

University of Hertfordshire Higher Education Corporation  
College Lane, Hatfield AL10 9AB  
FAO: Hertfordshire Law School

By email to: Diana Kirsch

Date: 01/10/2021

Our ref: **con\_19601**

Dear Ms Kirsch,

**Award of contract for the supply of ITT 5348 Research on equality and diversity in the work of the Sentencing Council - ITT 5348**

Following your tender/ proposal for the supply of Research on equality and diversity in the work of the Sentencing Council to **The Ministry of Justice**, we are pleased to award this contract to you.

This Award Letter and its Annexes set out the terms of the contract between **The Ministry of Justice**, as the “Customer” and **University of Hertfordshire Higher Education Corporation** as the “Supplier” for the provision of the above Services.

Unless the context otherwise requires, capitalised expressions used in this Award Letter have the same meanings as in the terms and conditions of contract set out in Annex 1 to this Award Letter (the “**Conditions**”). In the event of any conflict between this Award Letter and the Conditions, this Award Letter shall prevail. Please do not attach any Supplier terms and conditions to this Award Letter as they will not be accepted by the Customer and may delay the conclusion of the Agreement.

For the purposes of the Agreement, the Customer and the Supplier agree as follows:

- 1) The Services will be provided in accordance with the Customer’s publicised Specification
- 2) A minimum of four meetings will be required with the contractors:
  - An inception meeting/ discussion to finalise the research design, to be held via video call (08/10/2021)
  - A meeting to consider initial key findings/ any issues etc. (November 2021 - tbc)
  - A pre-meeting ahead of the presentation to the Sentencing Council (February 2022 – tbc)
  - A presentation of findings to the Sentencing Council or sub-group (04/03/2022)
- 3) The specification of the Services to be supplied is as set out in Annex 2
- 4) The Supplier’s proposal to be set out as in Annex 3
- 5) The contract charges to be set out as in Annex 4



## Ministry of Justice

- 6) The Term shall commence **on 8<sup>th</sup> October 2021** and the Expiry Date shall be **31<sup>st</sup> March 2022** unless subject to early termination.

- 7) The address for notices of the Parties are:

**Customer**

**Ministry of Justice  
102 Petty France  
London SW1H 9AH**

**[REDACTED]**

**Supplier**

**Secretary and Registrar, Office of the  
Vice-Chancellor, University of  
Hertfordshire Higher Education  
Corporation, College Lane, Hatfield,  
Hertfordshire, AL10 9AB, United Kingdom**

**[REDACTED]**

- 8) The following persons are Key Personnel for the purposes of the Agreement:

**Supplier**

**[REDACTED]**

**Title: Senior Research Officer**

**Customer**

**[REDACTED]**

**Title: Associate Dean (Enterprise)**

- 9) For the purposes of the Agreement the Staff Vetting Procedures, data security requirements, equality and diversity policy and environmental policy can be found at Annex 5.
- 10) The Customer may require the Supplier to ensure that any person employed in the provision of the Services has undertaken a Disclosure and Barring Service check. The Supplier shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Services, relevant to the work of the Customer, or is of a type otherwise advised by the Customer (each such conviction a "**Relevant Conviction**"), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Services.

- 11) **Payment**

All invoices must be sent, quoting a valid purchase order number (PO Number). Within 10 Working Days\* of receipt of your countersigned copy of this letter, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.

To avoid delay in payment all invoices and credit notes must contain either a valid purchase order number or an 8-digit cost centre code. Invoices which do not contain the correct information will be rejected and the supplier notified by email.

Ministry of Justice (including its various departments, agencies and arm's-length bodies) now uses the Basware Network to trade electronically with our suppliers.



## Ministry of Justice

If you are not currently a supplier to the Ministry of Justice or your details are out of date, we will need to do a supplier set up.

To ensure that both the Ministry of Justice and our suppliers can maximise the benefits from using Basware, we will require you to register with Basware. Please see the attached Basware letter for further information.



Welcome-to-Basware  
-eMarketplace-supplier

For suppliers not using electronic invoicing, all invoices and credit notes should be sent directly to the Office of the Sentencing Council by email:

**[REDACTED]**

If you have a query regarding an outstanding payment please contact our Accounts Payable section either by email [MoJ-finance-ap-enquiries@gov.sscl.com](mailto:MoJ-finance-ap-enquiries@gov.sscl.com) or by telephone 0345 241 5351 (Option 2) between 09:00-17:00 Monday to Friday.

\*subject to change

### 12) **Liaison**

**[REDACTED]**

please email the Professional Services Functional Mailbox:

[MoJProcurementProfessionalServices@Justice.gov.uk](mailto:MoJProcurementProfessionalServices@Justice.gov.uk)

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the Services. Please confirm your acceptance of the award of this contract by signing and returning this contract via the eSignature process **within [7]** days from the date of this letter. No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

Yours faithfully,

**[REDACTED]**



## FORMATION OF CONTRACT

BY SIGNING AND RETURNING THIS CALL OFF ORDER FORM (which may be done by electronic means) the Supplier agrees to enter a Call Off Contract with the Customer to provide the Services in accordance with the terms Call Off Order Form and the Call Off Terms.

The Parties hereby acknowledge and agree that they have read Terms and by signing below agree to be bound by this Contract.

The Parties hereby acknowledge and agree that this Contract shall be formed when the Customer acknowledges (which may be done by electronic means) the receipt of the signed copy of this letter from the Supplier within two (2) Working Days from such receipt

For and on behalf of the Customer: **Ministry of Justice**

Name	[REDACTED]
Title	[REDACTED]
Signature	[REDACTED]
Date	[REDACTED]

**We accept the terms set out in this letter and its Annexes, including the Conditions.**

For and on behalf of the Supplier: **University of Hertfordshire Higher Education Corporation**

Name	[REDACTED]
Title	[REDACTED]
Signature	[REDACTED]
Date	[REDACTED]



## Annex 1

### Terms and Conditions of Contract for Services

#### 1 Interpretation

##### 1.1 In these terms and conditions:

“Agreement”	means the contract between (i) the Customer acting as part of the Crown and (ii) the Supplier constituted by the Supplier’s countersignature of the Award Letter and includes the Award Letter and Annexes;
“Award Letter”	means the letter from the Customer to the Supplier printed above these terms and conditions;
“Central Government Body”	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none"> <li>(a) Government Department;</li> <li>(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</li> <li>(c) Non-Ministerial Department; or</li> <li>(d) Executive Agency;</li> </ul>
“Charges”	means the charges for the Services as specified in the Award Letter;
“Confidential Information”	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
“Controller”	means as it is defined in the GDPR;
“Customer”	means the person named as Customer in the Award Letter;
“Data Loss Event”	means any event which results, or may result, in unauthorised access to Personal Data held by the Supplier under the Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of the Agreement, including any Personal Data;
“Data Protection Legislation”	means the GDPR, DPA and all applicable Laws relating to the processing of Personal Data;
“Data Protection Officer”	means as it is defined in the GDPR;
“Data Subject”	means as it is defined in the GDPR;
“Data Subject Request”	means a request made by or on behalf of a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
“DPA”	means the Data Protection Act 2018;
“Expiry Date”	means the date for expiry of the Agreement as set out in the Award Letter;



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"FOIA"	means the Freedom of Information Act 2000;
"GDPR"	means the General Data Protection Regulation (Regulation (EU) 2016/679);
"Information"	has the meaning given under section 84 of the FOIA;
"Key Personnel"	means any persons specified as such in the Award Letter or otherwise notified as such by the Customer to the Supplier in writing;
"Party"	means the Supplier or the Customer (as appropriate) and "Parties" shall mean both of them;
"Personal Data"	means as it is defined in the GDPR;
"Processor"	means as it is defined in the GDPR;
"Protective Measures"	means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the measures adopted;
"Purchase Order Number"	means the Customer's unique number relating to the supply of the Services;
"Request for Information"	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
"Services"	means the services to be supplied by the Supplier to the Customer under the Agreement;
"Specification"	means the specification for the Services (including as to quantity, description and quality) as specified in the Award Letter;
"Staff"	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Agreement;
"Staff Vetting Procedures"	means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer's procedures for the vetting of personnel as provided to the Supplier from time to time;
"Supplier"	means the person named as Supplier in the Award Letter;
"Term"	means the period from the start date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in accordance with clause <b>Error! Reference source not found.</b> or terminated in accordance with the terms and conditions of the Agreement;
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
"Working Day"	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

### 1.2 In these terms and conditions, unless the context otherwise requires:

- 1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;



- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
- 1.2.5 the word 'including' shall be understood as meaning 'including without limitation'.

## **2 Basis of Agreement**

- 2.1 The Award Letter constitutes an offer by the Customer to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.
- 2.2 The offer comprised in the Award Letter shall be deemed to be accepted by the Supplier on receipt by the Customer of a copy of the Award Letter countersigned by the Supplier within [7] days of the date of the Award Letter.

## **3 Supply of Services**

- 3.1 In consideration of the Customer's agreement to pay the Charges, the Supplier shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.
- 3.2 In supplying the Services, the Supplier shall:
  - 3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer's instructions;
  - 3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade;
  - 3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;
  - 3.2.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
  - 3.2.5 comply with all applicable laws; and
  - 3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.
- 3.3 The Customer may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Supplier.

## **4 Term**

- 4.1 The Agreement shall take effect on the date specified in Award Letter and shall expire on the Expiry Date, unless terminated in accordance with the terms and conditions of the Agreement.

## **5 Charges, Payment and Recovery of Sums Due**

- 5.1 The Charges for the Services shall be as set out in the Award Letter and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and



expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

- 5.2 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.
- 5.3 The Supplier shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 5.4 In consideration of the supply of the Services by the Supplier, the Customer shall pay the Supplier the invoiced amounts no later than 30 days after verifying that the invoice is valid and undisputed and includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
- 5.5 If the Customer fails to consider and verify an invoice in a timely fashion the invoice shall be regarded as valid and undisputed for the purpose of paragraph 5.4 after a reasonable time has passed.
- 5.6 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.
- 5.7 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.8 Where the Supplier enters into a sub-contract, the Supplier shall include in that sub-contract:
  - 5.8.1 provisions having the same effects as clauses 5.3 to 5.7 of this Agreement; and
  - 5.8.2 a provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards provisions having the same effect as 5.3 to 5.8 of this Agreement.
  - 5.8.3 In this clause 5.8, "sub-contract" means a contract between two or more suppliers, at any stage of remoteness from the Authority in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.
- 5.9 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Customer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.

## **6 Premises and equipment**

- 6.1 If necessary, the Customer shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer's premises by the Supplier or the Staff shall be at the





Supplier's risk.

- 6.2 If the Supplier supplies all or any of the Services at or from the Customer's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Customer's premises, remove the Supplier's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Customer's premises or any objects contained on the Customer's premises which is caused by the Supplier or any Staff, other than fair wear and tear.
- 6.3 If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
- 6.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Supplier shall, and shall procure that all Staff shall, comply with all the Customer's security requirements.
- 6.5 Where all or any of the Services are supplied from the Supplier's premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Customer in writing.
- 6.6 Without prejudice to clause 3.2.6, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Supplier and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.
- 6.7 The Supplier shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.

## **7 Staff and Key Personnel**

- 7.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:
  - 7.1.1 refuse admission to the relevant person(s) to the Customer's premises;
  - 7.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or
  - 7.1.3 require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered,and the Supplier shall comply with any such notice.
- 7.2 The Supplier shall:
  - 7.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;
  - 7.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Agreement; and
  - 7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.
- 7.3 Any Key Personnel shall not be released from supplying the Services without the agreement of



the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.

- 7.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

## **8 Assignment and sub-contracting**

- 8.1 The Supplier shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 8.2 Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
- 8.3 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement.

