

Citizen Participation and Public Petitions Committee

4th Meeting, 2021 (Session 6), Wednesday
22 September 2021

PE1881: Longer sentences for paedophiles
and sexual predators

Note by the Clerk

Petitioner Carol Burns

**Petition
summary** Calling on the Scottish Parliament to urge the Scottish Government to
increase the length of time sexual predators serve in jail.

Webpage <https://petitions.parliament.scot/petitions/PE1881>

Introduction

1. This is a new petition that was lodged on 22 June 2021.
2. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe A**.
3. While not a formal requirement, petitioners have the option to collect signatures on their petition. On this occasion, the petitioner elected to collect this information. 2,293 signatures have been received.
4. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe B** of this paper.
5. A submission has been provided by the petitioner. This is included at **Annexe C**.

SPICe briefing

6. The Crown Office & Prosecutor Fiscal Service take decisions on how a case is prosecuted and has powers to appeal against what it considers to be unduly lenient sentences.

7. The [Scottish Sentencing Council](#) (SSC) is an independent advisory body, established in 2015, with membership drawn from the judiciary, legal profession and others with relevant expertise. Its work includes:
- preparing sentencing guidelines for the courts
 - publishing information on sentencing (e.g. see the section of its website about sentencing).
8. The briefing notes that preparing sentencing guidelines will take time and thus far, one set of guidelines has been approved - [principles and purposes of sentencing](#) (2018). Ongoing work is taking place to prepare sentencing guidelines, including in relation to rape, sexual assault, and indecent images of children. So far, two academic reports were published in 2021 and the authors have discussed their findings in a blog - [What do we know about sentencing sexual offences in Scotland?](#) (2021).

Scottish Government submission

9. In its submission, the Scottish Government explains that the maximum penalty for the most serious sex offences, including rape, sexual assault by penetration and sexual assault, is life imprisonment. Maximum penalties for offences are set by the legal framework.
10. As part of checks and balances, the Crown Counsel will give careful consideration as to whether a sentence was unduly lenient or if the sentence imposed is within the range available to the judge in the exercise of their normal judicial discretion. This means there are protections in place to guard against sentences which, as a matter of law, are considered too lenient.

Petitioner submission

11. The petitioner's submission suggests minimum sentencing of 4 years in order to provide victims with "some peace of mind". The petitioner explains that she has heard similar stories from many victims who "are left feeling cheated by the justice system and, at times, as if they were the ones on trial".
12. In her view, short term sentences and early release can increase the likelihood of reoffending as the opportunity for rehabilitation is minimal within a short timeframe.

Action

13. The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

PE1881: LONGER SENTENCES FOR PAEDOPHILES AND SEXUAL PREDATORS

Petitioner

Carol Burns

Date Lodged

20 July 2021

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to increase the length of time sexual predators serve in jail.

Previous action

I contacted Collette Stevenson MSP for East Kilbride and also contacted the First Minister via email. I received a reply on behalf of Collette Stevenson in full support of this petition.

Background information

Myself and other girls are victims of a serial paedophile and after 33 years he was finally sentenced for the crimes against us. Unfortunately he was sentenced to a short-term sentence of 20 months (reduced to 10 months). I believe that this is not nearly long enough given the severity of his crimes against children. I strongly believe that the current sentence for people who have abused children, carried out a rape or those who have sexually assaulted another member of the public is not nearly long enough yet offences with less significant harm to others get far longer. These victims go through a life sentence yet the perpetrators barely spend any time behind bars. A lot of victims of these crimes do not come forward as they do not believe that the time their offenders will receive is long enough, and I would really like this as something that should be changed.

Briefing for the Citizen Participation and Public Petitions Committee

Petition [PE1881](#): Longer sentences for paedophiles and sexual predators,
lodged by Carol Burns

Background

The petition seeks an increase in “the length of time sexual predators serve in jail”.

The petitioner refers to personal experience of being the victim of child sexual abuse, in relation to which the perpetrator was prosecuted and sentenced 33 years later.

Sexual offences

Most sexual offences are now covered by the [Sexual Offences \(Scotland\) Act 2009](#). As well as detailing the offences themselves, it sets out the maximum sentences which a judge may impose for each offence. These maximums vary depending on the offence and how the specific case is prosecuted (e.g. whether prosecuted in a sheriff court under summary procedure or the High Court of Justiciary under solemn procedure).

