Children's Knowledge and Opinion of Sentencing



Research Report

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Executive Summary

This report describes the findings from a survey of 1,038 children living in England and Wales aged between 10-17 years, drawn from the general public and conducted in 2023. The research contributes to the literature on the public's knowledge and opinion of sentencing and this survey follows up an earlier report by the Sentencing Academy, published in January 2022, which explored public knowledge of sentencing practice and trends through a survey of adult respondents. This report, however, focuses on a cohort – children over the minimum age of criminal responsibility – who are largely absent from the existing research literature.

Key Findings

- Most children reported having spoken to someone about what happens in a criminal court. The most common answer (57%) was that they had spoken to 'my family', with 39% of respondents having spoken to 'my teacher at school'. However, very few respondents (2%) reported having been to a criminal court.

- Respondents reported having seen what happens in a criminal court from a variety of sources, with the two most common responses being 'on a TV programme' and 'in a film'.

- Despite all participants in the survey having reached the minimum age of criminal responsibility, respondents generally over-estimated the age at which children become criminally responsible: 61% of those who provided an answer to the question of at what age does a child become criminally responsible (i.e. excluding those who answered 'don't know') thought it was over the correct age of 10-years-old.

- The children in this survey were much less likely than adult respondents to think that the sentencing of adults is too lenient: 27% of respondents thought that sentencing was too lenient but a greater proportion – 34% – thought it was 'about right'. Only 16% of respondents thought that the sentencing of children was too lenient.

- Whilst the vast majority (81%) of respondents correctly identified that a judge 'would' sentence a 25-year-old more severely than a 15-year-old for an identical offence, only 50% of respondents thought that they 'should' do so; 38% thought that both offenders should receive the same punishment.

- Respondents generally under-estimated the severity of sentencing for children convicted of a repeat knife offence. In a scenario crafted to engage a mandatory custodial sentence as the most likely outcome, 57% of respondents thought that the offending would most likely be met with a non-custodial sentence. This included a majority of 16- and 17-year-old respondents to whom the mandatory sentencing provisions apply.

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Introduction

There is a well-established literature on public opinion of sentencing and an emerging body of research exploring public knowledge of sentencing practice and trends (e.g. Roberts et al. (2022)). However, most studies in England and Wales relate only to the sentencing of adult offenders or, where they do relate to the sentencing of children, they only include adults in the sample population (e.g. Roberts and Hough (2005)).[1] Little is therefore known about children's opinion and understanding of sentencing, including of the sentencing of child offenders.[2]

Children, like adults, are affected by sentencing practice as (potential) victims and, from the age of 10, as (potential) defendants. If, as a society, we deem this group old enough to be held criminally responsible then for reasons of equity and fairness we must also seek, and take seriously, their views on sentencing. This is especially pressing when research is used to inform future policy and law. The UN Convention on the Rights of the Child includes two provisions – Article 12(1) (children's right to express their views) and Article 3(1) (children's best interest is a primary consideration) – which, when read together, require that opportunities are created for children to express their views on matters that affect them and for due weight to be given to those views.[3] Providing an evidence base on children's opinion of sentencing helps to meet those obligations.

Such studies can also increase understanding of how the public's views of sentencing alter over the life course and, as the body of research develops, it may reveal insights into children's legal socialisation and when and how their views are formed and knowledge acquired (see, for example, Tyler and Trinkner (2017)). Research findings can inform citizenship education in schools, including the contribution of the Sentencing Council to these programmes,[4] and they may encourage more, and different, judicial outreach schemes. Ascertaining and improving children's knowledge and understanding of sentencing may also improve children's perceptions of the legitimacy of sentencing and the criminal courts during childhood and beyond. It is also important to understand how deterrence may work in the case of children and young people; even assuming sentencing policy and practice can deter offending in children (for which there is limited, if any, evidence: see Crofts et al. (2023)), they will not be deterred from offending if they do not know what the penalty is or even that they can be held criminally responsible for their actions.

This report describes the results of a survey of 1,038 children aged 10-17-years-old. The fieldwork was conducted by YouGov between 29 August and 6 September 2023.[5] Questions focus on respondents' opinion and knowledge of sentencing practice in relation to children, and we also ask about sentencing practice in relation to adults for comparative purposes. It provides quantitative data to supplement the very small number of qualitative studies to date that have explored with children in England and Wales their knowledge of the criminal justice system (e.g. Bevan (2019); Watkins et al. (2016); Kemp and Watkins (2022)). This report begins by setting out the background on the sentencing of children and the limited previous research with children that has explored their knowledge in this area before detailing the findings from the survey.

1 See most recently, House of Commons Justice Committee (2023): 2,057 people were surveyed for that report, and 25 took part in a deliberative engagement exercise, all of whom were adults. For an overview of related research, including from overseas jurisdictions, see Roberts (2004). See also Applegate and Davis (2006); Piquero and Steinberg (2010); Barretto, Miers and Lambie (2016). Since Roberts and Hough's 2005 study of public opinion in England and Wales, the sentencing landscape for children has altered significantly, including a huge reduction in the use of custodial sentences. See further Hollingsworth (2023).

2 There are a small number of studies in England and Wales which explore children's knowledge of aspects of the criminal justice system, some of which include sentencing or related issues (see, for example, Bevan (2019); Watkins et al. (2016)).

3 On the importance of incorporating children's voices into policy making, see Berkley and Wright (2022).

4 See, for example, the Sentencing Council's resources for teachers (available at https://www.sentencingcouncil.org.uk/research-and-resources/resources-for-teachers/. Last visited 2nd August 2024). See also Watkins et al. (2016) whose research examined children's knowledge and understanding of their legal rights, including in criminal justice. They suggest that 'increasing children's awareness of the English legal system (and especially the criminal justice system) should be afforded much greater priority in the education system, in light of children's widespread misunderstanding and lack of knowledge in this area' (at p. 326).

5 The authors are grateful to Lilly Crellin for assistance with the data set out in this report.

Sentencing Children: Law and Guidance

Sentencing children is a highly complex process that demands a 'root and branch' difference of approach from sentencing adults.[6] The Sentencing Council's *Sentencing Children and Young People Guideline* requires sentencing courts to adopt an individualised approach that focuses on the child rather than the offence, and that takes account of a range of welfare factors[7] as well as the principal aim of the youth justice system to prevent re/offending.[8] The Guideline also specifies that the child's maturity is as important as chronological age in assessing culpability, that sentences should be rehabilitative not punitive, and that custody is a measure of last resort for children.