## **9 Intellectual Property Rights**

- 9.1 All intellectual property rights in any materials provided by the Customer to the Supplier for the purposes of this Agreement shall remain the property of the Customer but the Customer hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.
- 9.2 All intellectual property rights in any materials created or developed by the Supplier pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Supplier. If, and to the extent, that any intellectual property rights in such materials vest in the Customer by operation of law, the Customer hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).
- 9.3 The Supplier hereby grants the Customer  
a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and  
including any modifications to or derivative versions of any such intellectual property rights, which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.
- 9.4 The Supplier shall indemnify and keep indemnified, the Customer subject to a maximum liability of up to 150% of the contract value, against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a



third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

## **10 Governance and Records**

### **10.1 The Supplier shall:**

- 10.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and
- 10.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.

### **10.2 The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Supplier shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.**

## **11 Confidentiality, Transparency and Publicity**

### **11.1 Subject to clause 11.2, each Party shall:**

- 11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and
- 11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

### **11.2 Notwithstanding clause 11.1, a Party may disclose Confidential Information which it receives from the other Party:**

- 11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;
- 11.2.2 to its auditors or for the purposes of regulatory requirements;
- 11.2.3 on a confidential basis, to its professional advisers;
- 11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;
- 11.2.5 where the receiving Party is the Supplier, to the Staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Supplier's confidentiality obligations under the Agreement; and
- 11.2.6 where the receiving Party is the Customer:
  - (a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;
  - (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;



- (c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- (d) in accordance with clause 12.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause 11.

- 11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.
- 11.4 The Supplier shall not and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.

## **12 Freedom of Information**

- 12.1 The Parties acknowledge that they are both subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:
- 12.1.1 provide all necessary assistance and cooperation as reasonably requested by the other to enable them to comply with their obligations under the FOIA and the Environmental Information Regulations 2004;
  - 12.1.2 transfer to the other Party all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
  - 12.1.3 provide the other Party with a copy of all Information belonging to that party requested in the Request for Information which is in its possession or control in the form that the other Party requires within 5 Working Days (or such other period as the other Party may reasonably specify) of the other Party's request for such Information; and
  - 12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the other Party.
- 12.2 The Parties acknowledges that both Parties may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the other party or the Services (including commercially sensitive information) without consulting or obtaining consent from the other Party. In these circumstances the Parties shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the other Party advance notice, or failing that, to draw the disclosure to the other Party's attention after any such disclosure.
- 12.3 Notwithstanding any other provision in the Agreement, the Parties shall be responsible for determining in their absolute discretion whether any Information relating to the other Party or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.



### 13 Protection of Personal Data and Security of Data

13.1 The Parties acknowledge that for the purposes of Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor. The only processing which the Customer has authorised the Supplier to do is described in the Specification.

13.2 The Supplier shall:

- 13.2.1 notify the Customer immediately if it considers any Customer instructions infringe the Data Protection Legislation;
- 13.2.2 process Personal Data only in accordance with the Agreement unless the Supplier is required to do otherwise by law. If it is so required, the Supplier shall promptly notify the Customer before processing the Personal Data unless prohibited by law;
- 13.2.3 ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event having taken account of the nature of the data to be protected, harm that might result from a Data Loss Event, the state of technological development and the cost of implementing any measures;
- 13.2.4 ensure that Staff do not process Personal Data except in accordance with the Agreement;
- 13.2.5 take all reasonable measures to ensure the reliability and integrity of Staff who have access to Personal Data and have undergone adequate training in the use, care, protection and handling of Personal Data;
- 13.2.6 at the direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Agreement unless the Supplier is required by law to retain it;
- 13.2.7 maintain complete and accurate records and information to demonstrate its compliance with this clause 13 and allow the Customer to audit its Data Processing activity on reasonable notice;
- 13.2.8 designate a Data Protection Officer if required by the Data Protection Legislation; and
- 13.2.9 taking into account the nature of the processing, the Supplier shall provide the Customer with full assistance in relation to either Party's obligations under the Data Protection Legislation and any complaint, communication or request made under clause 13.2.12;
- 13.2.10 if the Supplier employs 250 people or more, maintain complete and accurate records and information to demonstrate its compliance with this clause 13;
- 13.2.11 if the Supplier employs fewer than 250 people, maintain complete and accurate records and information to demonstrate its compliance with this clause 13 if the Customer determines that the processing:
  - (a) is not occasional;
  - (b) includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
  - (c) is likely to result in a risk to the rights and freedoms of Data Subjects.
- 13.2.12 subject to clause 13.3, notify the Customer immediately if it:



- (a) receives a Data Subject Request;
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under the Agreement;
- (e) receives a request from any third party for disclosure of Personal Data where compliance with the request is required or purported to be required by law; or
- (f) becomes aware of a Data Loss Event.

13.3 The Supplier's obligation to notify under clause 13.2.12 includes the provision of further information to the Customer in phases as details become available.

#### **14 Liability**

14.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.

14.2 Subject always to clauses 14.3 and 14.4:

14.2.1 the aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Supplier; and

14.2.2 except in the case of claims arising under clauses 9.4 and 18.3, in no event shall the Supplier be liable to the Customer for any:

- (a) loss of profits;
- (b) loss of business;
- (c) loss of revenue;
- (d) loss of or damage to goodwill;
- (e) loss of savings (whether anticipated or otherwise); and/or
- (f) any indirect, special or consequential loss or damage.

14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

14.3.1 death or personal injury caused by its negligence or that of its Staff;

14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff; or

14.3.3 any other matter which, by law, may not be excluded or limited.

14.4 The Supplier's liability under the indemnity in clause 18.3 shall be unlimited.

#### **15 Force Majeure**

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing



when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

## **16 Termination**

- 16.1 The Customer may terminate the Agreement at any time by notice in writing to the Supplier to take effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.
- 16.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:
- 16.2.1 (without prejudice to clause 16.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;
  - 16.2.2 repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;
  - 16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
  - 16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
  - 16.2.5 breaches any of the provisions of clauses 7.2, 11, 12, 13 and 17;
  - 16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 16.2.6) in consequence of debt in any jurisdiction; or
  - 16.2.7 fails to comply with legal obligations in the fields of environmental, social or labour law.
- 16.3 The Supplier shall notify the Customer as soon as practicable of any change of control as referred to in clause 16.2.4 or any potential such change of control.
- 16.4 The Supplier may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.
- 16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12, 13, 14, 16.6, 17.4, 18.3, 19 and 20.7 or any other provision of the Agreement that either expressly or by implication has effect after termination.
- 16.6 Upon termination or expiry of the Agreement, the Supplier shall:
- 16.6.1 give all reasonable assistance to the Customer and any incoming supplier of the Services; and
  - 16.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.
- 17** On termination or expiry of this Agreement for any reason, the Customer shall (notwithstanding any other provision in this Agreement) pay to the Supplier all of the Supplier's



outstanding unpaid invoices and shall reimburse the Supplier for all costs and non-cancellable commitments reasonably incurred or committed with the Customer's prior agreement up to the date of termination

### **Compliance**

- 17.1 The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Supplier in the performance of its obligations under the Agreement.
- 17.2 The Supplier shall:
- 17.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and
  - 17.2.2 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 17.3 The Supplier shall:
- 17.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Supplier from time to time; and
  - 17.3.2 take all reasonable steps to secure the observance of clause 17.3.1 by all Staff.
- 17.4 The Supplier shall supply the Services in accordance with the Customer's environmental policy as provided to the Supplier from time to time.
- 17.5 The Supplier shall comply with, and shall ensure that its Staff shall comply with, the provisions of:
- 17.5.1 the Official Secrets Acts 1911 to 1989; and
  - 17.5.2 section 182 of the Finance Act 1989.

### **18 Prevention of Fraud and Corruption**

- 18.1 The Supplier shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.
- 18.2 The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
- 18.3 If the Supplier or the Staff engages in conduct prohibited by clause 18.1 or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:
- 18.3.1 terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of





the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or

- 18.3.2 recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.

## 19 Dispute Resolution

- 19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.
- 19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 19.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the “**Mediator**”) chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
- 19.3 If the Parties fail to appoint a Mediator within one month or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

## 20 General

- 20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
- 20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 20.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 20.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 20.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 20.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 20.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void



or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

## **21 Notices**

- 21.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause 21.3, e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:
- 21.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.
- 21.3 Notices under clauses 15 (Force Majeure) and 16 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 21.1.

## **22 Governing Law and Jurisdiction**

The validity, construction and performance of the Agreement, and all contractual and non contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

## Annex 2 Specification

# Research on equality and diversity in the work of the Sentencing Council

## INTRODUCTION

The Sentencing Council for England and Wales was set up in 2010 and promotes greater consistency in sentencing, whilst maintaining the independence of the judiciary. The Council produces guidelines on sentencing for the judiciary and criminal justice professionals and aims to increase public understanding of sentencing. The full functions of the Council are set out in the [Coroners and Justice Act 2009](#).

The Council is made up of 14 members. Eight are members of the judiciary and six are non-judicial members representing different aspects of the criminal justice system. The chairman (and one of the eight judicial members) is Lord Justice Holroyde. Further information on Sentencing Council members can be found [here](#).<sup>1</sup>

The Sentencing Council is commissioning a project to review any potential for its work to cause disparity in sentencing across demographic groups. Aspects to be examined will include those such as the language used, factors, offence context, expanded explanations and structure of sentencing guidelines.

As well as examining the guidelines, the work will also consider whether any aspects of the guideline development cycle described below could have any implications for equalities and disparity in sentencing. The review will also consider how the Council can best engage with underrepresented groups to increase awareness and understanding of sentencing guidelines.

The contract is being procured through open competition following Contracts Finder – Future Opportunity Notice - ntc\_4183.

The contract will be worth approximately £20,000 excluding VAT. (It is imperative that all costs are accounted for as the Sentencing Council/MoJ will reserve the right to only honour payment of reasonable discrepancies and only when first agreed in writing.)

## BACKGROUND

### *Sentencing Guidelines*

The Sentencing Council promotes a clear, fair and consistent approach to sentencing, through its work on sentencing guidelines. The sentencing guidelines are intended to help ensure a consistent approach to sentencing, while preserving judicial discretion. Under the Coroners and Justice Act 2009, a court must follow relevant sentencing guidelines unless satisfied in a particular case that it would be contrary to the interests of justice to do so.

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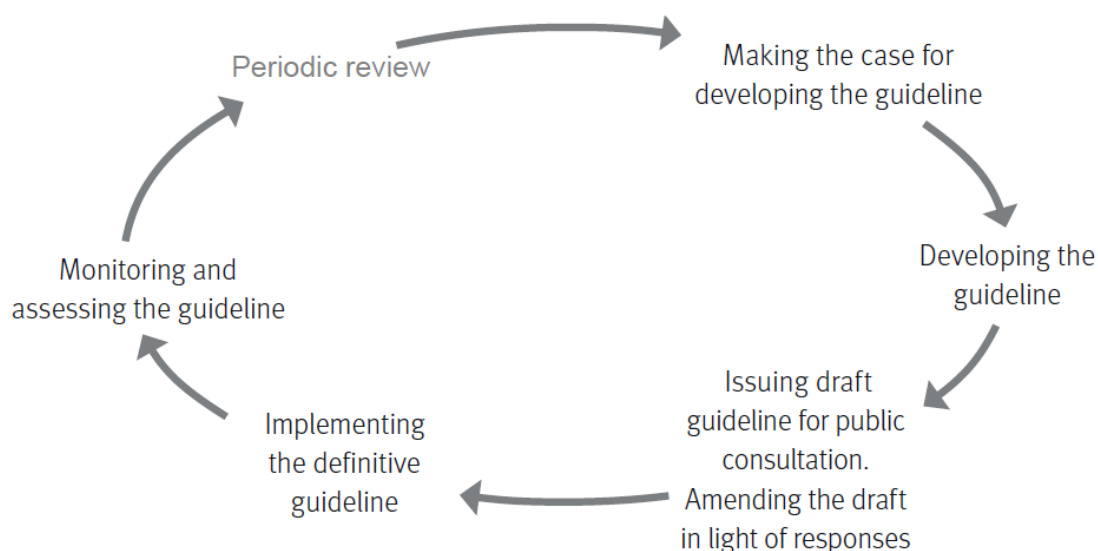
<sup>1</sup> <https://www.sentencingcouncil.org.uk/sentencing-and-the-council/about-the-sentencing-council/sentencing-council/>

Guidelines are developed by following the cycle below, which is designed to ensure continuous improvement is built into the process. Decisions around which guideline should be developed is based upon the Council's [priorities for the development of guidelines](#).<sup>2</sup>

Guidelines are developed by the Sentencing Council in conjunction with officials in the Office of the Sentencing Council. They carry out research, along with policy and legal investigations, while drafting a guideline. Council members discuss the draft guideline, bringing to bear their expertise in sentencing and the criminal justice system. They refine the approach and agree on the broad structure and detail, which in turn forms the basis for further research/ testing and consultation.

