CLiNKS
Supporting the voluntary sector working in the criminal justice system

Clinks Briefing - Sentencing Bill

A guide to key measures in the Sentencing Bill and related provisions from the ISR

Our response

October 2025

About Clinks and this response

Clinks is the national infrastructure organisation supporting voluntary sector organisations working in the criminal justice system. We are a membership organisation with over 500 members, including the voluntary sector's largest and smallest providers. Our vision is of a vibrant, independent, and resilient voluntary sector that enables people to transform their lives. Clinks supports, promotes, and represents the voluntary sector to ensure it can provide the services people need. We provide specialist information and support – with a particular focus on smaller, specialist voluntary sector organisations – to inform them about changes in policy and commissioning, support them to advocate for change, help them build effective partnerships, and provide innovative services that respond directly to the needs of the people they support.

This response provides a detailed analysis of key clauses of Sentencing Bill, as well as further detail on recommendations from the Independent Sentencing Review, such as the progression model, which will sit separately from the Bill.

Introduction

The Sentencing Bill has now been laid before Parliament (2 September) and will give effect to a number of the recommendations contained within the Independent Sentencing Review's final report. The Second Reading of the Bill took place on 16 September, and the Bill will come before a Committee of the whole House on 21 October.

We covered many of the core elements contained within the Sentencing Review recommendations in this publication, and now provide more details below on the legislative measures contained within the Bill (in addition to further information on the proposed progression model, which does not sit within the Bill). We will continue to closely monitor the Bill's progress through Parliament and will be providing further analysis of the Bill's key clauses, in due course. It is expected that the implementation of the Bill's measures will commence in 2026.

The impact assessment, published alongside the Bill, suggests that the measures will free up approximately 7,500 prison places in 2028, predominantly via the implementation of the progression model, changes to recall, and the presumption against short sentences. It also acknowledges that 'it has been assumed that the reduction in demand for prison places delivered by these measures will be offset by the forecast growth in prison population.' It is therefore expected that 'there will be 2,000 more people in prison by May 2029 compared to current levels.'

Operationally, the Prisons Implementation Programme will oversee the changes to custodial sentences and recall as laid out in the Bill, in addition to overseeing the changes needed to the estate's configuration and the Offender Management in Custody model.

In this briefing, we lay out information that can be used by the voluntary sector to understand key clauses of the Bill as well as in any engagement with stakeholders, drawn from our extensive advocacy both with, and on behalf of, the sector.

Sentencing

Progression model/changes to adjudication:

Though the progression model is not contained in the Bill itself, its potential impact is such that we thought it necessary to include details on the proposal, in this guide. The model will be implemented via the existing prison adjudication system and will include the provision to double the maximum number of additional days that can be added to a person's sentence – from 42 to 84 days. We have included more thoughts on this change, following an explanation of the progression model.

The progression model will be based upon an absence of bad behaviour as opposed to incentivised good behaviour for those serving Standard Determinate Sentences (SDS). It will be a three-stage model:

1. The first third will be spent in custody.
2. The second third – the intensive supervision period – will be spent under supervision in the community with additional restrictive measures. Intensive supervision will be tailored to risk and the type of offence committed.
3. In the final third, everyone on probation will remain on license and be at risk of recall if in breach of license conditions. There will be an end to active supervision by probation in this final third, apart from those considered to be of the highest risk.

The model means that those serving an SDS who previously had an automatic release point at 40 or 50 percent of their sentence will now be eligible for release at the 33 percent point (thereby revoking the SDS40 policy). For those serving an SDS with an automatic release point of 67 percent, their earliest possible release will be at the 50-percent point.

People subject to multi-agency public protection arrangements (MAPPA) will remain in the intensive supervision stage for the entirety of their sentence. The model will not apply to people serving extended determinate or life sentences.

