domestic context.
 - Increase public knowledge in the sentencing process and the factors involved in sentencing domestic abuse offences. Domestic abuse cases are of particular public concern and can be among the most complex which come before the courts for sentencing. This is an area in which increased public understanding would be of particular value, especially as such offences can cause particularly damaging harm to those affected by the abuse and can inflict lasting trauma.
5. The guideline has been developed to be useful to:
 - sentencers
 - legal practitioners
 - those involved in the delivery and administration of criminal justice
 - those involved in, or with an interest in, such cases, for example victims, families, and support organisations

⁷ Under section 3(3)(c) of the [Criminal Justice and Licensing \(Scotland\) Act 2010](#)

- those accused or convicted of a domestic abuse offence
- the public
- the media.

Current sentencing practice

6. The data presented here on offences of domestic abuse, including data on offender demographics, were provided by the Scottish Courts and Tribunals Service (SCTS) and are based on charge level data and classified by date of disposal.⁸ As such, there may be minor differences between the figures given here and those presented in the most recent Scottish Government Criminal Proceedings dataset.⁹ The decision to use the SCTS data was based upon the comparatively more detailed demographic information which enables the Council to better fulfil its duty to consider the impact of any guidelines.

Number of offences

7. This analysis focuses solely on charge level disposals for:
- offences under section 1(1) of DASA

⁸ Data reported here were provided by SCTS and are drawn from live management information databases. Although every effort has been made to ensure the data presented here are accurate, it is not possible to undertake quality assurance to the same level as for national statistics. Care should be exercised when drawing conclusions from these data. The data should **only** be used for the purpose of considering the impact assessment on the guideline on sentencing domestic abuse offences as set out in this document. These data should **not** be compared to other datasets, as frames of reference and approaches to classification will differ.

⁹ The Scottish Government releases statistical data on criminal proceedings concluded in Scottish courts and on a range of measures available as alternatives to prosecution, which are issued by the police and by the Crown Office and Procurator Fiscal Service in its Criminal Proceedings (CP) statistical bulletin. At the time of writing, the most recent dataset available is the [Criminal Proceedings in Scotland 2023-24](#) bulletin. The CP data counts people by main charge. If there are multiple charges libelled on a complaint or indictment and thereafter proven against an accused in a single proceeding, the main charge is the crime or offence receiving the most severe penalty. Unless otherwise noted, the data provided by SCTS and used in this assessment are given at charge code disposal level (i.e. number of disposals per charge code). Charge codes are unique identifiers used to classify criminal offences within the Scottish criminal justice system. The initial charge and corresponding internal charge code is assigned by COPFS when prosecuting a case. Charge codes therefore reflect the specific offence(s) an accused is charged with. SCTS records and manages these codes within courts to track cases in the court system, ensuring consistent classification and reporting. Sentencing data classified by charge code disposal level means that each reported disposal pertains to a specific charge, however multiple charges and their respective disposals may relate to the same case, resulting in individual offenders potentially being counted more than once depending on the number of disposals associated with their case. The data in this impact assessment are therefore not strictly comparable with those in the Criminal Proceedings dataset.

- offences under DASA section 1 which are aggravated under section 5(1) of DASA (aggravation in relation to a child)¹⁰
 - statutory domestic abuse aggravations under section 1 of the 2016 Act^{11,12}
 - statutory domestic abuse aggravations under section 1 of the 2016 Act where a child aggravation is also present.¹³
8. The figures provided in this impact assessment reflect the total number of cases with disposals imposed on offenders sentenced over a 7-year period, between the financial years of 2017/18 to 2023/24.¹⁴ It should be noted that DASA came into force on 1 April 2019, and consequently any data relating to the Act pertains to the period following this date.
9. Additionally, the COVID-19 pandemic and measures to address it affected both the volume and nature of cases dealt with by the courts. As such, care should be taken in comparing data from 2021/22 onwards of the assessment period with those preceding, as differences may be influenced due to court backlogs rather than underlying trends alone.

¹⁰ The total number of DASA section 1 offences also encompasses offences aggravated under DASA s5(1). Due to limitations in disaggregating the data, including child-related aggravations, the disaggregated child aggravation data are presented for illustrative purposes only, and comparisons should be avoided.

¹¹ Offences recorded with a domestic abuse aggravation under the 2016 Act are existing offences which are aggravated when committed in the context of domestic abuse. Unlike DASA, these do not create a standalone domestic abuse offence. It should be noted that DASA came into force on 1 April 2019, and the domestic abuse statutory aggravation under the 2016 Act came into force in April 2017. As a result, any observed growth early in the dataset may partly reflect the introduction of this legislation.

¹² The total number of domestic abuse aggravations also encompasses those including child aggravations. Due to limitations in disaggregating the data, including child-related aggravations, the disaggregated child aggravation data are presented for illustrative purposes only, and comparisons should be avoided.

¹³ Section 5(1) of DASA explicitly addresses child involvement as a statutory aggravation, stating that the offence is aggravated when the perpetrator's abusive behaviour affects or involves a child. A child aggravation where it relates to an offence under the 2016 Act, however, is an identifier added to a charge to provide information for operational purposes and is not a statutory aggravation.

¹⁴ Care should be taken in drawing conclusions from these data. These data should only be used for the purpose of considering the impact assessment on the guideline on sentencing domestic abuse offences as set out in this document. These data should not be compared to other datasets, as frames of reference and approaches to classification will differ. See footnote 8.

10. The dataset includes some charges with a 'child aggravation'. This is an administrative marker and signifies that the offence was committed against a child under the age of 16. It is distinct from the statutory aggravation in section 5(1) of DASA.¹⁵ However, due to the way the data are recorded, it is not always possible to distinguish between offences committed against an adult or a child, and the age of the victim is not available in the data. Disaggregated totals for offences involving children are provided in the dataset but should accordingly be treated with caution.

11. Percentages may not sum to 100% due to rounding.

Number of offences: Total DASA s1(1) offences

12. Data provided by SCTS show that a total of 5,668 offences were disposed of by the courts under section 1(1) of DASA between 2019/20 and 2023/24.¹⁶

13. Out of the 5,668 offences, the average number disposed of by the courts over the period per year was approximately 1,134, with a median of 1,293. The lowest number of section 1(1) DASA disposals was recorded in 2019/20 (351) while the highest occurred in 2023/24 (1,877).

14. Over the period, the total section 1(1) DASA offences increased overall. In the most recent three years of this assessment period, 2021/22, 2022/23 to 2023/24, there has been a steady increase, with 1,293, 1,506 and 1,877 disposals

¹⁵ The child aggravation, when attached to domestic abuse offences, is an administrative marker from COPFS systems, rather than a recording of a statutory aggravation which would require to be taken into account in sentencing. It generally indicates that the offence was committed against, or involving, a child under the age of 16 and may reflect the increased seriousness of offending against a child. However, due to factors such as variations in how the age of a victim is recorded, and the inherent complexities of managing detailed case data across multiple systems, it is not always possible to determine with certainty the exact age of the victim in cases recorded with the child aggravation. The age of 16 is generally used as the threshold for recording offences with or without the child aggravation; however, the age of the child is not recorded in the data. It is therefore not possible to accurately disaggregate sentences for domestic abuse offences as to whether the victim is an adult or child. Due to these limitations, the disaggregated child aggravation data presented in the impact assessment are presented for illustrative purposes only, and comparisons should be avoided.

¹⁶ The data provided by SCTS and used in this assessment are given at charge code disposal level (i.e. number of disposals per charge code). See footnote 4 for more information.

respectively.

Table 1: Number of disposals per year (total DASA s1(1) offences)

Year	Number of disposals
2019/20	351
2020/21	641
2021/22	1,293
2022/23	1,506
2023/24	1,877
Total	5,668

Number of offences: DASA s1 offences aggravated under s5(1) (aggravation in relation to a child)

15. A total of 1,106 DASA s1 offences aggravated under section 5(1) were disposed of by the courts between 2019/20 and 2023/24.

16. Of the 1,106 disposals, the average number disposed of by the courts over the period per year was 221, with a median of 242. The lowest number of disposals was recorded in 2019/20 (70) while the highest occurred in 2023/24 (349).

17. The disposals increased overall over the 5-year period since DASA took effect. In the most recent three years, there has been a steady increase, with 242, 304 and 349 disposals.

Table 2: Number of disposals per year (DASA s1 offences aggravated under s5(1))

Year	Number of disposals
2019/20	70
2020/21	141
2021/22	242
2022/23	304
2023/24	349
Total	1,106

Number of offences: Total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act

18. There has been a total of 86,204 disposals that included a statutory domestic abuse aggravation under section 1 of the 2016 Act.¹⁷
19. Of the 86,204 disposals, the average over the 7-year period was 12,315, with a median of 13,216. The lowest number of disposals was recorded in 2017/18 (6,239), and the highest number was recorded in 2023/24 (14,952).
20. Disposals have increased since they were recorded in 2017/18, averaging 14,693 disposals over the last 3 recorded years (2021/22, 2022/23, 2023/24).

Table 3: Number of disposals per year (total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act)

Year	Number of disposals
2017/18	6,239
2018/19	11,469
2019/20	13,216
2020/21	11,201
2021/22	14,433
2022/23	14,694
2023/24	14,952
Total	86,204

Number of offences: Offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present¹⁸

21. There has been a total of 1,382 offences disposed of by the courts that had a domestic abuse statutory aggravation under the 2016 Act, where a child aggravation was also present.

¹⁷ Due to variations in court recording practices, there may be inconsistencies in how offences are categorised under this section. Caution is recommended when interpreting data under the 2016 Act.

¹⁸ In relation to offences under the 2016 Act, a child aggravation operates as a non-statutory identifier added to a charge for operational purposes rather than as a statutory aggravation. See footnote 13.

22. Of the 1,382 offences, the average number disposed of by the courts over the 7-year period per year was 197, with a median of 206. The lowest number of disposals was recorded in 2017/18 (26), and the highest number was recorded in 2023/24 (339).

23. Disposals have increased since they were recorded in 2017/18, averaging 293 disposals over the most recently recorded 3 years (2021/22, 2022/23, 2023/24).

