

Sentencing mothers: the rights of the child and the duties of the criminal courts

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Rona Epstein

Abstract

The Human Rights Act 1998 came into force in October 2000. Section 6 of the Act obliges all public bodies, including, of course, the courts, to comply with the European Convention on Human Rights. Article 8 of the European Convention on Human Rights and Fundamental Freedoms (1950) (ECHR) states that everyone has the right to respect for private and family life. As imprisonment of a father or mother entails the forcible separation of a child from its parents and therefore impacts on the child's Article 8 rights, a sentencing court must therefore conduct a balancing exercise weighing the Article 8 rights of the child against the seriousness of the parent's offence. This article reports on research I have undertaken to explore to what extent, if at all, the required balancing exercise is being carried out in the English sentencing courts and whether the courts are complying with the Human Rights Act in this respect. The research covered 50 cases of the imposition of custody (suspended and immediate) on mothers who have the care of a dependent child. The article presents conclusions from this preliminary study, which principally has found that, although the courts do sometimes express concern for the welfare of affected children, they do not, on the whole, refer as they should to the rights of the child at the time of sentencing a mother. Although the law regarding the rights of the child to a parent's care applies equally to a father and mother this article concentrates on the imprisonment of mothers; in the vast majority of cases, it is the custody of the mother that results in the loss of parental care.

Key words: imprisonment of mothers, sentencing, criminal courts, European Convention, Article 8 ECHR, parents' and children's rights.

Introduction

The number of women entering prison, both on remand and after sentence, has greatly increased in recent years. The average female prison population more than doubled between 1990 and 2007, it was 1,597 on 30 June 1990 and 4,283 on 30 June 2007. Between 1994 and

2004 it increased by 147% (Sandler and Coles, 2008). At the same time studies, and in particular the Corston Report published in March 2007, have revealed the extent to which women in prison suffer from ill-health and are particularly vulnerable and disadvantaged (Corston, 2007). Many women offenders have suffered violence and could also be described as victims. Proportionately more women than men are remanded in custody. Coercion by men can form a route into criminal activity for some women. The Corston Report found that drug addiction plays a huge part in all offending and that this is disproportionately the case with women. Mental health problems are also far more prevalent among women in prison than in the male prison population or in the general population. Corston reports that, outside prison, men are more likely to commit suicide than women but the position is reversed inside prison. Self-harm in prison is also a very serious problem and is more prevalent among women, 37% of women going into prison reported that they had attempted suicide at some time in their life (Corston, 2007). Between 2002 and 2009, there were 55 self-inflicted deaths of women prisoners (Plugge, 2006). Similarly, a report published by the Department of Public Health at the University of Oxford on the health of 500 women prisoners found that 78% of women, on reception to prison, exhibit some level of psychological disturbance, compared with a figure of 15% for the general adult female population (Plugge, 2006). Women prisoners are far more likely than men to be primary carers of young children and this factor makes the prison experience significantly different for women. 30% of women in prison lose their accommodation while in prison (Corston, 2007).

More than half of women in UK prisons have suffered domestic violence and one in three has experienced sexual abuse. The formal educational level of achievement of women prisoners is lower than for male prisoners: 74% left school at 16 or before, only 39% have any qualifications at all, compared to 82% of the general population. One in four women in prison

has spent time in local authority care as a child (Bromley Briefing Prison Reform Trust, London: see: <http://www.prisonreformtrust.org.uk/>).

In recent years there has been a dramatic rise in the number of women in prison, from an average of 1560 in 1993 to about 4230 in August 2010. In the past decade the women's prison population has increased by 33%. 11,044 women entered prison in the UK in 2009, approximately half of these were on remand, spending an average of four to six weeks in prison. Following trial, 61% of women sentenced to custody received sentences of six months or less (Prison Reform Trust). In 2008 3,000 women were sentenced to custody for 3 months or less, of whom 176 were sentenced to 10 days or less (Ministry of Justice response to Freedom of Information request: November 2010). This suggests that a significant number of women are imprisoned for relatively minor offences. Many are mothers of dependent children. Yet the courts are obliged to take into account the rights of the child to a parent's care and to impose forced separation of mother and child only when it is proportionate to do so. This does not fit with large numbers of mothers imprisoned for minor offences.