Some sexual offence cases are prosecuted under common law offences. These includes situations where a sexual offence committed before the coming into force of the Sexual Offences (Scotland) Act 2009 is being prosecuted. The maximum sentence for common law offences is determined by how the case is prosecuted.

Crown Office & Procurator Fiscal Service

Decisions on how a case is prosecuted are taken by the [Crown Office & Procurator Fiscal Service](#), although legislation can restrict

its discretion (e.g. rape must be prosecuted in the High Court of Justiciary).

It has powers to appeal against what it considers to be unduly lenient sentences.

Sentencing

Sentencing is carried out by the judge in the case (e.g. a sheriff or High Court judge). The range of sentences open to a judge may be constrained by legislation relating to the specific offence (e.g. setting a maximum) and the [general sentencing powers of the particular type of court](#).

The [Scottish Sentencing Council](#) was established in 2015 as an independent advisory body, with membership drawn from the judiciary, legal profession and others with relevant expertise. Its work includes:

- preparing sentencing guidelines for the courts
- publishing information on sentencing (e.g. see the section of its website [about sentencing](#)).

The Scottish Sentencing Council is not involved in deciding the sentence in individual cases.

Sentencing guidelines

As indicated above, the work of the Scottish Sentencing Council includes the preparation of sentencing guidelines for the courts. Its website provides [information on how guidelines are prepared and their purpose](#). It states:

“These guidelines will help judges decide what sentences to give to people who have committed offences. They should also help the public to better understand sentences.

Sentencing guidelines can be general and apply to all offences. Or they may focus on a particular type of offence or category of person who has offended, for example young people. This will be stated clearly on each guideline.

Any guidelines developed by the Council must be approved by the High Court of Justiciary before they have effect.”

The work of the Scottish Sentencing Council in preparing guidelines covering a range of areas will take time. Thus far, one set of guidelines has been approved, covering the [principles and purposes of sentencing](#) (2018).

Ongoing work in preparing sentencing guidelines includes [sexual offences](#). The website notes:

“Sexual offending has increasingly become an area of public concern in recent years, with increased reporting, prevention, and enforcement action. Sexual offences account for a high proportion of sentencing, particularly in the High Court, often involving difficult decisions in complex circumstances. This is an area of great importance in which we believe sentencing guidelines would bring significant benefits to the judiciary, those involved in such cases, and the wider public.”

And that:

“Taking into account the information we have gathered to date, the Council has decided to begin its work on sexual offences by developing sentencing guidelines in relation to rape, sexual assault, and indecent images of children.”

As part of this work on sexual offending, two academic reports were published earlier this year:

- [Sexual offences involving rape literature review](#)
- [Sexual offences involving sexual assault literature review](#)

The authors have discussed their findings in a blog – [What do we know about sentencing sexual offences in Scotland?](#) (2021). In relation to public perceptions of sentencing, it says:

“Our reports discuss international research on public perceptions of sentencing of sexual offences. Little in-depth research has been conducted on public perceptions of sentencing of sexual offences in Scotland. McPherson and Tata have recently completed research on this in association with Scotcen and our report will be published shortly by the Scottish Sentencing Council.

Research studies from comparable countries have tended to find that members of the public believe that there is excessive leniency in sentencing in general, not least in sexual offences,

including rape. However, those studies show that people tend to greatly to over-estimate the leniency of actual practices.”

The petitioner highlights events where successful prosecution took a long time. Given this, it is worth noting that additional sentencing issues can arise in ‘historical cases’. For example, the above-mentioned [academic report on sexual offences involving sexual assault](#) notes:

“Sentencing depends on the facts of the case. However, historical cases raise particular questions. One question, in light of potential changes to the law and policy, is whether the court ought to sentence the offender according to contemporary standards or those at the time of the commission of the offending.” (p 26-27)

It goes on to say that:

“it seems that when sentencing for historical offences courts will use a contemporary approach subject to any maxima that may have existed previously.” (p 28)

In relation to sexual offending, it notes that this may lead to a court imposing a sentence which is higher than that which may have been likely around the time the offence was committed.

Release from a custodial sentence

Where an offender receives a custodial sentence, the amount of time spent in prison (or young offender institution) depends on the both the length of sentence and release arrangements.

