

Scottish
Sentencing
Council



Sentencing domestic abuse offences

A Scottish Sentencing Council consultation
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Chair's foreword

The Rt Hon Lord Beckett, Lord Justice Clerk, Chair of the Scottish Sentencing Council



I am pleased to introduce the Council's public consultation on a sentencing guideline for domestic abuse offences. We are seeking views on all aspects of this draft guideline before it is finalised. Domestic abuse accounts for a significant, and growing, number of cases heard in Scottish courts. There can be particular challenges in sentencing these offences, including the exceptionally broad variety of their circumstances, and the need to consider the protection of the victim in a domestic context. The guideline makes clear that these offences can cause particularly damaging harm to those impacted by the abuse, including children, and can inflict lasting trauma.

It sets out some of the behaviours that domestic abuse can entail and provides non-exhaustive lists of factors that can make these offences more serious. This guideline does not include sentencing ranges. This is primarily because of the very wide scope of offending behaviour it will cover, rendering any sentencing ranges, by necessity, too broad to provide real assistance to the court. The final section sets out information on non-harassment orders which, in certain domestic abuse offences, must be considered by the court to protect the victim.

The guideline will assist judges in reaching sentencing decisions, and thereby enhance consistency. It will also aid public awareness by helping people to better understand what domestic abuse can involve, and what is taken into account by the courts in determining a sentence. This guideline is intended to be read alongside our three foundational guidelines on the principles and purposes of sentencing, the sentencing process, and sentencing young people, as well as any relevant offence guidelines, such as our guidelines on rape offences which came into force on 3 March 2026.

All our guidelines are evidence-based and informed by research and consultation. We have engaged with a wide range of organisations and people, including the judiciary, the legal profession, criminal justice bodies, interest groups and other key stakeholders. On behalf of the Council, I would like to thank everyone who has contributed to the development of this guideline so far. And, of course, I am always grateful to my fellow Council members for their ever-diligent work.

We have now reached a particularly significant stage in the process – this public consultation. To help our guideline to be as useful to the courts as possible, to court users, and the public, we are

seeking a wide range of views, and I encourage you to take the time to respond.

We recognise and appreciate the effort that goes into providing a submission, and each one received will be carefully considered. The draft guideline will then be finalised and submitted to the High Court for its consideration and approval. I look forward to receiving your views to help us ensure that this guideline is useful and effective.

The Rt Hon Lord Beckett
Lord Justice Clerk and Chair of the Scottish Sentencing Council

What guidelines cover

The Council creates guidelines¹ to assist judges in deciding what sentence to impose in criminal cases in Scottish courts. The guidelines are about sentencing, and are not about any of the steps before or after sentencing, including: reporting cases to the police, the police investigation, any decision about whether to take the case to court and exactly what charge(s) an accused person might face, the prosecution of the case including any trial or plea of guilty, the treatment or support of victims and witnesses in the case, the training of judges, the participation in any prison programmes where the offender is sentenced to imprisonment, the management of community orders, release from prison, parole decisions, or victim notification schemes. The sentences imposed by the courts must always be lawful and this includes following the [maximum sentences](#) set for each court level.

1. [About sentencing guidelines](#), Scottish Sentencing Council website.

Glossary

Sentencing, and the law surrounding it, can be complex. The following information is provided to help explain some of the technical terms and concepts referred to in the consultation paper. We hope it assists readers in responding to the consultation. Further information about sentences and sentencing, as well as a 'jargon buster', is available on our website.²

Aggravating and mitigating factors

Aggravating factors are facts and circumstances which may make an offence more serious for sentencing purposes. Mitigating factors, including factors personal to the offender, may lead to a less severe sentence. Some aggravations are statutory, meaning that they are set out in legislation by Parliament. When proven, they must be taken into account by the judge in deciding a sentence. These include offences motivated by hatred or prejudice based on age, race, religion, disability, sexual orientation, or transgender identity.

Culpability

Culpability is the level of blame of the offender in committing the offence. For more information see the sentencing process guideline, paragraphs 10 – 11.³

Disposal

A disposal is the sentence or outcome of a criminal case following conviction.

Domestic abuse legislation

Domestic Abuse (Scotland) Act 2018⁴

This Act makes it an offence to engage in a course of abusive behaviour against a partner, or ex-partner, which is likely to cause physical or psychological harm. Psychological harm can include fear, alarm and distress. The Act sets out abusive behaviour as including behaviour that is violent (physical or sexual), threatening, or intimidating. Abuse can include behaviour toward the victim or the victim's child, or another person, for the purpose of making the victim dependent on

2. [Sentencing information; jargon buster](#), Scottish Sentencing Council website.

3. [The sentencing process](#), sentencing guideline, effective from 22 September 2021.

4. [Domestic Abuse \(Scotland\) Act 2018](#).

the offender; isolating the victim from friends, relatives, or other support; controlling, regulating, or monitoring the victim's day-to-day activities; restricting the victim's freedom; or frightening, humiliating, degrading or punishing the victim. Section 5 of the Act makes this offence more serious (aggravated) if it involves a child. This can involve directing behaviour at a child, or using a child to direct behaviour at the victim. The offence is aggravated if a child sees, hears, or is present during, an incident of abuse as part of the course of behaviour. The maximum custodial sentence for the offence is 12 months for a conviction under summary procedure, or 14 years for a conviction on indictment (more serious cases).

Abusive Behaviour and Sexual Harm (Scotland) Act 2016⁵

Section 1 of this Act makes any offence involving a partner or ex-partner more serious (aggravated) where the offender intends to cause a partner or ex-partner physical or psychological harm, or is reckless as to whether harm is caused. The court must state what difference the aggravation has made to the sentence, or if there is no difference the reason for that.

Double-counting

When deciding a sentence, a judge follows a number of steps. Step 1 is to assess the seriousness of the offence by determining the culpability of the offender and the harm caused to the victim. Step 2 is to select the sentencing range, and step 3 is to identify the factors that might make the sentence more (aggravating) or less (mitigating) severe. If a feature of culpability or harm is considered during the first step, it should not be considered again as an aggravating or mitigating factor at step 3. If it were, this would be 'double-counting' and could lead to a disproportionate sentence.

Guilty plea consideration

By law,⁶ where an offender has pled guilty to a crime, the court must take that into account in deciding the sentence. This often leads to a reduction in the sentence imposed. This recognises that a plea of guilty spares victims and witnesses from having to give evidence in a trial. It also saves court time, and resources throughout the criminal justice system, which means that other cases might be dealt with sooner. In deciding whether to reduce the sentence, and the size of any reduction, the court will consider how early the plea came.

5. [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016](#).

6. [Criminal Procedure \(Scotland\) Act 1995](#).

Licence

Offenders released 'on licence' before the end of their sentence are let out of custody into the community on certain conditions - which means they must follow certain rules. The person will be under the supervision of a justice social worker in the community. The conditions might be, for example, that they must stay at a certain address, and keep in regular contact with their social worker. If they do not follow the conditions, they can be sent back into custody to serve the rest of their sentence. The licence will last until the sentence is completed. For further information, see 'early release' under the heading 'Types of sentence' below.