Table 4: Number of disposals per year (offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present)

Year	Number of disposals
2017/18	26
2018/19	119
2019/20	152
2020/21	206
2021/22	206
2022/23	334
2023/24	339
Total	1,382

Offender and victim demographics

24. This section covers the demographics of offenders sentenced for domestic abuse offences. It should be noted that there are limitations in the availability of demographic data and as such, demographic details may not be available for all disposals. The age profiles and the Scottish Index of Multiple Deprivation (SIMD) decile classification of offenders are provided to the extent possible.¹⁹ Insufficient data are available to allow for analysis of offenders' ethnic group and are therefore not included. As with the figures regarding the number of offences, the disaggregated child aggravation data are presented for illustrative purposes only,

¹⁹ [Scottish Index of Multiple Deprivation 2020 \(Scottish Government 2020\)](#) states that SIMD is a tool for identifying the places in Scotland where people are experiencing disadvantage across different aspects of their lives. SIMD gives a ranking for each small area, or data zone, which shows how deprived that area is compared to other areas. Changes in the rank for one area may be due to other areas becoming more or less deprived.

and comparisons should be avoided.²⁰ Details on victim demographics are provided to the extent possible, however this information is not included in the SCTS data and is therefore limited by how such data are recorded and reported elsewhere.

Offender demographics: Total DASA s1(1) offences

25. Almost all the offenders involved in the total DASA s1(1) offences in the reporting period were male (96%), while 3% were female.²¹ This differs from the general offending population where, according to the Criminal Proceedings in Scotland, 2023-24 bulletin (Scottish Government 2025), males accounted for 83% of all convictions.²²

26. Approximately 59% of the disposals for all DASA s1(1) offences in the overall period were imposed on offenders between 31-60 years of age, with 38% of offenders being aged 30 or under.²³ Less than 1% (26) of the 5,668 were under 18, while 4% (245) were between 18-20 years old. 12% (679) were within the 21-24 age group, and 22% (1,244) were between 25-30 years of age. The highest number of disposals, accounting for 35% (1,971), were imposed on offenders aged between 31-40. 17% (991) of offenders were aged 41-50, 7% were aged 51-60 (390) and only 2% of offenders were 60+ (117).

²⁰ See footnote 12.

²¹ Demographic recordings of sex were unavailable for 70 disposals.

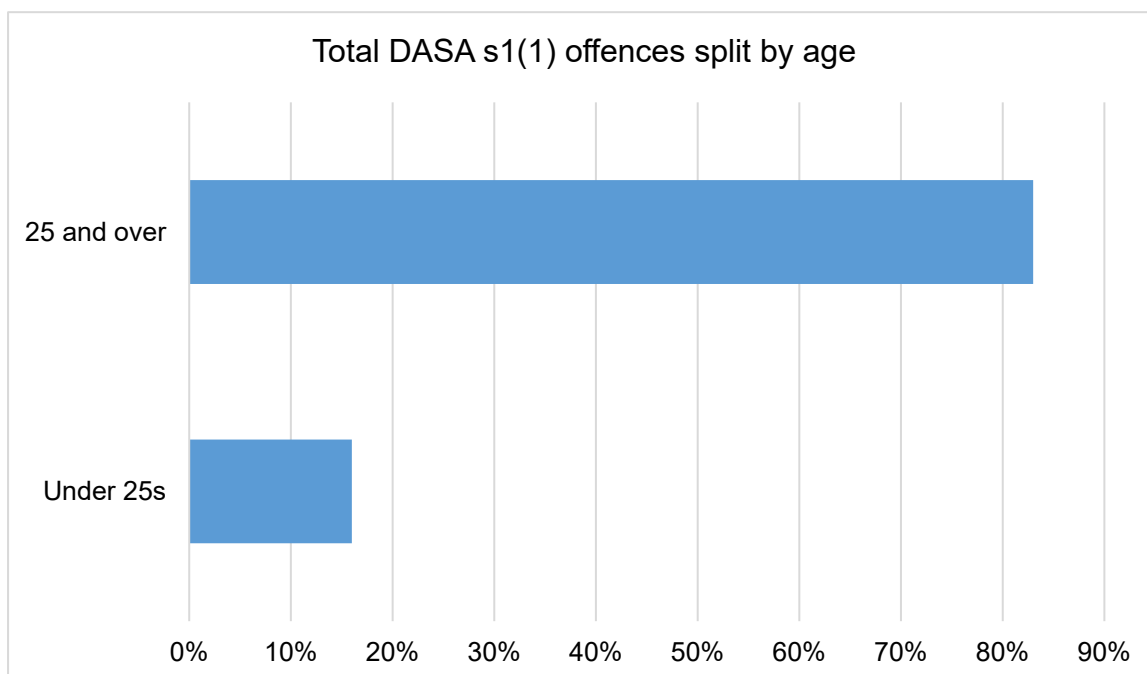
²² [Criminal Proceedings in Scotland, 2023-24 \(Scottish Government 2025\)](#). See paragraphs 8 and 9 of this impact assessment and associated footnotes on differences between the figures provided by SCTS and those presented in the Criminal Proceedings dataset.

²³ Offender age in this dataset is calculated as the age at conviction.

Table 5: Total disposals by age of offender (total DASA s1(1) offences)

Age Bracket	Number of disposals	Percentage %
Under 18	26	<1%
18-20	245	4%
21-24	679	12%
25-30	1,244	22%
31-40	1,971	35%
41-50	991	17%
51-60	390	7%
60+	117	2%
N/A	5 ²⁴	<1%
Total	5,668	100%

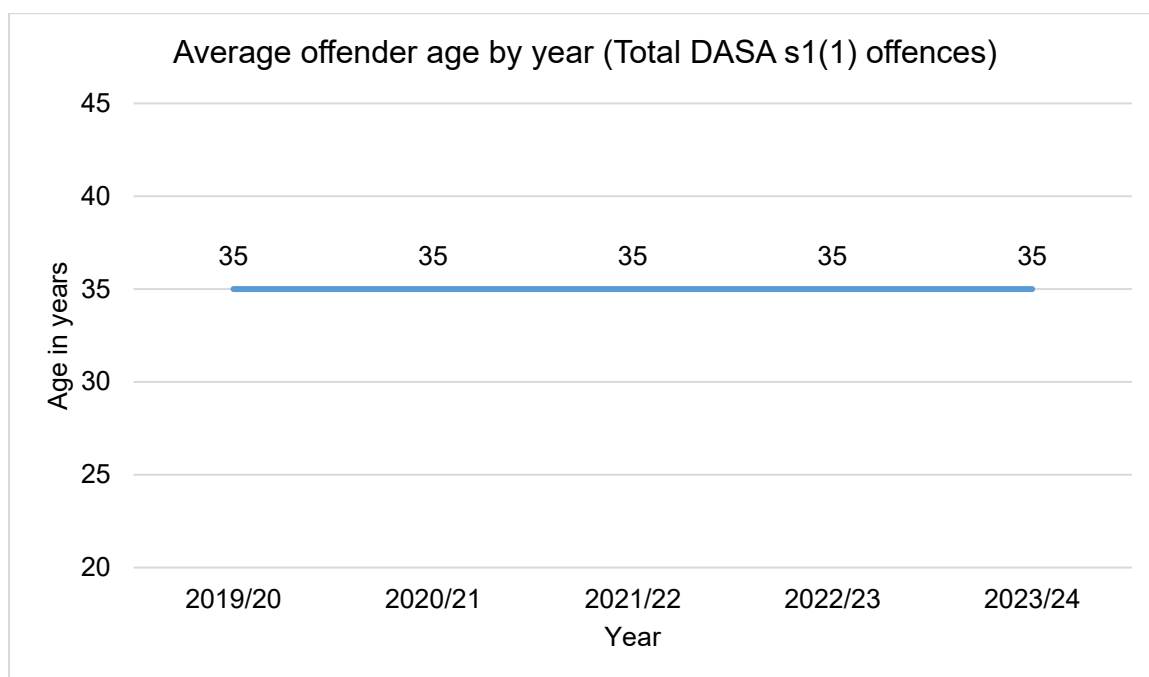
Table 6: Disposals by age group over the 5-year period: under 25 and 25 and over (total DASA s1(1) offences)



²⁴ Offender age at conviction was unavailable in 5 disposals.

27. Out of the 5,668 total DASA s1(1) offences, the average age of individuals given a disposal annually showed little variation across the 5-year period since DASA took effect. The average age of an offender was 35 years for all 6 years recorded.

Figure 1: Average offender age by year over the period (total DASA s1(1) offences)



28. The available SIMD data for total DASA s1(1) offences suggest that a majority of offenders given disposals for these offences come from the most deprived deciles.²⁵ 72% of disposals were imposed on offenders in the 1st to 5th deciles (most deprived) while the remaining 28% imposed on offenders in the 6th to 10th deciles (least deprived).

²⁵ Approximately 21% of the SIMD data for DASA offences were unavailable. Figures are calculated based on the remaining 79% of available data.

Offender demographics: DASA s1 offences aggravated under s5(1) (aggravation in relation to a child)

29. Out of the 1,106 total DASA s1 offences which are aggravated under s5(1), almost all the offenders involved were male (96%) while 3% were female.²⁶

30. 70% of the disposals were imposed on offenders between 31-60 years of age. 29% of the offenders were aged 30 or under, with less than 2% being under the age of 21. The highest number of disposals, accounting for 45% (499) were imposed on offenders between 31-40 years of age. The next highest number of disposals (22%, 238) were imposed on offenders between 25-30 years of age, followed by individuals in the 41-50 age group (21%, 231). 6% of disposals were imposed on offenders between 21-24 years old (70). Offenders aged 51-60 years had 4% of disposals imposed (45), and those over 60 accounted for 4 disposals.