Draft guidelines are then issued for public consultation. The Council consults the statutory consultees, criminal justice professionals and wider public, generally over a 12-week period. The Council also produces a draft resource assessment which considers the likely effect of its guidelines on the resources required for the provision of prison places, probation resources and youth justice services. This includes consideration of issues related to equality and diversity and the provision of statistics in line with the Public Sector Equality Duty as set out below. The Council considers the responses to the consultation and develops a response paper and definitive version of the guideline and resource assessment.

The Council has an ongoing programme of research and analysis to monitor the use and impact of a number of guidelines post implementation which forms the basis of feedback to the Council. Decisions are then made regarding whether there is a need to revisit a guideline.



Guideline development cycle.

<sup>2</sup> <https://www.sentencingcouncil.org.uk/sentencing-and-the-council/about-the-sentencing-council/how-the-council-works/#step1>

The Council produces three types of guidelines: offence specific guidelines, overarching principles guidelines and a General guideline.

In terms of offence-specific guidelines, since 2010, the Sentencing Council has produced over 130 guidelines which cover most of the high-volume criminal offences sentenced by courts. However, some offences which are new or less common do not have a guideline and in October 2019 the Council published a new General guideline for these offences to provide further guidance.

Overarching principles guidelines provide guidance on cross-cutting areas that can be applied across all offences - for example, sentencing children and young people or sentencing cases where there is domestic abuse, reduction for sentence for a guilty plea, sentencing offenders with mental health conditions or disorders, allocation and offences taken into consideration and totality. The Sentencing Council has also published expanded explanations which are embedded in the guidelines, adding extra information to aggravating and mitigating factors to make it easier for courts to maintain consistency and transparency when sentencing.

The guidelines for specific offences follow a step by step approach in which sentencers are guided to consider the offender's culpability and the harm caused by the offence. This leads to a starting point and range of applicable sentences. Sentencers then consider aggravating and mitigating factors in relation to the offence and the offender before coming to the final sentence which can be reduced if the offender pleads guilty. The guidelines also lead the sentencer through the process of considering aspects such as the dangerousness of the offender for certain offences, the totality principle, compensation and ancillary orders, expressing their reasons for the sentence they come to and consideration for time spent on bail.

### ***Equalities in sentencing guidelines***

The Sentencing Council is obliged under the Public Sector Equality Duty, to have "due regard" to the need to do each of the following when devising policies or otherwise carrying out their functions:

- eliminate discrimination on the basis of a "protected characteristic" and other conduct that is unlawful under the Equality Act;
- advance equality of opportunity between those who share such a characteristic and those who do not; and
- foster good relations between those who share such a characteristic and those who do not.

The Council takes the Public Sector Equality Duty very seriously and meets this obligation in a range of ways. When developing guidelines, it considers the statistical data available in order to determine whether guidelines are likely to discriminate on the basis of protected characteristics and takes steps to mitigate against this risk. It then considers the issue at the early stages of guideline development and again toward the end prior to the publication of any guideline.

The Council also recently conducted some bespoke analysis to investigate whether there is any disparity in sentencing for particular offences. This analysis was carried out in support of the revised drug offences sentencing guidelines published in January 2020. It investigated whether there was any association between an offender's gender and ethnicity and the sentence imposed at the Crown Court for drug offences.<sup>3</sup>

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<sup>3</sup> <https://www.sentencingcouncil.org.uk/wp-content/uploads/Sex-and-ethnicity-analysis-final-1.pdf>

The study examined sentences imposed at the Crown Court for three supply-related drug offences: supply; possession with intent to supply; and conspiracy to supply a controlled drug of classes A and B. The study looked at sentencing practice at the Crown Court, using Crown Court Sentencing Survey (CCSS) data from between April 2012 and March 2015.

It examined whether any of the factors in the draft drug offences guidelines, or the language used, could impact disproportionately by gender and ethnicity. It showed that, when taking into account the main sentencing factors for the three offences, the gender and ethnicity of offenders were associated with different sentencing outcomes.

The consultation on the revised drugs guidelines specifically called for feedback on the language used in the guidelines to ensure that it is clear, unambiguous and ensures equal application of sentencing factors to all social groups.

Lord Justice Holroyde said: *“The Council is seeking views on whether any of the factors in the draft drug offences guidelines could be interpreted in ways that could lead to discrimination against particular groups, and we are asking whether there are any other equality or diversity issues the guidelines have not considered.”*

This project seeks to address this aim further by commissioning experts to examine the work of the Sentencing Council for aspects that could lead to inequalities and disparity in sentencing. Aspects to be examined will include those such as the language used, the factors, offence context, expanded explanations and structure of sentencing guidelines. It will also consider whether there is any potential for disparity to be introduced through the guideline development cycle and consider how the Council can best engage with underrepresented groups to increase awareness and understanding of sentencing guidelines.

The research will cover all protected characteristics under the Public Sector Equality Act. It should also cover intersectionality of those characteristics, examining, for example, whether Black women or young people with disabilities are discriminated against through aspects of the guidelines.

## AIMS OF THE PROJECT

- To review the use of language, factors, offence context and structure of sentencing guidelines including expanded explanations for anything that could lead to disparity in sentencing across demographic groups.
- To review sentencing guidelines for any ways in which they could allay the effects of inequalities in society and the criminal justice system that have the potential to cause disparities in sentencing.
- To review aspects of the guideline development cycle for any potential to cause inequalities in sentencing. For example, the basis upon which guidelines are selected for development, the information drawn upon for guideline development, the process of public consultation etc. The exact aspects of the guideline cycle to be reviewed will be agreed with the contractor.<sup>4</sup>

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<sup>4</sup> The Sentencing Council has a programme of research and analysis which accompanies the guideline development cycle. We are currently reviewing the data and methodologies used in this research and analysis and so this will not be in the scope of this commissioned work.

- To review the language used in Sentencing Council communications around equalities. For example, the use of the acronym BAME.
- To advise on how the Council can engage with groups from a variety of backgrounds including those with protected characteristics under the Public Sector Equality Duty.
- To produce a report to publishable standard on the analysis and recommendations from the project.

## SCOPE OF THE RESEARCH

### ***Language, factors, offence context and guideline structure***

The review should examine the language used in the guidelines for the potential to cause disparity in sentencing. In some cases, language may potentially cause discrimination, for example discrimination could occur if sentencers were to associate the word 'gang' with young Black men. The Sentencing Council removed reference to the term 'gang' in the sentencing guidelines on drug offences to reduce the risk of discrimination.

The review should also examine aggravating and mitigating factors for any potential to cause discrimination. For example, is the mitigating factor of remorse applied equally to all demographic groups? The wording of many factors in the guidelines are standardised and repeated across guidelines for different offences and they all link to the expanded explanations provided by the Council. The analysis should cover reviewing these common factors generically and also in the context of how they are used in sentencing guidelines for specific offences. For example, the mitigating factor of age and/ or lack of maturity is common across many guidelines. The review should assess whether factors could potentially cause discrimination as a factor generally and in the context of different offence types.

The stepped approach to structuring sentencing guidelines should also be reviewed for potential causes of discrimination. As outlined above, the stepped approach guides sentencers first to consider the culpability and harm which in turn leads them to a sentence starting point and category range. The sentencer then considers the aggravating and mitigating circumstances of the offence and the offender. The review should examine whether the culpability and harm factors in Step 1 that lead to the allocated starting point and category range in Step 2 could potentially lead to disparity in the category that different demographic groups are likely to be placed in. The review should also examine the structure and ordering of where the factors are placed within those steps. For example, does consideration of aggravating factors before mitigating factors have the potential to cause inequalities? Does the order of the factors within consideration of aggravation and mitigation have the same impact on all demographic groups?

The scope of the analysis should therefore extend to the language and factors within sentencing guidelines - both generically and in the context of specific guidelines - and also the structure of the stepped approach to sentencing with guidelines. Bidders should outline any further aspects of the guidelines they feel would be important to examine in order to prevent discrimination in sentencing. Detailed research questions will be agreed with the successful bidder upon award of the contract.

### ***Guideline development cycle***



The Sentencing Council is keen to ensure that inequalities do not occur in any aspects of its work. In addition to reviewing a selection of sentencing guidelines, the work should also consider whether any aspects of the way in which the Council approaches its work could have an impact. For example, the stage 'making the case for developing the guideline' in the guideline development cycle on page 20, involves the Council reviewing its overall priorities for developing guidelines and deciding whether to work on a particular guideline area. The 'developing the guideline stage' includes drawing on different types of information (e.g. Case Law, previous guidelines etc), and 'issuing the guideline for public consultation' involves the issuing of different communications and consultation with different interest groups. The decisions taken at these stages may have the potential to lead to inequalities and so the Council are keen for advice on whether any changes need to be made.

The Council recognises the limitations of the scale and budget of this research and that it will not be possible to cover all of these additional areas. We would therefore welcome recommendations from bidders as to which stages/ aspects of the guideline development the Council should prioritise for review. The Council has an ongoing programme of research and analysis in developing and evaluating guidelines. These analytical tools and methods are not within the scope of this review.

### ***Demographics***

The aim is to examine the work of the Sentencing Council for potential inequalities in relation to all protected characteristics under the Public Sector Equality Duty. These characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The analysis should also focus on the intersectionality between these characteristics, for example, are there words or concepts in the guidelines that could potentially cause discrimination when sentencing young Black men or women with learning difficulties? The tender proposal should outline any key intersections of characteristics that may be particularly prone to discrimination and disparity in sentencing.

### ***Guidelines covered by the analysis***

A full list of guidelines for sentencing at Crown Court is available on the Sentencing Council website: <https://www.sentencingcouncil.org.uk/crown-court/>

Due to budgetary constraints, the project will aim to examine a proportion of the guidelines for potential to cause discrimination rather examining every guideline. Many of the factors are standardised in multiple guidelines, though as stated above, the context of the factors in different offences could have an impact on their potential to cause discrimination in different guidelines.

The Sentencing Council has implemented a number of overarching guidelines, for example Guidelines on Domestic Violence, Mental Health and Sentencing Children and Young People. Analysis of some overarching guidelines as well as a proportion of offence specific guidelines should be included in the scope of the project. Analysis should also be applied to a proportion of expanded explanations in the guidelines and to the General sentencing guideline.

Bidders should outline how many guidelines, and how many/which extended explanations they will undertake to review in this project given the budgetary constraints, along with the methodology for choosing which guidelines to cover, as outlined below.