Much of the rise in the female prison population can be explained by a significant increase in the severity of sentences (Hough et al, 2003). In 1996, 10% of women convicted of an indictable offence were sent to prison; in 2006 15% were (Ministry of Justice (2007) Sentencing Statistics 2006, London). Furthermore, 66% of women prisoners are mothers, and each year it is estimated that more than 17,700 children are separated from their mothers by imprisonment. Only 5% of women prisoners' children remain in their own home once their mother has been sentenced. At least a third of mothers in prison are lone parents before imprisonment (Prison Reform Trust). A Home Office study found that, for 85% of mothers,

prison was the first time they had been separated from their children for any significant length of time (Home Office, 1997).

There is considerable evidence that separation from their children causes great anxiety and distress to mothers in prison (see, for example, Wyner, 2003). But what of the effects on the children? Research in the UK and across Europe on parental imprisonment has identified:

“complex health, social and welfare disadvantages, including the impact of poverty, family discord, substance abuse and mental health issues. The imprisonment of mothers, for example, has been described as having “wreaked havoc on family stability and children’s well-being” (Martynowicz, 2011: 12).

A number of studies have shown long-term detrimental effects on children of the incarceration of their parents (Murray, Farrington and Sekol, 2012). Murray and Murray (2010) report that parental incarceration is a strong risk factor for long-lasting psychopathology with antisocial outcomes. Parental incarceration might threaten children’s attachment security because of parent-child separation, restricted contact with incarcerated parents, and unstable caregiving arrangements. Maternal incarceration tends to cause more disruption for children than paternal incarceration and may lead to greater risk for insecure attachment and psychopathology.

The Human Rights Act 1998

Section 6 of the Human Rights Act 1998 (HRA) obliges all public bodies, including courts, to comply with the European Convention on Human Rights. Section 2 of the Act not only

allows UK courts to give effect to Convention rights, but also requires them to consider the relevant case law of the Convention when determining disputes concerning such rights and their application. Under Section 6 of the Act the courts are made public bodies. Section 6 (1) provides that it is unlawful for a public authority to act in a way that is inconsistent with a Convention right (Foster, 2011).

Article 8 provides that:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

When courts sentence a mother with care of a dependent child, the Article 8 rights of the child are engaged. This was clearly explained by Lord Phillips, Master of the Rolls, in the 2001 case *R (on the application of P and Q) v Secretary of State for the Home Department*¹ which concerned the prison rule that at the age of eighteen months a child had to leave the Mother and Baby Unit, causing separation from the mother. Lord Phillips stated that:

“It goes without saying that since 2nd October 2000 sentencing courts have been public authorities within the meaning of section 6 of the Human Rights Act. If the passing of a custodial sentence involves the separation of a mother from her very

young child (or, indeed, from any of her children) the sentencing court is bound ... to carry out the balancing exercise ... before deciding that the seriousness of the offence justifies the separation of mother and child. If the court does not have sufficient information about the likely consequences of the compulsory separation, it must, in compliance with its obligations under section 6(1), ask for more ...”

Lord Phillips stated that, in sentencing a mother with dependent children, the rights of the child have to be weighed against the seriousness of the offence in a ‘balancing exercise’. From this statement of judicial principles it is clear that magistrates and judges must: a. acquire information about dependent children; and b. balance the Article 8 rights of the child against the seriousness of the mother’s offence. These principles were confirmed and re-stated recently, in the High Court in *R (on the application of Amanda Aldous) v Dartford Magistrates’ Court*² and in the Court of Appeal in *R v Bishop (Wayne Steven)*.³ Both of these cases concerned parents, Mrs Aldous, mother of an autistic 15 year old boy, and Mr Bishop, father of five children, on whom custodial sentences had been imposed without adequate consideration of the rights of the affected children. Mrs Aldous’s imprisonment for a council tax debt was declared unlawful by the High Court, and the Court of Appeal revoked Mr Bishop’s sentence of immediate custody and replaced it with a suspended sentence. Both courts made strong statements concerning the importance of the consideration of the rights of the child.

Enquiries undertaken at the Judicial College, whose role is to train the judiciary, indicate that, following the entry into force of the Human Rights Act and decisions in the early cases (*R (Stokes)* and *R (P and Q)*), no training was given to either judges or to the justices’ clerks who advise the magistrates on the law, concerning their new duties as explained Lord Phillips.⁴ It

appears that sentencers have not been trained as to how they should acquire the relevant knowledge of dependent children or how, having acquired such information, they should conduct the required balancing exercise.

