



HL Bill 99 of 2024–25

Sentencing Guidelines (Pre-sentence Reports) Bill

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The [Sentencing Guidelines \(Pre-sentence Reports\) Bill \[HL\]](#) would prevent the Sentencing Council from publishing guidelines that stipulate the use of a pre-sentence report (PSR) based on an offender’s personal characteristics, specifically their race, religion or belief and cultural background. The bill is intended to prevent the revised version of the Sentencing Council’s guideline on the ‘Imposition of community and custodial sentences’ from being implemented. This is because the revised guideline would include a non-exhaustive list of cohorts where a PSR would “normally be considered necessary” if the offender belonged to one or more of them. One of these cohorts would be if the offender was “from an ethnic minority, cultural minority, and/or faith minority community”.

The government has objected to the inclusion of a cohort for those from an ethnic, cultural and/or faith minority community. The government argued that this would encourage judges to request a PSR for one named cohort but not another which amounted to differential treatment. Shadow Secretary of State for Justice Robert Jenrick opposed the revised guideline on the basis that it would create a “two-tier approach to sentencing”. The Sentencing Council has defended its revised guideline on the basis that it was “necessary and appropriate”. It also said the revisions were based on a majority view of those who had responded to the 12-week public consultation on the guideline between November 2023 and February 2024. However, following the government’s announcement that it would introduce a bill to block the revised guideline, the Sentencing Council announced it would delay the guideline’s rollout pending the bill taking effect.

The government is fast-tracking the bill through both Houses to prevent the Sentencing Council’s revised guideline taking effect. The bill was passed to the House of Lords from the House of Commons unamended. The bill’s second reading is scheduled to be taken in the House of Lords on 7 May 2025.



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I. Background to the bill

I.1 Role of the Sentencing Council

The Sentencing Council for England and Wales is an independent, non-departmental public body.¹ It is accountable to Parliament for delivering its statutory obligations under the [Coroners and Justice Act 2009](#) (CJA 2009). The council consists of 14 members, with Lord Justice William Davis as the current chair.²

The Sentencing Council is required by law to produce sentencing guidelines for judges and magistrates. This power is set out in section 120 of the CJA 2009. Sentencing guidelines help judges and magistrates to identify the type and length of sentence they could impose on a person convicted of a crime, as well as setting out factors they should consider before making their final decision.³ Judges and magistrates must sentence according to the guidelines unless it would be in the interests of justice not to do so.

An example of a sentencing guideline produced by the Sentencing Council includes the ‘Imposition of community and custodial sentences’ guideline (the imposition guideline).⁴ This sets out how sentencers should address specific issues that can arise when they are considering the most appropriate community or custodial sentence for an offender, including when a ‘pre-sentence report’ should be sought.

I.2 Pre-sentence reports

A pre-sentence report (PSR) is prepared by the Probation Service or youth offending teams to assist judges and magistrates when they are deciding the most suitable sentence to give an offender.⁵ PSRs can include an assessment of the nature of the person’s offending and causes of their behaviour, the risk the offender poses and to whom, as well as the offender’s individual circumstances. Whilst they are not an indication of sentence, PSRs include an independent recommendation of the sentence option(s) available to the court.⁶ This recommendation should take account of the offender’s individual circumstances, public safety and the need for both rehabilitation and punishment. PSRs can be verbal or written. Section 30 of the [Sentencing Act 2020](#) requires a sentencing court to request and consider a

¹ Sentencing Council, ‘[About the Sentencing Council](#)’, accessed 29 April 2025.

² Sentencing Council, ‘[Sentencing Council members](#)’, accessed 29 April 2025.

³ Sentencing Council, ‘[About sentencing guidelines](#)’, accessed 29 April 2025.

⁴ Sentencing Council, ‘[Imposition of community and custodial sentences](#)’, 1 February 2017.

⁵ Ministry of Justice and HM Prison and Probation Service, ‘[Probation court services policy framework](#)’, 14 January 2025, p 27.

⁶ As above, p 9.

PSR before forming an opinion of the sentence for an offender aged 18 or over, unless it considers that it is unnecessary.

PSRs can have a positive impact on the sentencing process, according to Ministry of Justice (MoJ) research of adults sentenced to a community order or suspended sentence order in England and Wales during 2016.⁷ The researchers found that offenders who had a PSR at the time of sentencing were more likely to successfully complete their sentences compared to offenders who did not receive a PSR.

