

# Domestic Homicide Sentencing Review

I have received the letter, reprinted below, from the Secretary of State regarding the Domestic Homicide Sentencing Review. In response to concerns about sentencing for perpetrators of domestic homicide, the Government commissioned an independent expert, Clare Wade KC, to review sentencing in domestic homicide cases to establish whether current law and sentencing guidelines were fit for purpose and identify options for reform. These concerns were brought to light by the family of Ellie Gould, a young woman, who was tragically murdered by her ex boyfriend. Both Ellie's parents, and her aunt, who is my constituent, campaigned tirelessly for changes to sentencing.

Having raised the concerns of Ellie's aunt with the Secretary of State for Justice, I am pleased that the Government has taken on onboard the recommendations made by Clare Wade KC and have published the measures they are taking.

17 March 2023

Dear Colleague,

## DOMESTIC HOMICIDE SENTENCING REVIEW

Tackling violence against women and girls is a priority for this Government, and we are committed to protecting victims and ensuring that the most serious offenders spend longer in prison. We are working tirelessly to deliver this commitment, including taking decisive steps to increase the volume of rape prosecutions, which we are on track to deliver through our Rape Review Action Plan, quadrupling victims funding from £41m in 2009/10 and launching a 24/7 rape helpline so victims have the support they need. As part of this priority, the Government commissioned an independent expert, Clare Wade KC, to review sentencing in domestic homicide cases to establish whether current law and sentencing guidelines are fit for purpose and identify options for reform.

Today, I am publishing Ms Wade KC's Domestic Homicide Sentencing Review (the 'Wade Review') and announcing a package of reforms to ensure sentencing reflects the seriousness of domestic homicides. The published review can be found here: <https://www.gov.uk/guidance/domestic-homicide-sentencing-review>. The Wade Review makes a number of other recommendations and the government's position will be outlined in a full response to be published before the summer recess. The measures announced today demonstrate our commitment to delivering tougher sentences for the perpetrators of these horrific crimes and allow for necessary legislation to be introduced as soon as possible. All recommendations in the review and the measures announced today apply to England and Wales.

We will increase sentences for murderers with a history of controlling or coercive behaviour against the victim.

The Serious Crime Act 2015 introduced the criminal offence of controlling or coercive behaviour. Controlling or coercive behaviour can comprise economic, emotional or psychological abuse, and is a purposeful pattern of behaviour over time. Controlling or coercive behaviour by the perpetrator towards the victim was identified in 51% of the murder cases analysed for this Review, yet the courts were inconsistent in reflecting this in sentencing.

The review recommends that a history of coercive or controlling behaviour should be added to the statutory aggravating factors to murder. We will introduce legislation to make this change as soon as possible. It is absolutely right to ensure abuse before death is properly considered and these serious offenders are kept off our streets for longer.

We will consider further reform by consulting on a 25 year starting point for murders preceded by controlling or coercive behaviour. While the addition of a history of coercive or controlling behaviour as a statutory aggravating factor to murder will be an immediate step to increase sentences, we do not rule out toughening sentences further. We will launch a public consultation this summer seeking views on whether there should be a starting point of 25 years for cases of murder where the perpetrator has controlled or coerced the victim before killing them.

The current sentencing framework recognises the particular seriousness of the illegal possession and use of knives in public with a 25-year starting point for murders where a weapon used has been taken to the scene with intent. It is important that this starting point is maintained and therefore we will not be accepting the recommendation made in the Wade Review to disapply it from domestic cases. However, the changes announced today will ensure that the framework also recognises the particular seriousness of domestic murder, including where a weapon has been used, and this consultation will ensure all reform options have been fully explored.

We will make 'overkill' a statutory aggravating factor in the sentencing framework for murder. Overkill is defined in the Wade Review and wider literature as the use of excessive or gratuitous violence, beyond that necessary to kill. It amounts to violation of the body and causes intense distress to the families of victims. Overkill was identified in 60% of the murder cases analysed for this Review. The Wade Review recommends that overkill should be added to the statutory aggravating factors to murder. This would mean that a judge must consider increasing an offender's minimum custodial term where overkill has occurred.

We will introduce legislation to make this change as soon as possible. This change will ensure the horror of overkill and the anguish it causes families of victims is taken into account when sentencing such cases. While sentencing always depends on the facts of the case and is a matter for our independent courts, this change could see sentences increase by around 2 years or even more in the most serious cases.

Building on our ban of the 'rough sex defence' in the Domestic Abuse Act, we want to see longer sentences for perpetrators of so-called rough sex manslaughter. The government made clear in the Domestic Abuse Act 2021 the

'rough sex defence' is not recognised in law as a person is legally unable to consent to "serious harm". However, there continues to be concern about low sentences in some cases of manslaughter where consent to so-called rough sex is argued. There have been recent cases where offenders have received less than 5 years in prison after killing their partner through rough sexual activity, despite blatant disregard for the victim.

The review recommends manslaughter sentencing guidelines should be amended to consider the offender highly culpable and impose a higher sentence where death occurs during violence alleged to be consensual during a sexual encounter. This could mean a starting point of between 8 and 12 years for sentencing. The production or revision of sentencing guidelines is a matter for the independent Sentencing Council. However, today I will ask the Council, which has a statutory duty to consider my request, to consider revising sentencing guidelines to reflect the recommendation made in the Wade Review. While this is our preferred approach, we will keep legislative options under review to ensure we can deliver reform.

I am grateful to Laura Farris MP, who has championed this issue. These measures build on the pledge from the Prime Minister to drive a zero-tolerance approach to violence against women and girls by ensuring that sentencing delivers justice for the victims and families. Our actions today show that this government is firmly on the side of victims. I am very grateful to Clare Wade KC for her work on this review. I would also like to pay tribute to Carole Gould and Julie Devey for their tireless campaigning after the tragic murders of their daughters, Ellie Gould and Poppy Devey-Waterhouse.

Yours sincerely,

RT HON DOMINIC RAAB MP