Sentencers

'Sentencers' is a term used to describe judges who preside over criminal cases at all the court levels, and includes judges in the High Court, sheriffs principal, sheriffs, summary sheriffs, and justices of the peace. The word 'court' may also be used to describe sentencers in some contexts.

Types of sentence or disposal

Custodial sentence

This is a sentence of imprisonment or detention. Adults are sent to prison, young people aged 18 to 20 are sent to a young offenders institution, and young people aged under 18 are placed in secure accommodation under the care of the local authority. In most cases, people will serve part of their sentence in the community under certain conditions. If they commit an offence while serving their sentence in the community, the court can order their return to prison. See below for further information about early release.

Determinate sentence

This is a custodial sentence which is set by the judge for a fixed length of time. These sentences are either short-term (under four years) or long-term (four years or more). However, the offender will not necessarily spend the whole of this time in prison. See below for further information about early release.

Early release

This is a system set out in legislation by Parliament where people serving sentences of imprisonment are released into the community on licence after serving part of their sentence in custody. If someone breaches the conditions of their licence they can be sent back to custody. Early release on licence for those serving long term sentences (four years or more) takes place six months before the end of their sentence, unless the Parole Board for Scotland recommends that they be released earlier after serving at least half of their sentence. The Parole Board will regularly review the case of a long-term prisoner who is not granted parole at first hearing, until the point that they reach automatic early release at 6 months from the end of their sentence. Short-term prisoners (those serving less than four years) are released on licence when they have served a fixed portion of their sentence. This is 30% except for those serving sentences for domestic abuse or sexual offences, for whom it is 50%. Early release does not apply to those serving extended sentences (see glossary entry below).

Extended sentence

The purpose of an extended sentence is to protect the public. It combines a period in prison, or detention for those aged under 21 (the custodial term), with a further set time of supervision in the community (the extension period). The extension period of the sentence in the community can be up to 5 years for sheriff court cases and up to 10 years for High Court cases. Offenders who commit an offence while under supervision can be returned to custody. Early release (see the entry above) does not apply to extended sentences.

Indeterminate sentence

This is a custodial sentence that does not have a set end point, such as a life sentence. However, the judge will set a punishment part (see 'life sentence' below) for such sentences.

Life sentence

A life sentence must be given for murder under the law, but can also be given for other extremely serious offences. If a person is sentenced to life imprisonment, the judge must, by law, set a punishment part of the sentence. This is the minimum time the person must spend in prison before they can be considered for release into the community by the Parole Board for Scotland. The Parole Board will consider a number of factors in deciding whether, or when, a person should be released into the community. If a person sentenced to life imprisonment is released into the community, they will be on licence for the rest of their life and can be recalled to prison if they breach the terms of their licence.

Order for lifelong restriction (OLR)

An order for lifelong restriction 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 certain offences, such as serious violent or sexual offences. 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, if not in custody, will in the future seriously endanger the lives, or physical or psychological well-being, of members of the public. The judge must set a punishment part of the OLR, which is the minimum time the offender must spend in custody before being considered by the Parole Board for Scotland for release into the community. If offenders are considered to be safe to serve the rest of their sentence in the community, they will remain under the supervision of a justice social worker. If the person commits another crime, they can be sent back to prison.

Non-harassment order (NHO)

A non-harassment order can be imposed on an offender who has been convicted of causing a victim alarm or distress. The offender can be ordered not to behave in certain ways which can include, for example, staying away from the victim, or not sending unwanted texts. An NHO may last for a set period of time, or for an indeterminate period of time (no end date set). It is most commonly imposed in addition to another sentence or disposal, but can also be imposed instead of another sentence or disposal. In certain domestic abuse cases the court must make an NHO unless it is of the view that there is no need for the victim, or any child involved in the case, to be protected by such an order.

Victim/Survivor/Victim-survivor

The draft guideline uses the word 'victim' throughout rather than any other descriptor such as 'survivor' or 'victim-survivor'. During our engagement process, with interest groups in particular, there appeared to be no broad consensus as to the most appropriate terminology. The Council based its decision on the fact that 'victim' is used in Scottish legislation and is widely recognised. In this document, when referencing research commissioned by the Council, we mirror the terminology used by those sources.

Part 1

Responding to this consultation

1. This paper introduces a draft sentencing guideline for domestic abuse offences and links to an online questionnaire relating to the guideline. The general nature of the online questions about the guideline are included in this paper as part of the discussion. Responses to the online questionnaire are welcomed by 11pm on Thursday 06 August 2026.
2. Responses can be submitted online at:
<https://consultations.scottishsentencingcouncil.org.uk/ssc/draft-domestic-abuse-guideline-public-consultation/>
If you have any questions about the consultation process, any difficulties with the online response form, or cannot respond online, please contact us: by email at sentencingcouncil@scotcourts.gov.uk, by phone on 0300 790 0006, or by post at Scottish Sentencing Council, Parliament House, Parliament Square, Edinburgh, EH1 1RQ.
3. We will publish the responses we receive, except where respondents ask for confidentiality. Where confidentiality is sought it should be noted that the Scottish Sentencing Council is subject to the Freedom of Information (Scotland) Act 2002⁷ so we may require to release some information if requested, although this will be done without contravening the data protection principles in Articles 5(1) and 10 of the UK General Data Protection Regulation and in sections 10(5) and 35(1) of the Data Protection Act 2018.⁸

7. [Freedom of Information \(Scotland\) Act 2002](#).

8. [Data Protection Act 2018](#).

Introduction

The Scottish Sentencing Council

4. The Scottish Sentencing Council is an independent, judicially-led advisory body which was established in 2015 under the Criminal Justice and Licensing (Scotland) Act 2010.⁹ We have three objectives which, under legislation, we must aim to achieve when carrying out our functions.

We must seek to:

- promote consistency in sentencing practice
- assist the development of policy in relation to sentencing
- promote greater awareness and understanding of sentencing policy and practice.

Our main responsibilities include:

- preparing sentencing guidelines for the courts
- publishing guideline judgments issued by the courts
- publishing information about sentences imposed by the courts.

5. The Council is made up of 12 members: six judicial members, three legal members (a prosecutor, an advocate, and a solicitor), a police constable, a victims' expert, and one other person who is not qualified as a judicial or legal member.¹⁰

Sentencing guidelines

6. An important part of the Council's role in promoting consistency is to prepare sentencing guidelines for the Scottish courts. When sentencing someone who has committed an offence, a court¹¹ must take into account any relevant sentencing guidelines. If a court decides not to follow the guidelines, the reasons for that decision must be stated. Sentencing guidelines can be general, which means they cover all offences, or they can be more specific and cover particular types of offence or offender.

9. [Criminal Justice and Licensing \(Scotland\) Act 2010](#).

10. [Council membership](#), Scottish Sentencing Council website.

11. The words 'court' and 'sentencer' are used in this consultation paper to include judges in the High Court, sheriffs principal, sheriffs, summary sheriffs, and justices of the peace, when presiding over a court.