Research has also shown that the number of PSRs produced by the Probation Service has reduced over the years. In 2018, the Centre for Justice Innovation thinktank reported that the number of PSRs had fallen by 22% between 2012–13 and 2016–17.⁸ However, it said the reason for this decline was not clear. HM Inspectorate of Probation has also cited MoJ data that showed 85% of community orders in 2014 involved a PSR, compared to 45% in 2019.⁹ In 2023, the House of Lords Justice and Home Affairs Committee reported that witnesses to its ‘Cutting crime: Better community sentences’ inquiry had expressed concerns about the decline in the number of PSRs produced by the Probation Service.¹⁰ The committee said it had heard evidence that the decline may have been motivated by the need to save court time to tackle backlogs.

HM Inspectorate of Probation has also raised concerns about the quality of PSRs. In the inspectorate’s latest annual report, it said 70% of PSRs it had inspected between February 2024 and February 2025 were deemed ‘insufficient’.¹¹ It said issues with PSR quality were often related to insufficient information about domestic abuse and the risk posed by the person on probation to children. Additionally, the inspectorate said it had continued to find staff shortages at some courts, as well as evidence that information about child safeguarding was not being obtained often enough.

⁷ Ministry of Justice, ‘[The impact of oral and fast delivery pre-sentence reports \(PSRs\) on the completion of court orders](#)’, 2023, p 16. This analysis only covered offenders who received a community order or suspended sentence order with requirement, not those with a suspended sentence order without requirements.

⁸ Centre for Justice Innovation, ‘[The changing use of pre-sentence reports](#)’, July 2018.

⁹ HM Inspectorate of Probation, ‘[The quality of pre-sentence information and advice provided to courts: 2022 to 2023 inspections](#)’, August 2024, p 6.

¹⁰ House of Lords Justice and Home Affairs Committee, ‘[Cutting crime: Better community sentences](#)’, 28 December 2023, HL Paper 27 of session 2023–24, pp 78–9.

¹¹ HM Inspectorate of Probation, ‘[2024 annual report: Inspection of probation services](#)’, 18 March 2025, p 25.

I.3 Revisions to the imposition guideline

The Sentencing Council's imposition guideline has been effective since 1 February 2017.¹² Following a public consultation between November 2023 and February 2024, the Sentencing Council announced in March 2025 that a revised version of the imposition guideline would apply from 1 April 2025.¹³ This would include a list of cohorts where a PSR “will normally be considered necessary if the offender belongs to one or more”.¹⁴ One of these cohorts would be if the offender was “from an ethnic minority, cultural minority, and/or faith minority community”. Other cohorts would include where the offender is “a young adult” or “pregnant or post-natal”. The list of cohorts would be non-exhaustive and a PSR could still be necessary if the offender did not fall into one of the cohorts. The revised guideline would also state that:

PSRs are necessary in **all** cases that would benefit from an assessment of one or more of the following: the offender's dangerousness and risk of harm, the nature and causes of the offender's behaviour, the offender's personal circumstances and any factors that may be helpful to the court in considering the offender's suitability for different sentences or requirements.

A pre-sentence report may be unnecessary if the court considers that it has enough information about the offence and the offender.¹⁵

The Sentencing Council said the revised guideline would place a “greater emphasis than before on the critical role of [PSRs] in sentencing decisions” to enable courts to “more precisely tailor” sentences.¹⁶

I.4 Ethnicity in the criminal justice system

Ethnic minorities (excluding white minorities) appear to be over-represented at various stages of the criminal justice system compared to the white ethnic group, according to MoJ statistics.¹⁷ The greatest disparity appeared at the point of stop and search, custodial remands and prison population. Additionally, since 2018, the MoJ said white defendants had a

¹² Sentencing Council, '[Imposition of community and custodial sentences](#)', 1 February 2017.

¹³ Sentencing Council, '[Sentencing Council publishes comprehensive new guidance on imposing community and custodial sentences](#)', 5 March 2025.

¹⁴ Sentencing Council, '[Imposition of community and custodial sentences: Effective from \(to be confirmed\)](#)', accessed 29 April 2025.

¹⁵ As above.

¹⁶ Sentencing Council, '[Sentencing Council publishes comprehensive new guidance on imposing community and custodial sentences](#)', 5 March 2025.