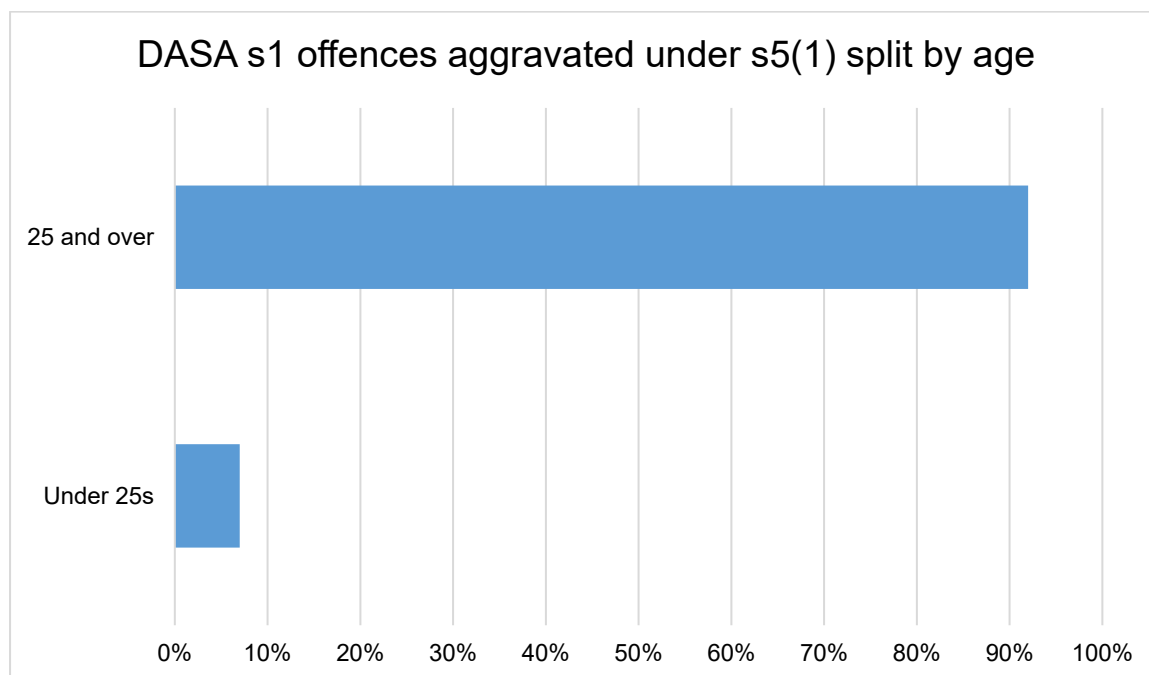
Table 7: Total disposals by age of offender (DASA s1 offences aggravated under s5(1))

Age Bracket	Number of disposals	Percentage %
Under 18	5	<1%
18-20	13	1%
21-24	70	6%
25-30	238	22%
31-40	499	45%
41-50	231	21%
51-60	45	4%
60+	4	<1%
N/A	1 ²⁷	<1%
Total	1,106	100%

²⁶ Demographic recordings of sex were unavailable for 17 disposals.

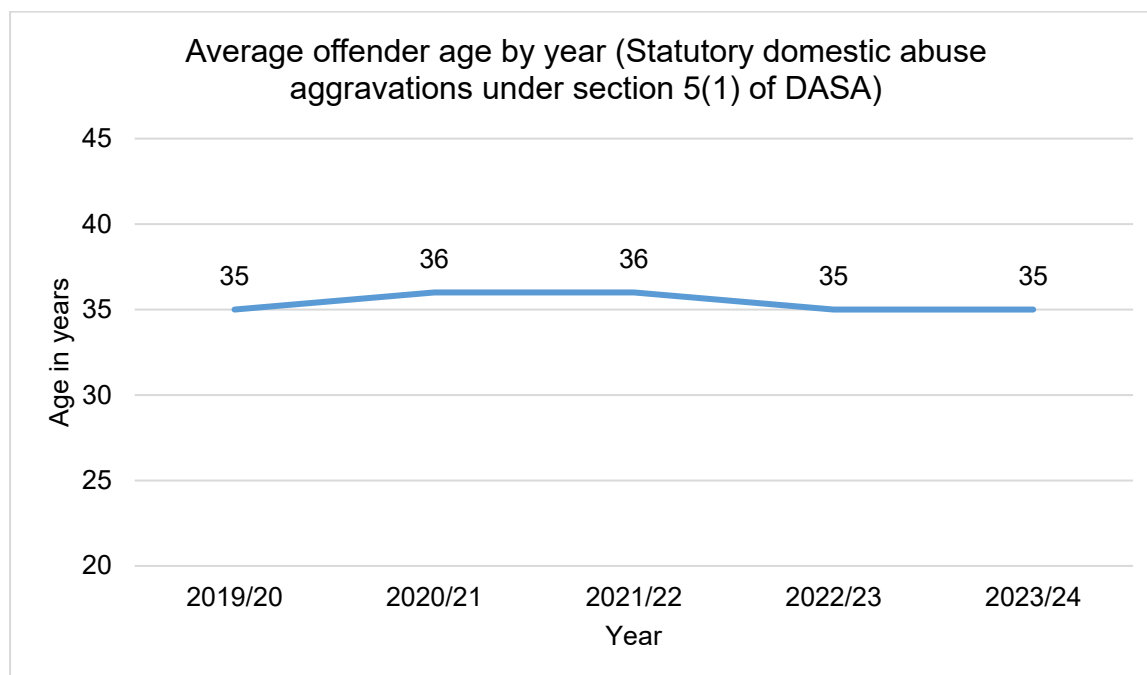
²⁷ Offender age at conviction was unavailable in 1 disposal.

Table 8: Disposals by age group over the 5-year period: under 25 and 25 and over (DASA s1 offences aggravated under s5(1))



31. Similar to the total s1(1) DASA offences, the average age of individuals given a disposal for these offences annually showed little variation across the 5-year period since DASA took effect. The average age ranged between 35 and 36 over the reporting period.

Figure 2: Average offender age by year over the period (statutory domestic abuse aggravations under section 5(1) of DASA)



32. The available SIMD data suggests that a majority of offenders given disposals for these offences come from the most deprived deciles.²⁸ 76% of disposals were imposed on offenders in the 1st to 5th deciles (most deprived) while the remaining 24% imposed on offenders in the 6th to 10th deciles (least deprived).

Offender demographics: Total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act

33. The majority of offenders convicted with a domestic abuse aggravation under section 1 of the 2016 Act were male. 77,311 offences involved male offenders (90%), while the remaining 10% were female (8,224 offences).²⁹

34. For these disposals, 62% of the disposals were imposed on offenders between 31-60 years of age, with 36% of offenders being aged 30 or under. 31-40-year-olds had the highest number of disposals per age group (30,281), accounting for

²⁸ Approximately 19% of the SIMD data for offences aggravated under section 5(1) of DASA were unavailable. Figures are calculated based on the remaining 81% of available data.

²⁹ Information on the offender's gender was unavailable for 669 disposals.

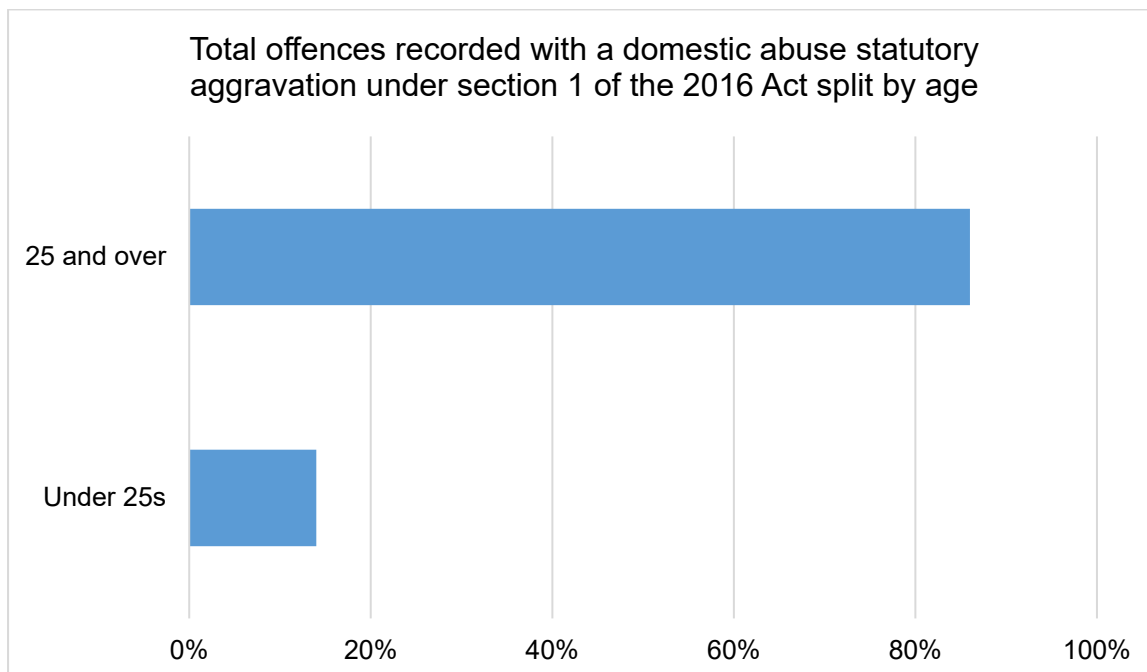
35% of disposals over the 7-year period. This percentage decreased as offenders aged – 19% of disposals were imposed on offenders aged 41-50 (16,113), 8% were imposed on offenders aged 51-60 (6,713) and only 2% of disposals were imposed on offenders aged 60+ (1,804). Offenders under 18 had the smallest number of disposals (576, 1%), while offenders between 18-20 accounted for 3,623 disposals (4%) and those aged 21-24 accounted for 8,596 disposals (10%). Offenders aged 25-30 accounted for 18,261 disposals (21%).