7. Sentencing guidelines developed by the Council must be approved by the High Court of Justiciary,¹² Scotland's supreme criminal court, in order to come into effect. Before submitting a guideline for approval, the Council must publish a draft of the guideline. We must also publish a draft impact assessment giving our views on the likely impact, costs, and benefits of the guideline. We are required to consult the Scottish Ministers and the Lord Advocate on these drafts. We must also invite views from anyone else we think should be consulted. To ensure our guidelines are useful, and that we have as much information as we can about their potential effects, we want to hear from as wide a range of people as possible. This includes people who are, or have been, involved in or affected by domestic abuse offences, and the public more widely, as well as practitioners, criminal justice organisations, support and advocacy services, and other organisations which have an interest. With this in mind, we consult publicly on our draft guidelines.
8. Six guidelines are in force: three guidelines which relate to all types of offence, and three guidelines which relate to particular offences. The three guidelines which apply to all offences cover:
 - the principles and purposes of sentencing¹³
 - the sentencing process¹⁴
 - sentencing young people.¹⁵
9. Our first offence guideline covers the statutory offences of causing death by driving.¹⁶ Two further guidelines on sentencing rape offences came into force on 3 March 2026.¹⁷
10. The domestic abuse guideline is intended to be read alongside the principles and purposes and the sentencing process guidelines; the sentencing young people guideline where applicable; and any other guideline which applies to the offence or the offender. For example, where a rape offence involves domestic abuse, both the domestic abuse and rape guidelines would apply. The rape guidelines provide sentencing ranges in relation to those offences.
11. The consultation asks questions on:
 - the approach of the guideline
 - the content of the guidance contained within the guideline
 - the potential impacts of the guideline.

12. [High Court of Justiciary](#).

13. [Principles and purposes of sentencing](#), sentencing guideline, effective from 26 November 2018.

14. [The sentencing process](#), sentencing guideline, effective from 22 September 2021.

15. [Sentencing young people](#), sentencing guideline, effective from 26 January 2022.

16. [Statutory offences of causing death by driving](#), sentencing guideline, effective from 16 January 2024.

17. [Guidelines on rape offences](#), sentencing guidelines, effective from 3 March 2026.

Guideline development

12. Domestic abuse accounts for a significant number of cases heard in Scottish courts,¹⁸ and there can be particular challenges in sentencing these offences. These include the potentially broad variety of circumstances of such offences, and the need to consider the protection of the victim in a domestic context. Such offences can cause particularly damaging harm to those affected by the abuse and can inflict lasting trauma. A guideline will assist courts in sentencing decisions, and promote consistency in sentencing. It will also aid public awareness by helping people to better understand what is taken into account by the courts in determining these sentences.

Research and engagement

13. The Council has carried out research and engagement to help inform the approach and content of the draft guideline.
14. The Council conducted an extensive range of engagement across the justice and charity sectors on all aspects of the guideline. This included meetings with interest groups who support and represent victims.
15. Sentencers were consulted throughout the development process. Engagement with sentencers from across different court levels took place to discuss judicial experiences and ascertain the various challenges which arise during the sentencing of these offences, to help ensure the guideline is fit for purpose in practice.
16. Complementing this work, we have commissioned three publications involving these offences:
- A literature review, published in June 2022, examines the legislative framework and other factors relating to sentencing domestic abuse offences.¹⁹

18. According to the report, '[Domestic abuse and stalking charges in Scotland 2024 – 2025 | COPFS](#)' (September 2025), published by Scotland's prosecution service, 30,227 charges with a domestic abuse identifier were reported to them in 2024-25, with the vast majority proceeding to court. These range from theft to murder. According to the report, '[Criminal Proceedings in Scotland: 2023-2024](#)' (December 2025), published by the Scottish Government, from 2022-23 to 2023-24, the number of people convicted of the main charge under the Domestic Abuse (Scotland) Act 2018 rose 19%, from 756 to 897, the highest total recorded since its introduction in 2019-20; while convictions with a statutory domestic abuse aggravation decreased 4% from 7,936 to 7,640. See the glossary entry for more information on the domestic abuse legislation.

19. [The sentencing of offences involving domestic abuse in Scotland: literature review](#) (June 2022), prepared for the Scottish Sentencing Council by Dr Rachel McPherson and Dr Jay Gormley (University of Glasgow), and Dr Rhonda Wheate (University of Strathclyde).

- A report, published in August 2024, focusses on victims' views and experiences of sentencing domestic abuse offences.²⁰
 - A national survey, published in February 2026, explores, among other topics, public perceptions of domestic abuse.²¹
17. The literature review was carried out by academics from the University of Glasgow and the Centre for Law, Crime and Justice at the University of Strathclyde. It discussed the increased global awareness of domestic abuse; the legal and sentencing frameworks in Scotland, as well as in England and Wales; the role of specialist domestic abuse courts; and key factors impacting the experience of victims. Among these topics, the review discussed the Domestic Abuse (Scotland) Act 2018 (DASA) as representing a significant legal development, and analysed the penalties across a range of domestic abuse charges.²²
18. The report exploring the experiences of victim-survivors²³ was conducted by academics from Glasgow Caledonian University. It collated the views of 24 victim-survivors²⁴ who felt that domestic abuse offences should not only be treated seriously by the courts, but that protection of the public (including the safety of themselves and their children), and the acknowledgement of societal disapproval, should be key purposes of sentencing for such offences. No participants brought up the consideration of remorse (without being asked) and none thought that it should be a consideration in the sentencing decision. In line with this was the expectation that a non-harassment order (NHO) would be put in place.²⁵ The report stated that participants generally agreed NHOs should be imposed more often and that, at times, the conditions should be more robust.
19. The national survey was conducted by Ipsos Scotland. It involved several academics from the universities of Glasgow and Strathclyde, and included 1,001 telephone interviews with participants from across Scotland. It focused on public perceptions in relation to a number of topics including domestic abuse. For this research, respondents were divided into two groups.

20. [Exploring views on sentencing for domestic abuse in Scotland](#) (August 2024), prepared for the Scottish Sentencing Council by Nancy Lombard and Erin Rennie (Glasgow Caledonian University).

21. [Public Perceptions of Sentencing: 2025 survey report](#) (February 2026), prepared for the Scottish Sentencing Council by Colin Hockaday, Yulia Lemesheva and Rachel Ormston (Ipsos Scotland), Rachel McPherson (University of Glasgow), Ailbhe O'Loughlin and Cyrus Tata (University of Strathclyde).

22. [Domestic Abuse \(Scotland\) Act 2018](#).