¹⁷ Ministry of Justice, '[Statistics on ethnicity and the criminal justice system 2022](#)', 25 January 2024, p 3.

consistently lower average custodial length for indictable offences when compared to all other ethnic groups.¹⁸

Ethnic representation in the criminal justice system has been the subject of debate for several years. For example, in January 2016, then Prime Minister David Cameron asked David Lammy (Labour MP for Tottenham) to conduct an independent review of the treatment of, and outcomes for, Black, Asian and minority ethnic individuals in the criminal justice system.¹⁹ In his final report published in September 2017, Mr Lammy concluded that such individuals faced bias, including overt discrimination.²⁰ He gave 35 recommendations to address the issue.

In February 2020, the MoJ provided an update on government actions to address racial disparities in the criminal justice system, including the progress it had made in response to the Lammy review.²¹ The then Lord Chancellor Robert Buckland said the over-representation of people from racial and ethnic minorities in the criminal justice system remained a serious concern for the then Conservative government and was an ongoing focus for the MoJ.²²

In March 2025, referring to disparity in sentencing outcomes specifically, Lord Chancellor and Secretary of State for Justice Shabana Mahmood said the government recognised that the reason for the disparity remained unclear.²³

1.5 Government reaction to the revised imposition guideline

Lord Chancellor Shabana Mahmood has objected to the list of cohorts in the revised guideline where a PSR would “normally be considered necessary”, specifically the inclusion of a cohort for those “from an ethnic minority, cultural minority, and/or faith minority community”.²⁴ The lord chancellor said the revised guideline would encourage judges to request a PSR for one named cohort but not another which amounted to differential

¹⁸ As above, p 5.

¹⁹ Prime Minister’s Office et al, [‘Review of racial bias and BAME representation in criminal justice system announced’](#), 31 January 2016.

²⁰ David Lammy, [‘The Lammy review: An independent review into the treatment of, and outcomes for, Black, Asian and minority ethnic individuals in the criminal justice system’](#), September 2017, p 69.

²¹ Ministry of Justice and Race Disparity Unit, [‘Tackling racial disparity in the criminal justice system: 2020’](#), updated 27 April 2020.

²² As above, p 2.

²³ [HC Hansard, 11 March 2025, col 799](#).

²⁴ Shabana Mahmood, [‘Personal X account’](#), 5 March 2025.

treatment.²⁵ She stated that it was government policy to oppose differential treatment based on race or ethnicity in the court system because it “[offended] the principle of fair treatment before the law”. The lord chancellor described the appearance of differential treatment in the justice system as being “particularly corrosive”, “counterproductive” and risked “eroding confidence” in the justice system. Whilst the lord chancellor acknowledged the importance of addressing disparities in sentencing outcomes for ethnic minorities, she said this should be done by policy makers so that any “decisions taken on this question [would] be accountable to the public, both in Parliament and at the ballot”.²⁶

In light of these objections, the lord chancellor requested the Sentencing Council remove the full list of cohorts from the revised guideline.²⁷ However, she added that the government supported the wider use of PSRs and welcomed the paragraph in the guideline that said PSRs were necessary in all cases that would benefit from one.

The Sentencing Council has defended the list of cohorts in the revised guideline.²⁸ In a letter sent to the lord chancellor on 10 March 2025, Lord Justice William Davis said he questioned whether the inclusion of a list of cohorts “was a policy decision of any significance” and argued that it related to an issue of sentencing. Lord Justice Davis also said the revised guideline represented the majority view of those who had responded to the 12-week public consultation. He said this included views from the then minister for sentencing Gareth Bacon—responding on behalf of the lord chancellor under the previous Conservative government—who is said to have welcomed “the fuller guidance around the circumstances in which courts should consider a [PSR]”.²⁹ Lord Justice Davis also referred to “good evidence” of disparity in sentencing outcomes between white and ethnic minority offenders for some offences that he argued the list of cohorts could help to address:

Offenders from some ethnic minority backgrounds are more likely to receive an immediate custodial sentence than white offenders. In some offence-specific guidelines this fact is highlighted. Why this disparity exists remains unclear. The [Sentencing] Council’s view is that providing a sentencer with as much information as possible about

²⁵ Ministry of Justice, [‘Letter to Lord Justice Davis, chair of the Sentencing Council, ref the imposition of community and custodial sentences guideline’](#), 20 March 2025, p 2.

²⁶ As above, p 1.

²⁷ As above, p 2.