In addition to the overarching Guideline, there are three child offence-specific guidelines which must be applied unless the court considers it would be contrary to the interests of justice to do so.[9] Where there exists no child-specific guideline, a sentencing court may take account of relevant adult guidelines but only if the court is satisfied the custody threshold is crossed and no other sentence is appropriate. In such circumstances, courts may consider it appropriate to apply a sentence broadly half to two-thirds of the adult sentence (lower for those aged under 15), but this should not be applied mechanistically.[10] Minimum sentences apply in the case of 16- and 17-year-olds in relation to a small number of offences (unless there are exceptional circumstances), including firearms offences, threatening with an offensive weapon or bladed article, or possession of an offensive weapon or bladed article where it is a second offence.[11]

Six sentences are available to sentencers when sentencing children (in addition to absolute or conditional discharges, fines, and reparation orders).[12]

- Referral Order: The mandatory sentence for most first-time child offenders who plead guilty and a discretionary sentence for subsequent offences if the child pleads guilty. It is available for all age groups and requires attendance before a Youth Offender Panel who agree a programme of behaviour with the child.
- Youth Rehabilitation Order: The equivalent for children of a Community Order. It can be comprised of various elements including activity, supervision and so on.
- Detention and Training Order: A custodial sentence with a maximum length of 24 months, half of which is served in the community. It is available for children aged 15-17 years, or 12-14-year-olds who are deemed persistent offenders. It is not available for 10-11-year-olds.
- Detention under section 250 (Sentencing Act 2020): Available for use for a child over 10-years-old for 'grave crimes' (defined in statute). It is only generally available if the custodial sentence is more than two years.
- Detention for life: Available only for specified offences where the seriousness of the offence justifies a life sentence and where dangerousness criteria is met.
- Detention During His Majesty's Pleasure (DDHMP): The mandatory sentence for murder that is not otherwise available. It is the equivalent of a life sentence.

6 *ZA v R* [2023] EWCA Crim 596, para. 83, per Mrs Justice May.

7 For example, the child's education and communication needs, history of trauma, their care experience, and the over-representation of children from minority groups.

8 The guideline is available at: https://www.sentencingcouncil.org.uk/wp-content/uploads/Sentencing-Children-and-Young-People-definitive-guideline-Web.pdf. Last visited 2nd August 2024.

9 Sexual Offences; Robbery; Bladed Articles and Offensive Weapons. The Overarching Principles: Domestic Abuse Guideline also applies to children aged 16 and over.

10 For a step-by-step approach to sentencing children, see *ZA v R* [2023] EWCA Crim 596.

11 See Sentencing Act 2020, sections 311, 312, and 315.

12 See further Sentencing Act 2020 and the *Youth Defendants in the Crown Court* Bench Book (Branston and Norton, 2023) for an overview. Extended sentence of detention is also available in limited circumstances, as well as special sentence of detention for terrorist offenders of particular concern.

Sentencing Children: Trends and Practice

Over the past 25 years there have been significant shifts in the law, policy and practice in sentencing children. Most notably, the number of sentencing occasions involving children has declined from 92,000 in 2000/01, to 43,867 in 2012/13, to just 11,900 in 2022/23 (the most recent available figures) (Youth Justice Board, 2024). The number of custodial sentences has also fallen from 7,485 (2001/02) to 2,815 (2012/13) to 540 (2022/23). Children also made up a smaller percentage of total sentencing occasions in 2023 compared to 2013 (1% compared to 4%), but they have consistently comprised 1% of the custody population over the same period.

The average custodial sentence length for children has increased over the period from 12.4 months in 2013 for all offences, and 13.5 months for indictable offences, to 19.6 months and 20.5 months respectively in 2022/23 (though this is much lower than the previous year in 2021/22 when the figures were 23.4 months and 24.6 months respectively).[13] The increase in average custodial length may reflect greater diversion of children from custody for less serious offending. For example, in 2023, children serving a Detention and Training Order (the maximum length of which is two years) accounted for 24% of the custodial estate, compared to 58% in 2013, whilst children serving longer sentences under section 250 of the Sentencing Act 2020 and 'other sentences' have increased (albeit the largest increase in proportion of children in custody are those on remand). However, this data does not include life and indeterminate sentences and so trends in sentence length for children convicted of the most serious offending are excluded.

Previous Research with Children

There is very little research on children's knowledge and opinion of sentencing and, as far as we are aware, no quantitative research conducted in England and Wales (Bevan, 2019). In 2019, Bevan published the results of a qualitative study which explored, through focus groups, the knowledge and understanding of the criminal justice system of 65 school pupils.[14] This included, inter alia, questions about the sources of children's knowledge of the criminal justice system and their views about sentencing based around their response to two vignettes (on cannabis possession and sexting). She found that a significant number of participants anticipated a much more severe penalty than would ordinarily follow and that a 'reasonable proportion' had no real knowledge at all. In particular, they knew little about community sentences and few had heard of a referral order.[15] Hollingsworth's (2024) small qualitative study of justice-experienced children also found low levels of knowledge of sentencing outcomes and processes.

Analogous research on children's understanding of their legal rights, including as suspects, has also found low levels of knowledge. Internationally, Barnes and Wilson (2008) note that this body of research has examined children's knowledge of legal terminology (e.g. Flin et al. (1989); Peterson-Badali and Abramovich (1992); Saywitz et al. (1990)), conceptions of the legal system (e.g. Martin and Cohn (2004); Saywitz (1988)), and attitudes towards legal institutions and the police (e.g. Hurst and Frank (2000); Mylonas and Reckless (1963)). The research suggests that even direct experience of the criminal justice system does not increase children's knowledge and understanding (e.g. Barnes and Wilson (2008); Hollingsworth (2024)). It also shows, however, that children's knowledge increases progressively as they go through childhood, with each year group demonstrating greater knowledge than those who are younger (e.g. Barnes and Wilson (2008); Saywitz (1988); Watkins et al. (2016)).

In addition to the identified research gap and the absence of larger quantitative studies, further research is needed to inform the impact on public opinion and knowledge of two factors that are unique to the context of sentencing children. First, as noted above, sentencing children is especially complex. It is individualised; there are different age thresholds that affect the availability of some sentences and starting points; and sentence availability and calculation may change when a child crosses a significant age threshold between the date of offence, the date of conviction, and the date

13 The peak in 2021/22 is attributed to a small number of cases which impacted on the overall average (Youth Justice Board, 2023).

