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Position statement **Abolition of short sentences**

The Ministry of Justice have suggested they may consider abolishing the use of short prison sentences. The MA's response is:

- It is important that any discussion clearly sets out what is meant by “short” prison sentences, and the MA believe it is unhelpful to consider sentences of only a few weeks in the same way as looking at sentences of up to six months.
- Before any decisions are made in relation to the viability of abolishing short prison sentences, robust and effective alternatives to custody must be available in the community, and sentencers must be confident that offenders given a community alternative are supported and monitored adequately. This includes ensuring that breaches are dealt with promptly and appropriately.
- Current sentencing practice is governed by the law, as set out in legislation, case law and guidelines provided by the Sentencing Council (and other appropriate bodies). Any proposed changes must be captured consistently across all relevant resources, as well as being accompanied by necessary training.
- The MA believe that it would not be practical for prison sentences of up to six months to be abolished but do propose some suggestions that might reduce the use of the very short prison sentences:
 - a) For any sentencing decision where the final sentence deemed appropriate is immediate custody of under 8 weeks, sentencers must take a further step back and give a high level community order (CO) in all but the most exceptional circumstances. (For example, where the offender is in the UK for a short period of time and giving an opportunity to engage with community options is not feasible). This could ensure alternatives to custody which included elements of punishment, deprivation of liberty as well as rehabilitation could be used in place of short prison sentences.
 - b) Immediate custody for less than 8 weeks should only be imposed on breach of an existing order, or if an offence is committed while on an existing order. (Note breach of an order that is not a suspended sentence should not automatically mean the imposition of immediate custody). Sentencers must have appropriate discretion to respond to those that repeatedly fail to engage with community options: public confidence in the justice system relies on an understanding that those who commit offences will be punished. If offenders refuse to engage with community alternatives, immediate custody may be the only way to ensure punishment.

We would welcome the opportunity to discuss these proposals with stakeholders to find a reasonable way forward to reduce the unnecessary use of short prison sentences.