²⁸ Sentencing Council, [‘Letter to Lord Chancellor Shabana Mahmood ref the imposition guideline’](#), 10 March 2025.

²⁹ As above; and Charles Hymas and Danny Shaw, [‘Tory minister backed ‘two-tier justice’ guidelines’](#), Telegraph (£), 8 March 2025.

the offender is one means by which such disparity might be addressed. This is why ethnic minority offenders were included in the list of cohorts.³⁰

In a subsequent letter to the lord chancellor on 27 March 2025, Lord Justice Davis stated that the council had considered the government's arguments for removing the list of cohorts but had concluded that the guideline did not require revision.³¹ He said the council held the view that:

[...] providing the sentencing court with information about that cohort could not impinge on whatever policy might be introduced to deal with the underlying problem. Provision of a [PSR] in an individual case cannot have damaging consequences for wider policy making.³²

Whilst the council agreed with the government that any systemic issue relating to different ethnic outcomes would be a matter of policy, Lord Justice Davis said sentencers must still do all that they can to avoid a difference in outcome based on ethnicity.³³ Therefore, he said judges would be better equipped to do that if they had as much information as possible about the offender.

Following Lord Justice Davis's letter on 27 March 2025, the lord chancellor met the Sentencing Council where she indicated the government's intention to introduce legislation that would make the inclusion of the list of cohorts in the revised guideline unlawful.³⁴ In response, the Sentencing Council said it remained of the view that its revised guideline as drafted was "necessary and appropriate" but said it would delay the revised guideline's rollout pending such legislation taking effect. Lord Justice Davis stated that the council would not introduce a guideline when there was a draft bill due for imminent introduction that would make it unlawful.

On 1 April 2025, the Ministry of Justice confirmed that it would introduce legislation "as quickly as possible" to stop the guideline coming into effect.³⁵ The lord chancellor said the proposed law would "ensure fairness for all in our courts". The government subsequently introduced the Sentencing Guidelines (Pre-sentence Reports) Bill in the House of Commons

³⁰ Sentencing Council, '[Letter to Lord Chancellor Shabana Mahmood ref the imposition guideline](#)', 10 March 2025.

³¹ Sentencing Council, '[Letter to Lord Chancellor Shabana Mahmood ref the imposition of community and custodial sentences guideline](#)', 27 March 2025, p 5.

³² As above, p 3.

³³ As above.

³⁴ Sentencing Council, '[Statement on the revised 'Imposition of community and custodial sentences guideline](#)', 31 March 2025.

³⁵ Ministry of Justice, '[Government to introduce legislation to block new sentencing guidelines](#)', 1 April 2025.

on 2 March 2025. The lord chancellor also said she would launch a review of the “proper role” of the Sentencing Council and how it makes these types of guidelines.³⁶

1.6 Private member’s bill from the shadow justice secretary

Shadow Secretary of State for Justice Robert Jenrick has argued the guideline would create a “two-tier approach to sentencing”.³⁷ The shadow secretary of state has also accused the revised guideline of having “blatant bias” against Christians and straight white men.³⁸ Lord Justice Davis disputed this assertion in his letter to the lord chancellor on 10 March 2025, stating that the suggestion the revised guideline instructed sentencers to impose a more lenient sentence on those from ethnic minorities than white offenders was “completely wrong”.³⁹

The shadow secretary of state is the sponsor of the ‘[Sentencing Council \(Powers of Secretary of State\) Bill](#)’. This private member’s bill seeks to require the Sentencing Council to obtain the secretary of state’s consent before issuing sentencing guidelines. It also seeks to give the secretary of state the power to amend sentencing guidelines prepared by the Sentencing Council before they are issued. At the time of writing the bill has not had a second reading in the House of Commons.

2. What the bill would do

The government’s Sentencing Council (Pre-sentence Reports) Bill contains two clauses, only one of which is substantive.

Clause 1 would amend section 120 of the CJA 2009 so that sentencing guidelines setting out when a PSR should be obtained may not be framed by reference to the personal characteristics of an offender.⁴⁰ Under the clause, “personal characteristics” would include but not be restricted to race, religion or belief and cultural background. The effect of this clause would be to prevent the Sentencing Council from publishing guidelines which stipulate the use of PSRs according to the demographic cohort of the offender, rather than the particular circumstances of that individual.

