

Equalities Statement

Policy Summary

This consultation seeks views on a minimum term starting point for (i) cases of murder preceded by controlling or coercive behaviour against the murder victim and (ii) all murders committed with a knife or other weapon.

In September 2021, the Ministry of Justice commissioned an independent expert, Clare Wade KC, to undertake a Domestic Homicide Sentencing Review ('the Review'). The purpose was to examine how the current sentencing framework applies to cases of domestic homicide (prosecuted as either murder or manslaughter) where an individual has caused the death of an intimate partner or former partner and identify options for reform.

The full Government Response was published in July, and this announced legislation to give domestic murders specialist consideration in the sentencing framework. These measures were in direct response to recommendations made in the Review and mark a step change in the way in which our sentencing framework responds to cases of domestic murder. However, we recognise that there are issues which would benefit from further consideration, beyond the recommendations made in the Review. That is why we committed to launch this public consultation; to ensure that all options for reform in this area have been fully explored.

We invite feedback on the equalities statement and Question 3 in the consultation relates to this.

Equality Duty

Section 149 of the Equality Act 2010 places a duty on Ministers and the Department, when exercising their functions, to have 'due regard' to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
- Advance equality of opportunity between different groups (those who share a relevant protected characteristic and those who do not); and
- Foster good relations between different groups (those who share a relevant protected characteristic and those who do not).

There are nine "protected characteristics" under the Equality Act 2020 – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity. This statement

considers the potential effects of the options we are seeking views on, on the protected characteristics for which we have relevant data: race, sex and age.

Equality Data

In considering the potential effect of the options being consulted on, we have analysed the relevant available data of the 120 cases from the intimate partner domestic homicide case review conducted for the DHSR. This data relates to the protected characteristics of race, sex and age (see Appendix A in the Government's response to the Review).¹ Where relevant, published data on the general population, prison population and sentencing are provided for comparison.

Additionally, within the sample of 120 murder and manslaughter cases, we have stated where relevant murder cases (those with a history of controlling or coercive behaviour by the perpetrator against the victim identified; and, separately, cases where a weapon was used) may be affected differently, in comparison to the potential effect of a change which would apply to the whole sample of 120 cases.²

This analysis is subjective in nature, relying upon an evaluation of the sentencing remarks. It is not possible to precisely determine the change to tariff lengths that may occur as a result of a higher starting point, and therefore the consequential outcomes on those with particular protected characteristics. Sentencing in individual cases is a matter for our independent courts and is based on all the circumstances of a case. As such, it is not possible to precisely estimate these impacts.

Data availability and limitations

Details on the case sample review and data on their protected characteristics, including limitations, are set out in Appendix A of the Government's response to the Review.³ 115 of the 120 cases have data on race available. This data is categorised using officer-identified classification and, as such, may not be directly comparable to an individual's self-identified ethnicity. 115 of the 120 cases have data on the ages of the perpetrator. For the analysis of race and age, cases where data are unavailable have been excluded from the analysis. All 120 cases have data on sex available.

¹ [Domestic Homicide Sentencing Review - Government Response to the Independent Review by Clare Wade KC \(publishing.service.gov.uk\)](#). As set out in Appendix A, data on sex was identified via sentencing remarks, whilst data on ethnicity and age was taken from the Home Office Homicide Index (two cuts of the data were received - as at 15 December 2020 and as at 2 December 2022; figures are subject to revision as cases are dealt with by the police and by the courts, or as further information becomes available).

² As set out in the Impact Assessment (IA) for the Consultation, further analysis of the case file review has informed the IA and this equalities statement. See paragraphs xx to xx in the IA for details on the case file review and its limitations.

³ [Domestic Homicide Sentencing Review - Government Response to the Independent Review by Clare Wade KC \(publishing.service.gov.uk\)](#)

The scope of the Review and therefore the 120 cases in the case sample was limited to cases where the victim was a partner or ex-partner of the offender. However, the options being consulted on are such that implementing them will involve application to other relationships within a domestic context (for controlling or coercive behaviour) and to all cases of murder, whether in a domestic context or not (for all murders committed with a knife or other weapon). We do not currently have robust data for these cohorts, therefore at this stage we have not been able to consider the potential effects of the options on the protected characteristics of this wider cohort. We hope to be able to obtain this data in the future to enable consideration of the equality implications on this wider cohort as the Government carefully considers the responses received. In the absence of data for these cohorts, we have used available data on protected characteristics for all murders below.

Protected Characteristics

*Race*⁴

In 2022, where ethnicity was stated, 45% of those sentenced for murder were from an ethnic minority group (26% a black ethnic background; 11% an Asian; 5% mixed; and 2% an other background).⁵ This is higher than for all sentences given in 2022 where 21% were from an ethnic background (where ethnicity was recorded/stated) and compared with the general population, where 18% belong to an ethnic minority group, including 9% Asian, 4% black, 3% mixed and 2% other.⁶

In the intimate partner domestic homicide case file review, 92 (80% of those with data on ethnicity available) of the perpetrators were white or white British, 12 (10%) were Asian or Asian British, 8 (7%) were black or black British, and 3 (3%) were classed as other.⁷

Sex

⁴ Figures for specific ethnic groups are not all directly comparable across different sources due to different categorisation approaches.