14 Bevan's sample were aged 13-18-years-old and the majority were aged 17.

15 See also Watkins et al. (2016) who found that whilst children identified being 'told off' by the police or a warning as a response, there appeared to be limited understanding of non-custodial outcomes.

of sentence. Second, there are fewer opportunities for the public to observe first-hand the sentencing of children. Most child defendants (around 95%) are sentenced in youth court from which the public are excluded. The public can only directly observe the sentencing of children in the Crown Court, nearly all of which will be cases where a custodial sentence of more than two years is anticipated. Moreover, the youth court is not a court of record so, unlike higher profile cases in the Crown Court, sentencing remarks are not publicly available and cannot be broadcast or published. The public must therefore rely more heavily on indirect and – where reporting restrictions are in place – partial accounts of children's sentencing as reported by print, broadcast and social media. The media are likely only to report cases that are particularly 'newsworthy' (usually owing to their seriousness and/or notoriety) and earlier research suggests that media portrayals of children involved in offending has added layers of outrage compared to crimes committed by adults (Gordon, 2012).[16] Consequently, there is a greater risk of distortion in the public's understanding of the sentencing of children which may also impact on opinion-formation. In light of these two factors, understanding better what the public – including those aged under 18 – know and think about sentencing children is particularly pressing.

Survey Design

This report describes the results of a survey of 1,038 children living in England and Wales, distributed by YouGov in August/September 2023 on behalf of the Sentencing Academy. Children aged 10- to 17-years-old were included in the sample in order to capture those between the minimum age of criminal responsibility and legal adulthood. For comparative purposes, some questions were designed to reflect questions included in earlier adult surveys.[17] Other questions focused on children's knowledge where there was a right and wrong answer, including their knowledge of the minimum age of criminal responsibility and sentence severity for children relative to adults. Also included were two vignettes designed to ascertain children's knowledge of the likely sentence for a child, using scenarios where a mandatory sentence would ordinarily apply (specifically, a referral order and the mandatory minimum sentence for a repeat knife crime).

The questions were written using simple, non-ambiguous and accessible language, drawing on the advice of speech, language and communication specialists. To avoid alienating or patronising older teens with good language comprehension, the survey included an explanation that the questions were written in a simplified manner for the benefit of younger children.[18] YouGov did not distribute the final two questions (the vignettes) to 10- and 11-year-olds due to their concern that the response rate would be negatively impacted. Ethical approval was given by Newcastle University,[19] and child-appropriate information sheets and privacy notices were provided by YouGov as well as by the project team.

16 Nb. Even experiencing sentencing courts first-hand may not improve knowledge or understanding given the complexities of the language and process (see Hollingsworth (2024)).

17 Questions about perceptions of trends (e.g. do you think there is more crime now than five years ago?) were discarded due to the complexities of explaining concepts of time in ways that would be meaningful to children yet consistent for the purposes of comparison with adult surveys.

18 Early questions explained in child-appropriate language the following: what a law is ('rules we must all follow'); what a crime is ('if a person breaks the criminal law it is called a crime'); a criminal court ('a place where it is decided if someone did or did not do a crime'); and the role of the judge in sentencing ('When people do something against the law, it is called 'committing a crime'. If a court says the person committed a crime, a judge will decide what punishment to give them').

19 Reference 34226 (approved 10 August 2023).

Children's Knowledge of Criminal Courts

The first set of questions were designed to ascertain where children acquire their knowledge of what happens in a criminal court and a self-assessment of how much they know. After explaining what a criminal court is, we asked who had talked to them about what happens in a criminal court (question 1), where they have seen what happens in a criminal court (question 2), and how much they know about what happens in a criminal court (question 3). For the first two questions, respondents were asked to select as many answers as they liked.

More than half (57%) of the children had spoken with their family about what happens in a criminal court, 39% said that teachers at school had spoken to them and 11% said they had spoken to friends. Almost a third of the children had spoken to no one. Responses across the age ranges, genders, and regions remained broadly consistent for all options. The cross-tabulation between this question and the other survey questions is described throughout the remainder of this report.

Table 1: Who the respondents had talked to about what happens in a criminal court

My family	57%
My teacher at school	39%
My friends	11%
Someone else	5%
No one	29%
Don't know	3%

Q. Who has talked to you about what happens in a criminal court? If no one has ever spoken to you about what happens in a criminal court, please say 'no one'.

The results are similar to Bevan's (2019) qualitative findings, with one exception. Whilst Bevan also found that discussions with family were commonly raised in her focus groups, none of her participants mentioned school (e.g. citizenship classes or personal, social, health and economic (PSHE) sessions) as a source of criminal justice knowledge, compared to almost four in 10 children in this research who said a teacher had spoken to them. However, Bevan did not directly ask questions about school as a source of information, and children may recall differently when specifically prompted.

Table 2: Where respondents had seen what happens in a criminal court

On a TV programme	57%
In a film	49%
On the internet	25%
In books I've read	19%
On social media	18%
I have been to a criminal court	2%
Somewhere else	3%
None of these	19%
Don't know	3%

Q. Where have you seen what happens in a criminal court? If you have never seen what happens in a criminal court, please say 'none of these'.

In line with analogous research (Kemp and Watkins (2022); Bevan (2019)), TV was the most common source of knowledge across all age ranges (57% in total), with a steady increase from the youngest to the oldest who chose this response (from 45% of 10-year-olds to 66% of 17-year-olds). We did not ask what type of TV programme they had watched (e.g. drama, TV news) but both Bevan's (2019) and Kemp and Watkins' (2022) qualitative studies found that where children watched TV crime dramas, these were sometimes outdated or from other jurisdictions (most notably the USA).[20] This raises concerns about the likely accuracy of the knowledge children are acquiring, particularly – as Kemp and Watkins (2022) note – because of the tendency for TV drama to 'sensationalise serious offences'.[21] In Bevan's (2019) study, social media was cited as a relatively common source (especially Facebook[22]) but she makes no mention of books.

In contrast, and again across all age ranges, in this survey almost the same number answered they had seen what happens 'in books I've read' as they did on 'social media', with a greater number answering books than social media in the youngest (10- and 11-year-olds) and oldest age groups (16- and 17-year-olds). Nineteen per cent of respondents said they had not seen what happens in a criminal court anywhere. Unsurprisingly perhaps, the response to this option was higher amongst 10- and 11-year-olds (29% and 32% respectively) than 16- and 17-year-olds (13% and 10% respectively).