³⁶ [HC Hansard, 1 April 2025, col 183.](#)

³⁷ [HC Hansard, 5 March 2025, col 286.](#)

³⁸ Sky News, ‘[Robert Jenrick says new sentencing guidelines have ‘blatant bias against Christians and straight white men’](#)’, 6 March 2025.

³⁹ Sentencing Council, ‘[Letter to Lord Chancellor Shabana Mahmood ref the imposition guideline](#)’, 10 March 2025.

⁴⁰ [Explanatory notes](#), p 4.

However, the MoJ has said the bill would not prevent the Sentencing Council from issuing guidelines advising courts to consider the offender's personal circumstances in deciding whether to request a PSR.⁴¹ It said the bill would only prevent the council from issuing guidelines which take demographic cohorts as a factor in determining whether a PSR is required, rather than specific individual circumstances. The MoJ has said judges would still be able to request PSRs in cases where they ordinarily would, for example those involving pregnant women, young people or domestic abuse.⁴²

Clause 2 would extend the bill to England and Wales only.⁴³ It would also see the bill come into force on the day after the act is passed.

3. Bill stages in the House of Commons

3.1 Fast-tracking

The government is fast-tracking the bill.⁴⁴ Fast-tracked bills (also referred to as expedited bills or emergency legislation) are those which complete their parliamentary stages in a shortened timescale.⁴⁵ The MoJ gave the following justification for the fast-tracking of the bill:

It is the government's view that guidelines which take demographic cohort as a factor in determining whether a pre-sentence report is required, rather than specific individual circumstances, is not acceptable as this creates differential treatment before the law. The lord chancellor asked the Sentencing Council to reconsider their approach, but on 27 March, they wrote to inform the lord chancellor that they declined to do so. The guidelines are due to come into effect on 1 April 2025 and we are therefore seeking to make use of fast-tracking to remediate the effect of these aspects of the guidelines as soon as possible in the interests of fair and equal justice.⁴⁶

3.2 Second reading

The bill's second reading debate took place in the House of Commons on 22 April 2025.

⁴¹ [Explanatory notes](#), p 3.

⁴² Ministry of Justice, '[Sentencing Guidelines \(Pre-sentence Reports\) Bill: Fact sheet](#)', 9 April 2025.

⁴³ [Explanatory notes](#), p 3.

⁴⁴ [Explanatory notes](#), p 4.

⁴⁵ House of Lords Library, '[Fast-tracking legislation](#)', 12 September 2023.

⁴⁶ [Explanatory notes](#), p 5.

Introducing the debate, Lord Chancellor Shabana Mahmood said the bill's primary purpose was to ensure that everyone stood equal before the law.⁴⁷ The lord chancellor stated that equality of treatment in the justice system was a question of policy and the responsibility of government, politics and Parliament, and not the judiciary.⁴⁸ She said the bill would not prevent the Sentencing Council from issuing broader guidance concerning requests for PSRs, nor would it interfere with the courts' duties to obtain a PSR in appropriate cases.⁴⁹ The lord chancellor acknowledged the Sentencing Council's intentions with the revised guideline on trying to reach equality of sentencing outcome but argued it had in turn "sacrificed too much, undermining the sacred principle of equality before the law".⁵⁰

MPs from across the parties have expressed broad support for the principle of equality before the law. However, some have been critical about the government's response to the revised guideline. Responding on behalf of the Conservative Party, shadow secretary of state Robert Jenrick supported the bill's purpose of blocking the revised guideline but said the government had not acted quickly enough after the Sentencing Council's announcement on 5 March 2025.⁵¹ The shadow secretary of state described the communications between the lord chancellor and Sentencing Council about the revised guideline as "nothing short of farcical" and said it had "damaged public confidence in the justice system".⁵² He argued the bill could "not fix that trust deficit".

Liberal Democrat Justice Spokesperson Josh Babarinde said his party would abstain on second reading due to concerns about the bill's necessity and political context. He said the Sentencing Council's pause on the revised guideline's implementation meant there was now time for an agreement to be reached without the need for primary legislation.⁵³ The Liberal Democrat spokesperson also argued the bill was being "rushed through", without coordination with work that was already underway as part of former Lord Chancellor David Gauke's independent review of sentencing.⁵⁴

Andy Slaughter (Labour MP for Hammersmith and Chiswick), chair of the House of Commons Justice Committee, noted how the government had repeatedly emphasised its objections to the inclusion of "ethnic, cultural and/or faith minority communities" cohort in

⁴⁷ [HC Hansard, 22 April 2025, col 1000.](#)