Sentencing Practice

Using the basic principles identified in the above cases, I have conducted research to explore to what extent, if at all, the balancing exercise, described by Lord Phillips, takes place when sentencers consider custody for mothers. The study covered 50 cases of imprisonment of mothers: 2 in magistrates' courts, 14 in Crown Courts and 34 in the Court of Appeal.

i. Methods

Sentencing remarks made by magistrates, Crown Court judges and the Court of Appeal at the time of sentencing were analysed to examine how the sentencers referred to dependent children and whether the balancing exercise weighing the child's Article 8 rights against the seriousness of the offence appeared to have been carried out. The sentencing remarks came from three sources: the website of the Court of Appeal reports decisions of sentencing appeals,⁵ press reports and the charity *Women in Prison*⁶ which works in all the women's prisons and has provided a conduit for relevant information. The study also includes two committals ordered in the Magistrates' Courts. The availability of data imposes significant limitations, using these search methods, it has not been possible to collect information on mothers imprisoned on short sentences. As discussed earlier, most women are sent to prison for short periods, 61% for less than 6 months and 27% for less than 3 months. Press reports tend to be of notorious cases, usually involving assaults or large-scale fraud, which are not

typical of women in prison. The cases referred to the Court of Appeal are, of course, the more serious cases. For those women on short sentences there is little point in making an appeal. The charity *Women in Prison* supports women who are experiencing problems and these most often arise in the course of long periods of incarceration. Research on the sentencing of women to short and very short terms of imprisonment should be conducted, but was not possible in this project.

The other limitation is in the nature of sentencing remarks. The duty of the judge is set out in statute, the court must 'state in open court, in ordinary language and in general terms, its reasons for deciding on the sentence passed'.⁷ On pronouncing sentence, judges have many issues to bear in mind, among them are the seriousness of the offence and any aggravating features; the defendant's previous convictions, if any; the effect on the victim (if there is an identifiable victim) and often the presence of the victim and his or her family in court; the mitigation put forward by the defence; the sentencing guidelines issued by the Sentencing Council; the awareness of public expectation that wrong-doing will be punished and the public view that only imprisonment is real punishment. There is always the possibility that the judge may have considered the rights of the child, and conducted some sort of balancing exercise, but not articulated this in the sentencing remarks. Nevertheless, it can be argued that the study of sentencing remarks reveals much about the attitudes and reasoning of judges. If the sentencer takes the rights of the child into account, and conducts the required balancing exercise, it is reasonable to expect that this will be reflected in some way in the course of the sentencing remarks.

ii. The cases studied

The oldest case was 2003 (Gidney), and the most recent November 2011, thus the research covered a period of 8 years, with most cases occurring between 2009 and 2011.

[Insert Figure 1 here]

The offences committed are detailed in Table 2.

[Insert Figure 2 here]

The shortest sentence was two weeks for Council Tax default; the longest was 15 years for drugs importation. There were five suspended sentences and 45 sentences of immediate custody. There were two sentences of imprisonment reduced by the Court of Appeal to a Community Order (see Figure 3).

[Insert Figure 3 here]

All the defendants/appellants studied were the mothers of dependent children. The law reports, sentencing remarks and press reports studied indicate that about 105 children under the age of 18 were living with the defendants/appellants at the time of sentencing. Several were very young infants, only a few weeks old and there were 9 babies under 24 months. There were a number of cases where the children were disabled: Amanda Aldous (see below, unlawfully imprisoned for council tax debt) has an autistic son who is very difficult to look after. While she was in prison for 74 days (of a 90 day sentence), Mrs Aldous's daughter looked after the boy, and found this a struggle — she was 8 months pregnant at the time. When her baby was born she was of low birth weight; the obstetrician said that this was probably due to stress suffered during the pregnancy.

iii. Findings

An analysis of the sentencing remarks of Crown Court judges, the reports of the Court of Appeal and the magistrates' files indicates that the required balancing exercise is not usually undertaken. In none of the 50 sentencing remarks studied was mention made of the Article 8 rights of affected children. This does not mean that sentencers are silent on the matter of defendants' dependent children. The care of children has long been regarded as a mitigating factor. The most recent Guidelines of the Sentencing Council provide a list of 'Factors reducing seriousness or reflecting personal mitigation' and the last item on the list reads: 'Sole or primary carer for dependent relatives.'⁸ Sentencers express, in various ways, their awareness of the plight of children of imprisoned mothers. However, this is not the same as taking account of the child's Article 8 rights and conducting the balancing exercise to weigh the child's rights against the seriousness of the offence, which requires the court to obtain information on the dependent children, their ages and any special needs, on who would care for them if their mother was in custody etc. An analysis of the sentencing remarks in these 50 cases suggests that sentencers often do not seek information on the dependent children, although the law requires them to do so. In this study there were five cases where the sentencing remarks or notes in the magistrates' court made no mention at all of the dependent children.