Very few respondents reported having had direct experience of being in a criminal court (2% average across the sample) and we did not ask in what capacity nor what type of proceedings (for example, whether as a defendant, a witness, or to watch proceedings; or whether it was a trial or sentencing hearing). However, as perhaps expected, the figures (although remaining small) increased in the older age groups.

20 Bevan (2019) noted that news sources – online, on TV and on the radio – were a common source of knowledge. Our survey did not specify news as a category of content, but instead asked only about the medium (TV, film, books, etc).

21 Also see older studies which suggest that watching legal programmes on TV did not improve legal knowledge (research cited in Barnes and Wilson (2008)).

22 Nb. her data was collected in 2013. Other social media sources such as TikTok may now feature more.

Table 3: Proportion of respondents who reported having been to a criminal court

Age	I have been to a criminal court
10-years-old	1%
11-years-old	2%
12-years-old	1%
13-years-old	0%
14-years-old	3%
15-years-old	3%
16-years-old	5%
17-years-old	4%

Q. Where have you seen what happens in a criminal court?

Given the very low numbers with direct experience in court, we did not cross-analyse these answers with other survey questions. We are therefore unable to ascertain a correlation between direct experience and increased/decreased knowledge or opinions on sentencing options. However, Watkins and Kemp's (2022) research on children's knowledge of suspects' rights found no increase with direct experience. Given the complexity of sentencing children, alongside the impact of stress on children's understanding in court (for those who might have direct experience as a witness or defendant), we might hypothesise that this would hold true also of children's knowledge of sentencing.

When asked how much they know about what happens in court, almost three-quarters of respondents answered that they know 'a little', and almost a quarter that they know 'nothing at all'. Older children were somewhat more confident in their knowledge, increasing from 69% of 10-year-olds to 76% of 17-year-olds who say they know a little. The same percentage in both groups – 4% – answered that they know a lot.

Table 4: Self-reporting knowledge about what happens in a criminal court

	All ages	Aged 10	Aged 11	Aged 12	Aged 13	Aged 14	Aged 15	Aged 16	Aged 17
I know a lot	5%	4%	2%	5%	5%	3%	6%	7%	4%
I know a little	73%	69%	70%	72%	70%	72%	73%	79%	76%
I know nothing at all	23%	27%	28%	23%	25%	25%	21%	14%	20%
Skipped	0%	0%	0%	0%	0%	0%	1%	0%	0%

Q. How much do you know about what happens in a criminal court?

However, a marked difference emerges between the confidence levels of children who have spoken to teachers about what happens in a criminal court and those who have not: 84% of those who had spoken to teachers felt they knew a little, and only 9% that they knew nothing at all, compared with 51% who knew a little and 49% who said they knew nothing at all amongst those who had spoken with no one.

Table 5: Relationship between speaking to teachers and speaking to no one and confidence of understanding

	Spoken to teachers	Spoken to no one
I know a little	84%	51%
I know a lot	7%	0%
I know nothing at all	9%	49%

Q. How much do you know about what happens in a criminal court?

Children's Knowledge of the Minimum Age of Criminal Responsibility

The minimum age of criminal responsibility (MACR) is the age at which the law determines children have the capacity to commit a criminal offence. In England and Wales, the MACR has been 10 since 1963;[23] lower than that recommended by the UN Committee on the Rights of the Child (2019) which suggest it should be '15 or 16 years of age'. Internationally, the most common minimum age of criminal responsibility is 14 years.

We wanted to know how many children were able to accurately identify the age of criminal responsibility in England and Wales. To help the respondents understand the question, the following explanation was included:

> *'The law says that judges cannot punish a child who has committed a crime unless they have reached a certain age. What do you think the youngest age a judge can punish a child is?'*

Respondents were asked to select only one answer from '5 years or under', through ages 6, 7, 8 and so on up to and including 18-years-old. Almost three-quarters of the children surveyed answered incorrectly or answered that they did not know. Only 27% correctly identified 10 as the age at which children become criminally responsible. Nonetheless, the age of 10 was the most common answer, and this was the case across each age group.

23 Section 50 of the Children and Young Persons Act 1933 as amended by section 16 of the Children and Young Persons Act 1963. The minimum age of criminal responsibility in Scotland was recently increased from eight to 12 by the Age of Criminal Responsibility (Scotland) Act 2019 (the Act came into effect on 17 December 2021).

Table 6: Children's estimates of the minimum age of criminal responsibility

	All ages	Aged 10	Aged 11	Aged 12	Aged 13	Aged 14	Aged 15	Aged 16	Aged 17
5 or under	1%	2%	0%	0%	3%	1%	2%	1%	2%
6	1%	2%	2%	1%	1%	0%	1%	0%	0%
7	1%	5%	1%	1%	1%	1%	0%	1%	2%
8	2%	3%	1%	3%	1%	2%	3%	4%	1%
9	2%	1%	1%	1%	3%	1%	4%	1%	2%
10	27%	21%	29%	28%	31%	25%	24%	23%	33%
11	4%	3%	5%	1%	4%	4%	4%	7%	6%
12	14%	15%	8%	9%	18%	17%	18%	15%	11%
13	7%	8%	12%	7%	6%	6%	6%	5%	7%
14	4%	5%	7%	4%	3%	3%	5%	4%	4%
15	3%	2%	7%	3%	2%	6%	1%	2%	3%
16	15%	15%	10%	23%	10%	21%	12%	16%	14%
17	1%	2%	1%	2%	0%	0%	3%	1%	1%
18	7%	6%	6%	9%	6%	5%	5%	11%	4%
Don't know	10%	12%	11%	8%	11%	6%	10%	11%	9%
Skipped	0%	0%	0%	0%	0%	0%	1%	0%	0%

Q. The law says that judges cannot punish a child who has committed a crime unless they have reached a certain age. What do you think the youngest age a judge can punish a child who has committed a crime is?

Perhaps unsurprisingly, 10-year-olds had the lowest correct response rate (21%) and 17-year-olds the highest (33%). However, there was not a linear increase in knowledge across the age groups; instead, 14-, 15-, and 16-year-olds had a lower accuracy rate than those aged 11-13-years-old (for example, 31% of 13-year-olds answered correctly but only 23% of 16-year-olds). Of those who provided an answer (i.e. excluding those who answered 'don't know'), 61% of respondents incorrectly thought the MACR was higher than 10-years-old with large minorities selecting 12 (14%) and 16 (15%). A majority of the children surveyed therefore think the MACR is closer to international children's rights standards than it is. Of particular note are the proportion of children – 30.5% across all age ranges – who thought the MACR was higher than their current age and who, therefore, wrongly thought they were not criminally responsible.