⁴⁸ [HC Hansard, 22 April 2025, col 997.](#)

⁴⁹ [HC Hansard, 22 April 2025, cols 999–1000.](#)

⁵⁰ [HC Hansard, 22 April 2025, col 1000.](#)

⁵¹ [HC Hansard, 22 April 2025, col 1004.](#)

⁵² [HC Hansard, 22 April 2025, col 1002.](#)

⁵³ [HC Hansard, 22 April 2025, col 1008.](#)

⁵⁴ [HC Hansard, 22 April 2025, cols 1008–9.](#)

the revised guideline.⁵⁵ However, he stated that the government had not voiced its objection to the inclusion of other cohorts in the guideline that were framed by personal characteristics. Mr Slaughter said the explanatory notes “[made] clear” that the government did not intend to prevent the Court of Appeal, or any other body, from issuing guidance relating to PSRs from being framed by personal characteristics, other than ethnic, cultural and/or faith minority community. He said this appeared to indicate that the government did not object to such an approach in principle.

Delivering the government’s closing speech in the debate, Parliamentary Under Secretary of State for Justice Sir Nicholas Dakin welcomed the contributions made by MPs during the debate.⁵⁶ Referring to the government’s commitment to addressing racial disparities across the criminal justice system, Sir Nicholas said the bill would help to safeguard against the risk of differential treatment arising from the use of the revised guideline.⁵⁷

The bill passed second reading without division and was committed to a committee of the whole House.⁵⁸ The House also agreed a programme motion to allow the bill’s remaining stages in the House of Commons to be expedited.

3.3 Committee of the whole House and remaining stages

The bill was considered in a committee of the whole House and at third reading on 31 April 2025. It was passed to the House of Lords unamended.

3.3.1 Committee of the whole House

Five amendments to the bill were tabled during the committee stage, with two moved to a division. Both were tabled by the Conservative Party and were unsuccessful.⁵⁹

The first would have required PSR guidelines drafted by the Sentencing Council to be approved by the lord chancellor before coming into force.⁶⁰ Moving the amendment, shadow justice minister Dr Kieran Mullan said it would provide “a basic safeguard of democratic accountability” by ensuring ministerial oversight on “sensitive sentencing matters”.⁶¹ He

⁵⁵ [HC Hansard, 22 April 2025, col 1011.](#)

⁵⁶ [HC Hansard, 22 April 2025, col 1019.](#)

⁵⁷ [HC Hansard, 22 April 2025, cols 1019–20.](#)

⁵⁸ [HC Hansard, 22 April 2025, col 1020.](#)

⁵⁹ House of Commons, ‘[Sentencing Guidelines \(Pre-sentence Reports\) Bill: Amendment paper—committee stage](#)’, 30 April 2025.

⁶⁰ [HC Hansard, 30 April 2025, col 384.](#)

⁶¹ [HC Hansard, 30 April 2025, col 385.](#)

criticised the Sentencing Council for how it had responded to concerns raised about the revised guideline, stating that more should be done to “constrain” the council in future. Justice minister Sir Nicholas Dakin said the government would not support the amendment because the separation of powers between the judiciary and government needed to be “respected”.⁶² The amendment was subsequently defeated by 222 votes to 86.⁶³

The second amendment would have prevented sentencing guidelines about PSRs from including consideration of a defendant’s status as part of a group that has experienced historical or intergenerational trauma.⁶⁴ This amendment followed recent criticism by Shadow Secretary of State for Justice Robert Jenrick of MoJ guidance which directed the Probation Service to consider a defendant’s background and culture when completing a PSR assessment, including whether they had experienced trauma from “important historical events” or intergenerational trauma that had been relayed to them.⁶⁵ Moving the amendment, shadow justice minister Dr Mullan said it would ensure that sentencing was focused on the actions, culpability and direct personal circumstances of the defendant.⁶⁶ Dr Mullan said it would be “deeply wrong to allow collective historical grievances to influence the sentencing of an individual today”. In response, justice minister Sir Nicholas Dakin said the government would not support the amendment because the bill had been framed by reference to any personal characteristics of an offender.⁶⁷ He highlighted the bill’s non-exhaustive list of personal characteristics which included race, religion or cultural background. Additionally, the minister said the government was working to review relevant policy and guidance and would update practices where necessary. The amendment was subsequently defeated by 226 votes to 88.⁶⁸

