

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 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).

Scott Macdonald

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.

This is a populist measure designed to capture media attention and allow Mr. Kerr MSP and his party to grandstand as "tough on crime". The proposed Bill covers a tiny fraction of crimes - albeit incredibly emotive and distressing crimes - and does not take into account that Scottish judges already have the powers to set a sentence that can reasonably be assumed to exceed the prisoner's life. Consequently, this proposed Bill is at best needless; at worst it is a political stunt. Furthermore, it is a measure that can only disempower Parole Boards. It is not a measure that better allows victims an input to the deliberations of Parole Boards, which is vastly preferable to this more arbitrary measure. Additionally, I have fears that the definition of "most serious" crimes could significantly expand from the definition in this proposed Bill, as happened in England and Wales with the "imprisonment for public protection" (IPP) sentence. It could lead, in these circumstances, to a higher number of inappropriately harsh sentences and a rising prison population in already over-crowded prisons. By European standards, Scotland already has a disproportionately high prison population, and that very high prison population is composed of a disproportionately high number of prisoners serving life sentences (source: <http://howardleague.scot/taxonomy/term/52/all>). This measure is not a helpful or wise means to reform Scotland's judicial and penal systems in order to better protect the population, reduce crime and support victims.

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

Slightly less confident in the justice system

Please explain the reasons for your response

I already trust the Scottish judiciary to make wise decisions using the powers that they already have. This measure, which does not further empower Scottish judges, could - insofar as it has any impact on judicial decision-making - only increase pressure on Scottish judges to deliver more counter-productively punitive sentences.

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

Please explain the reason for your response.

That this question is even asked - and at this embryonic stage of the Bill - confirms my fears that any definitions of "most serious" crimes could easily expand, as happened in England and Wales with the "imprisonment for public protection" (IPP) 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.

If it was to have any impact, I would expect the proposed Bill to increase the prison population, and that it would consequently increase all the attendant financial (as well as social) costs and pressures that Scotland already experiences as a direct result of its disproportionately and unreasonably high prison population.

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

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.

Scotland's prison population is already disproportionately, unreasonably and harmfully high by European standards. This measure could only increase the size of that population. Aside from increasing the budgetary pressures on the Scottish Government, the very high prison population has created incredible social damage. Family disruption has harmed the educational life chances of children who have an imprisoned parent, as well as significantly impacting their emotional wellbeing. It has compounded social deprivation by depriving households of potential productive wage-earners.

General

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

No Response