## **ESSENTIAL EXPERTISE REQUIRED**

It is essential that the Contractor for this project has knowledge and expertise in equalities and diversity, particularly in relation to sentencing practice and the criminal justice system.

The Sentencing Council is particularly keen to draw on the advice of groups who have direct experience of being sentenced to ensure they have a say in preventing inequalities and disparity in sentencing.

This could be achieved in the project by an academic who is expert in the field collaborating with interest groups or third sector service providers who work to support groups of people who have experienced being sentenced and the Criminal Justice System. In particular, the Council wishes to seek advice from those groups with protected characteristics under the Public Sector Equality Duty.

## **METHODOLOGY**

It is likely that the project will consist largely of desk-based analysis. Bidders should set out the proposed analytical approach including any theoretical or conceptual frameworks that the tenderer proposes to apply to the review of sentencing guidelines. It is also likely that a small number of discussions will be needed with members of the Office of the Sentencing Council to discuss the approach to different areas of the Council's work.

The tender proposal should outline a sampling methodology for choosing which offence specific and overarching principles sentencing guidelines to examine for any potential to cause inequalities. This could be based on the Contractor's expertise in the area, identifying which guidelines are most at risk of potentially causing disparity because of the offence type. An alternative method could be to include guidelines for the most high-volume offences or by selecting a random sample of guidelines.

Bidders should outline the number of overarching and offence specific guidelines that will be reviewed in the project. It is expected that around three quarters of the guidelines reviewed will be offence specific guidelines and a quarter will be overarching guidelines, although we welcome views from bidders on this ratio. The General guideline should be included in the review along with a proportion of expanded explanations depending on which guidelines are included. The exact guidelines to be covered will be discussed and confirmed at the inception meeting for the project. The project should cover all protected characteristics under the Public Sector Equality Duty. The tender proposal should outline any specific intersections of those characteristics to be investigated which may be more prone to disparity in sentencing.

Bidders should outline which aspects of the guideline development cycle they feel should be examined for the potential to cause inequalities. Bidders should also outline how they will include the views of those with direct experience of being sentenced and those who have experience with the criminal justice system in this work. Bidders should set out how they plan to review the guideline development cycle for potential to cause inequalities.

## **Outputs**

The aim of this project is to review the language, concepts, factors, offence context, expanded explanations and structure of sentencing guidelines for any potential to cause disparity in sentencing for offenders with protected characteristics. It will also examine the potential to cause disparity in sentencing through the guideline development cycle and its engagement with underrepresented groups. The successful tenderer will be expected to provide recommendations to

the Sentencing Council for change and improvements to reduce the potential for disparity in sentencing.

The successful tenderer will be expected to attend one or more meetings of the Sentencing Council or with the Sentencing Council's Equality and Diversity Subgroup to advise them of their findings and recommendations. They will be expected to work closely with a small subgroup of Sentencing Council members and officials in the Analysis and Research Team in the Office of the Sentencing Council in completing this project.

A report on the project's findings and recommendations should be produced to a publishable standard.

Approval of final report	March 2022 *
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### Day-to-Day Management

Contractors must liaise with the project manager closely throughout the course of the project and provide a weekly email update on progress. A steering group comprising members of the Sentencing Council and officials from the Office of the Sentencing Council will provide input at crucial stages of the research including evaluating bids, selecting the successful Contractor, finalising the main research design, data collection instruments and commenting on the final report.

A minimum of four meetings will be required with the contractors:<sup>5</sup>

- An inception meeting/ discussion to finalise the research design, to be held via video call (08/10/2021)
- A meeting to consider initial key findings/ any issues etc. (November 2021 - tbc)
- A pre-meeting ahead of the presentation to the Sentencing Council (February 2022 – tbc)
- A presentation of findings to the Sentencing Council or sub-group (04/03/2022)

In addition, weekly progress meetings with the key project manager will be required.

### Timetable

The following outlines the timetable for commissioning this research:

This timetable may be changed by the Authority at any time. Changes to any of the dates will be made in accordance with the applicable procurement law. You will be informed through the e-Sourcing Suite if the Authority decides that changes to this timetable are necessary.

ITT_5348 - Research on equality and diversity in the work of the Sentencing Council Proposed Time Table	
"Subject to Change"	
Action	Date

<sup>5</sup> This has been amended from the original specification which required three meetings.

Publication of Contracts Finder Future Opportunity Notice	14 June 2021
eSourcing event opens, publication of ITT and clarification period commencement	28 June 2021
Deadline for submission of clarification questions	13 July 2021
Deadline for the publication of responses to Tender Clarification questions	16 July 2021
Deadline for submission of bids	26/07/2021 - 12 noon
ITT responses checked for Compliance and forwarded to Evaluation Panel	28 July 2021
ITT responses Evaluated and forwarded back to Commercial for review	03 August 2021
Moderation Meeting	w/c 09/08/21
Collate Scores and invite top 3 suppliers to present their bids via Teams	11 August 2021
Advise suppliers who will be not going through to presentations they will receive full feedback at contract award/Advise top 3 suppliers who will be asked to do a presentation	w/c 11-13/08/21
Presentations of Bids	w/c 16/08/21
Collate Scores following Presentations	19 August 2021
Notify Suppliers of Outcome and send letters via our Bravo portal	24 August 2021
Finalise Contract Document and Letter of Appointment send via email for Adobe Signature	26 August 2021
Contract signed	w/c 30/08/21
Project Inception Meeting	w/c 06/09/21
Interim reporting stage	End October 2021*
Presentation of findings and recommendations to the Sentencing Council	November 2021*
First full draft report submitted	December 2021*
Approval of final report	January 2022 *

\*exact dates to be confirmed once project has begun

All compliant bids will be evaluated and the top three highest scoring bids, following moderation will, at the discretion of the Office of the Sentencing Council, be invited to give a presentation of their bid which will be scored as per the ITT instructions. These will be held via video call – times and format to be arranged following moderation to find top three bids.

Following the presentations, the remaining suppliers will be advised of the outcome via the MoJ eSourcing portal and the contract document will be drawn up and sent to the winning supplier via

email for electronic signature. Once signed the supplier should be ready to start work immediately. It is envisaged that the preliminary meeting with the successful supplier will be held w/c 30<sup>th</sup> August 2021, (subject to change depending on number of bids received).

#### Amended timeline

Project Inception Meeting	w/c 04/10/21
Interim reporting stage	Mid to end November 2021
Presentation of findings and recommendations to the Sentencing Council	4 <sup>th</sup> March 2022
First full draft report submitted	31 <sup>st</sup> January 2022
Approval of final report	31 <sup>st</sup> March 2022

Milestone payments are set out below:

**[REDACTED]**

#### Content of proposals

Proposals for the technical section should be submitted in the form of a Word document, along with a completed data protection table (see below). Costings for the project should be submitted in a separate document. All proposals must include:

- **Methodology:** A clear explanation of the research design including: methodology, conceptual framework and analysis.
- **Support required:** e.g. any support required from the Office of the Sentencing Council (OSC).
- **Proposed timetable:** for each individual part of the work.
- **Staff:** Due to the nature of this project covering many protected demographic characteristics, offence types and in the legal context of sentencing, it may be desirable to consider putting together a consortium bid for this work. This could include expertise from academics in the field of equality, diversity and inclusion as well as legal professionals with experience in the context of sentencing.
- The Council would like to seek advice from underrepresented groups and those that have direct experience of being sentenced in this work. This could be achieved by working with a third sector organisation with lived or practical experience of equality, diversity and inclusion in sentencing practice.
- Details of staff and any relevant experience should be outlined. Please provide information on the role/ responsibilities that each member of the team will cover. The successful

Contractor must ensure and confirm that all staff working on the project have had a Baseline Personnel Security Standard (BPSS) and DBS check.

- **Quality assurance procedures:** the bidder must commit to undertake quality assurance of all deliverables and for the Contractor to guarantee the accuracy of all outputs to the OSC Council. Bidders must provide details of the quality assurance procedures they have in place.
- **Risks:** bidders must identify and assess the risks associated with undertaking the review and the proposals for managing and overcoming these. Bidders must provide a full risk register for all elements of the project.
- **Ethical issues:** The research will be expected to meet the requirements of the Government Social Researcher (GSR) Professional Guidance: Ethical Assurance for Social Research in Government (<https://www.gov.uk/government/publications/ethical-assurance-guidance-for-social-research-in-government>). Bidders must provide details of any ethical issues relevant to the proposal and how these will be addressed.
- **Data protection:** the successful Contractor will be required to store all data in accordance with data protection legislation and current MoJ data security procedures, please see: <https://ministryofjustice.github.io/security-guidance/supplier-corporate-it/#supplier-corporate-it> . The successful Contractor will also be required to have Cyber Essentials certification (or to be able to show they are working towards this) and ISO27001 (or equivalent) certification.
- **Costs:** Bidders should fill in the blank Excel rate card; each part of the research should be costed separately to allow the OSC to make a final decision. In addition, staff rates must be specified and a detailed breakdown of the proportion of time spent by key staff on the different elements of the research provided. Costs should be exclusive of taxes and VAT. The proposed costs should be submitted as a separate document from the rest of the bid.

## Tender evaluation

Proposals will be evaluated using the following technical/price ratio and weightings:

Evaluation Criteria	Criteria / Price Ration
Technical,	70%
Social Value	10%
Price	10%
Presentations	10%
Total	100%

The technical criteria will be assessed based on the written responses, with the evaluation scoring breakdown as detailed in Appendix D - ITT Response Guidance ITT\_5348 as attached to this ITT.

Each of the criteria in the above table will be scored out of 100 marks, which will then be multiplied by the weighting indicated against each criterion to form the total weighted score out of a possible 70% weighting for the technical section and a 10% weighting on the Social Value question.

Following the initial evaluation/moderation the technical scores will be added to the financial scores and the top 3 bids with highest combined scores (technical/social value score PLUS financial score) will be invited to give a presentation which will be scored using the same criteria as previous with a 10% weighting.

Proposals for the Technical Section (criteria 1-3 in Appendix D) should be submitted in the form of a Word document and be no more than 5,000 words, (not including references, footnotes, appendices, and costing tables). Any submissions over this word count will not be evaluated after the 5,000 words. Do not insert hyperlinks directing to further information; only information presented within the response document and annexes will be considered when assessing bids.

Bids for the Social Value question will be scored using the same criteria as the technical and this has a weighting of 10%. Please note your response to the Social Value question should be a maximum of 2 sides of A4 paper Aerial font size 11 and uploaded as a word document to the relevant question level on the eSourcing portal.

Cost proposals should be uploaded separately from the technical response using the Excel spreadsheet Rate Card template to the MoJ eSourcing portal.

Price criteria will be assessed using the 'Proportion of Best' calculation. This is where the lowest priced bidder will achieve maximum points under this section and all other bids will be awarded a score based on a straightforward 'proportion of best' calculation, outlined as follows:

Scoring Methodology	
Score	Assessment
100	lowest cost
80	1-4.9% above lowest cost
60	5-9.9% above lowest cost
40	10-19.9% above lowest cost
20	20-30% above lowest cost

No bids sent via email or other means outside of the MoJ eSourcing portal will be accepted. We therefore recommend you allow sufficient time to upload your bids in case you encounter any issues and require assistance. Should you require any help to upload your bid, please contact the Central Support Team for guidance, contact details can be found on the Jaggaer/Bravo home screen.

There will be an evaluation panel formed from stakeholders in the Office of the Sentencing Council (from the Analysis and Research team) to determine the scoring of the bids received. Scores and supporting comments from each member of the panel will be recorded and a mediation meeting will be held to reach a consensus score for each question.

The Sentencing Council and the MoJ reserve the right not to award this competition to any bidder should the bids received not be of the standard required. We will not be responsible for any costs incurred by any bidder in relation with this exercise.