Bad behaviour while in prison would lead to additional days being added through the existing adjudication process. The Bill proposes doubling the maximum time that can be added for each incident, from 42 to 84 days per incident. Multiple incidents of bad behaviour would lead to punishments being added consecutively.

Clinks Thinks... (The Progression Model)

Enabling a greater number of people to serve an increased proportion of their sentences in the community is a positive move. Yet the mechanism for achieving this – the proposed progression model – has not been constructed in a manner that will allow for people in prison to engage with regimes designed with rehabilitation in mind.

'Earned' release could have been predicated on positive engagement with prison regimes, such as through involvement in prison education and work, encouraging people to use their time in custody constructively. Instead, as we reference above, eligibility for earlier release will rely on the absence of bad behaviour instead of incentivised good behaviour.

By basing release on the absence of bad behaviour, there is a significant risk that such a system could be open to subjective interpretation, abuse and entrench existing disproportionality that is well-evidenced across the prison estate. Assessments as to whether a person has behaved well or poorly, and their resulting treatment, is often inextricably tied to a person's race. For example, Action for Race Equality have highlighted how Black and Muslim people are more likely to have disproportionate levels of force used against them due to racial bias and prejudice. Behaviour stemming from neurodivergence, mental health issues, or learning disabilities could also lead to people being deemed ineligible for the progression model.

As a result, as the progression model is implemented, several factors must be taken into consideration, including:

- Exploring how such a model will work in a prison estate where regimes continue to be so restricted
- Ensuring the model does not exacerbate existing disparities such as those that exist for racially minoritised people in prison
- Putting in place safeguarding mechanisms so that people suffering from trauma, mental health conditions, learning disabilities or who are neurodivergent are not disadvantaged by the new system
- Ensuring that accountability mechanisms are put in place to guard against abuses of the system
- Examining current adjudication processes to measure their effectiveness
- Ensuring the provision of tailored resettlement support, available for people once deemed eligible for the progression model, including gender-specific considerations such as safe, suitable accommodation in the community for women

There are also specific risks that the model may pose for women. A lack of active/intensive supervision from probation when in the community may leave women isolated. For women's centres and specialist providers to be able to offer essential support they need to be appropriately funded and commissioned to provide wraparound support for the duration of a sentence. Such support would provide positive outcomes such as reducing recall risks.

Thorough consultation with the widest possible range of stakeholders is required before the implementation of any progression model. Please see this Clinks guest blog, written by the CEO of the Prisoners' Education Trust, Jon Collins, on how to get 'earned progression' right.

Clinks Thinks... (Maximum time added to a custodial sentence, following adjudication)

Adjudication processes in prisons are already deeply problematic, hindered by chronic staffing shortages and severe prison capacity pressures. As the Howard League has noted, adjudication practices across the prison estate have been beset by longstanding issues around fairness, consistency, and transparency, all of which have been exacerbated by ongoing operational difficulties.

Increasing the number of days that can be imposed, without first addressing the systemic flaws in adjudication, risks compounding injustice for people in prison. We struggle to see how the benefit of this measure outweighs the potential harm, especially in the absence of any clear evidence that longer sanctions improve safety or rehabilitation outcomes. Evidence drawn from the voluntary sector, including from Samaritans' Prison Listener Scheme, demonstrate that punitive extensions rarely tackle the root causes of prison misconduct and frequently contribute to distress, disengagement, and reduced access to rehabilitative activities.

We would therefore urge the government to instead focus on structural improvements to adjudication, prioritising fairness, adequate staffing, and support for people in prison. Without these reforms, the proposed measure is likely to deepen existing problems and leave both prison staff and prisoners at greater risk of negative outcomes.

Presumption against short sentences of 12 months or less:

The Bill introduces a presumption to suspend short, custodial sentences of up to 12 months. There will be exemptions, including for breach of court order and for those who are considered to pose a significant risk of harm, and will be room for judicial discretion.

Clinks Thinks...