A [SPICe subject profile on the prison service](#) (2021) provides information on release arrangements – see sections on [early release](#) and [home detention curfew](#).

Key organisations

- [Crown Office & Procurator Fiscal Service](#)
- [Faculty of Advocates](#)
- [Law Society of Scotland](#)
- [Rape Crisis Scotland](#)
- [Scottish Government](#)

- [Scottish Sentencing Council](#)
- [Victim Support Scotland](#)

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01/07/2021

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Scottish Government submission of 20 July 2021

PE1881/A

Thank you for your email of 22 June, in which you requested the Scottish Government's written response to the issues raised in petition PE1881.

The Petitioner, Carol Burns has called on the Scottish Parliament to urge the Scottish Government to increase the length of time sexual predators serve in jail.

The Scottish Government acknowledges the bravery of victims of sexual abuse and appreciate that it takes great courage to come forward and report crimes of this nature. We are committed to tackling the sexual and physical abuse of children, young people and adults. These crimes can have a devastating impact on victims and their families and will not be tolerated.

Supporting victims is a priority for the Scottish Government and I have attached a link which lists a number of organisations that may offer help and emotional support: <https://www.mygov.scot/rape-assault/support-for-female-victims/>.

It may be helpful if I explain that the maximum penalty for the most serious sex offences, including rape, sexual assault by penetration and sexual assault, is life imprisonment. Sentencing in any given case is a matter for the independent court who hear all the facts and circumstances of a case. The Scottish Government is supportive of the courts having such powers so they can decide what is appropriate in a given case.

In addition to the maximum penalties for individual offences (set by the legal framework), the level of court that cases are prosecuted in also can impact on the available sentences. It is the independent Crown Office and Procurator Fiscal Service who decide what level of court to prosecute certain cases in.

As the Committee will be aware, the Scottish Government cannot comment on or intervene in individual sentencing decisions of our

independent courts. This is to preserve the operational independence of the criminal justice system and keep it free from political interference. Judges are best placed to decide on an appropriate sentence for each offender before them as they hear all the facts and circumstances of a case before making their sentencing decisions within the overall legal framework provided by Parliament.

However, as part of the checks and balances within our criminal justice system, the independent Crown Office and Procurator Fiscal Service (COPFS), who prosecute criminal cases, can appeal against a sentence if they consider it is unduly lenient. Crown Counsel (who are the most senior lawyers in Crown Office) will give careful consideration as to whether a sentence was unduly lenient or if the sentence imposed is within the range available to the judge in the exercise of their normal judicial discretion. This means there are protections in place to guard against sentences which, as a matter of law, are considered too lenient.

Data on sentence lengths is available within the [annual Criminal Proceedings publication](#). This includes data on the length of average custodial offences for sexual offences generally and certain specific sexual offences.

Petitioner submission of 9 September 2021

PE1881/B: Longer sentences for paedophiles and sexual predators

Having teamed up with another victim of a similar crime and through our campaigning for longer sentences it is becoming more and more the case that these types of offenders are being released before they have even served half of their jail sentence and their victims are being left with no justice whatsoever. If the jail terms were at least a minimum of 4 years and above, then the victims would have some peace of mind that they would not automatically be released at the half way point or even earlier.

Speaking to many victims their stories are all very similar. They are left feeling cheated by the justice system and, at times, as if they were the ones on trial. They suffer from PTSD, depression, suicidal thoughts and much more on a daily basis. For them, these feelings will never go away and we all have life sentences. So to find out that our abusers can walk away after 6 months is absolutely no justice or closure for them. The abusers get released and go about their normal lives many without any remorse at all. We would love to be able to have normal lives but these people took that chance away from us. We didn't get a choice in the matter.

The short term sentences are no deterrent for them as they see it almost like a slap on the hand. They know if they get caught they will be free within months. We need longer sentences so that they know they will be jailed and punished for a number of years. If an offender is released early or given a short term sentence, I believe that they are very likely to reoffend as the chances of rehabilitation within such a short time is minimal.

In my case I have been suffering for 33 years and will continue to do so until the day I die. Yet my abuser was sentenced to 20 months and will walk free automatically after 10 months, then he will carry on with what life he has left. He is up for parole this year and if released this would be mean he hasn't even served any time for what he did to myself and the other victims. It is totally unacceptable.