Table 9: Total disposals by age of offender (total offences recorded with a domestic abuse statutory aggravation under the section 1 of the 2016 Act)

Age Bracket	Number of disposals	Percentage %
Under 18	576	1%
18-20	3,623	4%
21-24	8,596	10%
25-30	18,261	21%
31-40	30,281	35%
41-50	16,113	19%
51-60	6,713	8%
60+	1,804	2%
N/A	237 ³⁰	<1%
Total	86,204	100%

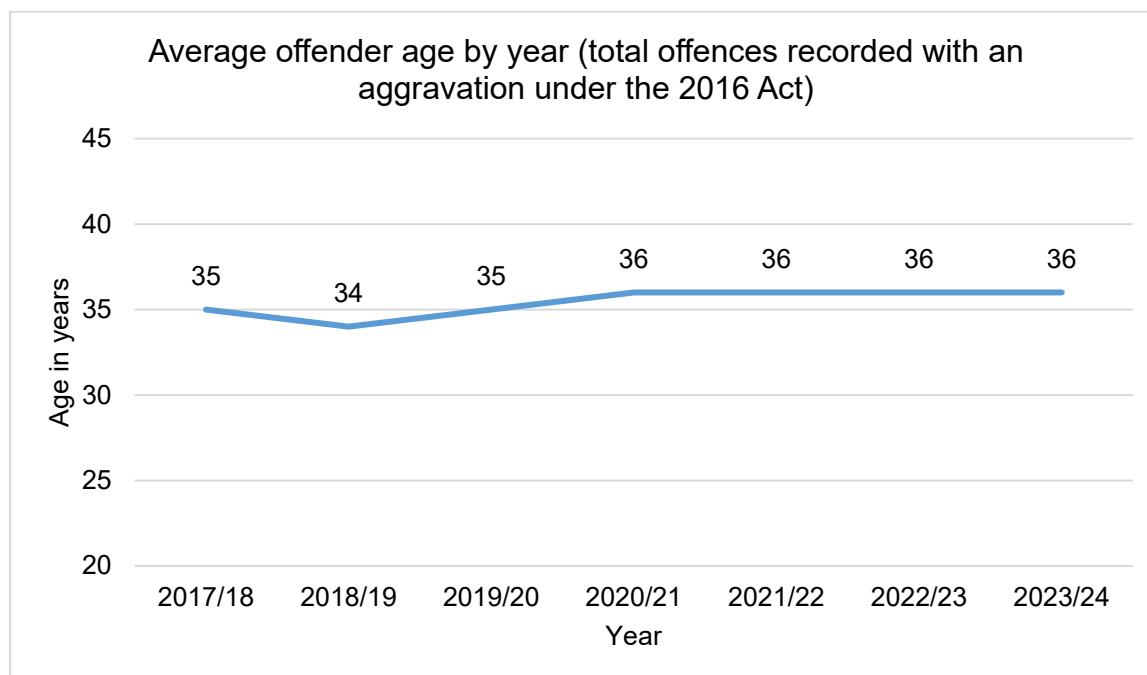
³⁰ Offender age at conviction was unavailable in 237 disposals.

Table 10: Disposals by age group over the 7-year period: under 25 and 25 and over (total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act)



35. The average age of individuals given a disposal for these offences annually remained very stable across the 7-year period, ranging between 34 and 36.

Figure 3: Average offender age by year over the period (total offences recorded with an aggravation under the 2016 Act)



36. The available SIMD data for offences recorded with an aggravation under the 2016 Act suggests that a majority of offenders given disposals for these offences come from the most deprived deciles.³¹ 79% of disposals were imposed on offenders in the 1st to 5th deciles (most deprived) while the remaining 21% imposed on offenders in the 6th to 10th deciles (least deprived).

Offender demographics: Offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present³²

37. The majority of offenders convicted with a domestic abuse aggravation under section 1 of the 2016 Act while a child aggravation is also present were male. 1,321 offences involved male offenders (96%), while the remaining 3% (47) were female.³³

³¹ Approximately 24% of the SIMD data for offences recorded with an aggravation under the 2016 Act were unavailable. Figures are calculated based on the remaining 76% of available data.

³² See footnote 13.

³³ Information on the offender's gender was unavailable for 14 disposals.

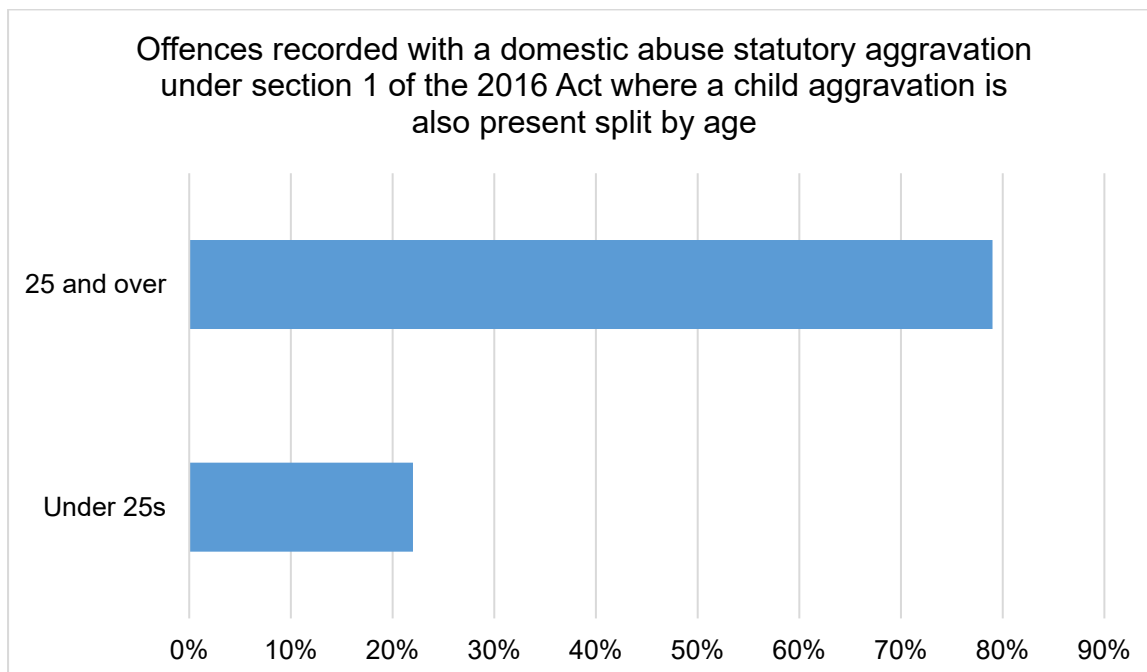
38. Of the 1,382 disposals, approximately 60% of the disposals in the 7-year period were imposed on offenders between 31-60 years of age. Approximately 40% of offenders were aged 30 or under with 13% of offenders aged under 21 (175 disposals). 9% of offenders were in the 21-24 age group (120) and 18% of disposals were imposed on offenders in the 25-30 age group (243). The highest number of disposals, accounting for 38% (530) were imposed on offenders between 31-40 years old. This was followed by individuals in the 41-50 age group (242, 18%). Those in the 51-60 age group accounted for 4% of the total disposals (58) and offenders over 60 accounted for 1% (8).

Table 11: Total disposals by age of offender (offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present

Age Bracket	Number of disposals	Percentage %
Under 18	66	5%
18-20	109	8%
21-24	120	9%
25-30	243	18%
31-40	530	38%
41-50	242	18%
51-60	58	4%
60+	8	1%
N/A	6 ³⁴	<1%
Total	1,382	100%

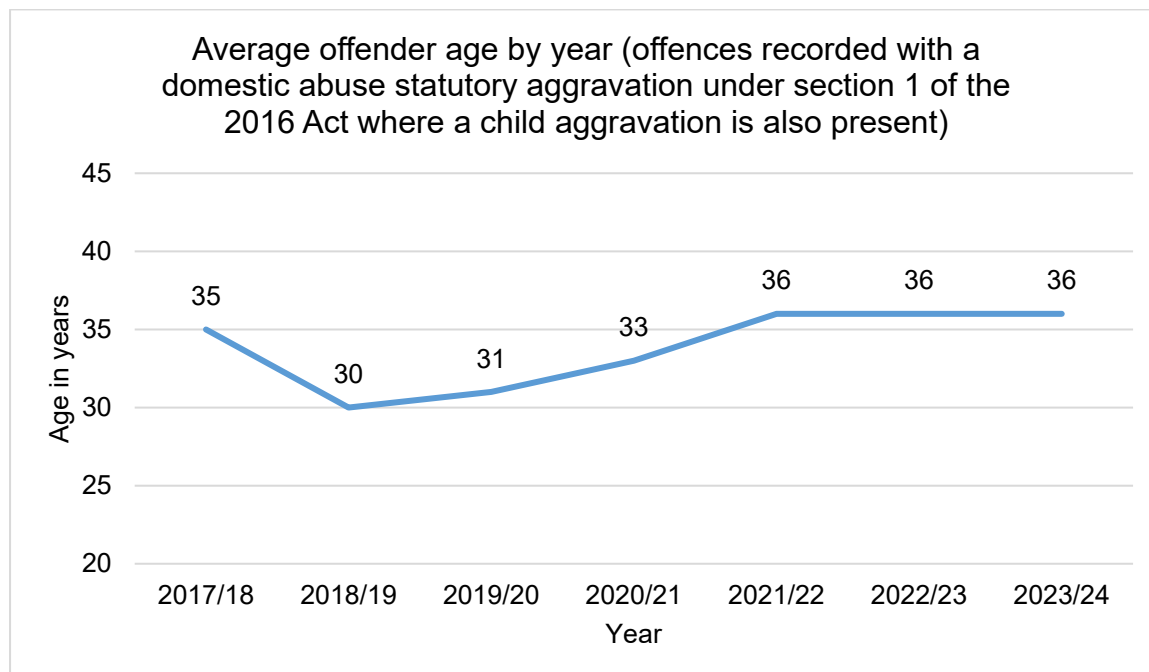
³⁴ Offender age at conviction was unavailable in 6 disposals.

Table 12: Disposals by age group over the 7-year period: under 25 and 25 and over (offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present)



39. Across the 7-year period, the average age range remained in the 30s, fell to a low of 30 in 2018/19 and reached a high of 36 in the final 3 years.