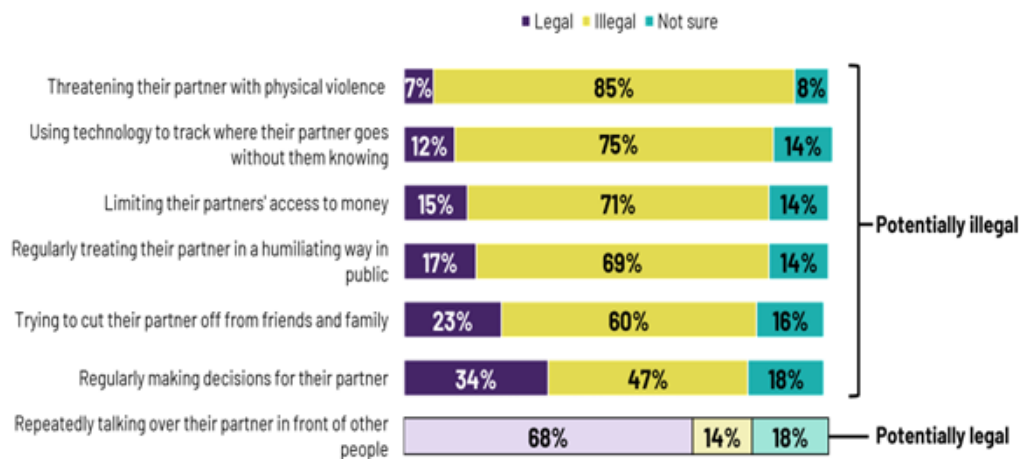
23. In this paper, several terms are used to reference victims: 'victims', and 'victim-survivors'. The Council generally uses the term 'victim' because it is used in Scottish legislation and is widely recognised. However, when quoting commissioned work, we use the terminology provided in the research reports, which in this instance is 'victim-survivor'.

24. Those interviewed were women.

25. An NHO is an ancillary order that can be imposed by the court in addition to a sentence or, in some instances, instead of any other disposal which the court could have imposed.

The first was presented with a scenario involving a single push that caused the victim injury; while the second was asked to consider an offence of coercive control. The findings indicated that, overall, there appeared to be high levels of public awareness that some examples of abuse involving coercive control were illegal. However, levels of awareness varied both in relation to the different examples of abusive behaviour (see Figure 1 below), and by age. Younger people (aged 18 – 34) were more likely than older respondents to mistakenly identify potentially illegal behaviours as legal.

Figure 1



In relation to both the single assault scenario and the scenario involving a pattern of coercive control, the majority of respondents thought that a non-custodial sentence was most appropriate with the highest number of people mentioning a community sentence. When asked whether a child witnessing the offence should make it more serious, respondents were divided in relation to the single assault, but thought that the sentence should be more serious in relation to the offence involving coercive control.

- The Council has also studied statistical data in relation to the range of domestic abuse offences prosecuted in the courts, and conducted case analysis exercises regarding sentencing. The latter involved listening to cases using the court VIQ system,²⁶ and collating and analysing factors considered relevant to the sentences imposed, as well as the nature and duration of those sentences.

26. The VIQ system is the court recording system used by the Scottish Courts and Tribunals Service to make audio recordings of cases.

Statistical information

21. The Council has considered data regarding the sentencing of domestic abuse cases in the Scottish courts held by the Scottish Courts and Tribunals Service (SCTS) over a 7-year period from 2017-18 to 2023-24.²⁷ The data are in relation to offences prosecuted under the Domestic Abuse (Scotland) Act 2018 (DASA); and under section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (the 2016 Act).²⁸
22. In relation to DASA s1(1) offences, there was a total of 5,668 disposals²⁹ between 2019-20 – 2023-24.³⁰ Approximately 59% of the offenders who received these disposals were aged between 31-60, while 38% were 30 years or under, and 2% were over 60. The highest number of disposals (35%) was imposed on offenders aged between 31-40. Almost all the offenders were male (96%).
23. In the period examined, about 21% of disposals³¹ under DASA s1(1) involved a custodial sentence. Approximately 18% of these were determinate sentences (excluding extended sentences); 3% were extended sentences;³² and <1% were orders for lifelong restriction. Approximately 78% of disposals under DASA s1(1) involved non-custodial sentences, made up of 1,783 community payback orders (53%), 345 fines (10%), and 268 restriction of liberty orders (8%). 233 were admonitions (7%) and 13 were absolute discharges (<1%). In relation to non-harassment orders, 2,324 were made by the courts.

27. The data provided by SCTS are given at charge code disposal level. Charge codes are unique identifiers used to classify criminal offences within the Scottish criminal justice system. Each reported disposal pertains to a specific charge, and multiple charges (and their respective disposals) can relate to the same individual case. Therefore, where one offender is given more than one disposal for the same case - for example a community payback order and a non-harassment order – these will be presented in the data as two separate disposals. See the [draft impact assessment](#) for more detailed statistical information.

28. See the glossary entry under 'Domestic abuse legislation' for more information.

29. A disposal is the sentence or outcome of a criminal case.

30. The data relating to DASA cases are from when the Act came into effect in 2019.

31. Non-harassment orders are not included in these percentages as they are most commonly imposed in conjunction with another disposal. The percentages used relate to 3,344 disposals.

32. Extended sentences are listed separately due to the challenges in distinguishing the custodial term from the extension period in the available dataset and these figures should be treated with caution.

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

Disposal type	Number of disposals	Percentage %
Community payback order	1,783	53%
Determinate sentence ³³	612	18%
Fine	345	10%
Restriction of liberty order	268	8%
Admonition	233	7%
Extended sentence	87	3%
Absolute discharge	13	<1%
Order for lifelong restriction	3	<1%
Total	3344	100% ³⁴

24. Regarding total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act, there were 86,204 disposals made by the courts between 2017-18 – 2023-24. Approximately 62% of the offenders receiving these disposals were aged between 31-60, while 36% were 30 years or under, and 2% were over 60. The highest number of disposals (35%) was imposed on offenders aged between 31-40. The majority of offenders was male (90%).
25. In the period examined, about 18% of disposals³⁵ involved a period of custody (about 16% of these were determinate sentences excluding extended sentences; 1% were extended sentences;³⁶ <1% were life imprisonment; and <1% were orders for lifelong restriction). Approximately 82% involved a non-custodial disposal, made up of 23,797 community payback orders (34%), 12,854 fines (19%), and 3,722 restriction of liberty orders (5%). 23% of disposals were admonitions, and a further 1% were absolute discharges.

33. See footnote 32.

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

35. Non-harassment orders are not included in these percentages as they are most commonly imposed in conjunction with another disposal. The percentages used relate to 69,017 disposals.

36. See footnote 32.

Table 2: Disposal type by count (total offences recorded with a domestic abuse statutory aggravation under section 1 of the 2016 Act)

Disposal type	Number of dispoals	Percentage %
Community payback order	23,797	34%
Admonished	16,050	23%
Fine	12,854	19%
Determinate sentence ³⁷	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%³⁸

26. Statistical information is also available from Scotland’s prosecution service.³⁹ Its report, ‘Domestic abuse and stalking charges in Scotland 2024 – 2025’, provides statistics on charges with a domestic abuse identifier⁴⁰ reported to them in the year April 2024 – March 2025.⁴¹ The most common types of offences reported in 2024-25 with a domestic abuse identifier were crimes against public justice (26% - this includes bail offences), threatening and abusive behaviour offences (25%), and common assault (23%).