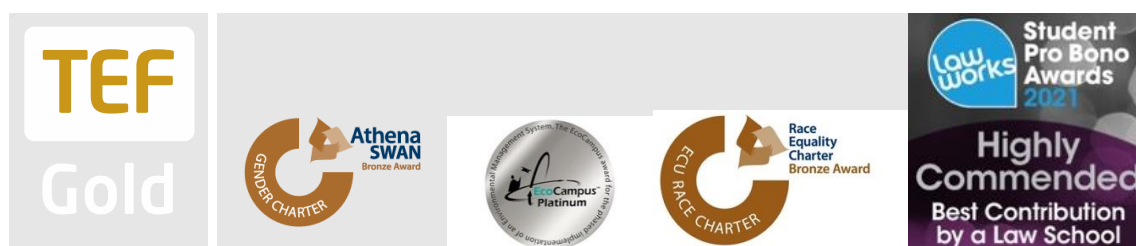
## ANNEX 3 Supplier Proposal

Original proposal submitted

**University of  
Hertfordshire UH**

Hertfordshire Law School

### **Hertfordshire Law School Tender for ITT 5348 - Research on Equality and Diversity in the work of the Sentencing Council**



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## 1. Experience of project team

The team has long experience in relation to the different areas of protected characteristics in relation to equality and diversity (EDI), teaching and learning, research projects, publications, and involvement in non-governmental organisations focussing on equality and diversity in specific contexts. The knowledge and expertise in EDI comes from Professor Brian Littlechild, Dr. Ferya Tas Cifci, and Dr. Chamu Kuppuswamy who have worked in equality and diversity in England and Wales in the youth justice system, gender-based violence and human rights in the outdoors respectively. Their role in the project is based on their ability to facilitate the drawing of advice of underrepresented groups who have experience of sentencing and the criminal justice system and their communities. These groups include ethnic minority youth, women, people with disabilities, the LGBTQ+ community, and those with various mental health challenges.

Every single member of this team has expertise and in-depth knowledge into the criminal justice system in England and Wales, through their research in specific aspects of the system including Sentencing, Penology, Restorative Justice, Youth Justice, Equality and Diversity in the Criminal Justice System, and Victimology. Special mention must be made of the experience and expertise of Associate Professor Bright QC, who served as the Resident Judge at St Albans Crown Court between 2010 and 2018 and has tried and/or sentenced over seventy cases of homicide during this period. The team comprises a complementary mix of academic research and practitioner expertise, including early, mid and senior academics Dr.Qi Chen, Dr.Mateja Vuk, Professor Bright, Diana Kirsch and Neal Geach. The team has strong research credentials in quantitative and qualitative criminology, thereby making up a strong well-rounded research team.

Hertfordshire Law School students are hugely diverse. According to the latest data available (from 2019-20), 77% of home/EU undergraduate students within HLS were widening participation students. Of these:

- 66% were Black, Asian or Minority Ethnic (BAME) students;
- 14% had a declared disability;
- 33% were from a household with a household income of less than £25,000; and
- 18% were from the most disadvantaged quintiles under the POLAR metric.

The whole team will connect with this group in order to facilitate access to the community's experience of the criminal justice system.

The innovative and effective method of co-production of knowledge on EDI issues in sentencing guidelines, will be adapted by the team for drawing upon the advice of underrepresented groups who have experience of sentencing and the criminal justice system. The team will draw on their knowledge and experience of working with groups who are the experts in how they experience the use of language, and what this means to the different actors involved. This will include organisations which work specifically with BAME groups, LGBTQ+, those with mental health challenges and those with physical and mental disabilities, as well as groups who work in the criminal justice sector such as lay magistrates.

Below are individual biographies of members of the team, which demonstrate the breadth of their knowledge and expertise in the area of equalities, diversity and the criminal justice system. In addition to this, we would like to highlight that the University is a vibrant academic environment where other colleagues regularly interact with each other on ongoing projects of a similar nature.

[REDACTED]

## 2. Methodology

We will use a multimethod approach in this review including regressing analysis of CCSS data, python-aided text analysis, and co-production with our partner organisations and minority groups, with particular focus on testing and applying conceptual frameworks on equality, diversity and inclusion. We take a bottom-up approach to this review, involving those who have been subject to the criminal justice system, as well as conventional methods of reviewing documents.

### 1. Regression analysis using data collected by the Crown Court Sentencing Survey (CCSS) in 2014 and 2015

Given the timescale of this project, we plan to use the existing data collected by CCSS in quantitative analysis. The analysis can help answer the following questions:

- a. What is the predictive power of age, gender, offence type, offence category (culpability and harm), aggravating factors, mitigating factors, and guilty plea in deciding whether a defendant receives immediate custody?
- b. What is the predictive power of age, gender, offence type, offence category (culpability and harm), aggravating factors, mitigating factors, and guilty plea in deciding the length of a prison sentence?
- c. After controlling other elements, do gender and age significantly affect the likelihood of immediate custody?
- d. After controlling other elements, do gender and age significantly affect the length of prison sentence?
- e. Is the stepped approach adopted by the Sentencing Council problematic? (If the results of analysis suggest that offence category and aggravating factors have much higher predictive power than mitigating factors, the Sentencing Council *might* want to reconsider the current order of steps used in sentencing).

The original CCSS data does not contain ethnicity information. However, with the case identifier number included in the CCSS data, it is possible to find out the ethnicity information of each defendant by using the Crown Court Electronic Support System (CREST). If the Sentencing Council grants us access to the CREST system, we can extend our analysis to the ethnicity factors in sentencing. To ensure that this research covers the important EDI factor of ethnicity, we urge the Sentencing Council to provide necessary support regarding database access. We will abide by data protection and confidentiality protocols required by the Crown Court and the Ministry of Justice.

As another methodological note, the original CCSS data includes many aggravating and mitigating factors. If all these factors are taken into consideration, the robustness of regression analysis might be compromised. Here we only consider the aggravating and mitigating factors that are frequently mentioned by sentencers<sup>6</sup> in the CCSS or highly relevant to inequality and intersectionality. These factors are identified in the following tables:

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<sup>6</sup> 'Frequently mentioned' means mentioned in at least 5% of the survey responses.

### Burglary

Offence type	Domestic burglary, non-domestic burglary, aggravated burglary
Offence category/seriousness	Category 1, 2 and 3
Aggravating factors	Previous convictions, offence committed at night, offender was under the influence of alcohol/drugs, failure to comply with current drug orders, offence committed while on licence.
Mitigating factors <sup>7</sup>	Subordinate role in group or gang, nothing stolen or of very low value, no previous relevant convictions, remorse, determination//demonstration to address addiction/behaviour, <b>serious medical conditions</b> <sup>8</sup> , <b>mental disorder/learning difficulties</b> , <b>Sole/primary carer for dependent relatives</b> .

### Robbery<sup>9</sup>

Offence type	Robbery
Offence category/seriousness	Level 1, 2 and 3
Aggravating factors	Previous convictions, member of a group or gang, targeting vulnerable victim(s), use of weapon, offender was under the influence of alcohol/drugs, offender was on bail or licence, wearing a disguise, more than one victim, committed at night, value of item taken.
Mitigating factors	Genuine remorse, offender can/is addressing needs/addiction, <b>offender is main carer/has responsibilities</b> currently in or prospects of work/training, <b>physical or mental illness</b> , <b>difficult/deprived background</b> , offence out of character, cooperation with authorities, unplanned/opportunistic.

### Sexual offences

Offence type	Rape, rape of a child under 13, assault by penetration, assault of a child by penetration, causing/inciting a child to engage in sexual activity.
Culpability	Group A, B, C
Aggravating factors	Severe psychological harm; location of the offence; timing of the offence; period over which offence was committed; presence of others; especially children; under the influence of alcohol/drugs.
Mitigating factors	No previous relevant/recent convictions, remorse, good character/exemplary conduct, determination/demonstration of steps

<sup>7</sup> 'Lack of maturity' is excluded from the mitigating factors because it overlaps with the age variable.

<sup>8</sup> Bolded factors are directly related to the protected characteristics identified by the Equality Act.

<sup>9</sup> It is important to note that the CCSS data about robbery cases was published before the new sentencing guideline took effect. Therefore, the disparity identified in regression analysis might have been addressed by the new sentencing guideline. We will discuss the statistical findings with our co-production partners and get their insights on the efficacy and impact of old and new sentencing guidelines for robbery.

	to address behaviour, <b>mental disorder/learning disability</b> .
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## 2. Python-aided text analysis

Text analysis will be used to examine the words, phrases, and themes in the chosen sentencing guidelines. This method can help answer the following questions:

- a. Which words and phrases are frequently used in the chosen sentencing guidelines? Are these words clearly defined?
- b. Are there any implicit presumptions and/or biases in the wording of the chosen sentencing guidelines?
- c. How are the General Guideline and Overarching Guideline cross-referenced in offence-specific guidelines? Is the current approach effective? Are there any gaps or neglected connections in the collation of different types of guidelines?

## 3. Co-production with partner organisations and minority groups

This is the most important part of our review. We will work with our co-production partners from the beginning of this project. At the University of Hertfordshire, we have established links with leading national and local organisations such as Prison Reform Trust, Hertfordshire Association for the Care and Rehabilitation of Offenders (HACRO), Viewpoint Hertfordshire, UpSkill U and BLAM UK. These partners have considerable experience of working with disadvantaged and marginalised groups. Many of their clients and advisees have protected characteristics and have had experiences of the criminal justice system. These include individuals from different BAME groups (a term which in itself is being problematised by a number of groups who have protected characteristics), people with disabilities, people with mental health problems, and people from the LGBTQ+ community.

Before the regression analysis and text analysis start, we will meet with our partners and the representatives of their clients and advisees. The purpose is to get an understanding of what they think of the words, terms, and language used in sentencing guidelines and/or broader criminal justice context, and to incorporate them into our conceptual and theoretical framework for analysis of gender, race, disability, sexual orientation and other protected characteristics of relevance to this project's goals. These insights will be taken into consideration during regression analysis and text analysis.

After the desk-based analysis is completed, we will meet with our co-production partners again and discuss our findings with them. It is hoped that the discussion will help us better understand the statistical findings, and potentially, find the solutions to disparities.

Our co-production partners will also include magistrates and Crown Court sentencers. Their views about the sentencing guidelines will also be taken into consideration.

## **Sampling methodology for choosing guidelines to review**

Pursuant to the Ministry of Justice's requirements, we have chosen three offence-specific guidelines (3/4) and one overarching guideline (1/4) for the review.

The three offence-specific guidelines we have chosen are:

### 1. Definitive Guideline for Burglary Offences (2012)

This guideline is selected first because burglary is a relatively common crime. It disrupts lives and businesses and can cause considerable anxiety to victims. Also, previous assessments (Sentencing Council 2016, 2017)<sup>10</sup> suggest that the severity of sentences passed by magistrates and Crown Court judges have increased since the introduction of the burglary sentencing guideline in 2012. It is worthwhile to explore whether the increase of severity has affected minority groups more than the general population.

We understand that the Sentencing Council plans to revise the current sentencing guideline for burglary offences. Our review can contribute to the revision.

### 2. Definitive Guideline for Robbery (2006) & (2016)

Robbery is chosen here because it is often associated with other offences such as gang crime, knife crime and drug crime (Treadwell et al. 2020<sup>11</sup>; Ashton and Bussu, 2020)<sup>12</sup>. The association tends to raise concerns among the public and in academic research. Also, the existing assessment (Ministry of Justice, 2016) suggests that disparity tends to happen in the sentencing of robbery offenders. This finding is worthy of more attention from researchers and policy makers.

