

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.

on behalf of an organisation

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".)

No Response

Please select the category which best describes your organisation

Representative organisation (trade union, professional association)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

The Edinburgh Bar Association represents solicitors practising in Edinburgh and the surrounding area. Our members are predominantly criminal defence agents. Our members represent accused persons in a wide

Please select the category which best describes your organisation

range of offences from minor road traffic matters to serious violent or sexual offences and murder. We have also have a wealth of experience of representing prisoners in Parole proceedings.

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

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).

Edinburgh Bar Association

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.

At present, the courts have the power to sentence those convicted of murder and other serious offences to a 'life sentence'. In addition, the courts can impose Orders for Lifelong Restriction where the individual convicted is deemed to present a risk to the public. Both these categories of prisoners cannot be released without the approval of the Parole Board. It is difficult to sympathise with those who commit the most serious crimes but it is important to look at why they commit those crimes to understand how to prevent them. It is our experience that the causes of crime are complex and varied. Unfortunately, these cannot be tackled by simply increasing penalties on conviction. Punishment is necessary to mark the condemnation of crime by society but it is ineffective as a deterrent.

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

Please explain the reasons for your response

Over the last five years, the Parole Board has released just 14.9% of Life Prisoners. Only 2 people on OLRs have been released in that same period. This demonstrates the extreme caution which the Parole Board exercise their discretion to release prisoners. The only criteria the Parole Board consider is the risk to the public. The risk assessment procedures used in preparing reports for the Parole Board are very cautious. Some prisoners will always be deemed high risk due to their index offences. Our confidence in

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the Scottish justice system would be significantly diminished if it did not allow for the possibility of rehabilitation, especially for young offenders.

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

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

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

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

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.

No Response

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?

No Response

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 Response

General

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

No Response