One new clause and two amendments were also moved during the debate but subsequently withdrawn:

- Liberal Democrat Justice Spokesperson Josh Babarinde moved a new clause that would have required the government to arrange an independent review of PSRs within two years of the act being passed.⁶⁹ He argued the bill was “rushed, knee-jerk and not the way to make policy about people’s liberty or our

⁶² [HC Hansard, 30 April 2025, col 389.](#)

⁶³ [HC Hansard, 30 April 2025, cols 394–5.](#)

⁶⁴ [HC Hansard, 30 April 2025, col 386.](#)

⁶⁵ Robert Jenrick, ‘[Personal X account](#)’, 28 April 2025; and Ministry of Justice and HM Prison and Probation Service, ‘[Probation court services policy framework](#)’, re-issued on 14 January 2025, p 45.

⁶⁶ [HC Hansard, 30 April 2025, col 386.](#)

⁶⁷ [HC Hansard, 30 April 2025, col 390.](#)

⁶⁸ [HC Hansard, 31 April 2025, cols 396–7.](#)

⁶⁹ [HC Hansard, 30 April 2025, col 383.](#)

constitution”. The justice spokesperson also questioned why the government was not waiting for the outcome of the Gauke review before introducing primary legislation to ensure the issue was “explored comprehensively”. In response, the justice minister said the government would not support the new clause because the changes made by the bill would be “very limited in nature”.⁷⁰

- Sir Jeremy Wright (Conservative MP for Kenilworth and Southam) tabled two amendments. These would have replaced the term “personal characteristics” with “demographic cohort” to describe the type of provision about PSRs in sentencing guidelines that the bill would prohibit. Moving the amendments, Sir Jeremy, a former attorney general, said they would ensure PSRs could still be recommended for offenders who had personal characteristics that were “more relevant” to the sentencing decision than simply belonging to a demographic group.⁷¹ He described the bill’s language as being “undesirably” wide, arguing that not all personal characteristics were inappropriate to consider in a sentencing decision such as whether the offender has a “physical or learning difficulty”.⁷² Sir Jeremy said that narrowing the language would better meet the government’s aim with the bill, as well as mirror the phrasing used by the government in the explanatory notes.⁷³ In response, the justice minister said the government would not support the amendments because the term “demographic cohort” was more “imprecise” and would require the government to define what that meant.⁷⁴ Sir Nicholas said the phrase “personal circumstances” already had a level of definition and was therefore the government’s preference. The justice minister also confirmed that use of the term “demographic cohort” in the explanatory notes had not been intended to narrow the definition of personal characteristics.⁷⁵

3.3.2 Third reading

The bill proceeded directly to third reading without report stage. It passed third reading by 214 votes to 3.⁷⁶

⁷⁰ [HC Hansard, 30 April 2025, col 390.](#)

⁷¹ [HC Hansard, 30 April 2025, col 368.](#)

⁷² [HC Hansard, 30 April 2025, col 367.](#)

⁷³ [HC Hansard, 30 April 2025, col 396;](#) and [HC Hansard, 30 April 2025, col 367.](#)

⁷⁴ [HC Hansard, 30 April 2025, col 389.](#)

⁷⁵ [HC Hansard, 30 April 2025, col 388.](#)

⁷⁶ [HC Hansard, 30 April 2025, cols 400–1.](#)

4. Reaction to the bill

Some parliamentarians and legal commentators have questioned some of the bill's terminology, specifically how "personal characteristics" should be defined. For example, the Joint Committee on Human Rights (JCHR) wrote to the lord chancellor on 8 April 2025 and sought clarity on various questions.⁷⁷ This included whether "personal characteristics" in the bill were intended to exclude pregnancy, motherhood (including being in the 12-month post-natal period) and age (including being aged between 18 and 25) to ensure the guidelines were consistent with case law. The government's response to the JCHR was not published at the time of writing.

Legal commentator Joshua Rozenberg KC (hon) has argued that there is "nothing fundamentally different" in the Sentencing Council's revised guideline compared to the existing imposition guideline.⁷⁸ Mr Rozenberg has also questioned some of the bill's terminology.⁷⁹ For example, he said "the [bill] is intended to let sentencers consider an offender's personal 'circumstances' but not the offender's personal 'characteristics'. What's the difference?". Mr Rozenberg proposed that 'circumstances' might refer to what has happened to a person whilst 'characteristics' could relate to who or what a person is. However, he questioned whether being 'pregnant or post-natal' and being a 'young adult', both groups included in the original list of cohorts in the revised guideline, should be considered circumstances or characteristics.