Figure 4: Average offender age by year over the period (offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present)



40. The available SIMD data for offences recorded with an aggravation under the 2016 Act where a child aggravation is also present suggests that a majority of offenders given disposals for these offences come from the most deprived deciles.³⁵ 82% of disposals were imposed on offenders in the 1st to 5th deciles (most deprived) while the remaining 18% were imposed on offenders in the 6th to 10th deciles (least deprived).

Victim demographics

41. Data provided by SCTS do not contain information on victim demographics.

42. According to the Scottish Government's domestic abuse statistics for 2023/24,³⁶ just over four in every five (81%) incidents of domestic abuse in 2023/24 involved

³⁵ Approximately 25% of the SIMD data for offences recorded with an aggravation under the 2016 Act were unavailable. Figures are calculated based on the remaining 75% of available data.

³⁶ [Domestic abuse: statistics recorded by the police in Scotland, 2023 to 2024 \(Scottish Government, 2024\)](#)

a female victim consistent with figures reported in both 2021/22 and 2022/23. The 31-35-year-old age group experienced the highest victimisation rate.

43. In 2023-24 half (50%) of domestic abuse incidents, where the relationship between the victim and suspected perpetrator was recorded, were between ex-partners. Just under half (49%) of incidents were between current partners.³⁷

44. Approximately two-thirds (65%) of incidents involved a victim and suspected perpetrator who had previously been recorded in a domestic abuse incident.

45. The extent to which additional demographic data, including ethnicity data on victims, is systematically recorded varies across administrative sources in Scotland. Additionally, underreporting further increases limitations in understanding victim demographics.

Disposals^{38,39}

46. This section covers disposal information for domestic abuse offences. As with the figures on the number of offences, and offender demographics, the disposal data across both Acts are provided separately. Similarly, the disaggregated child aggravation data are presented for illustrative purposes only, and comparisons should be avoided.

Non-harassment orders (NHOs)⁴⁰ are classified as ancillary orders. They are most commonly imposed in conjunction with another disposal—such as a CPO or custodial sentence, rather than being used as a standalone disposal for an

³⁷ For the remaining 1% of incidents, the relationship was categorised as 'other'.

³⁸ See the [Scottish Sentencing Council's Jargon buster](#) for definitions of different disposal types.

³⁹ Because of the way sentencing data are recorded it is likely that a number of the sentences included in the presented figures involved a reduction for a guilty plea. It should be noted that the numbers shown would only represent the headline figure if no reduction was made. Given that a significant portion of the data includes a reduction for a guilty plea, the true average headline sentence would be likely to be somewhat higher than the sentences indicated in the data.

⁴⁰ A non-harassment order (NHO) restricts offenders convicted of offences involving causing alarm or distress from certain behaviours, such as contacting or approaching the victim. NHOs can last for a set or indeterminate period and may be imposed alongside or instead of other sentences or disposals.

offence. Due to this, this impact assessment separates NHOs from other disposal types, and disposal totals and percentages are calculated excluding NHOs.

Disposals: Total DASA s1(1) offences

47. In the 5-year period examined since DASA came into effect, approximately 21% of disposals sentenced under DASA s1(1) involved a custodial sentence. 18% were determinate custodial sentences (excluding extended sentences), 3% were extended sentences, and <1% were orders for lifelong restriction (OLRs). Approximately 78% of disposals were non-custodial, comprising 1,783 community payback orders (CPOs) (53%), 345 fines (10%) and 268 restriction of liberty orders (RLOs) (8%). 233 disposals were admonitions (7%) and 13 were absolute discharges (<1%).

Table 13: Disposal type by count (total DASA s1(1) offences)

Disposal type	Number of disposals	Percentage %
Community Payback Order	1,783	53%
Determinate sentence ⁴¹	612	18%
Fine	345	10%
Restriction of Liberty Order	268	8%
Admonition	233	7%
Extended Sentence ⁴²	87	3%
Absolute Discharge	13	<1%
Order for Lifelong Restriction ⁴³	3	<1%
Total	3,344	100%

48. Approximately 507 (83%) of the 612 DASA s1(1) custodial disposals⁴⁴ (excluding

⁴¹ In this assessment, imprisonment disposals have been combined with Young Offender Institution detention (YOI) disposals. YOIs provide custodial facilities for offenders up to the age of 21, though placement decisions are governed by statutory and administrative rules rather than sentencing decisions. Some young offenders may transition from YOIs to the adult prison estate depending on various factors. Due to limitations in the available data, it is not always possible to distinguish YOI detentions from other custodial sentences precisely. Consequently, imprisonment and YOI disposals are aggregated in this impact assessment.

⁴² Extended sentences are listed separately due to the challenges in distinguishing the custodial term from the extension period in the available dataset. As a result, there is a risk of double counting this disposal type, and the data should accordingly be treated with caution.

⁴³ OLRs are listed separately due to the challenges in distinguishing the custodial term from the extension period in the available dataset.

⁴⁴ The figures provided cover determinate sentences, apart from extended sentences, and exclude indeterminate sentences, namely life imprisonment and OLRs. A determinate sentence is a custodial sentence where the court fixes the length of the sentence. This is the maximum period that the offender could serve in custody. In most cases the offender will not spend the whole of this period in custody but will serve part of the sentence in the community on licence. The figures provided do not include extended sentences due to the challenges in distinguishing the custodial term from the extension period in the available dataset. Indeterminate sentences are excluded due to the complexities of interpreting the punishment part of those sentences for the purposes of this analysis. Unless otherwise stated, all data presented in the following sections refer to determinate sentences only and exclude extended and indeterminate sentences for the reasons set out here.

extended sentences and OLRs)⁴⁵ were for up to 2 years. A further 88 disposals (14%) were for 2-4 years. Few disposals had a longer duration, with 2% of disposals lasting for 4+ years.

Table 14: Determinate custodial disposals by sentence length (total DASA s1(1) offences)

Custody length	Number of disposals	Percentage %
0-2 years	507	83%
2-4 years	88	14%
4-6 years	9	1%
6-8 years	4	1%
8-10 years	1	<1%
10+ years	3	<1%
Total	612	100%

⁴⁵ An OLR is a lifelong sentence put in place to protect the public. It is a sentence of imprisonment which can be imposed on people convicted at the High Court of a serious violent offence (other than murder), a serious sexual offence, an offence which endangers life, or an offence which indicates a tendency to serious violent, sexual or life-endangering offending. The court must impose an OLR where it appears that, because of the nature or circumstances of the offence, there is a likelihood that the offender will in the future seriously endanger the lives, or physical or psychological well-being, of members of the public, if he or she is not in custody. [See the Scottish Sentencing Council's jargon buster.](#)

Figure 5: Average annual sentence length of determinate custodial disposals by year over the 5-year period (total DASA s1(1) offences)

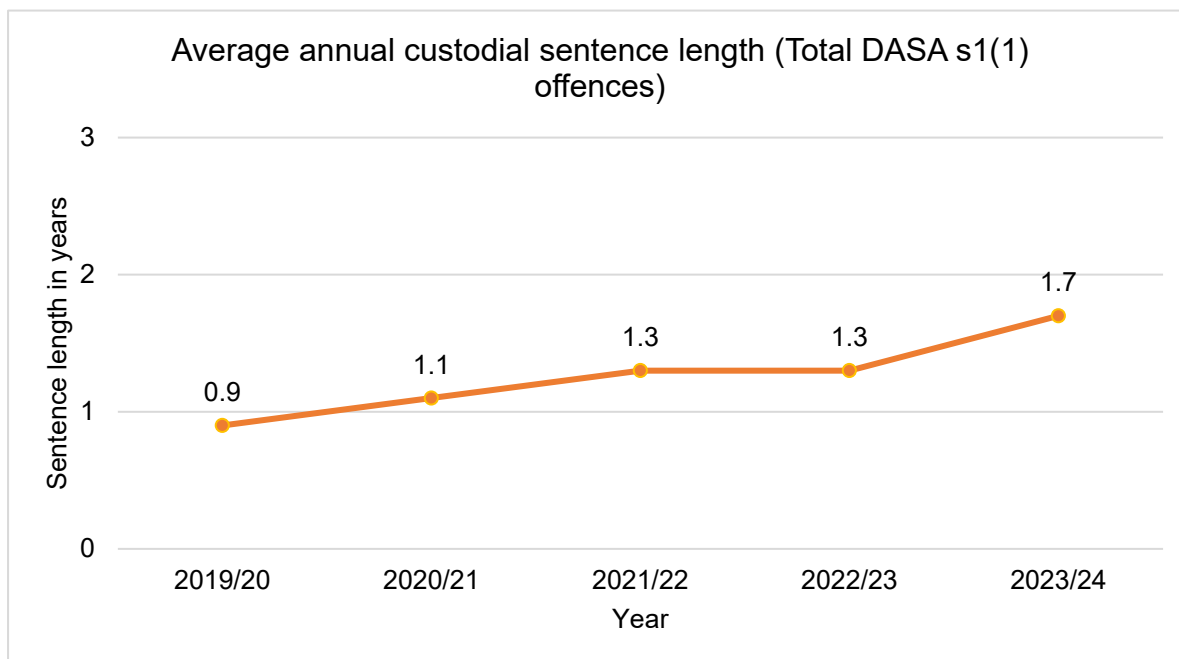


Table 15: Determinate custodial disposals by sentence length over the 5-year period in ages groups (total DASA s1(1) offences)

Age Group	Average custody length in days	Average custody length in years
Under 21	303	0.8
Under 25	433	1.2
25 and over	526	1.4

49. Of the 5,668 total DASA s1(1) disposals, 2,324 had an NHO imposed. This increased over the 5-year period, with 632 NHO disposals imposed in 2022/23, and 807 NHO disposals imposed one in 2023/24.

Table 16: Number of NHOs per year (total DASA s1(1) offences)

Year	Number of NHOs	Percentage %
2019/20	127	5%
2020/21	238	10%
2021/22	520	22%
2022/23	632	27%
2023/24	807	35%
Total	2,324	100%

Disposals: DASA s1 offences aggravated under s5(1) (aggravation in relation to a child)

50. In the period examined, approximately 20% of the 669 disposals involved a custodial sentence. 19% were determinate custodial sentences (excluding extended sentences), and 1% were extended sentences. Approximately 80% were given a non-custodial disposal, which comprised 383 CPOs (57%), 60 RLOs (9%), and 53 fines (8%). 36 disposals were admonitions (5%) and 2 were absolute discharges (<1%).

