



Date **15 April 2015**

Position statement **12-month sentencing**

Background

At present, adult magistrates' courts cannot sentence an offender to over six months' imprisonment for any one offence, or to more than 12 months' imprisonment for multiple either-way offences. (Obviously, they cannot in any event sentence an offender to more than the statutory maximum for any individual offence.) It is also agreed that more cases should be kept in the magistrates' courts rather than being sent to the Crown Court, because the summary jurisdiction can deliver justice more speedily and cheaply – providing faster outcomes for defendants and victims alike, while benefiting the public purse. It is, of course, appropriate that certain cases should always be dealt with by the Crown Court.

The change being proposed

In the Criminal Justice Act 2003, provision was made to raise the maximum sentencing powers for an individual offence to 12 months and to 65 weeks for multiple offences. The intention was to allow more cases to be heard in the magistrates' courts – rather than the Crown Court, with the greater delay and expense which that involves. This has, however, not yet been brought into force.

Concerns raised by others

It has been argued that many cases which could currently be dealt with under magistrates' existing powers are not being handled there at present. Concerns have been raised about the potential impact of 12-month sentencing on the prison population and the attendant costs. Damian Green, then Minister for Policing and Criminal Justice, claimed that 40% of cases committed to the Crown Court for sentencing were subsequently sentenced within magistrates' powers. The MA has responded to their concerns in detail to demonstrate that they are unfounded.

Are these concerns well founded?

The MA believes that there is no evidence to suggest that magistrates sentence more punitively than the Crown Court. Research from the then Sentencing Advisory Panel in 2006, looking at theft from a shop or stall, provided no support for this claim. Decisions about mode of trial prove nothing: the full facts which emerge over the course of a trial or between conviction and sentencing may well result in a lower eventual sentence.

The MA commissioned research to look into the specific issue of committal for sentence, highlighted by Damian Green. This research took an in-depth look at court files in Manchester, to see what could be discovered about why cases there were committed to Crown Court for sentence and then sentenced within magistrates' powers. The research found that:

- these only represented a small number of cases (certainly fewer than might have been thought)
- there were inaccuracies in the data, which suggested that fewer cases met the criteria which Damian Green set out

- in many of these cases, magistrates' courts were following statutory provisions which required them to send the case to the Crown Court
- additional information was often available to the Crown Court to inform their sentencing decision
- it would always be appropriate to send some cases to Crown Court for sentence, even where they ultimately received sentences within magistrates' powers.

The evidence strongly suggests that magistrates are not handing cases up inappropriately, but are exercising their powers appropriately.

The MA's position

The MA is firmly in favour of giving magistrates the power to sentence for up to 12 months. Magistrates have shown themselves able to pass just sentences reflecting the Magistrates' Court Sentencing Guidelines in aggregate, while exercising the appropriate judicial discretion in individual cases. 12-month sentencing would allow more cases to be heard in the magistrates' courts, rather than the Crown Court, and would make for speedier, more efficient and more local justice.

With 12-month sentencing, the Magistrates' Court Sentencing Guidelines would of course need to be updated to provide guidance in cases where a sentence of between six and 12 months would be appropriate. However, with the right guidelines and relevant training in advance of rolling them out, there is no reason why magistrates cannot sentence responsibly and appropriately for these offences, just as they already do for the vast majority of convicted offenders in England and Wales.

Magistrates in the Youth Court already have the ability to sentence offenders for up to two years, and it has been established that they use these powers appropriately.