The move towards significantly curtailing short custodial sentences is welcome, though is a missed opportunity given the decision to pursue a presumption towards suspension as opposed to outright abolition, with exemptions.

The voluntary sector has been advocating, for many years, against the overuse of short, custodial sentences. The missed opportunity stems from the suspension of these sentences, which will widen the net in terms of the numbers of people who will remain at risk of custody due to their suspended sentences. This is likely to have a knock-on effect on the numbers of people being recalled to prison.

A presumption towards suspension also removes judicial autonomy given there would be the presumption to automatically hand down a suspended sentence. Such a sentence is, for all intents and purposes, a custodial sentence, and removes autonomy from sentencers in being able to sentence people to more effective resolutions – such as community orders – which would allow for non-custodial interventions to be in put place, tailored to the individual and designed to address need.

A straight presumption against short sentences, with no suspension, would likely increase the utilisation of community alternatives, proven to be more effective at reducing the rate of reoffending.

A briefing by Unlock sets out an additional barrier related to the imposition of suspended sentences – that they are ostensibly treated the same as custodial sentences in relation to future disclosure. The briefing explains that 'any custodial sentence (regardless of length or whether it is suspended) can never be filtered, so will always be disclosed on elevated checks.'

There is also the risk of up-tariffing in order to circumvent the presumption to suspend short sentences. We urge consideration of mechanisms to ensure that this does not transpire.

Further, to cater for the increased demand for community support services that will result from the suspension, there must be an increase in funding for the voluntary sector – as recommend in the ISR's final report – so that it can continue to provide sustained, holistic support.

This is especially true for women. Gender-specific, holistic, community support that is provided through women's centres and community hubs can make a significant difference in engagement with probation and sentence compliance. Therefore, the re-commissioned Commissioned Rehabilitative Services (CRS), and the women-only pathway, must ensure full cost recovery for voluntary organisations and be commissioned in a way that enables the provision of support for the appropriate duration and type of support required.

Suspended sentences:

Sentencers will be able to suspend sentences of up to 3 years, as opposed to the previous 2 years, as well as being able to prevent Extended Determinate Sentences (EDS) or Sentences for Offenders of Particular Concern (SOPC) from being suspended.

Clinks Thinks...

Although we hope that this extension will allow courts greater autonomy to utilise community-based supervision (unlike the presumption to suspend short custodial sentences, which limits judicial autonomy), and promotes rehabilitation in the community rather than immediate custody, we remain concerned about the imposition of suspended prison sentences.

We are worried they will pull more people into intensive supervision for low-level offences, increasing the scope for technical breaches of license condition, and potentially resulting in more, not fewer, people ending up in custody for non-compliance rather than new offences.

Individuals under community supervision will also potentially require support for up to 3 years, intensifying demand on voluntary organisations providing housing, health, mental health, and rehabilitation services. Without increased funding and capacity building, as was recommended in the Independent Sentencing Review, this could overstretch services and reduce effectiveness, and shift the crisis in prisons to a crisis in probation and the community.

Regarding gendered support, we know that many specialist women's service providers faced a funding crisis at the end of this financial year – which is already impacting staffing levels and the sustainability of services. Without clarity on the Ministry of Justice's core costs and interventions grant funding, many organisations will simply not be able to offer ongoing services.

Our stance remains that an increased utilisation of community sentences is preferable to an extension in the timeframe of suspended sentences and an increase in their overall use due to the proposal concerning short, custodial sentences. The caveat is that any measure that reduces the likelihood of an immediate custodial sentence is one that we can support, hence our general support of the expanded timeframe.

Deferred sentences:

Sentencers will be able to defer sentences for up to 12 months, up from the previous figure of 6 months.

Clinks Thinks...