Table 17: Disposal type by count (DASA s1 offences aggravated under s5(1))

Disposal type	Number of disposals	Percentage %
Community Payback Order	383	57%
Determinate sentence	127	19%
Restriction of Liberty Order	60	9%
Fine	53	8%
Admonition	36	5%
Extended Sentence	8	1%
Absolute Discharge	2	<1%
Total	669	100%

51. Approximately 102 (80%) of the total number of custodial disposals (excluding extended sentences) were for up to 2 years. A further 24 disposals (19%) were for 2-4 years, and 1 was for 4-6 years. No disposals were imposed for 6 years or longer.

Table 18: Determinate custodial disposals by sentence length (DASA s1 offences aggravated under s5(1))

Custody length	Number of disposals	Percentage %
0-2 years	102	80%
2-4 years	24	19%
4-6 years	1	1%
6-8 years	0	0%
8-10 years	0	0%
10+ years	0	0%
Total	127	100%

Figure 6: Average annual sentence length of determinate custodial disposals by year over the 5-year period (DASA s1 offences aggravated under s5(1))

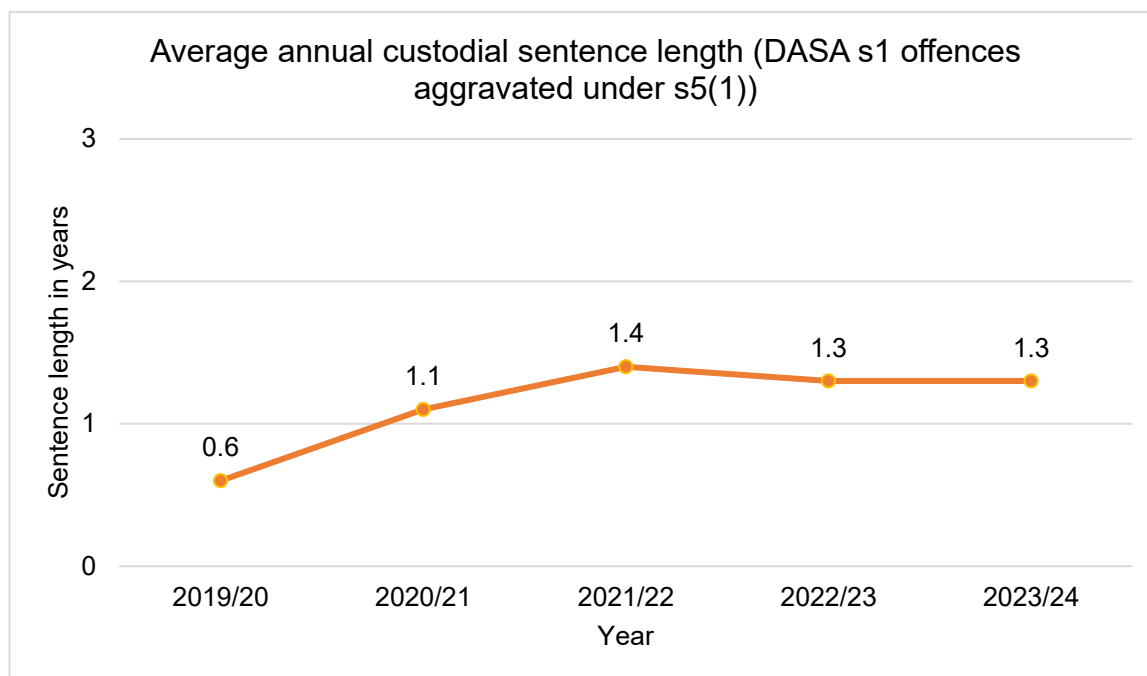


Table 19: Determinate custodial disposals by sentence length over the 5-year period in ages groups (DASA s1 offences aggravated under s5(1))

Age Group	Average custody length in days	Average custody length in years
Under 21	242	0.7
Under 25	235	0.6
25 and over	467	1.3

52. Of the 1,106 offences aggravated under s5(1), 437 were given an NHO. This increased over the 5-year time frame since DASA took effect, increasing to 94 in 2021/22, 118 in 2022/23 and 150 in 2023/24.

Table 20: Number of NHOs per year (DASA s1 offences aggravated under s5(1))

Year	Number of NHOs	Percentage %
2019/20	25	6%
2020/21	50	11%
2021/22	94	22%
2022/23	118	27%
2023/24	150	34%
Total	437	100%

Disposals: Total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act)

53. Of the 69,017 disposals sentenced with a domestic abuse aggravation under the 2016 Act, approximately 18% of disposals involved a custodial sentence. 16% of these were determinate custodial sentences (excluding extended sentences), 1% were extended sentences, <1% were life imprisonment and <1% were orders for lifelong restriction. Approximately 82% involved a non-custodial disposal, which was comprised of 23,797 CPOs, (34%), 12,854 fines (19%), and 3,722 RLOs (5%). 16,050 (23%) were admonitions, and a further 759 (1%) were absolute discharges.

Table 21: Disposal type by count (total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act)

Disposal type	Number of disposals	Percentage %
Community Payback Order	23,797	34%
Admonition	16,050	23%
Fine	12,854	19%
Determinate sentence	11,249	16%
Restriction of Liberty Order	3,722	5%
Absolute Discharge	759	1%
Extended Sentence	505	1%
Order for Lifelong Restriction	67	<1%
Life Imprisonment	14	<1%
Total	69,017	100%

54. Approximately 10,661 (95%) of the total number of custodial disposals of offences recorded with an aggravation under the 2016 Act (excluding life imprisonment, extended sentences and OLRs) were for up to 2 years. A further 429 disposals (4%) were for 2-4 years, and 91 were for 4-6 years. 39 disposals were imposed for 6-8 years, 28 for 8-10 years and there was 1 disposal imposed for 10+ years.

Table 22: Determinate custodial disposals by sentence length (total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act)

Custody length	Number of disposals	Percentage %
0-2 years	10,661	95%
2-4 years	429	4%
4-6 years	91	1%
6-8 years	39	<1%
8-10 years	28	<1%
10+ years	1	<1%
Total	11,249	100%

Figure 7: Average annual sentence length of determinate custodial disposals by year over the 5-year period (total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act)

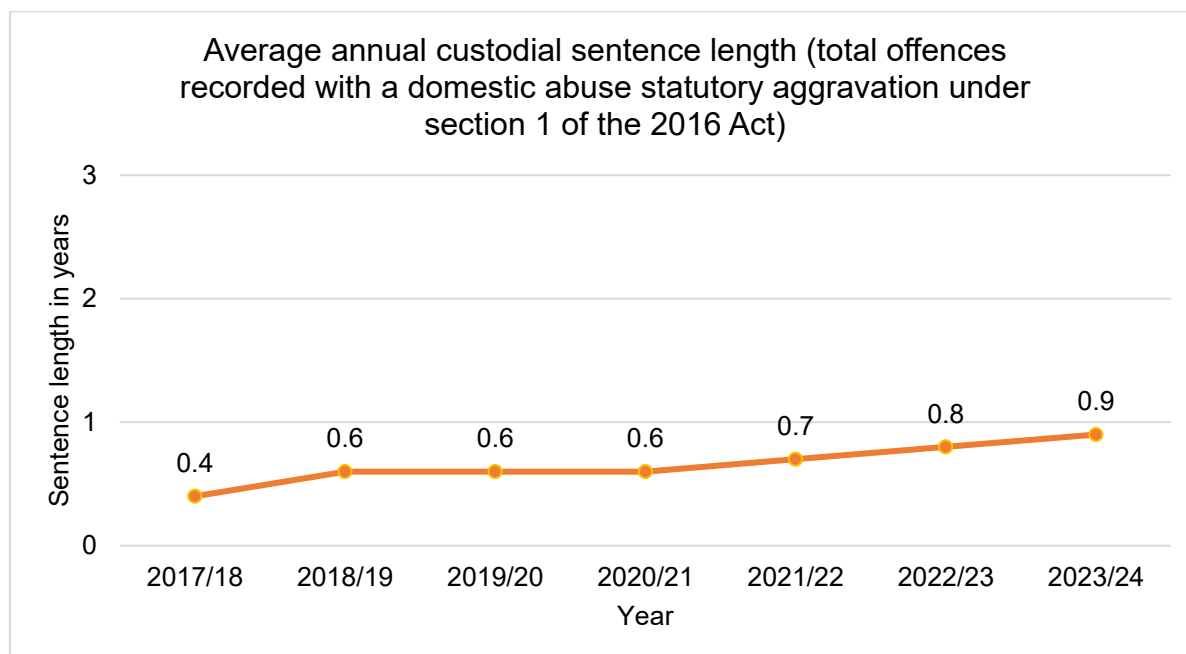


Table 23: Determinate custodial disposals by sentence length over the 5-year period in ages groups (total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act)

Age Group	Average custody length in days	Average custody length in years
Under 21	193	0.5
Under 25	236	0.6
25 and over	255	0.7

55. Of the 86,204 total offences recorded with a domestic abuse statutory aggravation under the 2016 Act, 17,187 were given an NHO. This increased over the 7-year time frame, increasing to 3,432 in 2021/22, 3,759 in 2022/23 and 4,113 in 2023/24.

Table 24: Number of NHOs per year (total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act)

Year	Number of NHOs	Percentage %
2017/18	643	4%
2018/19	1,164	7%
2019/20	1,949	11%
2020/21	2,127	12%
2021/22	3,432	20%
2022/23	3,759	22%
2023/24	4,113	24%
Total	17,187	100%

Disposals: Offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present⁴⁶

56. In the period examined, approximately 18% of disposals involved a custodial sentence. 15% were determinate custodial sentences (excluding extended sentences), and 3% were extended sentences. Approximately 83% were given a non-custodial disposal, which was comprised of 480 CPOs (47%), 124 fines (12%) and 77 RLOs (7%). 160 disposals were admonitions (16%), and a further 8 were absolute discharges (1%).