37. See footnote 32.

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

39. [The Crown Office and Procurator Fiscal Service \(COPFS\)](#).

40. The definition of domestic abuse followed by Police Scotland and COPFS is set out in a published joint protocol, which defines it as: “any form of physical, verbal, sexual, psychological or financial abuse which might amount to criminal conduct and which takes place within the context of a relationship. The relationship will be between partners (married, cohabiting, civil partnership or otherwise) or ex-partners. The abuse can be committed in the home or elsewhere including online”. A charge that fits the definition of domestic abuse in the protocol will have a domestic abuse identifier.

41. [Domestic abuse and stalking charges in Scotland | COPFS 2024 - 2025](#), 9 September 2025.

Issues raised by stakeholder engagement

27. Engagement across the justice, government, and third sectors raised points regarding the guideline content. These matters include:
- appropriate explanation of what domestic abuse can involve
 - appropriate inclusion of features and factors that can make the offences more serious
 - protection of victims and the public
 - sentencing at the appropriate level of seriousness.

Approach

28. The draft guideline sets out matters that should be considered in domestic abuse cases including protection of the victim, seriousness, and aggravating factors, but is not intended to cover every possible situation.
29. To ensure guidelines are as accessible to the public as possible, we have avoided jargon and provided clear explanations of concepts where possible. We have sought to use precise language (while recognising that a degree of interpretation will always be necessary) in order to promote consistency in sentencing, and to mitigate against the application of the guidelines leading to an unintended increase in appeals.
30. This guideline has been developed 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
 - anyone else involved in, or with an interest in, domestic abuse cases.

It is also intended to be helpful to the general public in explaining how sentences for these offences are decided.

Part 2

The draft guideline explained

31. Part 2 of the report considers specific matters relating to the guideline. The specific consultation questions⁴² that the guideline discussion relates to are provided in a box at the end of each topic analysis. The guideline is in draft form and the responses to the online questionnaire will help to develop it further before a finalised version is submitted to the High Court for approval. Throughout the rest of this report, the draft will be referred to as ‘the guideline’ rather than ‘the draft guideline’ for the sake of ease.

Structure

32. The guideline is to be read alongside the sentencing process guideline which sets out the process involved in arriving at a sentence.⁴³ The domestic abuse guideline addresses step 1, assessing the seriousness of the offence, and step 3, identifying aggravating and mitigating factors.⁴⁴ Additionally, it provides information on non-harassment orders. These are ancillary orders to be considered later in the sentencing process at step 7.⁴⁵

33. In line with step 1 of the sentencing process, the guideline provides guidance on assessing the seriousness of the offence regarding the culpability of the offender, and the harm caused to the victim (see paragraphs 45 – 48 of this document). Step 2 of the sentencing process is to select the sentencing range. The guideline does not address this step as it does not include sentencing ranges. This is primarily because of the wide range of offending behaviour it will cover, involving prosecution across court levels. Annex A of this paper contains a list of the offences reported to COPFS in 2024-25 which fall under the proposed scope of this guideline, including the specific domestic abuse offence under section 1 of the Domestic Abuse

42. [Draft domestic abuse guideline public consultation questions](#).

43. [The sentencing process](#), sentencing guideline, effective from 22 September 2021.

44. See the glossary entry for aggravating and mitigating factors.

45. Ancillary orders are orders which are imposed by the court in addition to a sentence or, in some instances, instead of any other disposal which the court could have imposed.

(Scotland) Act 2018, and the wide range of offences aggravated by domestic abuse. The Council considers that the sentencing ranges that would, of necessity, apply to such a variety of cases would be too broad to provide any assistance to the court.

34. Step 3 is to identify aggravating and mitigating factors. The guideline provides three non-exhaustive lists of factors which might increase the sentence. These are separated into statutory aggravations, non-statutory aggravating factors, and non-statutory aggravating factors relating to children. The guidance also references the Council's sentencing process guideline which lists, in relation to all offences, some of the mitigating factors that, if present, might reduce a sentence.⁴⁶ See paragraphs 49 - 57 of this document for further discussion of aggravating and mitigating factors. The sentencing process guideline also covers the remaining steps involved in reaching a final sentence, including where there is a guilty plea, consideration of time spent in custody, and, as already mentioned, consideration of ancillary orders.
35. The domestic abuse guideline is also to be read alongside any offence guidelines which apply to the case or the offender, where the victim is a partner or ex-partner of the offender. For example, the guidelines on rape⁴⁷ provide sentencing ranges for these offences, and these ranges will be considered alongside the domestic abuse guideline where an offence of rape involves a partner or ex-partner.

QUESTION

1. Is the structure of the guideline appropriate?

Applicability (paragraphs 1 – 4)

36. Subject to approval by the High Court, the guideline will apply to all offenders who have been convicted of an offence involving domestic abuse. For the purpose of the guideline, this 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. The definition of a

46. [The sentencing process](#), sentencing guideline, effective from 22 September 2021, annex C.

47. [Sentencing guidelines on offences of rape](#) were approved by the High Court on 3 December 2025, and came into force on 3 March, 2026.

partner is taken from the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 and the Domestic Abuse (Scotland) Act 2018.⁴⁸ The guideline lists four behaviours - physical, sexual, psychological, and economic abuse - that can be elements of domestic abuse, but makes clear that the offence is not necessarily limited to these. A footnote clarifies that all these behaviours can be a part of coercive control: 'The items on this list may be aspects of, or form part of, a course of coercive control. This might take the form of, for example, behaviour which has the effect of making the victim dependent on, or subordinate to, the offender; isolating the victim from friends, relatives or other sources of support; controlling, regulating, or monitoring the victim's day-to-day activities; depriving the victim of, or restricting, their freedom of action; or frightening, humiliating, degrading, or punishing the victim'.⁴⁹

37. To assist understanding, the Council considers that economic abuse, in particular, would benefit from explanatory examples of what this behaviour can involve. For this purpose, a footnote has been provided, reading: 'Economic abuse may form part of a course of coercive control and might take the form of, for example, the offender controlling the victim's finances by restricting access to money and/or concealing money; denial of access to debit or credit cards; forcing the victim to give up, or preventing the victim from pursuing, work, education or training; or coercing the victim into debt, for example by running up debts in the victim's name'.⁵⁰

QUESTIONS

2. **Are the four behaviours listed in paragraph 4 of the guideline appropriate?**
3. **Should any behaviours be added?**
4. **Should any behaviours be removed?**
5. **Is the footnote discussing coercive control appropriate?**
6. **Is the footnote providing examples of economic abuse appropriate?**

48. [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016](#); [Domestic Abuse \(Scotland\) Act 2018](#).

