

## **The Sentencing Code**

### **A single source for the law of sentencing procedure**

1. Over the last 3 years the Law Commission has been working to produce a Sentencing Code to bring the law of sentencing procedure into one place, simplifying the law and providing a coherent structure while repealing old and unnecessary provisions. The Sentencing Code will provide much needed transparency to the law as well as avoiding the costs and errors arising from the complexity of the current law.
2. The Sentencing Code project has been the subject of significant consultation. A draft version of the Sentencing Code was the subject of a 6-month consultation which ran from 27 July 2017 until 26 January 2018. During that 6-month period the Law Commission hosted a number of public events, and met with over 1400 judges, practitioners, academics and members of the public to discuss their proposals.
3. The version of the Bill published in July did not, however, include a small number of youth justice specific disposals due to the ongoing nature of the Charlie Taylor Review of the Youth Justice system at the time of drafting. There was a real prospect that at least some of the recommendations that that review might produce could lead to new legislation. We decided therefore that, in the interests of using resources most effectively and avoiding any duplication, we should exclude from the draft Sentencing Code as published in July 2017 those provisions that were at risk of being altered.
4. This short, supplementary consultation exercise consults on that limited number of provisions which were excluded from the July 2017 version of the Sentencing Code. The consultation will run for 5-weeks from 23 March 2018 until 27 April 2018. This short consultation period recognises the limited material on which we are seeking consultee's views and the limited nature of the policy change involved in the new drafting. It also reflects the need to give Parliamentary Counsel sufficient time to amend the draft Code following consultee's views prior to the publication of the Report and final Bill in Summer 2018.
5. We are very keen to ensure that all provisions in the draft Sentencing Code receive public scrutiny, particularly by stakeholders who regularly use the

provisions. Alongside this public consultation on these provisions we will also be organising a number of stakeholder meetings to discuss the provisions with experts.

6. The Code would:

- help stop unlawful sentences by providing a single reference point for the law of sentencing, simplify many complex provisions and remove the need to refer to historic legislation;
- save up to £255million over the next decade by avoiding unnecessary appeals and reducing delays in sentencing clogging up the court system;
- rewrite the law in modern language, improving public confidence and allowing non-lawyers to understand sentencing more easily;
- remove the unnecessary layers of historic legislation; and
- allow judges to use the modern sentencing powers for both current and historic cases, making cases simpler to deal with and ensuring justice is better served.

7. The Code would not:

- alter the maximum sentences for criminal offences;
- subject any offender to a harsher penalty than that which could have been imposed at the time of their offence;
- extend minimum sentencing provisions or create new minimum sentences;
- reduce judicial discretion; or
- replace sentencing guidelines or the work of the Sentencing Council.

8. Support for the project is widespread with the Sir Brian Leveson, President of the Queen's Bench Division and Head of Criminal Justice, Alison Saunders, Director of Public Prosecutions, The Criminal Bar Association, the Law Society and the Sentencing Council all highlighting the need for reform.

9. Sir Brian Leveson said:

“The Law Commission’s codification project is the most significant attempt to clarify and simplify the law in decades. It will bring about real and substantial savings and greatly reduce the risks of error. Even more importantly, by creating a legislative framework which allows courts to deal with one single piece of legislation for sentencing matters, the Code should ensure that sentencing laws remain clear and accessible for the future.”