The decision in *R v Gidney* (Warwick Crown Court, 2003) was the starting point of this research and illustrates the tragic consequences which may ensue when a mother is imprisoned. Leanne Gidney was 18 years old and the mother of a two-year-old child. She was a heroin addict who had attempted to rob a 16 year old student of the sum of £1. The judge

ordered her to serve six months of an earlier sentence and twelve months for the attempted robbery, a total of 18 months. The sentencing remarks do not mention her child. Eleven days into her sentence, she committed suicide. In a case of benefit fraud, where the defendant was 31 years old and the mother of three young children, the judge at the Crown Court made no mention of the children. Looking at several sentencing remarks in cases of benefit fraud, I have found that the courts stress that they must impose custody as a deterrent to other potential defrauders of the benefits system. Punishment for deterrent purposes is indeed one of the purposes of imprisonment. However, punishment may be imposed in other ways, such as a community order or a suspended term of imprisonment, which would mark the court's (and the public's) disapproval, without having such a devastating effect on young children. As explained above, it is the duty of the court to obtain information on dependent children in cases of an accused parent of a dependent child. In a case involving misfeasance in a public office (granting extension of student leave to would-be immigrants), the judge at Crown Court appeared to refuse to obtain information relating to the defendant's children. The defendant was a single parent, sole carer of four children ages 19, 9, 7, and 5. In this case, the trial judge said 'I am asked to adjourn sentence for a pre-sentence report. I am bound to say that I do not consider that a pre-sentence report would assist me'. A pre-sentence report would normally tell the court whether dependent children were living with the defendant, how old they were, if any had disabilities or special needs, and who would care for them in the event of the mother going to prison. Accordingly, the failure of the judge to consider the rights of the children appears to be in breach not only of article 8 ECHR but also the established sentencing guidelines.

The courts usually regard the fact that the defendant is caring for a child as a mitigating factor. Thus, in *R v McClue*⁹ the Court of Appeal stated that the appellant, who had

committed fraud, had a daughter age seven who suffered from the abandonment by her father and was emotionally vulnerable. Further, the Court noted that the appellant's sister suffered from schizophrenia and that the appellant has looked after her sister's four year old child since her birth. In hearing an appeal against sentence, the Court of Appeal said:

“The effect on these two children of the loss of the appellant and the fear of separation has been devastating for them... We have been moved by the mitigation factors ... and in particular the disastrous consequences for the appellant's child and her sister's child.”

Accordingly, the court reduced the sentence from 18 to 8 months. This is an instance of a court showing awareness and sympathy for the plight of children separated from the mother by imprisonment. While this concern for the welfare of children is, of course, a humane approach to criminal justice, to be lauded, I would argue that having some regard for the welfare of children is not the same thing as giving weight to the child's Article 8 *rights*. I found rare instances where the courts consider the welfare of the affected children, and then suspend the sentence of imprisonment. For example, in one case studied, sentencing a mother for benefit fraud, the judge at Crown Court said:

“[Y]ou have chosen to have a large family, I do not criticise you for that ... You have a child who has significant difficulties, she is 13, and I am told ... that, if deprived of your care, it would have a significant detrimental effect upon her. You have another 16 year old child who has learning difficulties”

Her husband had very serious health problems. In this case her sentence of 10 months' imprisonment was suspended for two years. This case shows that, where there are

exceptionally vulnerable children, the court may, on occasion, consider the possible effects of a mother's imprisonment, and order a suspended sentence. The needs of the children (not their Article 8 rights) are here being considered by the court, however this case is an exception to the general findings of this research that the potential effects on children are not normally determinative of the sentencing decision.