Table 7: Proportion of respondents who thought the MACR was higher than their current age

Age	Thought the MACR was higher than their current age	Thought the MACR was higher than their age or did not know
10	56%	68%
11	51%	62%
12	48%	56%
13	21%	32%
14	32%	38%
15	20%	30% (1 skipped)
16	12%	22%
17	4%	13%

The lack of accurate knowledge of the MACR aligns with the findings of Kemp and Watkins' (2022) qualitative study, where children with no experience in the justice system were 'shocked' when told the MACR was 10. However, our results contrast starkly with Watkins et al. (2016) where 63.9% of 634 children aged 8- to 11-years-old identified the correct MACR, with progressively greater accuracy as children got older (79% of children aged 9-11 identified the correct age).[24] However, there are differences in the way the question was asked that likely impact the responses. Watkins et al. (2016) asked 'at what age do you become responsible for breaking the law' compared to our question which explains the consequences of committing a crime. We might hypothesise (for later testing) that whilst a higher proportion of children know they become 'responsible' for law-breaking at 10, they do not necessarily understand the consequences (i.e. potential judicial punishment). A similar point is made by Watkins et al. who also asked their cohort what happens when a child is caught stealing; only 17.5% responded that age was relevant to the outcome for the child, leading to the conclusion that 'whilst a large number of children possess accurate knowledge concerning [the MACR], far fewer possess an understanding of its potential, practical implications' (2016, p. 315). By posing the question in a way that explained the consequences of the MACR, but did not use the phrase itself, we may have more accurately captured children's (lack of) understanding rather than capturing only their knowledge that children are 'responsible' at the age of 10.

The results from our survey do not show marked differences in accuracy between children who said they had spoken to a teacher about what happens in a criminal court and those who had spoken to no one. In relation to the former, 26% identified the MACR at 10-years-old, 15% at 12-years-old, and 15% at 16-years-old; compared to 22%, 13% and 17% respectively for children who said they had spoken to no one. Whilst speaking to a teacher therefore may make some difference, it was not marked and may speak to the form and nature of the teacher's communication.[25]

24 Watkins et al.'s (2016) study used a gaming app to ascertain children's understanding of a range of legal rights (and responsibilities).

25 Watkins at al.'s (2016) study found considerable differences between children from different schools, where accuracy varied from 87% in one school to 32% in another, which may speak to variations in specific educational provision (though teachers in this study were largely unable to identify for high accuracy rates in their schools).

Perceptions of Whether the Judiciary Understand What Children's Lives are Like Now

Respondents were asked 'Do you think judges understand what children's lives are like now?'. This was an adapted version of a question used in surveys with adult respondents (e.g. Roberts et al. (2022)) that ask 'Do you think judges/magistrates are in touch, or out of touch with what the public think?'. The language in this survey was chosen to reflect findings from a recent qualitative study examining the sentencing experiences of justice-experienced children, where interviewees identified generational differences between themselves and judges (Hollingsworth, 2024). To avoid over-complication, child respondents were asked only about 'judges' as an overarching term intended to include judges and magistrates.

Almost six in 10 children felt that judges did not understand what children's lives are like now, a figure that increases to 78% when 'don't know' responses are removed.

Table 8: Children's perceptions of whether the judiciary understand what children's lives are like now

	Child's age %				
	Total	**10-11**	**12-13**	**14-15**	**16-17**
Yes, they do	**16**	13	21	18	14
No, they don't	**57**	52	53	60	64
Don't know	**27**	34	27	22	22
Skipped	**0**	1	0	1	0

Q. Do you think judges understand what children's lives are like now?

The proportion of children answering 'no' increased incrementally with age, from just over half of 10- and 11-year-olds to almost two-thirds of 16- and 17-year-olds. However, the combined result across all ages is almost identical to adult perceptions that judges are out of touch. The most recent survey of adults, for example, found that almost six in 10 (59%) believed judges were out of touch, and more than half (52%) of adults thought magistrates were out of touch (Roberts et al., 2022, p. 7) compared to 57% of all children. The adult figures increased to 78% and 70% respectively when those who answered 'don't know' were excluded, and for children the figure increased to 78%.

The number of children who responded 'no' were very similar as between those who had spoken to their teachers about what happens in a criminal court and those who had spoken to no one (56% compared to 57%). However, twice as many respondents (21%) who had spoken to a teacher said judges do understand children compared to those who had spoken to no one (10%), with a corresponding difference in 'don't know' responses.

Table 9: Children's perceptions of whether the judiciary understand what children's lives are like now cross-tabulated with spoken to teachers about criminal courts/spoken to no one

	Spoken to teachers	Spoken to no one
Yes, they do	21%	10%
No, they don't	56%	57%
Don't know	22%	33%

Children's Estimates and Opinions of Current Sentencing Practices

In order to assess children's perceptions of overall sentencing practice, and to compare their opinions on adult sentencing versus the sentencing of children, the survey asked: Do you think punishments when children commit a crime are too big, too small or about right? The same question was also asked in relation to sentencing adults.[26]

Table 10: Children's perceptions of the severity of sentencing of adults

	Child's age %				
	Total	**10-11**	**12-13**	**14-15**	**16-17**
Too big	**3**	3	3	4	2
About right	**34**	30	32	42	31
Too small	**27**	24	22	26	37
Don't know	**37**	44	44	28	30
Skipped	**0**	1	0	1	0

Q. Do you think punishments when adults commit a crime are too big, too small or about right?

Few children (3%) believed that the punishments imposed on adult offenders were too severe. However, just over a quarter (27%) stated that sentences were too lenient. The two most popular responses were that they were either 'about right' (34%) or that they did not know (37%). As the most common response was that they did not know, it is worth digging deeper. First, younger children were, perhaps unsurprisingly, more likely to state that they did not know than older children: 44% of the two youngest age groups both answered 'don't know' compared to less than a third of the older children.