We advocated for such a measure in our response to the initial call for evidence and therefore welcome the provision increasing the timeframe sentencers can defer sentences for. This will ensure greater flexibility for sentencers, whilst allowing for a longer period within which people can access support services and ultimately demonstrate compliance with any, attached conditions. Compliance should influence subsequent sentencing decisions at the end of the deferment period, towards less punitive and more rehabilitative outcomes, which is particularly important for people with complex needs. To support deferral, it is essential that sentencers are aware of the local, voluntary services that are available to support effective engagement and that these services are appropriately funded to enable the sector to provide holistic support, where needed.

Purposes of sentencing:

The statutory purposes of sentencing will be amended to specifically reference victims.

Clinks Thinks...

We welcome this amendment as it aligns with supporting a justice system that can simultaneously address the needs of victims and people who have committed offences. It opens up opportunities to expand restorative justice approaches, as referenced above, which are inherently victim-centred and can help repair harm while reducing reoffending.

Drawing from the response by Why Me? to the Sentencing Review consultation, restorative justice is a powerful but underutilized tool that facilitates dialogue between victims and perpetrators of an offence, helping perpetrators to take accountability and victims to find healing. The inclusion of victims within the purposes of sentencing reinforces the rationale for integrating restorative justice more deeply into sentencing frameworks, providing better outcomes for all parties involved.

This also provides an opportunity to focus on the importance of VAWG (Violence Against Women and Girls) victims, who are often subject to violence, abuse, coercive control and exploitation. These victims must be afforded care and protection, and restorative justice approaches may not be appropriate, with victim safety needing to be at heart of victim-focused sentencing.

Community

Expansion of Electronic Monitoring (EM):

Electronic monitoring will be expanded for people under intensive supervision – the second stage of the three-stage, progression model. This will be supported by an additional investment of £100 million.
The Bill will also legislate for a presumption that everyone leaving prison will be 'tagged' on release as part of the intensive supervision phase. Probation Staff will be able to specifically decide not to use tagging.
Further, there will be a pilot – to be established in October – that will see some people tagged before they are released, with plans for a wider rollout.

Clinks Thinks...

This expansion has its benefits, particularly in allowing more people to be supervised in the community thereby helping – in part – to mitigate the ongoing issue of prison overcrowding. We always advocate for need, wherever possible and appropriate, to be addressed in the community as it enables greater access to treatment, care and support from local voluntary organisations, increasing the likelihood of effective resettlement.

That being said, several concerns remain regarding the use of electronic monitoring (EM).

We anticipate that there will be implementation issues, since there have been concerns about tagging reliability and issues with Serco's performance in electronic monitoring mentioned during the Second Reading of the Bill. We are also concerned about how appropriate this technology is for people with disabilities or neurodivergence, and possible negative impacts (such as barriers to employment if tags are visible).

The increased use of EM should not exacerbate inequalities or trauma, and the expansion in EM must be backed by support services. The rollout of EM must also be resourced and administered clearly, to ensure that people are not confused about their release conditions, which is a common issue related to EM.

We are also concerned about the safety of women and vulnerable people when they are tagged. Women may end up being confined to an area where they are not safe due to factors such as having partners who have previously engaged in domestic abuse knowing their location, as well as potentially leaving them vulnerable to drug dealers. There is also the issue of stigma for women, which can sit differently than with men – with tags often being seen as a badge of honour. Women tend to be judged as being 'doubly-deviant', once for being a labelled an 'offender', once for being a woman, and potentially a third time for being from a racially minoritised group. It is therefore vital to recognise the impact of shame and stigma on women, given how they can significantly increase mental health and self-harm risks.

Replacement of the Rehabilitation Activity Requirement (RAR) with a new probation requirement:

Clauses 11 and 12 in the Bill will introduce a new 'Probation Requirement', to replace the Rehabilitation Activity Requirement (RAR). The intention is to give probation practitioners greater flexibility in aligning engagement with a person's individual risks and needs.

Clinks Thinks...

We support the replacement of the RAR with a new probation requirement. Such a change is welcome, as it will allow probation officers greater flexibility to design interventions focused on rehabilitation and desistance that are more responsive to individual needs and replace the current often-arbitrary and rigid one-size-fits-all approach.