This research has found that there are considerable differences in how courts consider the children of defendants. Although the Article 8 rights of the child are not specifically mentioned, some courts say that the effects of imprisonment on children must be considered and refer to:

“the well- understood principle that an offender who is the carer of three young children should be sentenced to imprisonment only if that is absolutely necessary, and secondly, if it is, for the shortest term that is conceivably commensurate with the offences in question’.¹⁰

In a number of the cases studied it appears that the courts regard exceptionally needy and disabled children as having a right to care and weigh this consideration against the seriousness of the offence. However the Court of Appeal cites ‘the effect on children’, not the child's Article 8 rights. For example, in *R v Shantelle Davis*¹¹ the defendant was initially sentenced to 12 months imprisonment for blackmail but the Court of Appeal reduced it to 9 months suspended imprisonment. The defendant had a 23-month-old severely disabled daughter, who was blind, had cerebral palsy and required round the clock care. A further example is *R v Lisa Ann Dawson*¹² which illustrates the importance which some courts give to the welfare of young children. Dawson pleaded guilty to being concerned in supplying cocaine, and was sentenced to 30 weeks’ imprisonment. She was pregnant at the time and

was also the primary carer of her two-year-old son. In considering the appeal against the sentence the Court of Appeal stated that:

“Being parted from her son has been extremely difficult for her. She has for lengthy periods refused to leave her cell. The effect on her son of the absence of his mother can be imagined ... [W]e consider that the appellant’s pregnancy, although material, is very much less important than the welfare of her two year old son ... Of course, the mere fact that an offender is a mother or father or other carer does not mean that she or he cannot be made the subject of an immediate sentence of imprisonment, and some crimes are so serious that only an immediate term of imprisonment will be appropriate. However, there are other cases in which the stress and disorientation caused to a family by the absence of a parent or other carer may justify either a non-custodial sentence or the suspension of a sentence of imprisonment, particularly where the length of any sentence could properly only be short.”

The Court of Appeal revoked the sentence of imprisonment and replaced it with a 12-month community order.

The failure to consider the rights of the child was starkly evident in the two cases studied which were of imprisonment for debt. Two of the forms filled in by serving prisoners through the work of *Women in Prison* came from mothers committed by magistrates for council tax default. This was surprising since, except in rare circumstances, imprisonment for council tax debt is unlawful. The statute governing payment of tax debt provides that the courts may order deduction from salary or from benefit in order to enforce payment of the debt.¹³ The powers to imprison are coercive, intended to force payment where the debtor has the means

to pay, and are not punitive (Epstein, 2011; Epstein, 1998; Epstein and Wise, 1995). The magistrates have to bear in mind that imprisonment is a last resort and all alternatives must be tried first. CD was on income support when she appeared before the magistrates for council tax default. The magistrates should have ordered a deduction from her benefits to repay the tax owed, rather than impose imprisonment. She was a single mother of a 6-year-old child. Her child was not mentioned in the file notes. This appears to be a clear example of a blatant breach of the principle that in considering imposition of imprisonment, the rights of the affected child must be considered, and must be weighed against the seriousness of the offence. In this case, there is no criminal offence; council tax debt is a civil debt and is not a crime. There is also the case of Amanda Aldous. On 14 January 2011 Dartford Magistrates committed her to prison for 90 days for failure to pay Council Tax arrears amounting to approximately £7,000 for the period 2003 to 2009. She is the mother of five children and had been the victim of domestic violence. Her youngest child is aged 15 and has been diagnosed with autism and other associated conditions. She was sent immediately to prison where she served 74 days of the sentence. She had not been in custody before and this was the first time she had been separated from her autistic son. In the normal course of events, a prisoner such as Mrs Aldous has no way to challenge her imprisonment. It was only because her case came to my attention during this research that anyone acted on her behalf. When I read the form she filled in giving her reason for imprisonment as 'council tax default', I realised that this imprisonment was unlawful, and took steps to find a barrister and solicitor who would act for her. On 29 March 2011, following a High Court application, she was granted bail. On 6 July 2011 at the High Court the decision of Dartford Magistrates to commit her to prison was declared unlawful and was quashed. It was unlawful because there were other ways through which the local authority might have been able to obtain payment, for example, by attachment of the earnings of her husband. Concerning the children, the High Court said:

“The existence of children cannot of course keep a person out of prison who should properly be sent to prison, but a sentencing court needs to be able to bear in mind what the effect on the children will be, and, if there are children and if the court does not have to information it needs in order to assess the effect of the parent’s imprisonment on them, then the court must make enquiries so that it is properly informed. Those enquiries were not made in this case.”¹⁴