⁵ Outcomes by Offence data tool, [Criminal Justice System statistics quarterly: December 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2022)

⁶ 2021 Census data, [Ethnic group, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/ethnicityandnationality/bulletins/ethnicgroupenglandandwales)

⁷ Appendix A, [Domestic Homicide Sentencing Review - Government Response to the Independent Review by Clare Wade KC \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/114444/domestic-homicide-sentencing-review-government-response-to-the-independent-review-by-clare-wade-kc.pdf)

In 2022, 94% of sentences for murder involved male defendants.⁸ In comparison, men make up 49% of the general population,⁹ 96% of the prison population¹⁰ and 78% of offenders convicted in 2022.¹¹

99 of the 120 (83%) perpetrators in the intimate partner domestic homicide case sample were male, and 21 (18%) were female.^{12,13}

For murder, 81 of the 89 (91%) perpetrators in the case sample were male, and 8 (9%) were female.¹⁴ All murder cases with a history of controlling or coercive behaviour by the perpetrator against the victim identified in the sample had male perpetrators and female victims. A weapon was used in 73% of murder cases. All female perpetrators with a male victim used a weapon.

Age

In 2022, 70% of those sentenced for murder were aged between 18 and 39, with only 3% aged 60 or over.¹⁵

The average perpetrator age across all cases in the intimate partner domestic homicide case review sample is 43. The range of perpetrator ages in the case sample spanned from 17 to 84. At the time of the latest census,¹⁶ the median age in England and Wales was 40, and more than half (52%) of the sentenced prison population is aged between 30 and 49.¹⁷

Sexual orientation

Whilst no data is available on the sexual orientation of perpetrators or victims, all 99 cases in the intimate partner domestic homicide case review with male perpetrators

⁸ Outcomes by Offence data tool, [Criminal Justice System statistics quarterly: December 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2022)

⁹ 2021 Census data, Population and household estimates, England and Wales: Census 2021, unrounded data, 2 November 2022, [Population and household estimates, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.gov.uk/government/statistics/population-and-household-estimates-england-and-wales-2021)

¹⁰ At end of June 2022, Annual Prison Population: 2022, [Offender management statistics quarterly: January to March 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2022)

¹¹ Outcomes by Offence data tool, [Criminal Justice System statistics quarterly: December 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2022)

¹² Percentages do not add to 100% due to rounding.

¹³ Appendix D, [Domestic Homicide Sentencing Review \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/111111/domestic-homicide-sentencing-review)

¹⁴ Ibid.

¹⁵ Outcomes by Offence data tool, [Criminal Justice System statistics quarterly: December 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2022)

¹⁶ 2021 Census data, Population and household estimates, England and Wales: Census 2021, unrounded data, 2 November 2022, [Population and household estimates, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.gov.uk/government/statistics/population-and-household-estimates-england-and-wales-2021)

¹⁷ At end of June 2022, Annual Prison Population: 2022, [Offender management statistics quarterly: January to March 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2022)

had female victims.¹⁸ 20 of the 21 cases with female perpetrators had male victims, and the remaining one case had both a female perpetrator and victim.

Equality Considerations

Direct Discrimination

Direct discrimination occurs when a policy results in people being treated less favourably because of a protected characteristic. Our assessment is that the options presented in the consultation are not directly discriminatory within the meaning of the Equality Act. Application of the options presented in the consultation will be dependent on the particular circumstances of a case and will apply equally to all offenders regardless of their protected characteristics. We therefore do not consider that the options presented in the consultation would result in people being treated less favourably directly because they possess any particular protected characteristic.

Indirect discrimination

Indirect discrimination occurs when a policy applies equally to all individuals but would put those with a particular protected characteristic at a particular disadvantage compared to those who do not share that characteristic. Our assessment is that options presented in the consultation are not indirectly discriminatory within the meaning of the Equality Act.

By virtue of the overrepresentation of this group in the cohort of offender to which these changes will apply, we acknowledge that these changes are more likely to affect male offenders. In general men are overrepresented at most stages throughout the criminal justice system, including in relation to homicide offences.

We do not, however, consider that this overrepresentation will likely result in any particular disadvantage for male offenders or for any other offenders with particular protected characteristics. Our initial assessment is that the options being consulted on would be a proportionate means of achieving the legitimate policy aim of ensuring that sentencing is commensurate with the severity of the crime, in cases of murder preceded by controlling or coercive behaviour and all those committed with a knife or other weapon. Overall, therefore, we do not consider that the options being consulted on are likely to result in any unlawful discrimination.

Harassment and victimisation

We do not consider there to be a risk of harassment or victimisation within the meaning of the Equality Act as a result of the options presented in the consultation.

Advancing equality of opportunity

The options presented in the consultation are considered likely to advance equality of opportunity for women through enabling greater protection through the strengthening of sentences for murder cases, including domestic homicide.

Fostering good relations

We do not consider that the options presented in the consultation would have any significant impact on the achievement of this objective.

Monitoring and evaluation

We will continue to pay due regard to the Public Sector Equality Duty and we will update this Equalities Statement as necessary and publish the revised version alongside our consultation response.