The ineffectiveness of RARs has been highlighted by the Ministry of Justice, with evaluations attesting to their inconsistency, unclear objectives, and a lack of meaningful rehabilitative activity, with RARs often becoming a "catchall" administrative requirement rather than enabling the provision of effective support. This new approach should be particularly beneficial, particularly for women, as this offers them the flexible support models that they often require, whilst enabling women's specialist providers to offer individually tailored support packages. To make a success of this reform, appropriate funding needs to be provided for the voluntary sector.

The voluntary sector must be extensively involved in the development of this new probation requirement, given its critical role in supporting people in the community and we welcome the MoJ's commitment to do this.

New community order requirements – bans and restriction zones:

Trailed before publication of the Bill, sentencers issuing suspended and community sentences will be able to add additional requirements such as driving and drinking bans, as well as bans from sporting events.

In the changes to current restrictions for people on probation, there will be a reversal of current exclusion zones which prevent people on license from going into certain areas. Instead, there will be victims-focused, 'restriction zones' that will aim to restrict people on release to specific areas.

Clinks Thinks...

Despite aiming to provide a more tailored, flexible restriction-zone approach that is proportionate and inclusive of victim needs, these clauses are not based on evidence of what works in rehabilitation, such as restorative justice, which is proven to reduce reoffending and improve victim satisfaction, highlighted in our response to the call for evidence for the Independent Sentencing Review.

Any actions or measures that are taken against people who have committed an offence should be proportionate and measurable. They should actively address a person's risk of reoffending rather than being a blanket punishment that bars people from ordinary activities. Not only do bans against going to pubs and football stadiums not necessarily reduce reoffending or help with rehabilitation, but we also believe that they are entirely unworkable.

Similarly, in the case of restriction zones, because we know that women can simultaneously offend and be victims of offending, there is danger of restricting women and vulnerable people to spaces where they will be unsafe. Restriction zones may also hinder rehabilitative efforts, increase the workload of the probation service, and raise the number of recalls to prison.

The imposition of additional license conditions should always be proportionate to risk, and avoid creating barriers to effective resettlement, otherwise there is a real risk of an increase in the number of people breaching their conditions and being recalled to prison. We would therefore advocate for careful implementation and safeguarding to prevent unintended harm, net-widening, or loss of support for vulnerable people.

Early termination of community orders and supervision period of suspended sentence orders (SSOs):

Clauses 36 and 37 will establish a 'community sentence progression scheme' in the Probation Service, that would provide incentives for engagement with probation and community order requirements. These two clauses will enable the early termination of a Community Order (CO), as well as the supervision period of an SSO, if the person has completed all court-ordered requirements and all other objectives in their sentence plan.

For people on SSOs, their suspended sentence can still be 'activated through the full period of the originally sentenced order length.'

People serving community sentences will also be able to earn credits, through engagement with the requirements of their order. This will allow them to earn time off the unpaid work requirement if they engage effectively.

Probation officers will also be able to end community orders once a person has completed all of their requirements, instead of having to wait until the end of the order.

Clinks Thinks...

These clauses are welcome as they should incentivise people to comply with court-ordered requirements and complete their orders more quickly, thereby reducing their interaction with the criminal justice system.

To ensure success, it is vital that there are truly rehabilitative offers available in the community that form a part of any community order.

Unpaid Work requirements – publishing of names and photographs:

Clause 35 would enable 'a provider of probation services to publish the names and photographs of offenders (aged 18 and over) subject to an unpaid work requirement.'

Clinks Thinks...

The proposal to 'name and shame' those subject to unpaid work requirements provokes particular concern for the secondary identification of children and/or care dependent of the person impacted, as has been raised to us by members of Clinks' Families Network. This would only further increase the potential for any children affected to experience stigma, potential bullying and personal shame.
We therefore recommend that this clause (35) is removed in its entirety.

