



Irish Penal Reform Trust
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Re: Consultation on draft proposal for a sentencing guideline

Dear Members of the Sentencing Guidelines Information Committee,

I would like to thank you for your recent invitation to contribute to the consultation on the draft proposal for a sentencing guideline relating to crimes committed in the context of an intimate relationship. Established in 1994, IPRT is Ireland's principal independent non-governmental organisation working for systemic penal reform and change. Our vision is a just, humane Ireland where prison is used as a last resort. We advocate for a progressive criminal justice system that prioritises alternatives to prison, upholds human rights, and champions reintegration. We do this through conducting research, campaigning, and changing attitudes.

We welcome the Committee's engagement with civil society organisations particularly those with direct insights, knowledge and experience of the impact of the related offences on victims and that the proposed draft guidelines include up-to-date and informative data. We also want to acknowledge our appreciation that the guidelines clearly refer to international human rights standards and law including a reference to country-specific reports on Ireland by international human rights expert bodies. However, as we are not a service provider or working in the area of victims' rights, IPRT is not in a position to answer the majority of the consultation questions as they are more relevant to organisations working directly with victims of domestic, sexual or gender-based violence. However, I wanted to send on some overarching observations on key points arising in the consultation document.

Principles and Purposes of Sentencing

Notably, the guideline refers to the main purposes of sentencing in paragraph 22 as well as the principle of ensuring a sentence proportionate to the gravity of the offence and the personal circumstances of the case. While we welcome that the purposes of sentencing are included, IPRT would like to see a standalone guideline on the principles and purposes of sentencing to elaborate and clarify what these are and what they may mean in practice. In other jurisdictions, for example in Scotland, such a document exists which is then referenced in all other guidance issued by the Sentencing Council. IPRT believes that this would provide clarity and ensure consistency, regardless of the type of offence, and bolster public understanding of the principles that already underpin judicial sentencing and are considered in all cases, whether expressly named or not when a sentence is handed down currently.

The Sentencing Process

In addition, the Scottish Sentencing Council has developed and approved an overarching guideline on the sentencing process. Many of the elements contained in this guidance are contained in the Committee's current draft proposal. However, by setting out the process and detailing each step in a separate document – in particular outlining what is considered in terms of assessment of severity of the offence, identifying aggravating and mitigating factors, other considerations, imposing the sentence and giving reasons – the guidance can be applied to all future guidelines and ensure that each aspect is sufficiently defined to promote consistency and enhance greater understanding of the judicial process.

Data Collation and Monitoring

IPRT recognises the current challenges around access to sentencing data which has already been highlighted by the SGIC through prior research but again we believe this to be a crucial element in developing overall guidance. We welcome the proposal in this current document to “endeavour to establish a system for counting such cases within the court process”. We hope the recent Programme for Government commitment to “[w]ork to design and implement a modern courts infrastructure, including the move to digitalisation” will help to ensure that better data is collated efficiently which in turn will enhance transparency. IPRT agrees with the Committee that robust data collection is key when it comes to sentencing to ensure consistency in decision-making, without interfering with judicial discretion, as well as promoting public confidence. We believe it is essential that all reasons and rationales for handing down a particular sentence are recorded to as well as helping to identify any particular emerging trends and that if a judge does have cause to take a different approach to that outlined in a sentencing guideline that this is adequately recorded.

Potential Limitations on Rehabilitation

Paragraph 2 lists the matters which the Committee must take into account and includes the “relative effectiveness in the prevention of re-offending”. Later in the document, in paragraph 15, the draft proposal outlines “[one] potentially relevant mitigatory action that an offender can undertake is participation in a relevant structured programme aimed at reducing their harmful behaviour”. However, as the Committee also notes there are areas where such programmes are not available in the community. With the current overcrowding crisis across the prison estate, IPRT wishes to highlight that often these programmes may not be available in prison either. While that is not necessarily an issue that the judiciary can address directly, we feel it important to make the Committee aware of the situation given the impact this might have on a person’s ability to rehabilitate and safely reintegrate into society without posing any further risk to public safety. One of the key purposes of sentencing is rehabilitation and without public investment in the necessary interventions to address and change offending behaviour, any sentence handed down has the potential to become merely punitive in nature. IPRT believes that if someone is sentenced to custody, rehabilitative efforts should begin immediately and not postponed until nearer the individual’s release date.

We in IPRT hope that these observations are useful and can help inform both this guideline and any future work of the Committee. Please do let us know if you require anything further.

Best regards,



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Executive Director

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