Table 25: Disposal type by count (offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present)

Disposal type	Number of disposals	Percentage %
Community Payback Order	480	47%
Admonition	160	16%
Determinate sentence	153	15%
Fine	124	12%
Restriction of Liberty Order	77	7%
Extended Sentence	28	3%
Absolute Discharge	8	1%
Total	1,030	100%

57. Approximately 143 (93%) of the total number of disposals of offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present (excluding extended sentences) were for up to 2 years' imprisonment. A further 9 disposals (6%) were for 2-4 years. There were no disposals imposed for 4-6, 6-8 years or 10+ years. There was 1 disposal imposed for 8-10 years.

⁴⁶ See footnote 13.

Table 26: Determinate custodial disposals by sentence length (offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present)

Custody length	Number of disposals	Percentage %
0-2 years	143	93%
2-4 years	9	6%
4-6 years	0	0%
6-8 years	0	0%
8-10 years	1	1%
10+ years	0	0%
Total	153	100%

Figure 8: Average annual sentence length of determinate custodial disposals by year over the 5-year period (offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present)

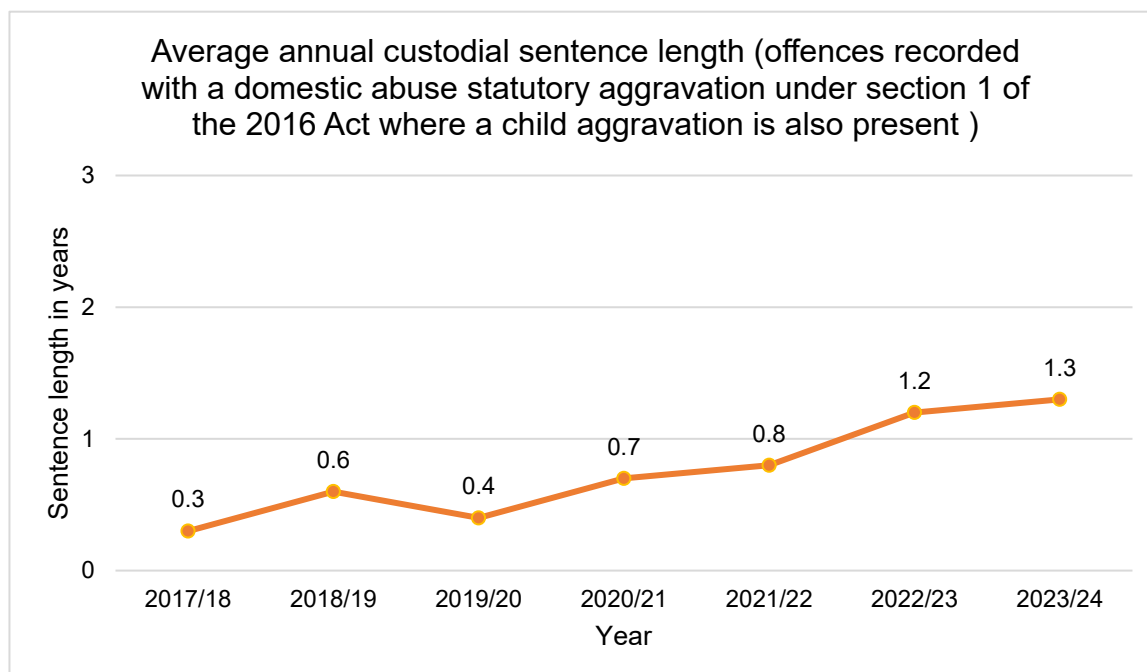


Table 27: Determinate custodial disposals by sentence length over the 5-year period in ages groups (offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present)

Age Group	Average custody length in days	Average custody length in years
Under 21	468	1.3
Under 25	336	0.9
25 and over	256	0.7

58. Of the 1,382 total offences recorded with a domestic abuse statutory aggravation under the 2016 Act where a child aggravation is also present, 352 were given an NHO. This increased over the 7-year time frame, increasing to 52 in 2021/22, 101 in 2022/23 and 106 in 2023/24.

Table 28: Number of NHOs per year (offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act where a child aggravation is also present)

Year	Number of NHOs	Percentage %
2017/18	4	1%
2018/19	18	5%
2019/20	28	8%
2020/21	43	12%
2021/22	52	15%
2022/23	101	29%
2023/24	106	30%
Total	352	100%

Key assumptions

59. In assessing the impact of any new guideline, the Council considers how, if at all, it will affect sentencing, the business of the courts, the operation of the wider criminal justice system and society in general. Such assessments are based upon research and analysis conducted during the creation of the guideline, consultation with external stakeholders, including judges, and, where appropriate, relevant experience of other jurisdictions.
60. This assessment also requires certain assumptions to be made regarding sentencers' behaviour in response to the new guideline as it is not possible to predict how it will impact sentencing across all possible scenarios. Where possible, these assumptions will be based upon previous evidence and experiences, but this evidence base is limited. As a result, assumptions regarding the impact of the guideline must have a large degree of uncertainty about them. To account for this, where an estimate of change is required, this impact assessment considers costs based on indicative levels of change.
61. This impact assessment does not attempt to include any future changes to sentencing behaviours that are not a result of the implementation of the guideline (e.g. historical trends in sentencing, changes to the statutory presumption against short sentences, or the impacts of other guidelines unless specifically considered with reference to interaction with this guideline).
62. It is assumed that the guideline will influence judicial approaches to sentencing and promote greater consistency in approach.
63. It is assumed that the guideline will not generally result in an overall change in sentencing practice.

Impact on the criminal justice system as a result of implementing the new guideline

Approaches to sentencing

64. The guideline will promote greater consistency in approaches to sentencing, ensuring that sentencing is fair and proportionate.
65. It is possible that any change in approach to sentencing for domestic abuse offences may result in a change to some sentencing outcomes in individual cases, but the Council does not anticipate an overall change to sentencing outcomes in general as a consequence of the guideline.

Potential changes to sentencing practice

66. It may be the case that sentencers interpret the guideline in a different fashion than that intended by the Council, which could result in the guideline having unexpected consequences for sentencing practice which cannot be predicted. The Council has taken steps to mitigate this risk by engaging with members of the judiciary to estimate any likely changes in practice.

Changes to court business

67. The Council does not expect any impacts on first instance court business as a result of the guideline.
68. It is possible that, by setting out the factors associated with sentencing an offence, the introduction of the guideline *may* increase the number of appeals against sentence, with appeals being lodged due to a court's perceived failure to take the guideline into account. It is not possible to estimate the degree, if any, of this change. Conversely, it is also possible that the number of appeals may decrease as a result of increased consistency in approaches to sentencing and increased transparency in how any given sentence was reached. As the guideline

broadly reflects current practice and recent appellate judgments any impact on sentences or appeals is likely to be low.

69. It may be the case that as the number of potentially applicable guidelines increases, courts begin to see an impact on the duration of sentencing hearings as a result of having to consider multiple guidelines before imposing sentence. Any increase in relation to the guideline is expected to be very minimal and limited to the early stages of guideline use. It is anticipated that courts will incorporate the guideline into their sentencing approach quickly and no substantive changes will be observed over the longer term.

Changes to the provision of disposals

70. The Council considers the guideline to reflect current Scottish practice in the sentencing of offences involving domestic abuse offences. As a result, the Council does not anticipate any changes to sentencing outcomes and thus no changes to the implementation of disposals by either the Scottish Prison Service or local authorities.

Impacts on equality in the criminal justice system

71. This assessment includes an Equality Impact Assessment (EqIA), which is provided in Annex A. The EqIA examines potential impacts of the guideline on protected characteristics under the Public Sector Equality Duty,⁴⁷ ensuring thorough consideration of equality issues.

72. The Council considers that increased consistency in sentencing reduces the potential for discrimination. This approach is founded on a consideration of offender-centric culpability and victim-focused harm in determining seriousness,

⁴⁷ The [Public Sector Equality Duty](#) (or general duty) in the [Equality Act 2010](#) came into force in 2011. It means Scottish public authorities must have 'due regard' to the need to: eliminate unlawful discrimination, advance equality of opportunity, and foster good relations. In 2012 Scottish Ministers made regulations that placed specific duties on Scottish public bodies to help them meet the general duty. These are also known as the [Scottish Specific Duties](#).

with the aim of promoting consistency and thereby mitigating potential discrimination.

73. Although both men and women are victims of domestic abuse, male offenders are much more prevalent. This assessment has noted that the demographic make-up of offenders receiving disposals for domestic abuse offences differs somewhat from the general offending population, as the vast majority of offenders sentenced for domestic abuse are male. This means that in providing greater consistency in sentencing, the introduction of a guideline for the sentencing of domestic abuse offences will disproportionately apply to male offenders more than the overall offending population.

74. The Council does not feel that this disproportion will have an impact on the equal administration of justice in Scotland.

75. Insufficient data are available to address other protected characteristics with regards to this guideline.

Impact on children's rights in sentencing

76. Alongside the EqIA, a [Children's Rights and Wellbeing Impact Assessment \(CRWIA\)](#) will be conducted. A CRWIA assesses any proposed decision per the guidance against the full range of rights set out in the UN Convention on the Rights of the Child (UNCRC).⁴⁸ While certain areas of the EqIA may overlap with the CRWIA, the potential impacts identified through both the CRWIA assessment process and the EqIA are considered together to inform decision-making.

⁴⁸ The [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#) directly incorporates the UNCRC into devolved domestic law in Scotland within the limits of devolved competence. It requires public authorities to comply, mandates CRWIAs and a Children's Rights Scheme, and gives enforcement powers to individuals, the Children's Commissioner, and the Scottish Human Rights Commission (see ss 6-8, 11, 12, and 19-21 of the UNCRC (Incorporation) (Scotland) Act) 2024; Scottish Government, [Statutory Guidance: Part 2 of UNCRC \(Incorporation\) \(Scotland\) Act 2024](#); and [the Scottish Human Rights Commission "the Convention on the Rights of the Child \(CRC\).](#)

77. The guideline acknowledges that these offences can cause particularly damaging harm to those impacted by the abuse, including children, and can inflict lasting trauma. Where children are the victims of, or adversely affected by, a domestic abuse offence, the court should ensure prior to sentencing that it has, so far as reasonably practicable, sufficient and reliable information to assess the harm caused to them. This principle is reflected through the application of non-statutory child-related aggravating factors, and the use of NHOs aimed at protecting children.