Moreover, the Sentencing Guidelines Council (predecessor of the Sentencing Council) published a definitive guideline for robbery offences in 2006, which was replaced by a new version in 2016. This provides us with an opportunity to explore how the revision process of sentencing guidelines might affect the sentencing practice and outcomes.

### 3. Definitive Guideline for Sexual Offences (2014)

(Focusing on rape, rape of a child under 13, sexual assault, sexual assault of a child under 13, and causing or inciting a child to engage in sexual activity)

This guideline is selected because of the ongoing criticism of the handling of sexual offences by the criminal justice system. We understand that the Sentencing Council is currently reviewing this guideline, especially the part that involves (potential) child victims. We hope that our work can contribute to the reviewing process. We have Dr Ferya Tas-Cifci on our research team, who is an expert in gender and crime, providing guidance and support in the evaluation of this guideline. The research environment at Hertfordshire Law School will also enable us to brainstorm ongoing

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<sup>10</sup> Sentencing Council (2016), Assessing the Impact of the Sentencing Council's Burglary Definitive Guideline on Sentencing Trends. Sentencing Council (2017), Assessing the impact of the Sentencing Council's Burglary offences definitive guideline.

<sup>11</sup> Treadwell, J., Ancrum, C. & Kelly, C. (2020), 'Taxing Times: Inter-Criminal Victimization and Drug Robbery Amongst: The English Professional Criminal Milieu', *Deviant Behavior*, 41:1, 57-69

<sup>12</sup> Ashton, S.A. and Bussu, A. (2020), 'Peer groups, street gangs and organised crime in the narratives of adolescent male offenders', *Journal of Criminal Psychology*, 10(4): 277-292.

Ministry of Justice (2016), Black, Asian and Minority Ethnic disproportionality in the Criminal Justice System in England and Wales..

research with other colleagues such as Dr Muki Gorar, Dr Laura Thompson and PhD researcher Loren Liu, who all have expertise in gender and sexual offences.

The overarching guideline we have chosen is:

1. Definite Guideline for Sentencing Children and Young People (2017)

This guideline is chosen because young people's engagement with the criminal justice system is a long-standing problem. The intersectionality of race, gender, and ethnicity is a particularly important area in the sentencing of children and young people. Also, at the University of Hertfordshire, we have established links with organisations that work with young people from marginalised or disadvantaged backgrounds. We will collaborate with these organisations in co-production and bring the insights of minority groups into our evaluation. Details of these organisations will be discussed in the following section on reviewing methodology.

In addition, the General Guideline of the Sentencing Council will be reviewed in conjunction with the specific and overarching guidelines.

**Investigating wider aspects**

In addition to the analysis of language, terms and statistical disparities, we also want to explore how the Ministry of Justice and Sentencing Council can better engage minority and marginalised groups in their ongoing work. Our co-production with external organisations and their service users can produce a constructive and reflective review of the current approach used by the Sentencing Council and Ministry of Justice in formulating policy and collecting public views.

### 3. Project Management

A key part of this project is the speed with which all three segments need to be completed. In order to ensure that the project deadlines will be met and to the standards that have been laid out in the proposal, the project research manager (Dr Chamu Kuppuswamy) will call for fortnightly meetings, with clear targets, and is well placed to facilitate the achievement of these targets because of her project management experience and research expertise. She will send feedback from these meetings to the contract manager.

With clear roles and responsibilities and a clearly laid out methodology, backed by the appropriate resources and personnel, the project management structure is a strong one, based on realistic expectations on the ability to meet deadlines, and deliver to the highest quality. The Sentencing, EDI and research leads (Assoc Prof. Bright, Prof. Littlechild, Dr. Chen respectively) will provide leadership and direction to the researchers (Dr. Vuk, Dr. Chen in a dual role), and co-opt the specialists (Dr. Tas-Cifci, Dr. Kuppuswamy, and others). Dr. Kuppuswamy will have regular meetings with the overall coordinator, Diana Kirsch, who will be available to guide and resolve matters in the event of contingencies, and as a general sounding board for the progress of the project. This proposed project management structure will enable effective addressal of risks that may arise, such as personnel loss, access to material, communication gaps, reporting delays etc. Any issues can be picked up at the earliest possible opportunity and resolved using support structures already in place.

The project team have identified the following risks and the mitigations we have in place to address these. We will continue to consider potential risks and arrangements that we may need to put into place. The University of Hertfordshire has well established systems and templates for identifying risks, including risk matrices.

<b>Risk</b>	<b>Mitigation</b>
<i>COVID – risk of another lockdown and impact on delivery</i>	<i>Well established business continuity plans including flexible working, use of online software and messaging tools</i>
<i>Loss of key staff members</i>	<i>Staff retention activities, clear roles and responsibilities and effective succession planning</i>
<i>Cyber security breach</i>	<i>Dedicated LCS team and enhanced cybersecurity</i>
<i>Unable to deliver project within the specified timeframe</i>	<i>Fortnightly project meetings and a robust project plan</i>
<i>Overspend of budget</i>	<i>Regular project meetings to assess budget and project spend, close liaison with School Finance Manager by the overall coordinator to track and monitor expenditure</i>

The nature of this project requires a core research team that is used to responding to requirements as they arise. This is the key reason why the project has been designed with a core research group supported and led by the experience and expertise of both practitioners, and those who work transdisciplinarily (i.e. interface of academia and non-academic organisations such as charities and community groups).

A clear timetable linked to the methodology and delivery schedules will enable us to minimise risk in the delivery of the outcomes:

<i>Sentencing Guidelines Reviewing Project</i>	
<i>24 -30 August 2021</i>	<i>Reaching agreements on access to CREST and other essential support from the Sentencing Council; Sign the contract based on mutual agreements.</i>
<i>w/c 6 September 2021</i>	<i>Confirm the key aims and stages of the project in the Inception Meeting;</i>
<i>Early September to End of October 2021</i>	<i>Database access clearance; Essential technical training; Initial co-production meetings; Completing regression analysis and text analysis; Summarising findings in the Interim Report.</i>
<i>Early October to Early November 2021</i>	<i>Follow-up co-production meetings; Collating findings obtained from desk-based analysis with consultants' insights.</i>
<i>Mid-late November 2021</i>	<i>Presenting findings and recommendations to the Sentencing Council</i>
<i>Mid-late December 2021</i>	<i>Producing first draft report</i>
<i>January 2022</i>	<i>Incorporating feedback on the draft report; Producing the final report</i>

### **Ethics and data protection**

We do not plan to conduct interviews or focus groups in this review, and because the research does not involve human participation, no ethics approval is needed.

Data generated by the Crown Court Sentencing Survey is openly accessible to the public and researchers. No ethical clearance is needed to access these data either.

The University of Hertfordshire is committed to complying with the principles of information security and the UK General Data Protection Regulation (UK GDPR) and Data Protection Act 2018. We have the requisite policies and systems in place to ensure that staff and students are not only aware of their responsibilities when working with data, but also have the tools they need to conform to required procedures. These include secure data storage facilities and encrypted communication methods. A list of our policies is available on our website.

If the Sentencing Council grants us access to the Crown Court Electronic Support System, we will abide by the data protection protocols of the Crown Court and the MOJ. Data extracted from this database will be anonymised and stored in UH approved drives.

### **Quality Assurance**

The project team are experienced at running and delivering a wide range of projects. The project team will utilise experience from running projects of a similar scale to ensure objectives are met on time and within budget. Oversight will be provided via monthly project meetings at which deliverables, budget and risks will be addressed. Operating within a large academic institution, the



project team are supported by expertise from across the university, and will therefore ensure that legal issues, GDPR, finance, HR, and project management are all overseen by relevant colleagues. This added knowledge and support offers significant value for money and underpins the level of quality assurance the project team are able to offer.

Academic rigour is upheld via academic quality, each member of the team is a researcher and practitioner in their own right with full training in academic interaction, peer review and peer sharing for feedback and quality. Quality assurance is a process embedded across the University and is a foundation for how we operate, ensuring the highest levels of integrity and rigour in research and scholarly activities.



## Supplier Proposal – updated methodology

The updated methodology below incorporates the clarifications that were provided by the supplier following the presentation stage into the original proposal, and therefore replaces the methodology set out above. Experience of the project team, from the original proposal remains accurate and has therefore not been re-presented here.

### Methodology

We will use a multimethod approach in this review including regressing analysis of CCSS data, python-aided text analysis, and co-production with our partner organisations and minority groups, with particular focus on testing and applying conceptual frameworks on equality, diversity and inclusion. We take a bottom-up approach to this review, involving those who have been subject to the criminal justice system, as well as conventional methods of reviewing documents.

#### 1. Co-production with partner organisations and minority groups

We will work with our co-production partners from the beginning of this project. At the University of Hertfordshire, we have established links with leading national and local organisations such as Prison Reform Trust, Hertfordshire Association for the Care and Rehabilitation of Offenders (HACRO), Viewpoint Hertfordshire, UpSkill U and BLAM UK. These partners have considerable experience of working with disadvantaged and marginalised groups. Many of their clients and advisees have protected characteristics and have had experiences of the criminal justice system. These include individuals from different BAME groups (a term which in itself is being problematised by a number of groups who have protected characteristics), people with disabilities, people with mental health problems, and people from the LGBTQ+ community.

Before the regression analysis and text analysis start, we will meet with our partners and the representatives of their clients and advisees. The purpose is to get an understanding of what they think of the words, terms, and language used in sentencing guidelines and/or broader criminal justice context, and to incorporate them into our conceptual and theoretical framework for analysis of gender, race, disability, sexual orientation and other protected characteristics of relevance to this project's goals. These insights will be taken into consideration during regression analysis and text analysis.

After the desk-based analysis is completed, we will meet with our co-production partners again and discuss our findings with them. It is hoped that the discussion will help us better understand the statistical findings, and potentially, find the solutions to disparities.

Our co-production partners will also include magistrates and Crown Court sentencers. Their views about the sentencing guidelines will also be taken into consideration.

#### 2. Regression analysis using data collected by the Crown Court Sentencing Survey (CCSS) in 2014 and 2015

Given the timescale of this project, we plan to use the existing data collected by CCSS in quantitative analysis. The analysis can help answer the following questions:

- a. What is the predictive power of age, gender, offence type, offence category (culpability and harm), aggravating factors, mitigating factors, and guilty plea in deciding whether a defendant receives immediate custody?
- b. What is the predictive power of age, gender, offence type, offence category (culpability and harm), aggravating factors, mitigating factors, and guilty plea in deciding the length of a prison sentence?
- c. After controlling other elements, do gender and age significantly affect the likelihood of immediate custody?
- d. After controlling other elements, do gender and age significantly affect the length of prison sentence?



- e. Is the stepped approach adopted by the Sentencing Council problematic? (If the results of analysis suggest that offence category and aggravating factors have much higher predictive power than mitigating factors, the Sentencing Council *might* want to reconsider the current order of steps used in sentencing).

The original CCSS data does not contain ethnicity information. Upon mutual agreement, the Sentencing Council will link offenders' self-identified ethnicity information to the CCSS datasets and process the necessary data access arrangements for the Herts project team. The process is expected to take 6 to 8 weeks. During this time, the Herts project team will prioritise the analysis of gender, age and other variables.

In addition to gender, age and ethnicity, other factors outlined in the CCSS might also be included in the regression analysis. To ensure the robustness of the regression model, we only consider factors that are frequently mentioned by sentencers<sup>1</sup> in the CCSS or highly relevant to inequality and intersectionality.

