

Proposed Whole Life Custody (Scotland) Bill

Introduction

A proposal for a Bill to give Scottish courts the power to sentence the worst criminals to custody for the rest of their lives. The consultation runs from 29 May 2019 to 30 August 2019. All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document. Questions marked with an asterisk (*) require an answer. All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response. Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded. Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here: [Consultation document](#) [Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used

About you

Please choose whether you are responding as an individual or on behalf of an organisation. Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

In a professional capacity I have cared for victims of serious crimes.

Please select the category which best describes your organisation

No Response

Please choose one of the following:

I would like this response to be published anonymously

If you have requested anonymity or asked for your response not to be published, please give a reason (Note: your reason will not be published):

Please provide your name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

Aim and approach

Q1. Which of the following best expresses your view of giving Scottish courts the power to sentence the worst criminals to custody for the rest of their lives?

Fully supportive

Please explain the reasons for your response.

For too long we have focused on the rehabilitative element of serious crime. The victims can never fully recover and some people cannot be rehabilitated due to the nature of their profile. The general public must be kept safe from those who actively choose to commit serious offences for their own desire or perverse pleasure. It is not possible to rehabilitate those who are skilled psychopaths and adept at crafting manipulative rhetoric to deceive the judicial and prison services. As a society we must adopt a zero tolerance to repeat offending for serious crimes.

Q2. How would introducing Whole Life Custody Sentences affect your level of confidence in the Scottish justice system?

Significantly more confident in the justice system

Please explain the reasons for your response

The Scottish judiciary needs to be empowered to execute the hugest safety measures to protect the general public. They do not currently have the powers to do so. Therefore, they cannot fully protect the general public. To take (or attempt) to take a life is the most serious violation of society. We look to the judiciary and legal system to protect us and society in general.

Q3. Which types of murder should have a Whole Life Custody Sentence as the starting point for sentencing? (Choose all that apply)

The murder of two or more persons, where each murder involves any of (1) a substantial degree of premeditation or planning, (2) the abduction of the victim, or (3) sexual or sadistic conduct

The murder of a child if involving the abduction of the child or sexual or sadistic motivation

The murder of a police or prison officer in the course of their duty

A murder carried out for the purpose of advancing a political, religious, racial or ideological cause

A murder by an offender previously convicted of murder

Other (please specify)

Please explain the reasons for your response

Any murder or attempted murder which can demonstrate a consistent degree of premeditation. Everyone has the democratic right to remain safe. Those who choose to take that right as their own must be removed from mainstream society due to the danger they present.

Q4. Which sexual offences should have a Whole Life Custody Sentence as the starting point for sentencing? (Choose all that apply)

Rape of two or more persons

Rape of a young child

Sexual assault on a young child by penetration

Please explain the reasons for this response.

There is an active choice to exploit another for pleasure. We have a duty to protect minors from seriously dangerous behaviours that impact on their physical, emotional and psychological welfare in the most profound and abhorrent way imaginable. The question you need to ask yourself here is not one of 'degree of magnitude' but if Scotland is willing to represent itself as a country of zero tolerance for the most serious crimes against a person ?

Q5. Are there any other types of offence (other than murder or certain sexual offences) which should attract a Whole Life Custody Sentence as a 'starting point' for sentencing?

Yes (please specify)

Please explain the reason for your response.

We should refrain from seeking to be wholly prescriptive on this matter as it is impossible to compare like-for-like certain types of serious crimes against a person. Consider this; would a judge be empowered to impose a sentence that was just and proportionate if he/she could be entrusted to enact that sentence fairly? This is about the judicial system having a degree of freedom to apply changes to the law and keep the general public safe from those who choose to commit the most serious crimes against a person, and may do so again.

Q6. Which of the following best expresses your view on whether whole life custody should be a sentencing option for younger offenders?

Whole life custody should be an option for any adult offender (aged 16 or over) or for children over the age of criminal responsibility (at the time the offence was committed)

Please explain the reasons for your response.

We know from experience that legal age does not preclude a small minority of individuals from perpetrating serious crimes against a person. Whilst it may be helpful to better understand causation and rehabilitate where this is possible, we know from recent psychopathic cases that youthfulness did not deter a killer. Some people are just evil. Some people are wired differently from mainstream society. Some will always seek to control at any cost. As a society, there have to be boundaries which once crossed, cannot be mended. We have a duty to protect the majority where we have the legal right to do so. Robbie McIntosh is the case in question. Ask yourself this, if he were released tomorrow, would you be content for him to be with someone you care for, irrespective of they are a friend, neighbour or family member? Consider how that fear may be presenting itself to you, and now consider how it must have presented to Anne Nicoll then Linda McDonald. Anne's life was taken in the most viable things and brutal fashion, just because he could. Linda McDonald survives only because others heard her screams and got to her before it was almost too late. If you don not change the law, the consequences of not making the right decision will be far reaching. As a society, we will have further blood on our hands that did not need to be spilled. We must protect those who find themselves at the mercy of these dangerous individuals. The impact of 'doing nothing' or 'changing little' is too great.

Financial Implications

Q7. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have? Please explain the reasons for your response.

Legitimately retain a person behind bars for a full life term cannot be measured solely in financial terms. But for the sake of pacifying a public funding response, here are a few considerations:

1. Police are available to focus on other serious protection work
2. Allied health services (hospital services, GP, social work, MAPA, etc) likewise.
3. Rehabilitative services can focus on those individuals who can benefit from this type of support and funding.

Finally, society can feel safer knowing serious crime is no longer tolerated for a specific time period. The Nicoll and McDonald families are testament to the reason why certain people must be kept behind bars for a full life sentence. Otherwise, society is choosing to forget the crimes against those who are injured and perpetrators will exploit the loopholes that allow them to do so. There are certain acts that must not be enabled. These acts once completed, can never be undone. These perpetrators do not consider or absorb the magnitude of consequence. We have a duty not to release individuals who freely choose to heinously violate the rights of another human being.

Equalities

Q8. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

Positive

Q8. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

Please explain the reasons for your response.

Are you sure a member of the general public would understand this question as it is currently posed? Every UK citizen had the right to ensure it's protected characteristics are met and those elements are upheld in law. The question should be, would everyone in Scotland be protected by a change in the law? Perpetrators of serious crimes against a person breach the rights of their victim, and by default, one or more of their protected characteristics. The behaviour of a serious offender is by default going to breach the protected characteristics of their victim(s). A change in the law therefore enhances upholding the protected characteristics of the EA, 2010. You really should change the direction of this this question.

Sustainability

Q9. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes

Please explain the reasons for your response.

You are seeking to consolidate and modernise a law that is outdated and not fit for the current socially we live in. People will not understand this question either. This is for the Scottish Parliament to complete a sustainable impact assessment, not the general public completing this questionnaire. You are proposing and intervention and it has potentially 2 options; do nothing, or do something.

General

Q10. Do you have any other comments or suggestions on the proposal?

As a society we need to focus on the impact on victims of serious crime and stop being focused on the perpetrator and the probability they may choose to re-offend. Until the balance of risk is considered from the victims perspective, we will never reduce serious crimes. Do the right thing, change this law, enhance the judicial powers so they may be effected wisely and consistently. We must stop people becoming victims by stopping others when they choose to break the invisible bond and take away the rights of another. It's time to make Scotland a safer place to live.