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KEY TRENDS IN THE USE OF THE PRINCIPAL SENTENCES, 2009-2019

When sentencing offenders, courts in England and Wales can select from a wide range of options, from absolute discharges through to imprisonment for life. Yet most offenders will receive one of four principal sanctions: a fine; a community order (CO); a suspended sentence order (SSO) or an immediate prison sentence. How often are these sanctions imposed, and has the distribution of sentences changed over the past decade? This bulletin highlights the current use and recent trends of these sanctions. We focus on the number of cases attracting one of these sentences, and the proportionate use of the sanctions. First, we briefly define the four sentences:

A fine: paid to the State, and after a consideration of the offender's means.

A community order: the offender is required to comply with a number of requirements within a specified period of time. Failure to comply can lead to further action by the court.

A suspended sentence order: this is a form of imprisonment. The offender has to comply with any requirements imposed within a specified period of time and failure to do so can lead to committal to prison.

An immediate prison sentence: the offender is committed to a prison for a specified period of time or, for the most serious offences, potentially indefinitely.

Key Trends across all courts: community orders down, fines up, imprisonment stable

Table 1 summarises the relative use of the four sanctions. It reveals a stable pattern over the period. Fines remain the most frequently imposed sentence. The use of fines increased from 77% to 83%. Community orders, which accounted for 12% of all cases at the start of the decade, declined to 7% in the two most recent years. The relative use of the SSO and immediate sentences of imprisonment was stable.

Table 1: Relative Use of Principal Sanctions, 2009-2019, All Offences, all Courts¹

	Fine	Community Order	Suspended Sentence Order	Immediate Imprisonment
2019	83%	7%	4%	7%
2018	82%	7%	4%	7%
2017	80%	7%	5%	8%
2016	80%	8%	5%	8%
2015	79%	8%	5%	8%
2014	78%	9%	5%	8%
2013	77%	10%	4%	9%
2012	76%	11%	4%	9%
2011	75%	12%	4%	9%
2010	75%	12%	4%	8%
2009	77%	12%	4%	8%

Source: Outcomes by offence data tool, 2019; percentages rounded, adult offenders only.

Indictable offences: community orders drop sharply, fines stable, imprisonment increases

However, in the Crown Court, where the more serious cases are sentenced, a different pattern emerges. Table 2 focuses on indictable offences. In 2019, 164,013 offenders received one or more of the four principal sanctions, a drop of almost one third (30%) since 2009. The most dramatic change over the period is the steep decline in the volume of community orders. The number of COs was 52% lower in 2019 than 2009 – 35,871 in 2019 down from 75,242 in 2009. This is in part explained by the decline in the number of cases appearing for sentence. However, it also reflects a decline in the proportionate use of the CO, from 32% at the beginning of the period covered to 22% in the most recent year.

Fines were 36% fewer, but only slightly lower in terms of percentage of cases (21% instead of 23%). The number of SSOs imposed was only 3% lower in 2019 compared to 2009 and the proportionate use of this form of custody rose from 13% to 18%. Immediate terms of custody declined by 16%, but the proportionate use of immediate imprisonment rose from 32% to 39% of cases.

These trends demonstrate that over the past decade there has been a proportionate increase in the use of custody as a sanction, immediate or suspended. In the first year of the period, 2009, imprisonment sentences (SSOs and immediate imprisonment combined) accounted for 45% of cases. By 2019, this had risen to 57%. The change is explained by the decline in community orders, leading to a corresponding proportionate rise in cases attracting an SSO or an immediate term of imprisonment.

¹ Excludes Absolute and Conditional Discharges, Compensation (primary disposal) and 'Otherwise dealt with'.

Table 2: Volume and Relative Use of Principal Sanctions, Indictable Offences, 2009-2019²

	Fine	Community Order	Suspended Sentence Order (SSO)	Immediate Imprisonment (II)	Imprisonment Combined (SSO plus II)
2019	34,474 21%	35,871 22%	30,177 18%	63,491 39%	93,668 57%
2018	34,068 21%	34,040 21%	30,395 19%	63,687 39%	94,082 58%
2017	38,037 21%	35,316 20%	37,771 21%	69,784 39%	107,555 59%
2016	42,203 22%	39,759 20%	40,049 21%	72,573 37%	112,622 58%
2015	45,648 22%	45,961 22%	41,568 20%	72,794 35%	114,362 56%
2014	52,477 25%	45,973 22%	38,937 18%	74,154 35%	113,091 53%
2013	52,535 24%	54,822 25%	35,529 16%	75,872 35%	111,401 51%
2012	52,698 23%	64,398 28%	31,883 14%	78,350 34%	110,233 48%
2011	56,988 23%	76,161 30%	34,422 14%	83,758 33%	118,180 47%
2010	57,767 23%	79,429 32%	34,176 14%	79,236 32%	113,412 45%
2009	53,488 23%	75,242 32%	31,131 13%	75,987 32%	107,118 45%

Source: Outcomes by offence data tool, 2019; percentages rounded

Explaining the trends

Why has the proportionate use of the CO declined while imprisonment has increased? One possible explanation is that there has been an increase in the seriousness of indictable offences – those least likely to attract a CO or a fine, although why this would be the case is unclear. Another possibility is a change in the profile of offenders being sentenced – with more repeat or higher-risk individuals who would be more likely to receive a sentence of imprisonment. Again, however, it is not apparent why this would have been the case. A third possibility is that the trend is caused by a change in the guidelines applied by courts over the past decade. Yet the guidelines have not directed courts to reduce the use of COs, and independent research has concluded that the guidelines have not caused the increase in the use of imprisonment.³ Finally, courts may have been simply more likely to resort to sentences of imprisonment, both immediate and suspended, independent of any changes in the seriousness of cases or offenders. Further research is needed to explain these trends, and the Sentencing Academy will later publish a more detailed analysis.

² Excludes Absolute and Conditional Discharges, Compensation (primary disposal) and 'Otherwise dealt with'.

³ Pina-Sanchez, J. et al. (2019) Have the England and Wales Guidelines Affected Sentencing Severity? *British Journal of Criminology*, 59(4): 979-1001.