Based on their importance in EDI, factors are divided into four categories. By using the **Burglary Guideline 2012** as an example, the following table outlines the four categories of factors that will be examined in regression analysis:

Tier 1: Key EDI factors	<ul style="list-style-type: none"> <li>✓ Age</li> <li>✓ Gender</li> <li>✓ Ethnicity (if database access is granted)</li> </ul>	<b>Hypothesis 1:</b> Young adults, male offenders, and offenders from ethnic minority backgrounds tend to receive tougher sentences
Tier 2: Other EDI factors indicated by the mitigating circumstances & lower culpability elements	<ul style="list-style-type: none"> <li>✓ 'Sole/primary carer for dependant relatives' (indicator of <b>maternity</b>),</li> <li>✓ 'Serious medical conditions', 'Mental disorder/learning disability where not linked to the commission of the offence', 'Mental disability or learning disability where linked to the commission of the offence' (indicator of <b>disability</b>)</li> </ul>	<b>Hypothesis 2:</b> Sole carers and people with disability tend to receive more lenient sentences
Tier 3: Sentencing factors that might be linked to intersectionality	<ul style="list-style-type: none"> <li>✓ 'Member of a group or gang'</li> <li>✓ 'Failure to comply with current court orders'</li> </ul>	<p><b>Hypothesis 3:</b> The use of the term 'gang' might discriminate against young offenders from ethnic minority backgrounds</p> <p><b>Hypothesis 4:</b> Sole carers, disabled people, and older people might have practical difficulties complying with court orders, therefore this factor might discriminate against those groups<sup>2</sup></p>

<sup>1</sup> 'Frequently mentioned' means mentioned in at least 5% of the survey responses.

<sup>2</sup> In regression results, this will transpire as higher predictive power of this factor for the disadvantaged groups. The same applies to other Tier 3 factors.



	<ul style="list-style-type: none"> <li>✓ 'Determination and/or demonstration of steps taken to address addiction or offending behaviour'</li> <li>✓ 'Established evidence of community impact'</li> </ul>	<p><b>Hypothesis 5:</b> Defendants from disadvantaged backgrounds might not be able to access these services, or they might be less willing to use these services due to social reasons, therefore this factor might discriminate against these groups</p> <p><b>Hypothesis 6:</b> Sentencers might give more consideration to this factor in deprived neighbourhoods where crime rates tend to be higher, therefore this factor might discriminate against defendants from disadvantaged groups.</p>
Tier 4: Other sentencing factors	<p>Other factors that might affect the sentencing outcome, for example:</p> <ul style="list-style-type: none"> <li>✓ 'Theft of/damage to property causing significant degree of loss'</li> <li>✓ 'Victim on/returns to premises while offender present'</li> <li>✓ 'Significant physical/psychological injury or other significant trauma to the victim'</li> <li>✓ 'Victim or premises deliberately targeted'</li> <li>✓ 'A significant degree of planning or organisation'</li> <li>✓ 'Equipped for burglary'</li> </ul>	<p><b>Hypothesis 7:</b> These factors are unlikely to cause discrimination in sentencing</p>

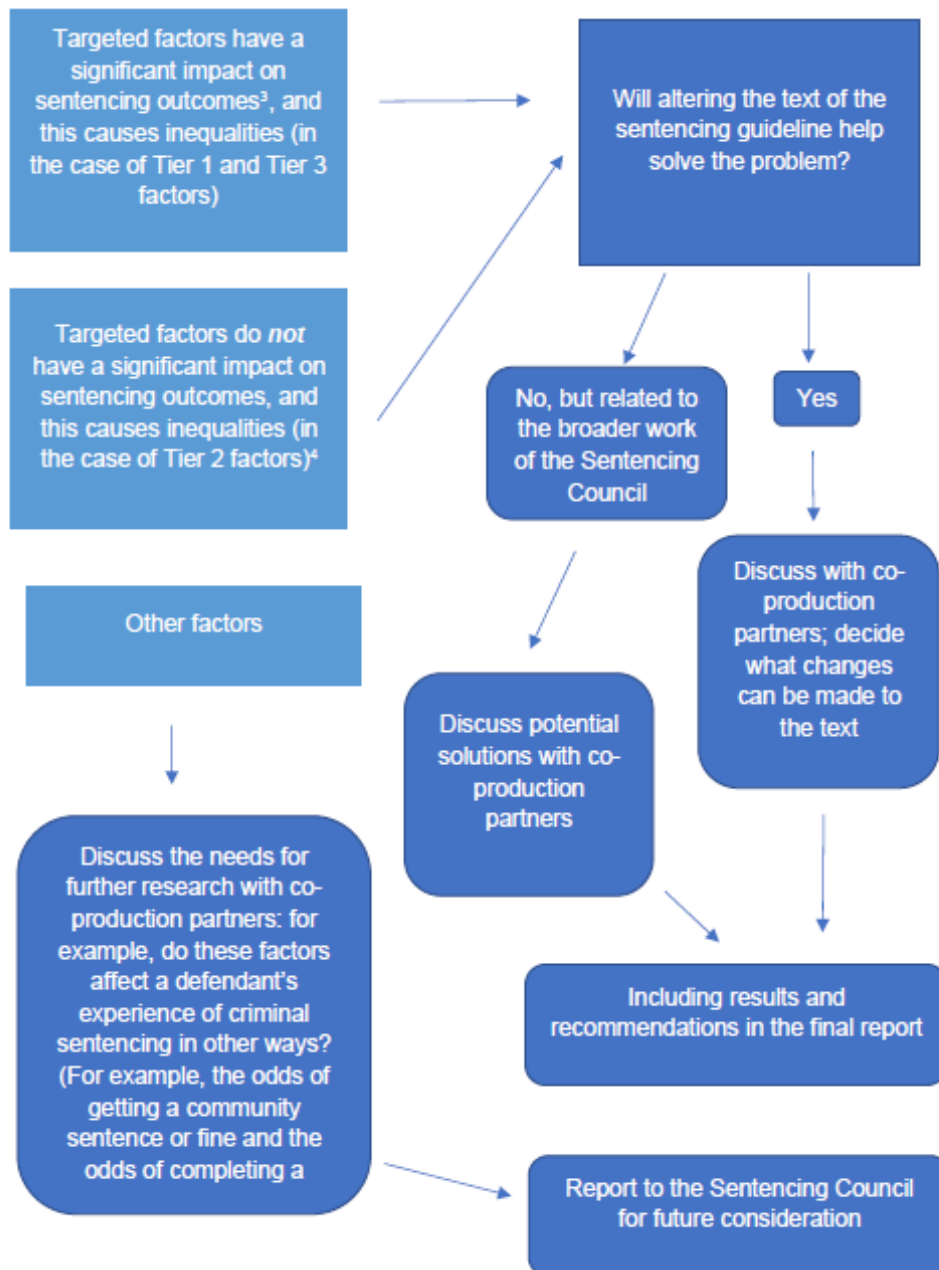
\*Categorisation of factors subject to changes depending on the ongoing process of this research.

During the initial co-production meetings, we will explain our hypotheses (outlined in the table above) to co-production partners. Partners might give us their own hypotheses. Based on the two-way discussions, we might move Tier 4 elements to Tier 3 (vice versa). The hypotheses will also be revisited in the light of coproduction meetings, leading to refinement, and potentially adding or changing factors.

After the initial co-production meetings, the Herts team will conduct computer-aided regression analysis and get the preliminary results.



These results will be discussed in the follow-up co-production meetings. Depending on outcomes of research, the following actions might be taken:



<sup>3</sup> In the context of this research project, sentencing outcomes are limited to immediate custody or not and the length of prison sentences.

<sup>4</sup> Because this result suggests that sentencers might not have given sufficient consideration to sole carers and disabled people.





### 3. Python-aided text analysis

Text analysis will be used to examine the words, phrases, and themes in the chosen sentencing guidelines. This method can help answer the following questions:

- Which words and phrases are frequently used in the chosen sentencing guidelines? Are these words clearly defined?
- Are there any implicit presumptions and/or biases in the wording of the chosen sentencing guidelines?

To avoid missing important terms with low word frequency, we will divide the sentencing guidelines into different sections based on the 'topics' they cover, for example, 'harm' section, 'culpability' section, 'aggravating' section, and 'mitigating' section, and exam them separately.

To use the *Definitive Guideline for Robbery (2016)* as an example, Python identified 80 words in the 'culpability' section of this guideline. In other words, the entire section is made up by these 80 words (frequency ranges from 1 to 12). This corpus of words can be divided into following clusters:

Name of cluster	Words in the cluster	Hypotheses (H) and/or research questions (Q) we might draw
Firearm cluster	firearm (12) weapon (9) bladed (6) article (6) imitation (6)	H: This sentencing guideline places special emphasis on armed robbery  Q: Does this emphasis leads to tougher sentences for young offenders from certain ethnic groups? Are 'bladed article' and 'imitation firearm' understood similarly by judges, offenders, and different social groups?
Victim cluster	characteristics (9) disability (9) hostility (3) victim (3) religion (3) race (3) sexual (3) orientation (3) transgender (3) identity (3) motivated (3)	H: This sentencing guideline places special emphasis on safeguarding victims with protected characteristics.  Q: How does this intention transpire in sentencing practice and sentencing outcomes?
Offence cluster	threaten (6) coercion (3) intimidation (3) abuse (2) position (2) sophisticated (1) organised (1) nature (1) force (1) little (1) planning (1)	No H/A identified without more context. Might raise attention during co-production meetings.
Offender cluster	culpability (12) mental (3) learning (3) exploitation (3)	Q: How much consideration is given to mental disability & learning difficulties in the sentencing of robbery offences?



Reserved-for-further scrutiny cluster	use (9) following (6) production (6) commission (6) offence (10) significant (5) offending (4) part (4) activity (4) demonstrated (3) one (3) high (3) inflict (3) demonstrating (3) based (3) presumed (3) medium (3) produced (3) cases (3) categories (3) present (3) lesser (3) involved (3) minimal (3) linked (3) leading (2) performed (2) limited (2) function (2) direction (2)	No H/A identified without more context. Might raise attention during co-production meetings.
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Using the same approach, 106 words were identified in the 'aggravating section' of the robbery guideline (frequency ranges from 1 to 23). These words can be divided into the following cluster:

Name of cluster	Words in the cluster	Hypotheses (H) and/or research questions (Q) we might draw
Victim cluster	victim (12) child (1) vulnerable (1) person (1) vulnerability (6) targeted (4)	Q: How is 'vulnerable'/'vulnerability' understood in sentencing practice? Does it correspond with the protected characteristics?
Offence cluster	location (4) prevent (3) reporting (3) obtaining (3) assistance (3) assisting (3) prolonged (3) restraint (3) detention (3) degradation (3) conceal (3) conceal/dispose (3) evidence (6) identity (3) community/wider (3) impact (3) value (1) goods (1) economic (1) personal (1) sentimental (1) planning (1) leading (1) role (1) group (1) compelled (1) leave (1) home (3) residence (2)	No H/A identified without more context. Might raise attention during co-production meetings.
Offender cluster	convictions (3) time (3) elapsed (3) wearing (3) balaclava (3) hood (3) bail (3) influence (3) alcohol (3) drugs (3)	Q: Is the word 'hood' too easily associated with young people from certain subculture groups?
Reserved-for-further scrutiny cluster	offence (23) factors (8) committed (7) aggravating (6) current (6) whilst (6) taken (6) failure (6) increasing (3)	No H/A identified without more context. Might raise attention during co-production meetings.



	statutory (3) regard (3) relates (3) relevance (3) since (3) due (3) perceived (3) steps (3) involvement (3) others (3) timing (3) attempt (3) example (3) commission (3) attempts (3) offences (3) consideration (3) respond (3) behaviour (3) event (2) including (2) cases (2) sums (1) obtained (1) whether (1) significant (1) offending (1) part (1) group (1) activity (1) attack (1) returns (1)	
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As in the case of regression analysis, text analysis is also combined with co-production. During **Initial co-production meetings**, co-production partners will give us their thoughts on controversial and/or under-defined words and terms in the guidelines. We run the text analysis with these insights in mind. In the **follow-up co-production meetings**, we will raise our findings, hypotheses, and questions based on the results of text analysis. This approach will enable us to challenge partners with problems they might not realise.

