

Unlock response to Sentencing Council consultation on imposition of community and custodial sentence guidelines, February 2024¹

About Unlock

Unlock is a national independent advocacy charity that supports, speaks up and campaigns for people facing stigma, prejudice and discrimination because of their criminal record. A core mission for Unlock is to provide advice for people in respect of their criminal record, including help overcoming the barriers they're facing. Our [website](#) provides vital information and guidance for people with criminal records, but we also have a [helpline](#) provided by dedicated staff and volunteers, which deals with specific queries. People can contact the helpline in various ways, including via email, WhatsApp or our free phone line.

This document sets out our response to the Sentencing Council [consultation](#) on the new draft guidelines for the imposition of community and custodial sentences. We have limited our comments to where there are criminal records implications to consider. A criminal record can create barriers to an individual in numerous ways, including employment, finance, housing, insurance and social integration. The time during which a conviction remains unspent is a period when such barriers are of particular significance (once spent, a conviction only needs to be disclosed in certain circumstances, as outlined [on our website](#)).

Q1-4. Information about the responder.

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I am not answering as an individual, but on behalf of an organisation: Unlock, the charity for people with criminal records.

¹ Consultation information is here: [Imposition of community and custodial sentences guideline – consultation – Sentencing \(sentencingcouncil.org.uk\)](#). The draft guidelines can be read here: [DRAFT Imposition of community and custodial sentences – revised – for consultation only – Sentencing \(sentencingcouncil.org.uk\)](#).

Q14. Do you have any comments on the imposition of community orders section? Q16. Do you have any comments on the new information against each of the requirements in the requirements section?

It is pleasing to note that the draft guidelines recognise that community orders can support effective rehabilitation. In comparison to short prison sentences, community orders do avoid some of the significant dislocating impacts of custody. However, we would want those issuing sentences to be aware of some of the criminal records implications of certain aspects of community orders.

It is important to note that, although community orders are spent upon their completion, this is often not as simple as it appears. This is because if there are ancillary orders, this can stop something from becoming spent if elements of the order cannot be completed. Whilst we have no specific comments to make on the requirements section of the draft guidelines, those issuing sentences should bear in mind when imposing such requirements how they might, ultimately, interact with the ability of the community order to become spent.

We welcome the fact that the guidelines note that “the needs and rehabilitation of the offender, including any mental health or addiction issues”. However, we would caution against the use of any requirements in an order that risk running contrary to this by extending, sometimes substantially, the time during which an order may remain unspent. Unspent convictions are a particular barrier to rehabilitation as they can prevent people getting a job, finding somewhere to live or even access something like insurance.

Q19. Do you have any comments on the imposition of custodial sentences section? Q21. Do you have any comments on the suspended sentence order section, including the guidance on requirements of a suspended sentence order?

We welcome the fact that, in numerous places, it is noted that time spent in custody can negatively impact the chances of effective rehabilitation. This is particularly true when considering the criminal records implications of a custodial sentence, namely that they carry substantial spending periods and can never be filtered from elevated levels of checks. We would want those issuing sentences to be aware of this when making sentencing decisions.

In particular, we welcome that the factors listed in favour of suspending a sentence include that doing so may support effective rehabilitation. However, we would want to draw the attention of those issuing sentences to certain complications here. Suspended sentences are treated in line with any other custodial sentence for criminal records purposes, so offer no significant rehabilitative benefit where criminal records are concerned, despite having significant benefits in other ways. By way of comparison, even the highest level of community order could, in theory, become spent sooner. Although not the sole consideration when issuing sentences, an awareness of such criminal records complications would improve the understanding of those issuing sentences.

Q25. Are there any equalities issues relating to the proposed revised guideline that should be addressed?

We would note that there are known disproportionalities within the criminal justice system which are then experienced by individuals in relation to the criminal records. However, we would specifically want to draw attention to the disproportionate impact of DBS checks on women, something on which we published a [briefing](#) last year². We would argue that an awareness of such equalities issues should be in the mind of those issuing sentences.

Q26. Are there any other comments you wish to make on the proposed revised guideline?

The only further comment we would offer is a general one, that those issuing sentences should be aware of the criminal records implications of different sentences, the way in which they are often disproportionate both in comparison to one another (i.e. criminal records impacts not always increasing in severity in direct proportion to increasing severity of sentences) and in the way in which they impact different people. We would argue that those issuing sentences should have an awareness of such issues.

² [Women-and-DBS-checks-2023.pdf \(unlock.org.uk\)](#)