

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".)

Professional with experience in a relevant subject

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?

Fully opposed

Please explain the reasons for your response.

1. Over the years of its operation the introduction of lifetime sentences will fill the prisons with an increasing number of prisoners with no hope of working towards release. Such prisoners will have no incentive to co-operate with the prison authorities and will create a growing management problem. 2. It will create a public pressure from the press and sections of the public for more and more prisoners to be imprisoned for the rest of their lives. The whole life tariff is described in the consultation as "a starting point". There will also be pressure to add to the list of offences for which a whole life tariff is considered "a starting point". It will create public pressure to use whole life sentences in more and more cases. 3. It is not humane to keep an increasing number of old men in prison when it serves no purpose in terms of public protection or deterrence. A growing population of old prisoners will be an inevitable consequence. 4. It will lead to further expensive growth in the prison population. The figures on this in the consultation document are misleading. They only reflect only the numbers in England in the early stages of the whole life tariff. These numbers will build up and up and become a dominant and difficult element of the prison population. In terms of prison discipline such prisoners will have nothing to lose by being difficult or undisciplined.

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

Significantly less confident in the justice system

Please explain the reasons for your response

My confidence in the justice system in terms of the conduct of Judges, the police, prison, social work, lawyers and other professionals and the current legal framework would remain unchanged. My confidence in the legislative framework would be reduced in respect of the sentencing outcomes which would be produced by the introduction of whole life custody

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

None of the above

Please explain the reasons for your response

I am opposed to the introduction of whole life tariffs for any offences for reasons set out previously.

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

None of the above

Please explain the reasons for this response.

I am opposed to whole life tariffs for any offences for the reasons set out above

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?

No- no offences (including murder or sexual offences) should attract a Whole Life Custody Sentence

Please explain the reason for your response.

I am opposed to whole life tariffs for any offence for the reasons already set out above. The use of the term "starting point" in this question is concerning. It suggests that the actual sentence could be more or less severe than the starting point. Since the starting point is a whole life tariff, it is difficult to see what could be more severe than that.

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 not be an option for any offender, regardless of age

Please explain the reasons for your response.

I am opposed to whole life tariffs for any age group for the reasons set out earlier. It seems extraordinary to even raise the question of whole life sentences for children let alone include such a question in a formal consultation document. One of the key elements of the Scottish criminal justice system is the Children's Hearings. They provide a humane and effective approach to juvenile offending. Whole life custody would be totally inconsistent with the ethos and practice of the Hearings. Similarly the use of whole life custody for younger offenders would create a group of prisoners facing decades in prison when they could be rehabilitated and released to make a useful contribution to society through the current legislation and the safeguards provided by the Parole Board and its assessment of risk.

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.

In the longer term the proposed Bill would have a substantial financial effect. Scotland already has a high prison population in European terms. Life and long term prisoners already make up a substantial proportion of the prison population. With whole life sentences this group will become larger and larger as the years go by. This group will become more difficult to manage as there will be increasing numbers of prisoners who have no hope and no incentive to behave. Prison unrest and the accompanying costs will become an increasing problem. In addition as this group get older the prisons will have to face the problems of geriatric care and the diseases of old age with only very limited arrangements envisaged for compassionate release. Prisons are not designed to be old people's homes. While prisoners with dementia may not be a problem in terms of disorder, they will create costly problems in terms of care. The figures in the consultation paper do not cover the costs of the long term build up of whole life sentence prisoners, while suggesting that the numbers will be small. In fact there will be continuous pressure to use the whole life sentence for more and more offences in response to difficult cases. There are no potential savings at all. The costs of reduced supervision in the community will be far outweighed by the extra prison costs. Any proposal of this kind needs the detailed assessment of costs which can only be provided by the Scottish Prison Service.

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?

Negative

Please explain the reasons for your response.

There will be a negative effect on the elderly people who will be kept in prison when they are no longer a danger to society simply to serve out a whole life sentence.

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?

No

Please explain the reasons for your response.

The Bill will impose disproportionate economic impacts in that it will greatly add to the long term costs of the prison population using resources which could be better spent on social needs such as housing, education and health

General

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

It is surprising to see one of the main arguments for introducing a whole life sentence in Scotland is so that Scotland can be like England. Scotland has its own justice system and its own legal traditions. It has chosen to legislate to make it impossible to have whole life sentences with all the disadvantages they bring.

In terms of public confidence in sentencing, much could be achieved by better explanation of sentences. The life sentence as it stands at present is indeed a life sentence in that a person serving a life sentence and released into the community can for the rest of their life be recalled to prison at any time if they are considered to be a risk to the public. They can only be released in the first place if they are considered an acceptable risk by the Parole Board. If this were made clearer at the time of sentencing, the public would be clearer on the nature of the life sentence as it stands and have greater confidence in the system.

Public safety would be increased more effectively by putting more resources into tackling the causes of crime by measures such as control of alcohol and the work of the Violence Reduction Unit rather than by substantial increases in sentences.

The introduction of whole life sentences would lead to an increase in all long term sentences if courts were required by legislation to take the whole life sentence as a "starting point". This would lead to further increases in the prison population.

The existence of the whole life sentence would lead to pressure from some members of the press and the public for an extension of the categories of offence for which this sentence was to be a "starting point" which would in turn lead to further increases in the long term prison population.