To summarise, the research design specifically incorporates a multi-method approach to formulating the recommendations, precisely so that the limitations of each method, including the python analysis is overcome to the maximum possible extent. Therefore, alongside the python text analysis and word cloud, we will be using the member-check technique from the co-production method, including hypothesis that exist in existing literature, particularly theoretical frameworks, which will help us inform as well as challenge the coproduction partners.

The final research findings generated by the multimethod approach will be presented in the following format:

Document Ref & page no.	Original Phrase/words	Recommended phrase/words	Evidence from data / and/or text analysis synthesised with coproduction sessions	Theoretical/policy justification for recommendations





### Sampling methodology for choosing guidelines to review

Pursuant to the Ministry of Justice's requirements, we have chosen three offence-specific guidelines (3/4) and one overarching guideline (1/4) for the review.

The three offence-specific guidelines we have chosen are:

#### 1. Definitive Guideline for Burglary Offences (2012)

This guideline is selected first because burglary is a relatively common crime. It disrupts lives and businesses and can cause considerable anxiety to victims. Also, previous assessments (Sentencing Council 2016, 2017)<sup>3</sup> suggest that the severity of sentences passed by magistrates and Crown Court judges have increased since the introduction of the burglary sentencing guideline in 2012. It is worthwhile to explore whether the increase of severity has affected minority groups more than the general population.

We understand that the Sentencing Council plans to revise the current sentencing guideline for burglary offences. Our review can contribute to the revision.

#### 2. Definitive Guideline for Robbery (2006) & (2016)

Robbery is chosen here because it is often associated with other offences such as gang crime, knife crime and drug crime (Treadwell et al. 2020<sup>4</sup>; Ashton and Bussu, 2020)<sup>5</sup>. The association tends to raise concerns among the public and in academic research. Also, the existing assessment (Ministry of Justice, 2016) suggests that disparity tends to happen in the sentencing of robbery offenders. This finding is worthy of more attention from researchers and policy makers.

Moreover, the Sentencing Guidelines Council (predecessor of the Sentencing Council) published a definitive guideline for robbery offences in 2006, which was replaced by a new version in 2016. This provides us with an opportunity to explore how the revision process of sentencing guidelines might affect the sentencing practice and outcomes.

#### 3. Definitive Guideline for Sexual Offences (2014)

(With a focus on rape, rape of a child under 13, sexual assault, sexual assault of a child under 13, and causing or inciting a child to engage in sexual activity)

This guideline is selected because of the ongoing criticism of the handling of sexual offences by the criminal justice system. We understand that the Sentencing Council is currently

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<sup>3</sup> Sentencing Council (2016), Assessing the Impact of the Sentencing Council's Burglary Definitive Guideline on Sentencing Trends. Sentencing Council (2017), Assessing the impact of the Sentencing Council's Burglary offences definitive guideline.

<sup>4</sup> Treadwell, J., Ancrum, C. & Kelly, C. (2020), 'Taxing Times: Inter-Criminal Victimization and Drug Robbery Amongst: The English Professional Criminal Milieu', *Deviant Behavior*, 41:1, 57-69

<sup>5</sup> Ashton, S.A. and Bussu, A. (2020), 'Peer groups, street gangs and organised crime in the narratives of adolescent male offenders', *Journal of Criminal Psychology*, 10(4): 277-292.

Ministry of Justice (2016), Black, Asian and Minority Ethnic disproportionality in the Criminal Justice System in England and Wales.



reviewing this guideline, especially the part that involves (potential) child victims. We hope that our work can contribute to the reviewing process. We have Dr Ferya Tas-Cifci on our research team, who is an expert in gender and crime, providing guidance and support in the evaluation of this guideline. The research environment at Hertfordshire Law School will also enable us to brainstorm ongoing research with other colleagues such as Dr Muki Gorar, Dr Laura Thompson and PhD researcher Loren Liu, who all have expertise in gender and sexual offences.

The overarching guideline we have chosen is:

1. Definite Guideline for Sentencing Children and Young People (2017)

This guideline is chosen because young people's engagement with the criminal justice system is a long-standing problem. The intersectionality of race, gender, and ethnicity is a particularly important area in the sentencing of children and young people. Also, at the University of Hertfordshire, we have established links with organisations that work with young people from marginalised or disadvantaged backgrounds. We will collaborate with these organisations in co-production and bring the insights of minority groups into our evaluation. Details of these organisations will be discussed in the following section on reviewing methodology.

In addition, the General Guideline of the Sentencing Council will be reviewed in conjunction with the specific and overarching guidelines.

**Investigating wider aspects**

In addition to the analysis of language, terms and statistical disparities, we also want to explore how the Ministry of Justice and Sentencing Council can better engage minority and marginalised groups in their ongoing work. Our co-production with external organisations and their service users can produce a constructive and reflective review of the current approach used by the Sentencing Council and Ministry of Justice in formulating policy and collecting public views.



## Project Management

A key part of this project is the speed with which all three segments need to be completed. In order to ensure that the project deadlines will be met and to the standards that have been laid out in the proposal, the interdisciplinary coordinator (Dr Chamu Kuppuswamy) will call for fortnightly meetings, with clear targets, and is well placed to facilitate the achievement of these targets because of her project management experience and research expertise. She will send feedback from these meetings to the contract manager.

With clear roles and responsibilities and a clearly laid out methodology, backed by the appropriate resources and personnel, the project management structure is a strong one, based on realistic expectations on the ability to meet deadlines, and deliver to the highest quality. The Sentencing, EDI and research leads (Assoc Prof. Bright, Prof. Littlechild, Dr. Chen respectively) will provide leadership and direction to the researchers (Dr. Vuk, Dr. Chen in a dual role), and co-opt the specialists (Dr. Tas-Cifci, Dr. Kuppuswamy, and others). Dr. Kuppuswamy will have regular meetings with the overall coordinator, Diana Kirsch, who will be available to guide and resolve matters in the event of contingencies, and as a general sounding board for the progress of the project. This proposed project management structure will enable effective addressal of risks that may arise, such as personnel loss, access to material, communication gaps, reporting delays etc. Any issues can be picked up at the earliest possible opportunity and resolved using support structures already in place.

The project team have identified the following risks and the mitigations we have in place to address these. We will continue to consider potential risks and arrangements that we may need to put into place. The University of Hertfordshire has well established systems and templates for identifying risks, including risk matrices.

<i><b>Risk</b></i>	<i><b>Mitigation</b></i>
<i>COVID – risk of another lockdown and impact on delivery</i>	<i>Well established business continuity plans including flexible working, use of online software and messaging tools</i>
<i>Loss of key staff members</i>	<i>Staff retention activities, clear roles and responsibilities and effective succession planning</i>
<i>Cyber security breach</i>	<i>Dedicated LCS team and enhanced cybersecurity</i>
<i>Unable to deliver project within the specified timeframe</i>	<i>Fortnightly project meetings and a robust project plan</i>
<i>Overspend of budget</i>	<i>Regular project meetings to assess budget and project spend, close liaison with School Finance Manager by the overall coordinator to track and monitor expenditure</i>

The nature of this project requires a core research team that is used to responding to requirements as they arise. This is the key reason why the project has been designed with a core research group supported and led by the experience and expertise of both practitioners, and those who work transdisciplinarily (i.e. interface of academia and non-academic organisations such as charities and community groups).





A clear timetable linked to the methodology and delivery schedules will enable us to minimise risk in the delivery of the outcomes:

<i>Sentencing Guidelines Reviewing Project</i>	
<i>23 September-1 October 2021</i>	<i>Reaching agreements on data access and other essential support from the Sentencing Council; Sign the contract based on mutual agreements.</i>
<i>w/c 4 October 2021</i>	<i>Confirm the key aims and stages of the project in the Inception Meeting;</i>
<i>By early-mid November 2021</i>	<i>Completing initial regression analysis and text analysis; Completing initial co-production meetings.</i>
<i>By mid-late November 2021</i>	<i>Submitting the Interim Report.</i>
<i>Late November 2021 to February 2022</i>	<i>Inserting ethnicity factors to the regression analysis; Finalising the results of regression analysis and text analysis; Completing follow-up co-production meetings; Collating findings obtained from desk-based analysis with consultants' insights.</i>
<i>4 March, 2022</i>	<i>Presenting findings and recommendations to the Sentencing Council.</i>
<i>By the end of March 2022</i>	<i>Producing the final report based on feedback of the Sentencing Council.</i>

#### **Ethics and data protection**

We do not plan to conduct interviews or focus groups in this review, and because the research does not involve human participation, no ethics approval is needed.

Data generated by the Crown Court Sentencing Survey is openly accessible to the public and researchers. No ethical clearance is needed to access these data either.

The University of Hertfordshire is committed to complying with the principles of information security and the UK General Data Protection Regulation (UK GDPR) and Data Protection Act 2018. We have the requisite policies and systems in place to ensure that staff and students are not only aware of their responsibilities when working with data, but also have the tools they need to conform to required procedures. These include secure data storage facilities and encrypted communication methods. A list of our policies is available on our website.

Once the Sentencing Council grants us access to the ethnicity data, we will store it in UH approved drives only. We will also comply with any other the data protection protocols of the MOJ and the Sentencing Council.

#### **Quality Assurance**

The project team are experienced at running and delivering a wide range of projects. The project team will utilise experience from running projects of a similar scale to ensure objectives are met on time and within budget. Oversight will be provided via monthly project meetings



at which deliverables, budget and risks will be addressed. Operating within a large academic institution, the project team are supported by expertise from across the university, and will therefore ensure that legal issues, GDPR, finance, HR, and project management are all overseen by relevant colleagues. This added knowledge and support offers significant value for money and underpins the level of quality assurance the project team are able to offer.

Academic rigour is upheld via academic quality, each member of the team is a researcher and practitioner in their own right with full training in academic interaction, peer review and peer sharing for feedback and quality. Quality assurance is a process embedded across the University and is a foundation for how we operate, ensuring the highest levels of integrity and rigour in research and scholarly activities.

#### Annex 4 Charges

**[REDACTED]**

These costs are commercially confidential and not to be disclosed for three years from the proposal submission date.

## Annex 5 Security

### Baseline Personnel Security Standard

The Customer requires the Supplier to ensure that any person employed in the provision of the Services has undertaken all checks required under Baseline Personnel Security Standards (BPSS) as a minimum.

Baseline Personnel Security Standards (of which Disclosure Scotland is a part) are a default requirement in any Consultancy contract.

<https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>

If any additional/higher level security requirements are needed please state here: any person conducting research with vulnerable groups must have a DBS check.

### The Data Protection Act

The Data Protection Act 2018 controls how your personal information is used by organisations, businesses or the government.

The Data Protection Act 2018 is the UK's implementation of the General Data Protection Regulation (GDPR).

<http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

### IT Compliance

Storage of data will be agreed with the Office of the Sentencing Council ("OSC") and must be in accordance with OSC and MoJ data sharing agreements as notified by the Customer to the Supplier. Personal data, including age, gender, ethnicity and offence types, will only be processed in accordance with the Agreement.

The Supplier must also comply with the Policy statement on Data Security and Use of IT Equipment by Contractors/Consultants and Agency Staff Employed by the Ministry of Justice which is attached below.



Policy on Data  
Security and Use of IT

<https://www.gov.uk/government/organisations/ministry-of-justice/about/equality-and-diversity>



Ministry  
of Justice

<https://www.gov.uk/guidance/ministry-of-justice-and-the-environment>