Another factor related to responses to this question is whether the respondent had spoken to a teacher about what happens in a criminal court, with only 28% of those who had spoken to a teacher responding 'don't know' compared to 48% of respondents who had not spoken to anyone about the topic. Of those who did express a view, 41% of children who had spoken with a teacher thought that sentences were about right compared to 29% of those who had not. This suggests that, not only did children who had spoken to a teacher feel more able to express a view, but, when they did, their view of sentencing adults was more likely to be positive.

The view that sentencing is too lenient also seems to be correlated with age, with 37% of the oldest children holding the view that punishments are too small compared to an average of 24% of children aged under 16. Whilst this perception of excessive leniency is still considerably lower than responses by adults when asked a similar question,[27] it suggests a possible ageing effect in relation to dissatisfaction with sentencing levels, with the view that sentencing is too lenient becoming more

26 Following consultation with a speech, language and communication specialist, we used 'too big' and 'too small' rather than too harsh/too lenient because it was less ambiguous and more understandable for children. We also gave fewer options than the comparable question in the adult survey (in Roberts et al. (2022) adults were given the following options: 'much too tough', 'a little too tough', 'about right', 'a little lenient', 'much too lenient', 'don't know').

27 65% of adults held the view that sentencing was too lenient in Roberts et al. (2022).

common as someone ages.[28] Overall, the sample of children were more than twice as likely as the adults asked in Roberts et al. (2022) to consider sentencing levels to be 'about right'; 34% of the children expressed this view compared to only 16% of adults.

We also explored children's views of the sentencing of children. Few children (7%) stated that the sentences imposed on children who offend were too big, although this is an increase on the proportion who think that sentences imposed on adults are too severe (3%). Only 16% of children felt that sentences imposed on children were too small compared to 27% who felt that they were too lenient with regards to adult offenders; 29% stated that the sentences imposed on children were about right (compared to 34% in relation to sentences imposed on adults). As was the case with sentencing adults, respondents were most likely to state that they did not know. Almost half of children (47%) selected this option (compared to 37% with regards to adult offenders). It is noteworthy that children appear to have less knowledge of the sentences that could apply to them – or at least are less confident to express a view on the severity of them – than they are on adult offenders.

Table 11: *Children's perceptions of the severity of sentencing of children*

	Child's age %				
	Total	**10-11**	**12-13**	**14-15**	**16-17**
Too big	**7**	11	8	6	5
About right	**29**	20	27	35	36
Too small	**16**	13	14	19	19
Don't know	**47**	56	50	39	39
Skipped	**1**	1	2	0	1

Q. Do you think punishments when children commit a crime are too big, too small or about right?

If an opinion was expressed, the most likely outcome was that the sentences imposed on children were about right (29%). This was most common amongst all age groups, although it rose the older the respondent was. Almost twice the proportion of the oldest respondents selected this option as did the youngest group. This can largely be explained on the basis that a higher proportion of younger children stated that they did not know, although younger respondents were more likely than older ones to think that punishments were too severe.

Children's Knowledge and Opinion of Sentencing Severity for Children Compared to Adults

We also asked the panel to consider the sentencing of children in comparison to adults, both in terms of what they thought a court *would* do and what a court *should* do. The first of two questions tested knowledge rather than opinion as there was an objectively correct answer to what a judge 'would' do in real life. Respondents were asked whether a 25-year-old woman (Grace) would receive a bigger, smaller or the same punishment as a 15-year-old girl (Sarah) who committed an identical offence. This question was answered with a high degree of accuracy: 81% correctly identified that Grace would likely receive a more severe sentence than Sarah.

28 Indeed, in the survey conducted for Roberts et al. (2022), respondents in the youngest age group (18-24) were half as likely to express the view that sentencing is too lenient than those in the oldest age group (55+).

Table 12: Children's perceptions of what judges would do when sentencing a 25-year-old compared to a 15-year-old

	Child's age %				
	Total	**10-11**	**12-13**	**14-15**	**16-17**
The judge would give Grace (25 years old) a bigger punishment than Sarah (15 years old)	**81**	73	80	85	87
The judge would give Sarah (15 years old) a bigger punishment that Grace (25 years old)	**2**	1	3	1	1
The judge would give Grace (25 years old) and Sarah (15 years old) the same punishment	**12**	18	14	8	6
Don't know	**5**	8	4	5	5
Skipped	**0**	0	1	0	0

Q. Please imagine that there is a woman called Grace who is 25 years old and a girl called Sarah who is 15 years old. Grace and Sarah commit the same crime. What do you think a judge 'would' do in real life?

The sample was confident in providing an answer; only 5% stated that they did not know. The vast majority of every age group provided the correct answer, with this rising with age as almost nine in 10 of the oldest respondents answered this question correctly. Younger respondents were more likely to consider that both Grace and Sarah would receive the same punishment – perhaps because at that age both 15-years-old and 25-years-old seem sufficiently 'old' to receive the same outcome – but very few respondents of any age group thought that the younger offender would receive a more severe sentence than the older one.

We also asked what a court 'should' do in this scenario. Whilst 81% of the sample recognised that Grace would receive a bigger sentence than Sarah in practice, only 50% thought that this was appropriate. A far higher proportion thought that Grace and Sarah should receive identical sentences (38%) than thought that would happen in practice (12%).

Table 13: Children's perceptions of what judges should do when sentencing a 25-year-old compared to a 15-year-old

	Child's age %				
	Total	**10-11**	**12-13**	**14-15**	**16-17**
The judge should give Grace (25 years old) a bigger punishment than Sarah (15 years old)	**50**	45	49	53	53
The judge should give Sarah (15 years old) a bigger punishment that Grace (25 years old)	**3**	1	4	3	2
The judge should give Grace (25 years old) and Sarah (15 years old) the same punishment	**38**	43	43	35	32
Don't know	**9**	10	5	8	13
Skipped	**0**	1	0	1	0

Q. Please think again about Grace (who is 25 years old) and Sarah (who is 15 years old). Grace and Sarah commit the same crime. What do you think a judge 'should' do?

It is worth noting that a higher proportion of respondents responded that they did not know the answer to this question (9%) than the previous one (5%). However, the proportion of respondents stating that they did not know was significantly lower for these questions than the proportion of respondents who opted for 'don't know' as an answer to earlier questions on sentence severity in general. Children in the survey were, therefore, far more confident in expressing an opinion about how adults should be sentenced relative to children than whether the sentences currently imposed on adults and children were appropriate. Respondents may have felt they had inadequate knowledge to respond to the latter whilst the former raised a point of principle. Age was a less significant variable than was the case in the previous 'would' question, with a similar proportion of all age groups considering that Grace should receive a more severe sentence than Sarah. Mirroring the previous question, younger respondents were more likely than older ones to consider that the same punishment was appropriate.