As the Government has committed to supporting the children affected by parental imprisonment, through a specific manifesto commitment, identifying their parent in this way would 'fly in the face' of this agenda. There is a risk of unintended consequences of such identification, and how that impacts on a child's wellbeing, physical and mental health and safety.

Instead, policy should focus – as set out by the Parental Imprisonment Collective and other voluntary organisations supporting families impacted by the criminal justice system – on embedding trauma-informed, child-centred principles, while investing in 'support systems that reduce stigma and strengthen recovery.'

Additionally, given our work focused on women in the criminal justice system, we know that the publication of women's images and names not only infringes their privacy but could be an absolute disaster for their safety. Many women who end up in the criminal justice system have experienced domestic abuse and by publicising their images and names, it becomes very likely that their abusers will be able to find them. The impact on women would be highly harmful and would be likely to exacerbate existing mental health conditions and undermine other Government commitments intended to reduce violence against women and girls (VAWG).

Income reduction order (IRO):

There will be a new ancillary order which will be available to be issued alongside suspended sentence orders. An IRO may be issued to a person serving a SDS who is deemed likely to generate a significant income to pay a monthly amount which corresponds to a particular percentage of their monthly income above a threshold for up to the duration of their suspended sentence.

Clinks Thinks...

Similar to what has been discussed already, although this order is intended to ensure that community sentences remain punitive, it has the potential to undermine rehabilitation and act as an unjust burden on people who have committed offences and their families. Although the exact income threshold is yet to be announced, it can still create unnecessary financial hardship for people under suspended sentence orders, particularly those just above the minimum threshold. For individuals already struggling to meet basic needs, additional deductions from their income could push them into crisis or destitution, making it even harder to stabilize their lives or engage successfully with support services.

We are particularly concerned about the effect of the IRO on women in contact with the criminal justice system, since they are often single parents, struggling to provide for their families. Any further financial penalties could therefore have disastrous consequences for them and their children and will do little to promote rehabilitation.

Ultimately, there need to be guidelines that ensure that these measures are used proportionately, appropriate for people's situation and are financially feasible.

Amendments to Home Detention Curfew (HDC):

Clause 23 of the Bill provides for a significant curtailment of the use of Home Detention Curfew, with only those serving certain youth sentences under the Sentencing Code now eligible for HDC. As a result, adults serving Standard Determinate Sentences (SDS) will no longer be eligible for early release under HDC.

Clinks Thinks...

Given the proposed reforms to the sentencing regime – predominantly via the progression model – greater numbers of people will be eligible for earlier release, at the 33% stage of their custodial sentence, negating the need for early release under HDC.

To support these changes, it remains essential that effective resettlement support is provided once people are released into the community and that planning for release happens early enough to provide for successful outcomes.

Recall:

The Bill will amend recall provisions for those serving an SDS by replacing short-term fixed-term recalls of 14 or 28 days with a single 56-day fixed-term recall period. After 56 days, individuals will be automatically released on licence except in exceptional circumstances. Certain offences, including those classified as high-risk (such as terrorism, serious domestic abuse, and those on MAPPA levels 2 and 3), are excluded from this fixed-term recall and will continue to face standard recall subject to full parole review.

This goes further than recently operationalised changes to recall which mandated 28-day fixed-term recalls for people serving Standard Determinate Sentences of less than the four years.

Additionally, standard recall will be removed for most people serving SDS.

Clinks Thinks...

The provision to reduce the number of standard recalls is welcome given the prolonged periods in custody that can result for many people, which is exacerbated by the fact that approximately 75% of recalls occur due to non-compliance, as opposed to reoffending – with non-compliance particularly prevalent among women. Issues driving the high number of recalls include poor communication between stakeholders, a lack of effective, resettlement support and inconsistent decision-making.