The Sentencing Council's revised guideline has been welcomed by some lawyers. For example, the Society of Black Lawyers was reported by the Guardian to have said that the guideline was an attempt to achieve "equal treatment" after "racist two-tier policing for 500 years".⁸⁰ In the same article, barrister Keir Monteith KC is cited as saying that there had been "a deliberate misreading of the [revised guideline] to generate a row". He described "an absurd situation where we have politicians on both sides of the House creating an argument out of absolutely nothing". Mr Monteith argued that it was "not 'two-tier' justice because the starting point of the dropped guidelines was everyone should get a pre-sentencing report". An opinion piece by solicitor Dr Laura Janes in the Law Society Gazette said that the revised guideline would improve the "current two-tier system".⁸¹

⁷⁷ Joint Committee on Human Rights, [Letter to Lord Chancellor Shabana Mahmood ref the Sentencing Guidelines \(Pre-sentence Reports\) Bill](#), 8 April 2025.

⁷⁸ Joshua Rozenberg, [Sense in sentencing](#), A Lawyer Writes, 7 March 2025.

⁷⁹ Joshua Rozenberg, [Characteristics or circumstances?](#), A Lawyer Writes, 2 April 2025.

⁸⁰ Rajeev Syal, [Lawyers attack 'dangerous' decision to halt Sentencing Council guidelines](#), Guardian, 1 April 2025.

⁸¹ Dr Laura Janes, [New sentencing guidance improves current two-tier system](#), Law Society Gazette, 7 March 2025.

Some members of the judiciary have sought to clarify what the impact of the revised guideline would be. On behalf of the Magistrates' Association, Chief Executive Tom Franklin said that addressing disparities in sentencing outcomes was “not about treating people differently but ensuring sentencing is applied fairly across all groups”.⁸²

Various campaign groups have also shared their views. The charity Women in Prison said the revised guideline would help to improve and reduce inequalities in the criminal justice system.⁸³ It said this was particularly crucial for Black and racially minoritised women who “remain[ed] over-represented at every stage of the criminal justice system”. Elizabeth Jiménez-Yáñez, head of policy and public affairs at Hibiscus, the criminal justice charity for Black and minoritised migrant women, described the guidance as “a promising step towards a fair justice system”.⁸⁴ Additionally, Janey Starling, co-director of gender justice campaign group Level Up, described the guideline as a “commonsense, evidence-led policy”.⁸⁵ Speaking critically about the government's bill, Pavan Dhaliwal, head of the charity Revolving Doors, accused the government of taking a “deliberate step backwards”. She argued that “the [government's] claim that recognising race and inequality in sentencing undermines fairness is not just wrong, it's dangerous”.⁸⁶

Some charities have also warned about the bill's potential impact on other cohorts in the revised guideline such as pregnant women.⁸⁷ Twenty organisations including the Centre for Women's Justice and Amnesty International have written to the lord chancellor warning that, if the bill is enacted and the revised guideline blocked, there was a risk that more pregnant women could end up in prison. British Pregnancy Advisory Service Chief Executive Heidi Stewart warned that these women faced “increased risk of miscarriage, pregnancy complications” and “the stillbirth or death of their newborn baby” in some cases. The chief executive stated that the revised guideline would have changed the way pregnant women were treated by the justice system by “recognising that there are very few instances where prison is a reasonable or acceptable sentence”.

⁸² Magistrates' Association, '[MA comments on the new imposition guidelines](#)', 6 March 2025.

⁸³ Women in Prison, '[Women in Prison respond to discussion on Sentencing Council guidance](#)', accessed 29 April 2025.

⁸⁴ Hibiscus, '[Statement on the Sentencing Council's imposition of community and custodial sentences](#)', accessed 29 April 2025.

⁸⁵ Janey Starling, '[Labour's populist pantomime over sentencing rules plays into the hands of the right](#)', Guardian, 1 April 2025.

⁸⁶ Revolving Doors, '["A deliberate step backwards" Revolving Doors responds to government's block on new sentencing guidelines](#)', 1 April 2025.

⁸⁷ Haroon Siddique, '[Shabana Mahmood warned of risk to pregnant women in halting Sentencing Council guidelines](#)', Guardian, 27 April 2025.

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