The answers to this question are amongst the most intriguing in the survey as they demonstrate a stark difference between what young people think a court would do and what courts should do.

Table 14: Comparison of children's perceptions of what judges would do and should do when sentencing a 25-year-old compared to a 15-year-old

	'Would'	**'Should'**
Give Grace a bigger punishment than Sarah	**81%**	50%
Give Sarah a bigger punishment than Grace	**2%**	3%
Both get the same punishment	**12%**	38%
Don't know	**5%**	9%

The finding that 38% of respondents think that Grace and Sarah should receive identical punishment raises fundamental questions about children's perceptions of just outcomes in criminal courts when

it comes to how adults and children who commit the same offence should be punished. There are various reasons why a differential response to offending by adults and children is appropriate. A central concern is that lack of maturity affects culpability, and this should be reflected in the sentence imposed even when the offence was otherwise identical. The direct and indirect impact of a sentence may also be felt disproportionately by a child, hence the importance of welfare to decision-making.

To the youngest respondents, 15- and 25-year-olds may both be perceived as older and therefore drawing a distinction may seem inappropriate. But this cannot explain the proportion of older children who felt that justice demanded equal treatment. Some children may have a fundamental belief that they should not be discriminated against, even where the impact is positive. Another possibility is that children (and especially younger children) are either unaware of relative maturity or over-estimate their own or their peer's maturity.

Children's Knowledge and Opinion of Actual Sentencing Practice

As noted above, the Sentencing Guideline for Children and Young People requires sentencing courts to take an individualised approach to sentencing children. This can present challenges in designing scenario questions about the likely type and length of sentence, especially if (to compare to the adult surveys) we had wanted to ask about a likely custodial sentence. We did not ask questions directly comparable to those asked in adult surveys (which often ask about sentences for rape) for ethical reasons and because of the complexity of explaining these offences to children.

Therefore, we constructed the scenarios to ensure that the likeliest outcome was a mandatory sentence, or where there is very clear judicial guidance, or both. In question 10, 'Stephen' (a boy aged 16) was convicted of a second offence of taking a knife into school.[29] This would likely attract a mandatory minimum custodial sentence of a four-month Detention and Training Order (although courts retain discretion given their duty to take account of the child's welfare). In question 11, 17-year-old 'Jimmy' threatens Amir and then steals his phone and pleads guilty. It is his first offence. He would likely be sentenced to a referral order.

Bevan (2019) found that the participants in her study had very poor understanding of community sentences and tended to over-estimate the use of custodial sentences. We therefore explained clearly to the respondents the different types of sentence so they could make an informed response. These explanations, although long, were in language we hoped most children could understand.[30] However, YouGov did not pose these two questions to 10- and 11-year-olds as, in their judgement, this cohort would not understand the scenarios, and this would affect the response rate. As such, the sample size for questions 10 and 11 was 788 only.

The first scenario was as follows:

> *'Stephen' is 16 years old. He has been convicted of carrying a knife into school. This means a court has said he is guilty of a knife crime. This is the second time Stephen has been found guilty of a knife crime. What type of punishment (sentence) do you think Stephen will get? If you are not sure, please make your best guess.*

29 The knife crime question focused on possession rather than use for ethical reasons.

30 The descriptions provided to respondents of referral orders, youth rehabilitation orders and custodial sentences were:
(i) **A referral order** is a punishment for children where the child has to go to a meeting with some adults from their community. The child will have to talk about the crime they did and why they did it. The adults will listen to the child and then decide what the child must do to show they are sorry for the crime, like write a letter to say sorry to the victim or work for free for his community.
(ii) **A youth rehabilitation order** is a punishment where the child must follow rules set by the judge in court. The rules might say they have to be home after 7pm, or work for free, or see a social worker.
(iii) **A custodial sentence** is a punishment where a child goes to a secure place that they cannot leave for an amount of time set by the judge in court. The secure place might be like a children's home, or it might be more like a prison.

Table 15: Children's estimates of the likely sentence for a repeat knife offence

	Child's age %				
	Total	**10-11**	**12-13**	**14-15**	**16-17**
A fine (This means Stephen will have to pay some money)	**3**	-	4	2	2
A referral order	**11**	-	11	11	10
A youth rehabilitation order	**43**	-	40	44	45
A custodial sentence of 4 months. 4 months is about the same as a full term at school	**27**	-	31	28	23
A custodial sentence of about 12 months	**16**	-	15	14	19
Skipped	**0**	-	0	1	0

Whilst, as noted above, this scenario was crafted to engage the provision for a mandatory minimum sentence of a four-month Detention and Training Order, only 27% of the sample identified that outcome as the most likely in practice.[31] The most popular option selected was a youth rehabilitation order (43%). More broadly, only 16% of respondents chose a more punitive option than the likely sentence; significantly, 57% chose a less punitive, and non-custodial, option. It is particularly pertinent that the majority of the oldest age group (16- and 17-year-olds) – to whom the mandatory sentencing provisions apply – considered the likely sentence in this scenario to be a non-custodial one. This raises questions as to whether enough is being done to educate children about the potentially very serious consequences of carrying a knife.

The second scenario was as follows:

> *'Jimmy' is 17 years old. Jimmy told 'Amir' he was going to hit him and then Jimmy stole Amir's phone. Jimmy then told the court he stole Amir's phone. This means Jimmy is guilty of this crime. It is the first time Jimmy has done a crime. What type of punishment (sentence) do you think Jimmy will get? If you are not sure, please make your best guess.*

31 It should be noted that 'don't know' was not an option – respondents were asked to guess if they were unsure. One cannot, therefore, tell how confident the respondents were in selecting a sentence.