49. Footnote 2 of the guideline.

50. Footnote 3 of the guideline.

How to use this guideline (paragraphs 5-6)

38. Courts must have regard to all applicable guidelines when sentencing.⁵¹ General and offence guidelines are developed to be complementary and applied alongside one another. The principles and purposes of sentencing guideline and the sentencing process guideline apply to all offences, including domestic abuse. The principles and purposes of sentencing guideline provides that the core principle of sentencing is fairness and proportionality. The sentencing process guideline makes it clear that this should be considered throughout the sentencing exercise. The sentencing process guideline was developed with the intention of capturing established sentencing practice, with a view to ensuring that it would not be necessary to repeat many of the general factors in specific offence guidelines. This approach is designed to allow offence guidelines to be succinct and easily referred to in the court setting. However, certain factors may be repeated in offence guidelines in order to highlight their particular relevance to that offence.
39. The Council has decided not to reference the sentencing young people guideline in this domestic abuse guideline. The sentencing young people guideline provides that the nature and duration of a sentence imposed on a young person should be different from that which might be imposed on an older person being sentenced for the same, or a similar, offence. Although the sentencing young people guideline will apply to domestic abuse offences where the offender is aged 24 or under at the time of conviction, it will not apply to cases where the offender is over that age.⁵²
40. This guideline is intended to be read alongside all relevant offence guidelines including those under development, or which may be developed in the future, for example on sexual assault, or assault.

QUESTION

- 7. Is it clear from paragraph 5 how the domestic abuse guideline is meant to interact with other sentencing guidelines?**

51. [Criminal Justice and Licensing \(Scotland\) Act 2010](#), s6 (1)(a).

52. For data regarding the age of offenders in domestic abuse offences, see the [draft impact assessment](#).

Sentencing a domestic abuse offence (paragraphs 7-9)

41. Paragraph 7 of the guideline sets out some of the features of domestic abuse, including the violation of trust, and the particularly damaging harm and lasting trauma that can be caused to the victim and any children. This makes clear that domestic abuse is a serious offence to be treated as such by the courts.
42. Paragraph 8 of the guideline sets out that, under certain legislation,⁵³ the court must have particular regard to the aim of ensuring that the victim is not the subject of a further offence involving domestic abuse committed by the offender. This aims to reinforce the need to consider the victim's safety in deciding on a sentence.
43. Paragraph 9 makes clear that the sentence imposed should not be informed by any expressed wishes of the victim as to what that sentence should be. This is for a number of reasons. The court sentences on behalf of the wider public, and no victim is responsible for the sentence imposed on an offender. If it were generally believed that the severity of the sentence may be affected by the wishes of the victim, an offender may be more likely to attempt to threaten the victim to make a plea for a more lenient sentence as part of a course of coercive control. The Council feels that this statement is important in order to help deter an offender from such behaviour, and to ensure victims do not feel responsible for any sentence imposed.
44. During our engagement, some concern was raised over the fact that this message may give the impression that the victim's voice is not taken into account by the court, particularly in terms of the impact of harm. However, the Council considers that paragraph 9 makes clear that the guidance relates only to the ultimate sentencing decision. The sentencing process guideline, which is read alongside all offence guidelines, makes clear that any impact statement provided to the court by a victim should be taken into account when assessing harm. It states that: 'harm includes the impact on any victim or victims. In particular, in assessing the level of harm the court must have regard to any victim statement which has been put before it, to the extent that it considers the information in the statement to be relevant to the offence'.⁵⁴ The harm caused to victims is central to the sentencing process and victim statements (sometimes called 'victim impact statements') are one means, among others, for information about harm to be provided to the court. They give some victims the chance to explain in their own words how an offence has impacted them. The domestic abuse guideline further makes clear at paragraph 23 that the victim's expressed views may be taken

53. [Criminal Procedure \(Scotland\) Act 1995, section 210AB](#).

54. [The sentencing process](#), sentencing guideline, effective from 22 September 2021, paragraph 13.

into account in consideration of a non-harassment order (NHO). An NHO is an ancillary order that can be imposed by the court in addition to a sentence or, in some instances, instead of any other disposal which the court could have imposed. The guideline also, however, reinforces the fact that the final decision regarding the imposition of an NHO remains entirely one for the court. This is for the same reasons as set out in paragraph 43.

QUESTIONS

8. **Do you agree or disagree that the premise set out in paragraph 9 of the guideline is appropriate: ‘A sentence imposed in respect of a domestic abuse offence should not be informed by any expressed wishes of the victim as to what the sentence should be’?**
9. **Is the rest of the guidance provided in relation to ‘sentencing a domestic abuse offence’ appropriate?**

Seriousness (paragraphs 10 – 13)

45. This section of the guideline discusses the first step in determining a sentence.⁵⁵ This is the assessment of the seriousness of the offence by determining the level of culpability of the offender, and the level of harm caused to the victim, and others affected by the case. It makes clear that, as either or both culpability and harm increase, so may the seriousness of the offence, and that harm can be the result of the cumulative effect of abusive or violent behaviour, and is likely to increase in line with any increase in the severity or frequency of the abuse or violence over a prolonged period. A recent judgment from the Appeal Court in Scotland makes clear that the court considers the harm caused as a whole including all facets, such as for example psychological, financial, and physical abuse.⁵⁶
46. Apart from these aspects, the section on seriousness does not provide a further list of features of culpability or harm. This is because the Council considers that the range of offending behaviours involved in domestic abuse offences is wide and that a list of relevant features

55. The other steps in deciding a sentence are set out in the Council's guideline on the [sentencing process](#).

56. [HMA v Fletcher](#) [2025] HCJAC 41, states at paragraph 26 that: ‘Violence may be the most obvious and visible form of domestic abuse but it is not necessarily the most serious. There is growing awareness of the harm domestic abuse causes and it is well understood that it extends beyond physical injuries.’

would be too long and unwieldy to be of practical use to the court.⁵⁷ However, a number of factors have been included in the list of aggravating factors for consideration at that stage of the sentencing process.

47. The section also makes clear that the court should ensure it has sufficient information, insofar as reasonably practicable, in relation to the harm caused to children. There are a number of sources that the court can use to obtain such information. It can be provided through the evidence given at a trial, or presented by the prosecutor where there is a guilty plea. Court reports, for example provided by a social worker, or victim statements can also provide information where children are involved in an offence.
48. The final paragraph of the section states that any reluctance on the part of the victim to engage with the criminal justice process should not be regarded as indicative of a lower level of seriousness. This is intended to recognise that the court is sentencing on behalf of the wider public. There can also be instances where the victim in a relationship of coercive control can be intimidated by the offender. This can result in a reluctance to engage with the criminal justice process because of that factor, rather than because the offence is not considered to be serious.

QUESTIONS

10. Is the guidance provided in relation to assessing seriousness appropriate?
11. Should any guidance be added?
12. Should any guidance be removed?

Aggravating and mitigating factors (paragraphs 14 – 18)

49. Step 2 of the sentencing process is to select the sentencing range. As this guideline does not include sentencing ranges (see paragraph 33 of this paper for further discussion), the next section of the guideline addresses step 3, identifying aggravating and mitigating factors.

