

ACS Submission: Sentencing Council Assault offences consultation

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the Sentencing Council consultation on revised guidelines for assault offences. ACS represents 33,500 local shops across the UK including the Co-Op Group, independent Regional Co-operatives, Spar, One Stop and thousands of found in Annex A.

Retailers are facing increasing violent crime. Over the past year, there have been an estimated 50,338 incidents of violence and threats towards convenience store colleagues across the UK¹. The sector saw almost 10,000 incidents involving a weapon. Violent incidents can be incredibly traumatic for individuals, causing not only physical injury, with 25% of all violent incidents resulting in injury, but also significant emotional impacts which can leave members of staff afraid to return to work.

The law must clearly support the appropriate penalties for violence against shopworkers to ensure that both the physical injuries and the psychological impacts are considered. Sentencing guidelines must provide as much clarity as possible to Magistrates and Courts that an assault against a shop worker or someone in the course of their employment should count as an aggravating factor, resulting in a more serious punishment. It would be useful to understand how far this aggravating factor is currently being used and any barriers to its use by Magistrates.

We welcome that the revised guidelines better account for 'middling' harm as referenced in the consultation and hope that this will reduce the different interpretations of the factors, leading to more consistent and appropriate sentencing for offenders committing assaults against shopworkers.

ACS' response to the relevant questions are detailed below. We have answered the questions relating to common assault offences, as these are most relevant to assaults in our sector, but our comments also apply to the ABH and GBH sections of the consultation.

ACS recommends that the Sentencing Council consider the following in response to the consultation:

- Intention to cause fear of serious harm (including disease transmission) should be explicitly referenced as a higher culpability factor increasing offence seriousness, given the increase in coughing and spitting offences related to Covid-19
- The sentencing guidelines for assaults must better account for violence against shop workers and the psychological impacts of these offences, to ensure offenders receive appropriate sanctions and to deter repeat offending
- The barriers to the use of 'serving the public' as an aggravating factor by Magistrates must be understood and resolved to determine whether clearer language is required

¹ [ACS Crime Report 2020: Evidence for Action](#)

1. Do you have any comments on the proposed culpability factors?

ACS would welcome the inclusion of the additional high culpability factor 'intention to cause fear of serious harm, including disease transmission'. Despite being recognised as key workers, violence and abuse towards people working in local shops increased throughout the Coronavirus pandemic; 40% of convenience retailers saw an increase in their stores since the start of lockdown, with shopworkers facing Covid-19 related threats, including coughing and spitting, particularly from offenders attempting to steal from stores.

The inclusion of this culpability factor would provide further clarity for police, Magistrates and the public of the seriousness of this type of assault, particularly in the current context of Covid-19 where disease transmission can be life threatening.

ACS also welcomes the inclusion of threatened or actual use of weapon or weapon equivalent. There were 9,704 violent incidents where a weapon was used in convenience stores in the last year, the majority of which (43%) were knives². Other types of weapons or weapon equivalents used include axes, hammers and syringes (57%). 5% of these crimes involved a firearm³.

2. Do you agree with the revised approach to assessing harm, and with the factors included?

Yes. Whilst the majority of common assaults might not result in a physical injury, or the level of harm may be difficult to determine from a visible physical injury it is important that the psychological harm/distress is taken into account. The factors included under the three categories should enable more assaults against shopworkers to be covered under Category 1 and 2 where these incidents have not only injured store colleagues, but also caused emotional and mental-health impacts on victims.

The City University report 'It's not part of the Job' documents the significant emotional impacts on shopworkers that are victims of violence, including Post Traumatic Stress Disorder (PTSD)⁴. There were 50,338 incidents of violence and threats towards convenience store colleagues in the last year, with one in four violent incidents resulting in injury⁵. ACS Crime Report 2020: Evidence for Action includes case studies which detail the impact of these crimes on retailers.

3. Do you have any comments on the proposed sentence levels?

Guidance must be clear on what is considered 'appropriate' to impose a custodial sentence, whilst considering that assaults against public facing workers should be punished more seriously.

Whilst we understand the move away from shorter custodial sentences, consideration must be given to what credible alternatives will be used in their place to deal with violent offences as fines are not effective in deterring repeat offences. Theft is the top trigger for violent

² [ACS Crime Report 2020](#)

³ [ACS Crime Report 2020](#)

⁴ ['It's not part of the job'](#): Violence and verbal abuse towards shop workers - A review of evidence and policy September 2019

⁵ [ACS Crime Report 2020](#)

offences in convenience stores, with 77% committed by repeat offenders, 52% of which are motivated by a drug or alcohol addiction⁶. We want to see more offenders dealt with by courts allowing for better assessment of offenders' motivations and the delivery of more effective sanctions, such as drug or alcohol orders, to better address the root causes of their offending.

4. Do you have any comments on the proposed aggravating and mitigating factors?

ACS welcomes that the sentencing guidelines maintain that "an offence committed against those working in the public sector or providing a service to the public" remains an aggravating factor. However, violence and abuse against shopworkers is still increasing. The Home Office's Commercial Victimization Survey showed that workers from the wholesale and retail sector suffered around 590,000 incidents of assaults and threats in 2018, more than twice the number recorded in 2016⁷.