The concern with the provision to extend the FTR period to 56 days is that this fails to address the underlying causes behind the high rate of recalls. Instead of addressing these causes in the community, thereby reducing the likelihood of a person being recalled to prison, extended FTRs risk simply increasing the 'revolving door cohort' of people who are consistently recalled and then re-released. This will have a detrimental impact on people, and on voluntary organisations delivering resettlement activity.

There will also be greater numbers of people at risk of recall given the reforms to short sentences. Instead of an abolition, the presumption to suspend would lead to more people being at risk of recall in the event of breaching any conditions.

For women in contact with the criminal justice system, there are specific drivers behind the high number of recalls. Unsafe and unsuitable accommodation is one of the main drivers, as well as difficulties attending probation appointments due to transport and or childcare responsibilities. Additionally, members of our Women's Network Forum highlighted lack of engagement with support services and the need to be linked in with the right support, ahead of release. Any approach to reducing the number of recalls much therefore be gendered, recognising the factors specific to women.

We also urge the Government to consider the proposals developed across the voluntary sector—through the Recall Reform Coalition – and in Switchback's Prison Recall Report.

In addition, we recommend that a presumption against recall, similar to the proposal on remand, is implemented. In such a scenario, recall would be a last resort and probation would instead have additional options to tailor support/requirements to people at risk of recall. This approach could be reinforced by the creation of an 'early warning system', put in place to identify those who are at risk of recall. Again, this could allow for support to be tailored to mitigate the risk but also provide greater transparency for the people who are at risk of recall.

Removal of Post-Sentence Supervision (PSS):

Clause 31 of the Bill would repeal Post-Sentence Supervision (PSS).

Clinks Thinks...

Given the high rate of reoffending for people who have served short, custodial sentences, it is clear that PSS continues to be ineffective. We therefore strongly support the repeal of PSS, as the evidence also shows that supervision can get in the way of rehabilitation as it is not desistance informed and have argued against its use for people on short sentences for several years. For example, the Prison Reform Trust have found that PSS can increase imprisonment rates unnecessarily, lead to high breach rates and fail to be cost-effective.

According to the Ministry of Justice, HM Inspectorate of Probation have identified that "there is no strong evidence that PSS is effective." In their briefing on the Sentencing Bill, the Prison Reform Trust agree with this assessment, and argue that resources should be focused on interventions that have proven rehabilitative benefits, and in the current context of operational challenges facing probation, the ongoing use of post sentence supervision cannot be justified.

We strongly recommend that when people are discharged from supervision, they should have appropriate signposting to the kind of treatment and services that they would require.

Remand/bail:

The Bill goes beyond the remit of the ISR, which did not focus on the issue of remand. It will do so by amending the 'no real prospect of custody test' (set out in the Bail Act 1976), which should ensure that there are fewer exceptions to bail when an immediate custodial sentence is considered to be unlikely. The same Act is being amended to 'permit the court to impose an electronic monitoring requirement on those defendants who would now be bailed due to this change.' Additionally, the list of factors that the court should take into account will be amended, namely whether a person is pregnant, a primary caregiver, or a victim of domestic abuse.

Clinks Thinks...

This is a welcome change. We, and the wider voluntary sector, have consistently advocated for reducing the use of custody, including through a significant reduction in the remand population – with approximately one in 5 people in prison now on remand.

For women, we have often heard of sentencers using custodial remand as a 'place of safety', exacerbated by the lack of safe, suitable accommodation in the community and more general, community provision. To support reforms to the bail process, it is therefore vital that the Government removes the courts' power to remand defendants in custody for their own protection, and that work with housing providers is prioritised to ensure access to appropriate accommodation for women.

New legal requirement for Sentencing Council guidelines to be agreed by the Justice Secretary

There is a clause that introduces a statutory obligation on the Sentencing Council to obtain joint approval from the Justice Secretary and the Lady Chief Justice for 'all sentencing guidelines before final, definitive guidelines are issued.' This clause aims to increase democratic accountability.