Conclusion

The family rights of the child and the accused are engaged whenever a mother, having the care of a dependent child, is at risk of imprisonment, either on remand or on sentence. A study of 50 cases of the imprisonment of mothers, 5 suspended and 45 immediate, has found that there is a wide variation in the extent to which the care of dependent children appears to be considered in sentencing, with the stress on welfare of children rather than on the child’s rights. In some cases, the court makes no mention at all of the accused’s children. In other cases the courts allude to the trauma and misery caused to the children, but blame the defendant, and do not appear to impose an alternative or reduced sentence. In only a few Court of Appeal cases do the judges acknowledge the plight of the child and order a reduction in the length of sentence. However, even in the Court of Appeal, specific reference is not normally made to the Article 8 rights of the child. Mitigating factors, such as the effects of imprisonment on children, relate to the defendant and not directly to the Article 8 rights of the child. This research points to the need for the judiciary, the Judicial College, the Sentencing Council, and the public to be better informed on these issues, so that, when

mothers with dependent children are before the courts, sentencers will bear in mind the Article 8 rights of affected children.

This research has found wide variations in the extent to which the courts consider the impact that the imprisonment of a mother is likely to have on a dependent child. It would be interesting to have further studies which could include interviews with judges and an analysis of why there are such great differences. Does it reflect their personal attitudes and experiences? To some extent one may hypothesise that this would be the case. It may also be the result of differences in their judicial training. Whatever may be the cause of such diversity of approach, it cannot be right that some judges appear to ignore the welfare and the rights of affected children. Those working in the criminal courts are well aware of great differences in approach. This may be to some extent inevitable.

I would argue that there is a need for more rigorous and in-depth training of the judges which would result in sentencing that is more uniform in its approach to the rights of the child, and in which the balancing exercise weighing the Article 8 rights of the child against the seriousness of the offence is always carried out. The fact that this is not always done is evidenced by the number of cases, cited and discussed above, where a mother is sentenced to a term of imprisonment by a trial judge, and a sentencing appeal in the Court of Appeal results in either a considerably reduced sentence or immediate custody replaced with a suspended sentence. Some may conclude: 'Well, the Court of Appeal will come to the rescue and justice will be done'. Not so. For the vast majority of mothers in prison there will be no sentencing appeal. Those on short sentences will have no opportunity to appeal. Those sentenced for council tax debt are not given any advice on applying for bail, and would find

great difficulty in mounting a judicial review even if they were advised that this is how their sentence must be challenged (Epstein and Wise, 1995).

It is a legal requirement that in every case where a mother with a dependent child is at risk of a custodial sentence, the sentencer must acquire information about the dependent children, and weigh the Article 8 rights of the children against the seriousness of the offence. In the most serious cases the balance will, of course, come down on the side of custody. But in some instances the court will suspend imprisonment or impose a community order rather than a custodial punishment. The vast majority of women are imprisoned for less serious offences and receive short sentences: the balancing exercise should now take centre stage.

Rona Epstein is an Honorary Research Fellow in the Law School, Coventry University, Priory Street, Coventry CV1 5FB.

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⁵ <http://www.judiciary.gov.uk/media/judgments/2012>

⁶ <http://www.womeninprison.org.uk/>

⁷ Section 174 Criminal Justice Act 2003; section 64 Legal Aid, Sentencing and Punishment of Offenders Act 2012.

⁸ <http://sentencingcouncil.judiciary.gov.uk/> - These Guidelines were published in March 2012 and came into force in June 2012.

⁹ *R v McClue* [2010] EWCA Crim 311

¹⁰ Mr Justice Wyn Williams in *R v Evelyn Arinze* [2010] EWCA Crim 1638

¹¹ *R v Shantelle Davis* ([2010] EWCA Crim 594)

¹² *R v Lisa Ann Dawson* [2011] EWCA Crim 1947

¹³ Local Government Finance Act 1992, Regulation 47 and Council Tax (Administration and Enforcement) Regulations 1992, SI 613/992.

¹⁴ *R (on the application of Amanda Aldous) v Dartford Magistrates' Court* [2011] EWHC 1919 Admin

Figure 1: Cases studied by year

Year	Number cases
2003	1
2007	1
2009	9
2010	30
2011	9

Figure 2: Offences in cases studied

Offences	Number of cases
Benefit fraud	10
Drugs	9
Perverting the course of justice	6
Fraud and deception	4
Assault	3
Possessing a weapon	3
Car offences	2
Council Tax default	2
Other*	9

* This includes aiding illegal entry to the UK, blackmail, robbery, transfer of criminal property, conspiracy to evade duty.

Figure 3: Sentences

	Number of
Sentences	cases
Court of Appeal replaces custody with Community Order	2
Imprisonment: 6 months or less	17
more than 6 months, up to 1 year	18
more than 1 year, up to 3 years	7
more than 3 years	6