

# 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

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

Please choose one of the following:

**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?

Partially supportive

**Please explain the reasons for your response.**

The whole life tariff in England and Wales is applied in the most extreme cases, and this is how it should be in Scotland. In the case of all but the most heinous and dangerous criminals, the prospect of redemption and/or rehabilitation must be a possibility. Deterrence is a blunt instrument in such cases, rarely putting off the most extreme offenders. In any case, a large proportion of those considered for whole of life sentences are likely mentally ill and likely to be incarcerated indefinitely in a secure hospital, which has the same effect as a whole life sentence. Even there however there is the chance of recovery and rehabilitation, however small.

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

Slightly more confident in the justice system

**Please explain the reasons for your response**

The system is strong and robust as it stands, but the lack of a whole life sentence might lead to abuse of the state hospital system, with a de facto whole life sentence being delivered by indefinite incarceration in Carstairs.

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

**Please explain the reasons for your response**

All of these are at the extreme end of offence, yet not all of these should automatically qualify in my view. Each case must be considered on its merits by the justices. I do not favour a "two strikes and it's whole life" approach as suggested above.

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

**Please explain the reasons for this response.**

All of these could be a start point, but not all should always result in a whole life sentence. Again, there must be the prospect of redemption, even for some of the most unsavoury characters in our society.

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?

Unsure

**Please explain the reason for your response.**

If the concept of treason were considered, then this might qualify. Beyond that, I do not favour widening the application of such an extreme sentence beyond the most hideous homicides and sexual depravities.

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 limited to offenders aged 21 or over (at the time the offence was committed)

**Please explain the reasons for your response.**

I believe 21 is the lower limit in England and Wales, and this seems sensible. While 21 is still horribly young to condemn a person to a lifetime behind bars, to pass this sentence on a minor is utterly abhorrent. Even in the cases of the murderers of James Bulger, this was never an option, and nor should it be in a similar case (God forbid) in Scotland.

## 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.

While a whole life tariff is expensive, the numbers will it is hoped be very small. England and Wales has approximately 75 such inmates, so on a similar population proportion, that puts Scotland's whole life numbers in mid single digits. Cost should not be the issue. That way lies the dangerous road towards favouring capital punishment, which I would not support in any circumstances.

## 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?

Neutral (neither positive nor negative)

**Please explain the reasons for your response.**

The number of cases is likely to be vanishingly small, and the deterrent effect therefore minuscule. I don't think there is really much relevance to many of these categories above.

## 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.**

Small numbers, little effect. Unnecessary question.

## General

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

Prison is supposed to have several purposes: punishment, deterrence, prevention, rehabilitation and the prospect of redemption. In the case of the last two, whole life sentences preclude any prospect of the last two. To live without hope of freedom is as severe a denial of basic rights as society should be allowed to bestow on an offender. In a country without capital punishment (thankfully), it must be reserved for the tiniest proportion of the worst offenders. I would prefer to say it shouldn't ever be right to say someone is beyond redemption in the eyes of the law, but it is a sad fact that there are some. The whole life sentence is an ineffective deterrent, and really only serves as a punishment and prevention of further offences by the same criminal. It is therefore an unremittingly negative outcome, and should be a last resort only for the justice system.