There will also be a statutory obligation for the Council to publish an annual business plan, which must be approved by the Lord Chancellor before publication.

Clinks Thinks...

We do not support this new change. The politicisation of sentencing policy is arguably the major driving factor behind sentence inflation, leading to the prison capacity crisis. The requirement for the Justice Secretary to jointly approve all sentencing guidelines risks undermining the independence of the Sentencing Council and politicising what should be a judicially led process. While the clause is presented as an attempt to increase democratic accountability, in practice it creates undue opportunities for political interference in sentencing. We note that other organisations, including Liberty and our member organisation Justice, have also raised concerns about this erosion of independence.

Instead, we support the recommendations in the ISR which emphasize the need for procedural fairness, transparency, and improved oversight of sentencing and probation services, and, as a culmination of these factors, the establishment of an external advisory board to advise on sentencing policy, as well as a requirement for ministers to make an annual report to parliament on prison capacity. This board would be responsible for overseeing legislation and policy not rooted in political motivations, helping to safeguard independent decision-making. While the government has formally accepted this recommendation, there remains no clear plan for its implementation, which leaves a significant accountability gap.

We made a similar recommendation in our response to the call for evidence for the Sentencing Review, where we proposed an advisory group of independent experts to oversee sentencing policy changes and provide advice to ministers. We have stated that this body could be appointed by, or responsible to, the House of Commons Justice Committee, or could be completely independent, and would include a diverse range of perspectives such as academic experts, voluntary sector representatives, and victims' families.

Whilst we eagerly await the implementation plan for the proposed advisory boards, we would strongly urge the government to take into consideration the recommendations we have made above. Doing so would be beneficial as it provides expert, diverse, and impartial oversight of sentencing policy changes, helping to ensure that policies are evidence-based, fair, and effective at reducing reoffending.

Finding of domestic abuse:

Clause 6 of the Bill introduces a 'formal judicial finding of domestic abuse at the point of sentencing in criminal cases', to more effectively identify domestic abuse perpetrators.

Clinks Thinks...

We welcome this clause as it helps identify those who have committed domestic abuse more clearly, as well as supporting better management of people who have committed an offence. As referenced in our response to the ISR's initial call for evidence, this finding must be part of a wider approach including timely access to tailored interventions and improved data sharing between criminal justice and voluntary sectors. Effective domestic abuse responses rely not just on sentencing, but also on sufficient resources, multi-agency collaboration between the voluntary sector and probation, and trauma-informed, personalised interventions to reduce reoffending and support victims.

There is a wealth of information and research pointing to what can make a difference in reducing domestic abuse and protecting victims, including from Women's Aid. In support of this, we advocate appropriate funding for mechanisms such as Multi-agency Risk Assessment Conferences (MARACs) and Independent Domestic Violence Advisers (IDVAs). These must work alongside any measures to manage people convicted of domestic violence.

It should also not be forgotten that women in contact with the justice system are often survivors of domestic abuse. This experience of abuse, such as through coercive control, can often be directly linked to their subsequent criminalisation. This is set out in greater detail in a briefing from the All-Party Parliamentary Group on Domestic Violence and Abuse.

Further reading:

- The Sentencing Review Launch – Anne Fox
- Independent Sentencing Review: Clinks response to the call for evidence
- Independent Sentencing Review: History and Trends in Sentencing (Clinks blog)
- Independent Sentencing Review: Final Report
- Where next on the Sentencing Review?
- Clinks – the Independent Sentencing Review: an opportunity to fundamentally reshape our criminal justice system
- Getting 'earned progression' right

Our vision

Our vision is of a vibrant, independent and resilient voluntary sector that enables people to transform their lives.

Our mission

To support, represent and advocate for the voluntary sector in criminal justice, enabling it to provide the best possible opportunities for individuals and their families.

Join Clinks: be heard, informed, and supported

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Published by Clinks October 2025