57. The Scottish Government is currently conducting a consultation on [improving protections in the justice system for women and girls](#). As part of this consultation, it is seeking views on (among other things) the following: whether Scots law adequately provides comprehensive legal protections for victims of non-fatal strangulation, and the possible creation of new laws addressing online and technology-facilitated harms, including for example the creation and supply of intimate images. It is also seeking views on a statutory aggravation for offences against pregnant women (a factor which is currently included as a non-statutory aggravating factor in this guideline). The Council will follow the progress of the consultation and take into account any relevant developments in its further consideration of the draft guideline and its wider work

Aggravating factors are facts and circumstances that may make the offence more serious for sentencing purposes. Mitigating factors, including factors personal to the offender, may lead to a less severe sentence. Cases may have both aggravating and mitigating factors.

50. The guideline lists aggravating factors particularly relevant to domestic abuse under three headings: statutory aggravations, non-statutory aggravating factors, and non-statutory aggravating factors relating to children. Statutory aggravations must be taken into account as set out in legislation by Parliament, whereas the court can take non-statutory aggravations into account under its discretion. The guideline separates the non-statutory aggravations into general and those related to children. Paragraph 16 of the guideline explains that factors which have been included in the initial assessment of seriousness by the court should not also be considered as aggravating or mitigating factors at this stage of the sentencing process. If they were, this would ‘double-count’⁵⁸ the factor and could lead to a disproportionate sentence. The guideline does not include any mitigating factors particular to domestic abuse. However, it does reference the sentencing process guideline, which is to be read alongside offence guidelines, and which lists aggravating and mitigating factors for all offences.⁵⁹

Statutory aggravations

51. These include three statutory aggravations considered to be particularly relevant to domestic abuse offences: under section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016;⁶⁰ under section 5 of the Domestic Abuse (Scotland) Act 2018 (DASA);⁶¹ and under section 27(1)(b) of the Criminal Procedure (Scotland) Act 1995.⁶² Section 1 of the 2016 legislation makes domestic abuse (involving a partner or ex-partner) an aggravation to any offence, for example an offence of assault; while section 5 of the DASA legislation makes the involvement of a child in a domestic abuse offence prosecuted under section 1(1) of DASA an aggravation. This means that if the behaviour is directed at a child, or if the offender uses the child to direct that behaviour towards their partner/ex-partner, or if the child sees, hears or is present during the behaviour, that is an aggravating factor which makes the offence more serious for sentencing purposes. Section 27(1)(b) of the Criminal Procedure (Scotland) Act 1995 relates to the breach of a bail condition. Bail terms can be set by the court when an accused person is released from custody on certain conditions in advance of further court hearings, for example to stay away from a complainer.⁶³

58. See the glossary entry for ‘double-counting’ for further explanation.

59. [The sentencing process](#), sentencing guideline, effective from 22 September 2021, annexes A, B, and C.

60. [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016](#), section 1.

61. [Domestic Abuse \(Scotland\) Act 2018](#), section 5.

62. [Criminal Procedure \(Scotland\) Act 1995](#), section 27(1)(b).

63. A complainer is the alleged victim named in a charge.

QUESTIONS

13. Are the statutory aggravations appropriate?
14. Should any statutory aggravations be added to the guideline?
15. Should any statutory aggravations be removed from the guideline?

Aggravating factors (non-statutory)

52. This section of the guideline lists seven non-statutory aggravating factors as being particularly relevant to domestic abuse. The Council is keen to receive views on all the listed factors, but this paper discusses two in particular: a particularly vulnerable victim; and cultural violation.
53. The first bullet point in this section of the guideline covers a particularly vulnerable victim. The Council considers that all domestic abuse victims are potentially vulnerable due to the violation of trust involved in an intimate relationship, but certain factors may render a victim more vulnerable. Although some of the factors that are considered particularly relevant are noted, this is not intended to be an exhaustive list. There will be many other factors that can also make a victim more vulnerable, which the court will take into account where appropriate. The more extensive a list is, the more it may appear to be exhaustive, and the Council has taken care to select a limited number of factors. This bullet point also provides examples of actions of the offender which are intended to increase the vulnerability of the victim, for instance interfering with medication or finances.
54. The seventh bullet point in this section covers cultural violation. Footnote 7 of the guideline provides examples of what a cultural violation may entail for the purpose of the guideline, and reads: 'For example, where the victim is being prevented from following cultural or religious practices they wish to follow; being forced to follow cultural or religious practices they do not wish to follow; or other behaviour which is intended, or likely, to have a particular impact on the victim due to religious or cultural beliefs or practices.' The Council has gathered evidence through informal engagement with third sector organisations, and has considered research on this topic, including examples relating to cultural violation in the context of domestic abuse.⁶⁴

64. [Spiritual abuse focus groups report](#) (2022), The Church of Scotland, and the Muslim Women's Research Centre; [UK victim-survivor experiences of intimate partner spiritual abuse and religious coercive control and implications for practice](#) (July 2022), Natasha Mulvihill, Nadia Aghtaie, and Marianne Hester; [Understanding spiritual and religious abuse in the context of intimate partner violence](#) (March 2024), Mandy Truong and Nafiseh Ghafournia; [National Domestic And Family Violence Bench Book](#) (2016, updated August 2025), Australasian Institute of Judicial Administration, Australian Government Attorney-General's Department, and the University of Melbourne.

The Council is now seeking further evidence, including through this consultation exercise, as to whether cultural violation is sufficiently relevant to and/or prevalent in domestic abuse offences to be listed in the guideline. The Council considers that its inclusion in the guideline may act as a prompt for the courts when considering aggravating factors that can make an offence more serious for the purpose of sentencing. It may also give victims more confidence in identifying and describing such behaviour as particularly abusive. The Council is now seeking views on this approach.

55. The guideline provides a separate section on three non-statutory aggravating factors relating to children. These are: ‘the offending behaviour is directed at a child, or there is harm or a risk of harm to a child as a result of the offending behaviour’; ‘using contact arrangements with a child to facilitate offending behaviour’; and ‘making use of a child in directing offending behaviour at the victim’. The guideline makes clear that these should only be considered as aggravating factors if they are not being considered as a statutory aggravation under section 5 of DASA (see paragraph 51 in this document). In relation to ‘making use of a child in directing offending behaviour at the victim’, during engagement the Council was provided with instances of such behaviour. For example, this might include where an offender forces a child to make derogatory comments to, and about, the victim. This factor is intended to capture offending behaviour of this nature.

QUESTIONS

16. **Are the non-statutory aggravating factors, including in relation to children, appropriate?**
17. **In particular, is the aggravating factor ‘cultural violation’ appropriate?**
18. **Is the footnote discussing ‘cultural violation’ appropriate?**
19. **Should any non-statutory aggravating factors, including in relation to children, be added to the guideline?**
20. **Should any non-statutory aggravating factors, including in relation to children, be removed from the guideline?**

Mitigating factors

56. The guideline does not list any mitigating factors as being particularly relevant to the offence of domestic abuse. However, reference is made to the sentencing process guideline, which applies to all sentencing decisions.⁶⁵ This reference reads: ‘Mitigating factors may also be present. Some examples of mitigating factors can be found in annex C to the Council’s guideline, ‘The sentencing process’.’ The Council considers that certain mitigating factors may well be relevant in individual cases of domestic abuse, but that it would not be appropriate to list such factors in the guideline as being particularly common or relevant to these offences.
57. Consultation question 21 asks whether any mitigating factors should be added to the guideline, and if so, what factors should be listed?