78. The rights of children have been considered in the development of this guideline. It is assumed that the draft guideline will influence judicial approaches to sentencing and increase consistency, but it is not anticipated that it will result in an overall change in sentencing severity, or in overall sentencing outcomes. Consequently, no changes to sentencing outcomes or additional impacts on children's rights beyond current practice are anticipated. While the guideline may have an indirect impact on children's understanding of sentences, the rationale behind them, and potentially more widely on their wellbeing and experiences, the extent of such impacts, and specifically impacts directly related to sentencing, or the guideline, cannot be determined at this stage or with any degree of certainty.

79. A Stage 1 Screening of the CRWIA, conducted alongside the EqIA, will consider the relevant potential impacts and a full assessment will follow if necessary.

Cost and Benefits

Costs

80. While the Council does not anticipate an overall change to sentencing outcomes as a result of the guideline, any modest changes to disposals, should they arise, may have some influence on the corresponding impact on broader resource costs. However, any such costs are likely to be limited and consistent with current sentencing trends. Any changes to disposals, whether arising from the guideline or other external factors, would result in a consequent increase or decrease in the resource costs for those convicted of these offences. It is possible that disposal trends, and therefore related costs, may remain unchanged.

81. As the guideline broadly reflects the Council's understanding of current sentencing practice, no additional costs or increases to the prison population are anticipated as a result of the guideline.

82. As mentioned previously, a possibility exists for an increase in appeals, with an attendant increase in resources required to sift and hear these appeals, as well as in legal fees for such actions (both privately and publicly funded). However, such an increase is not certain to occur, and the level is impossible to estimate. Similarly, any decrease would have a commensurate cost saving associated with it but is equally difficult to estimate. This impact is shared with previous guidelines and, as in the impact assessments for those guidelines, arises from the same aspect of codification of previously unwritten practice.

83. Although it is not possible to provide a cost estimate at this stage, we anticipate that any additional costs as a result of appeals would be minimal.

Benefits

84. The guideline is intended to increase transparency and understanding of how courts reach a sentence in cases involving offences of domestic abuse. As with

the Council's previous guidelines, the increased transparency associated with this guideline is expected to provide the wider public with a greater understanding of the sentencing process, with a particular focus on understanding the features involved in cases where circumstances can vary widely.

85. The guideline will also promote greater consistency in sentencing, contributing to one of the Council's statutory objectives.

ANNEX A: EQUALITY IMPACT ASSESSMENT (EqIA)

Initial Screening Questionnaire and Full Assessment

An Equality Impact Assessment (EqIA) is a tool designed to help public authorities assess services, policies, processes, or projects, to establish how they may impact on groups of people. As well as being good practice, the Scottish Sentencing Council also has a statutory duty to consider the impact on people with protected characteristics. This EqIA has been prepared to support consideration of the [Public Sector Equality Duty](#) (PSED) regarding the impact of the draft guideline on sentencing domestic abuse offences.

The EqIA consists of **two stages**. The outcome of stage one (the initial screening questionnaire), will determine whether stage two (the full equality impact assessment) is required.

Stage One - Initial Screening Questionnaire

EqIAs can be used to assess a wide range of documents or activities including policies, processes, projects or services.

It is good practice for these to be subjected to an initial screening questionnaire, which can indicate whether the document or activity has the potential to negatively impact groups with protected characteristics. Consideration of screening questions early in the development process can help identify potential issues, allowing authorities to consider and address these at an early stage.

The initial screening questionnaire should be treated as a living document that can evolve as the document/activity develops. If undertaken at an early stage, as recommended, it may not be possible to complete the document in full to begin with. Similarly, it may be necessary to amend the document at a later stage.

Where no negative impact or a low negative impact is identified there is generally no need to complete a full EqIA.

EQUALITY IMPACT ASSESSMENT – INITIAL SCREENING

1: Name of the proposed new or changed legislation, policy, strategy, project or service being assessed
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Guideline Title:

Guideline on sentencing domestic abuse

2: Body responsible for completing the Equality Impact Assessment
--

Scottish Sentencing Council Secretariat

3: Evidence Gathering and Analysis

What is the main aim or purpose of the proposed new or changed legislation, policy, strategy, project or service and what are the intended outcomes?

Aims:

The Scottish Sentencing Council aims, under [law](#), to:

- promote consistency in sentencing
- assist the development of [sentencing policy](#)
- promote greater awareness and understanding of sentencing.

As part of its development of a sentencing guideline on domestic abuse offences, the Council will hold a public consultation from 14 May – 06 August 2026 on the draft domestic abuse guideline. The consultation process will inform the production of the guideline on sentencing domestic abuse offences.

Outcomes:

In preparing the guideline, the Council has had regard to its statutory duties set out in the [Public Sector Equality Duty](#) (or general duty) in the [Equality Act 2010](#).

The Council's intention is that the guideline will result in:

- relevant and up to date guidance on sentencing domestic abuse offences
- consistency of approach to sentencing domestic abuse offences
- increased public understanding of sentencing and in particular sentencing for domestic abuse offences.

What existing sources of information will you use to help you identify the likely equality on different groups of people?

Alongside the impact assessment, and this EqIA, the Council has carried out analyses in accordance with stages 1 to 4 of the Council [sentencing guideline methodology](#) including a review of existing sentencing data for offences of domestic abuse, as outlined in this impact assessment. Further research was gathered through commissioning reports relating to the sentencing of domestic abuse offences. Additionally, the upcoming public consultation will help identify any potential equality impacts across different groups.

Are there gaps in information that make it difficult or impossible to form an opinion on how your proposals might affect different groups of people? If so, what are the gaps in the information and how and when do you plan to collect additional information?

There are gaps in available information that hinder a comprehensive understanding of how the proposals may impact different groups, particularly beyond the protected characteristics specified in the impact assessment. While we acknowledge that additional protected characteristics and socio-economic factors (e.g. low income, material deprivation, and caring responsibilities, among others) can intersect and contribute to additional inequalities, data on these factors remain limited.

Although some relevant data are available, they are not always consistently recorded, structured, or shared across administrative organisations. This limits our ability to draw definitive conclusions, especially regarding intersectionality and the varied experiences within and between groups.

The Council remains committed to ongoing engagement with stakeholders and to monitoring the impact of this guideline over time. The Council will seek opportunities to collaborate with justice sector partners to improve data quality, comparability, and accessibility, with the goal of developing a more comprehensive understanding of how different groups may be affected in practice.

Having analysed the initial and additional sources of information, is there any evidence that the proposed changes will have a positive impact on any of these different groups of people and/or promote equality of opportunity?

By offering clear, relevant, and current guidance, the sentencing guideline aims to ensure greater consistency in sentencing domestic abuse offences. At this stage, the potential impacts on protected groups are not yet clear, though consistency in sentencing can support careful consideration of equality impacts. The sentencing guideline has been developed with input from a wide array of stakeholders and is designed to be useful to sentencers, legal practitioners, those involved in the delivery and administration of criminal justice, victims, those accused or convicted of a domestic abuse offence, support organisations, families, the media and anyone else involved in, or with an interest in, domestic abuse cases.

It is the responsibility of the Crown Office and Procurator Fiscal Service to determine which charges are brought to court. In certain cases, offences may include statutory aggravations, such as situations when the offence is motivated by prejudice based on characteristics such as religion or race, thereby increasing the seriousness of the offence. Other proposed features are, in the opinion of the Council, addressed in the guidelines such as a cultural violation.

4: Is there any feedback or evidence that additional work could be done to promote equality of opportunity?

Have you sought the views of equality or consultation groups, or other individuals/groups who may be able to provide insight or feedback?

In developing the guideline on sentencing domestic abuse offences, the Council has engaged across the justice sector including with victims' organisations and the legal profession, in addition to commissioning reports to obtain victims' views and to explore public perceptions.

If feedback was received, what did you learn and how did this shape the guidelines?

Engagement discussions with stakeholder groups have helped to highlight areas where guidance could promote equality, particularly in recognising the impact of offences on individuals with protected characteristics. We are also seeking feedback through this public consultation to further shape our guidelines in regards to promoting equality.

Is there any evidence that proposed changes will have an adverse equality impact on any of these different groups of people?

There is no evidence at this stage that the guideline will negatively affect any protected groups in terms of equality. Conversely, the guideline aims to promote fairness and consistency, however unintended negative impacts cannot be ruled out, as wider socio-structural factors may impact protected groups. Ultimately, sentencing decisions are a matter for the independent judge presiding over a case. Consideration of the diverse experiences of victims and offenders has been present throughout the development and engagement process.

Is there any evidence that the proposed changes have no equality impacts?

There is no evidence at this stage to suggest that the proposed changes will not have an equality impact. However, it is not possible to say with certainty that no impact exists. The Council has taken care to consider equality-related issues throughout the development of the guideline, including feedback from stakeholders. Where relevant, changes have been and/or will be made to promote fairness and consistency, and reflect the diverse experiences of victims and offenders.

5: Outcome

Is a full Equality Impact Assessment Required?

No

Based on this assessment there is **no requirement** at this stage to complete a full equality impact assessment

X

If a full EIA is not required, you are legally required to monitor and review the proposed changes after implementation to check the work as planned and to screen for unexpected equality impacts. Please provide details of how you will monitor, evaluate, or review your proposals and when the review will take place.

The Council will soon launch the public consultation on a sentencing guideline on domestic abuse offences, which will greatly support the monitoring, evaluating and reviewing of equality impacts in the updated impact assessment. In addition, the Council maintains an established phased approach to monitoring and reviewing guidelines outlined in [Stage 8 of our guideline methodology \(Scottish Sentencing Council\)](#).

Approved by: Ondine Tennant, Director of the Scottish Sentencing Council Secretariat

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