Table 16: Children's estimates of the likely sentence for a robbery offence

	Child's age %				
	Total	**10-11**	**12-13**	**14-15**	**16-17**
A fine (This means Stephen will have to pay some money)	**19**	-	23	13	21
A referral order	**44**	-	40	46	45
A youth rehabilitation order	**24**	-	21	27	22
A custodial sentence of 4 months. 4 months is about the same as a full term at school	**10**	-	12	11	7
A custodial sentence of about 12 months	**4**	-	4	3	5
Skipped	**0**	-	1	0	0

Responses to this scenario, in which the correct answer would be a less severe sentence than was the case with the previous scenario, were more accurate. The most common answer was the correct one, with 44% of respondents selecting a referral order. Unlike the knife possession scenario, respondents were much more likely to identify a more severe sentence than the likely outcome than a less severe one; respondents were twice as likely to specify a sentence more severe than a referral order (a youth rehabilitation order or custodial sentence) than they were to choose the less severe option (a fine). This contrasts with the knife possession scenario in which respondents were over three times more likely to choose a less severe sentence than would likely be imposed than a more severe one.[32]

32 The number of children who chose the correct sentence were broadly similar in both scenarios as between those who had spoken to a teacher and those who had not. Amongst those who spoken to no one, there was slightly greater accuracy in the knife crime scenario (24% as compared to 21%), and slightly less accuracy in the robbery scenario (30% as compared to 37%).

Conclusion

Three findings of particular significance emerged from this quantitative survey of children. Most strikingly, and fundamentally, is the high proportion of children who are not aware of the fact they have reached the minimum age of criminal responsibility. Efforts to deter children from offending through the sentencing process, including the use of mandatory sentences, will founder where the individuals involved are unaware that criminal sanctions could even apply to them. Secondly, when asked about their perceptions of sentencing severity in general, the children in the sample were much less likely to consider that sentencing is too lenient than has been the case for decades when adults have been asked this question. Thirdly, it is notable that whilst the vast majority of respondents were aware that an adult would be sentenced more severely than a child for an identical offence, the panel were much more mixed as to whether a child should be sentenced more leniently.

A future research agenda should test children's understanding of the factors that do, and the factors that in their opinion should, influence the sentencing of children and adults. Future research could also further compare the responses of children with experience of the justice system and those without, on both knowledge and opinion of sentencing. Similarly, given the focus on welfare in youth justice, research is needed about children's perceptions of the relevance of individual welfare factors. A broader analysis of the relevance of mitigating and aggravating factors would similarly be worthwhile. In-depth qualitative research would allow the findings in this report to be tested further. Comparisons have been drawn in this study to quantitative research undertaken with adult samples. Qualitative work with children would allow comparison with qualitative research undertaken with adults. Studies which employ creative and participatory methods could also usefully supplement the survey findings reported here.

The children surveyed for this report often stated that they did not know the answer to the question, or selected answers which demonstrated a lack of understanding. This raises a public legal education concern: how should this knowledge deficit be addressed? Children benefitted from discussions with teachers in terms of confidence in selecting an answer to survey questions. However, this was not always reflected in the accuracy of the answers provided. Education has a vital role to play, and it is important that all children benefit from classroom discussion and that the information underpinning the discussion is accurate. Greater efforts need to be made to further the understanding of the criminal justice system for the cohort of children who have reached the minimum age of criminal responsibility and against whom criminal sanctions can be applied.

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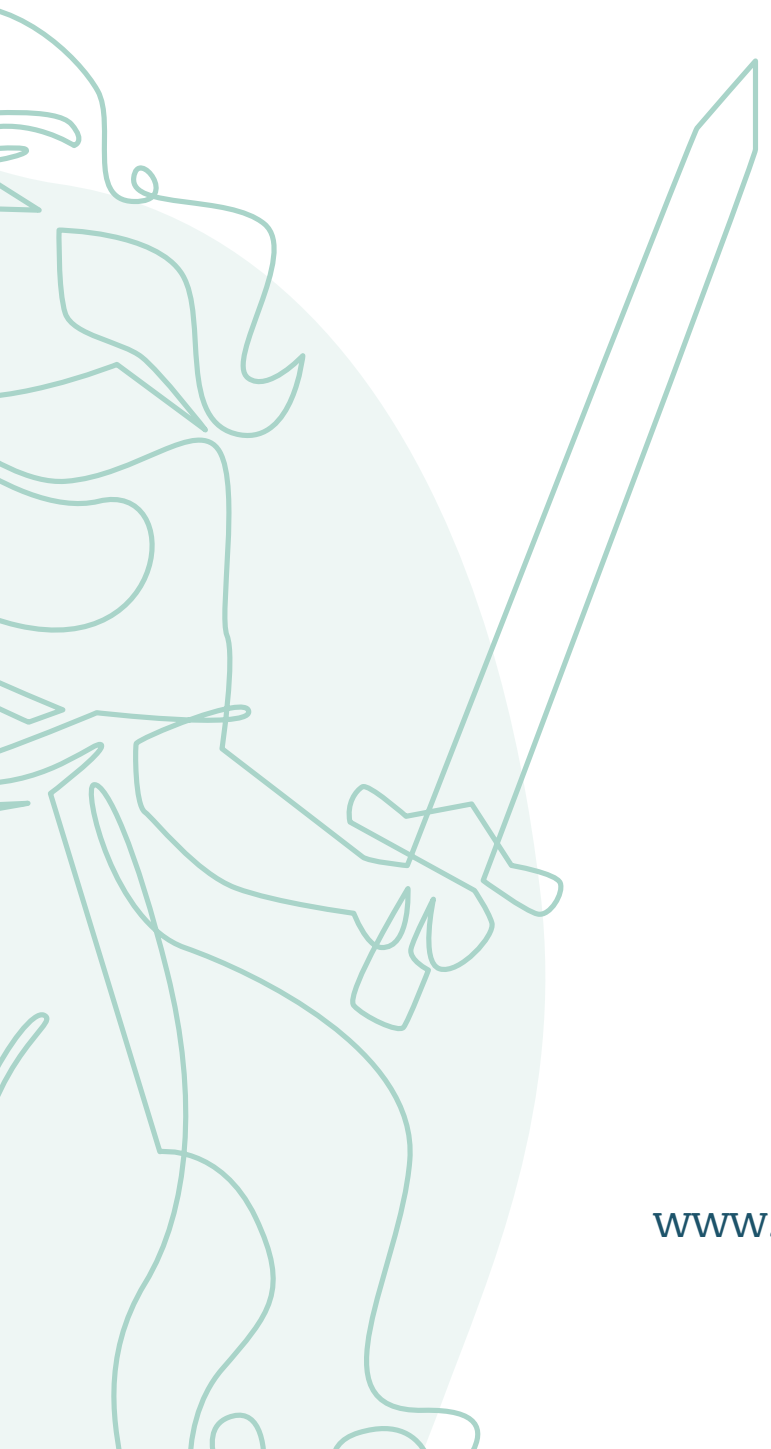
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