QUESTION

21. Should any mitigating factors be added to the guideline?

Non-harassment orders (NHOs) (paragraphs 19 – 23)

58. Our engagement, as well as research into public perceptions,⁶⁶ suggests that people feel NHOs are a means of protecting victims from future harm caused by the offender. However, in some cases, people expressed views that NHOs do not always provide sufficient detail to protect the victims, for example that they do not always extend far enough to include restrictions on entering places (in addition to a home address) that the victim routinely attends, such as a place of employment.
59. The Council agrees that NHOs can be an important part of a disposal intended to protect a victim, and any children affected by the offence, from future harm. Therefore, the final section of the guideline explains the law as to when the court must impose, or should consider imposing, an NHO, as well as how such orders operate.⁶⁷ This acts as a prompt to the court to

65. [The sentencing process](#), sentencing guideline, effective from 22 September 2021, annex C.

66. [Exploring views on sentencing for domestic abuse in Scotland](#) (August 2024), prepared for the Scottish Sentencing Council by Nancy Lombard and Erin Rennie (Glasgow Caledonian University).

67. The [Victims, Witnesses, and Justice Reform \(Scotland\) Act 2025 section 108](#) amends section 234AZA of the Criminal Procedure (Scotland) Act 1995 so that, in most domestic abuse cases, the court must, in considering the question of whether to make a non-harassment order, have regard to any prior bail conditions imposed on the person preventing contact with the victim. This section of the Act is to commence on 1 September 2026, and the Council will thereafter consider whether to amend the draft guideline to take account of this before finalising it for submission to the High Court.

consider an order, and provides information to assist understanding for victims and the public. This includes that the court may have regard to the expressed views of the victim. However, it is also made clear that the final decision remains entirely one for the court. As already set out in paragraph 43 of this document, this is for a number of reasons. The court sentences on behalf of the wider public, and no victim should feel responsible for any disposal imposed on an offender. If it were otherwise, an offender may be more likely to attempt to threaten the victim into making a plea not to impose an NHO, as part of a course of coercive control.

60. However, the detail of the order will entirely depend upon the unique facts of the case before the court, including the degree of protection required, and any ongoing interaction between the victim and the offender, particularly in relation to children. The Council considers that the terms of such an order must be a matter for the court to determine based on the particular circumstances of the case before it.

61. The Council's statistical analysis indicates that the use of NHOs by the courts in relation to domestic abuse offences has increased substantially in recent years.⁶⁸

QUESTION

22. Is the section of the guideline addressing non-harassment orders at paragraphs 19 – 23 appropriate?

68. See the [draft impact assessment](#) (tables 16, 20, 24 and 28) for more detailed statistical information.

Part 3

Potential impacts of the guideline

62. The Council must carry out an assessment of the likely costs and benefits of guidelines and of their likely effects on the criminal justice system generally. We must also carry out an assessment of the potential impact on different groups of people. Understanding whether the guideline promotes equality, or has unintended effects, is essential for ensuring that it promotes fairness.⁶⁹ We must publish a draft impact assessment at the same time as publishing any draft guideline. We would be grateful for your views on the potential impacts of this guideline to assist with our projections, and with further guideline development.
63. We think that the main benefits of this guideline will be to assist the courts in reaching sentencing decisions in domestic abuse cases, thereby aiding consistency, and increasing public understanding of how sentencing decisions are made. We do not think that the guideline will result in any significant increase in costs.
64. Consultation questions 23 - 27 ask about whether the guideline is likely to increase or decrease public understanding of how sentencing decisions are made; and what potential benefits, negative effects, or costs, may arise from the introduction of the guideline (if any).

69. 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](#).

QUESTIONS

23. Do you think the guideline will influence sentencing practice in Scotland?
24. Do you think the guideline will lead to an increase or decrease in public understanding of how sentencing decisions are made?
25. Do you see any benefits or negative effects arising from the introduction of this guideline?
26. Do you feel that the introduction of the guideline might impact some groups of people more than others in a disproportionate way?
27. What costs (financial or other) do you see arising from the introduction of this guideline, if any?

Further comments

65. In relation to the guideline, a last question asks for details of any further matters of importance, or which the respondent feels have been omitted from the guideline, with regard to sentencing domestic abuse offences.

QUESTION

28. Please provide details about anything else you feel is of importance regarding sentencing for domestic abuse offences.

Respondent details

66. A final series of questions asks about the respondent. Organisations and individuals have the option as to whether their response is published. If a submission from an organisation is published, the name of that organisation will also be published. However, individuals who wish their response to be published have an option as to whether it is published with or without their name.

Annex A

Domestic abuse charges

The following table provides the number of domestic abuse charges relating to different offences reported to Scotland's prosecuting service in 2024-25.⁷⁰

Offence	Court	Direct Measure	No Action	No Decision	Reporter	Total
Murder and culpable homicide	6	0	0	0	0	6
Serious assault and attempted murder	558	1	4	5	0	568
Common assault	6,322	312	340	95	24	7,093
Robbery	88	0	2	1	0	91
Domestic Abuse (Scotland) Act 2018	1,934	21	15	49	9	2,028
Other non-sexual violence	537	8	15	22	2	584
Rape & attempted rape	552	2	10	70	1	635
Sexual assault	278	10	8	22	1	319
Causing to view sexual activity or images	50	2	2	5	2	61

70. [Domestic abuse and stalking charges in Scotland | COPFS](#) (September 2025), COPFS.

Communicating indecently	25	1	3	0	0	29
Threatening to or disclosing intimate images	139	5	6	8	2	160
Indecent photos of children	4	0	1	0	1	6
Other sexual crimes	95	5	7	9	1	117
Housebreaking	33	1	4	3	0	41
Theft by opening lockfast places	1	0	0	0	0	1
Theft of motor vehicle	107	2	7	2	0	118
Other theft	469	19	21	8	2	519
Fraud	94	7	17	9	0	127
Other dishonesty	2	0	0	0	0	2
Fire-raising	25	1	0	0	0	26
Vandalism	1,252	71	51	8	2	1,384
Reckless conduct	60	0	2	0	0	62
Crimes against public justice	7,232	50	359	63	4	7,708
Weapons possession (not used)	149	0	6	1	0	156
Drugs - supply	6	0	0	0	0	6

Threatening and abusive behaviour	7,078	311	212	47	13	7,661
Hate aggravated conduct	12	0	1	0	0	13
Community and public order offences	546	38	35	15	8	642
Wildlife offences	10	0	1	0	0	11
Other misc. offences (not road traffic)	2	0	0	0	0	2
Dangerous & careless driving	41	0	0	2	0	43
Unlawful use of motor vehicle	4	0	0	0	0	4
Mobile phone offences	1	0	0	0	0	1
Other road traffic offences	3	0	0	0	0	3
Total	27,715	867	1,129	444	72	30,227



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