We need to understand how far this existing aggravating factor is used in current practice, and the barriers to its use in sentencing prosecutions for violence against shopworkers. A more explicit reference in language could be used, for example "assault in the course of a person's employment serving the public" in order to make clearer to Magistrates where the aggravating factor should be used. Alternatively, specific examples could be referenced in the sentencing guidelines such as "shopworker" or "train guard".

We welcome the removal of a 'single push, shove or blow' as factor indicating lower culpability in the updated guidelines, as these type of assault offences account for violence typically experienced by shopworkers and can cause serious harm, both physically and psychologically.

We welcome the explicit reference to 'spitting or coughing' as a factor increasing the seriousness of the offence, as retailers' reported increases in these incidents towards colleagues through the Covid-19 pandemic.

5. Do you have any other comments on the Common assault guideline?

We believe that appropriate sentencing is an important factor in reducing crime and reoffending. ACS continues to provide retailers with comprehensive guidance on how to tackle retail crime and violence. The recommendations we have made will support the retail sector in protecting its employees and their businesses, whilst providing further clarity for Magistrates.

The above responses are also relevant to questions 14 to 18 relating to ABH offences and questions 19 to 26 relating to GBH offences.

⁶ [ACS Crime Report 2020](#)

⁷ [Home Office: Crime against business: findings from the 2018 Commercial Victimization Survey](#)

Annex A

ABOUT ACS

The Association of Convenience Stores lobbies on behalf of over 46,000 convenience stores across mainland UK on public policy issues that affect their businesses. ACS' membership is comprised of a diverse group of retailers, from small independent family businesses running a single store to large multiple convenience retailers running thousands of stores.

Convenience stores trade in a wide variety of locations, meeting the needs of customers from all backgrounds. These locations range from city centres and high streets, suburban areas such as estates and secondary parades, rural villages and isolated areas, as well as on petrol forecourts and at travel points such as airports and train stations.



WHO WE REPRESENT

INDEPENDENT RETAILERS



ACS represents almost 19,000 independent retailers, polling them quarterly to hear their views and experiences which are used to feed in to Government policy discussions.

These stores are not affiliated to any group, and are often family businesses with low staff and property costs. Independent forecourt operators are included in this category.

SYMBOL GROUPS AND FRANCHISES



ACS represents over 14,000 retailers affiliated with symbol groups. Symbol groups like SPAR, Nisa, Costcutter, Londis, Premier and others provide independent retailers with stock agreements, wholesale deliveries, logistical support and marketing benefits.

Symbol group forecourt operators and franchise providers like One Stop are also included in this category.

MULTIPLE AND CO-OPERATIVE BUSINESSES



ACS represents over 13,000 stores that are owned by multiple and co-operative retailers. These businesses include the Co-Operative, regional co-operative societies, McColls and others.

Unlike symbol group stores, these stores are owned and run centrally by the business. Forecourt multiples and commission operated stores are included in this category.

THE CONVENIENCE SECTOR



In 2019, the total value of sales in the convenience sector was £40.3bn.

The average spend in a typical convenience store transaction is £6.38.



There are 46,388 convenience stores in mainland UK. 71% of stores are operated by independent retailers, either unaffiliated or as part of a symbol group.



The convenience sector provides flexible employment for around 405,000 people.

18% of independent/symbol stores employ family members only.



19% of shop owners work more than 70 hours per week, while 17% take no holiday throughout the year.

70% of business owners are first time investors in the sector.



Convenience stores and Post Offices poll as the two services that have the most positive impact on their local area according to consumers and local councillors.

78% of independent/symbol retailers have engaged in some form of community activity over the last year.



Between August 2018 and May 2019, the convenience sector invested over £633m in stores.

The most popular form of investment in stores is refrigeration.

OUR RESEARCH

ACS polls the views and experiences of the convenience sector regularly to provide up-to-date, robust information on the pressures being faced by retailers of all sizes and ownership types. Our research includes the following regular surveys:

ACS VOICE OF LOCAL SHOPS SURVEY

Regular quarterly survey of over 1,200 retailers, split evenly between independent retailers, symbol group retailers and forecourt retailers. The survey consists of tracker questions and a number of questions that differ each time to help inform ACS' policy work.

ACS INVESTMENT TRACKER

Regular quarterly survey of over 1,200 independent and symbol retailers which is combined with responses from multiple businesses representing over 3,000 stores.

ACS LOCAL SHOP REPORT

Annual survey of around 2,400 independent, symbol and forecourt retailers combined with responses from multiple businesses representing 7,556 stores. The Local Shop Report also draws on data from HIM, IGD, Nielsen and William Reed.

BESPOKE POLLING ON POLICY ISSUES

ACS conducts bespoke polling of its members on a range of policy issues, from crime and responsible retailing to low pay and taxation. This polling is conducted with retailers from all areas of the convenience sector.

For more information and data sources, visit www.acs.org.uk