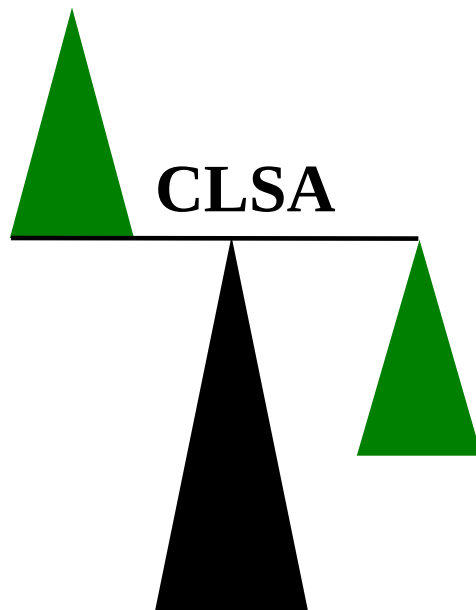




Criminal Law Solicitors' Association

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CLSA Response to:

Blackmail, kidnap and false imprisonment guidelines – consultation

The Criminal Law Solicitors' Association is the only national association entirely committed to professionals working in the field of criminal law. The CLSA represents criminal practitioners throughout England and Wales and membership of the Association is open to any solicitor - prosecution or defence - and to legal advisers, qualified or trainee - involved with, or interested in, the practice of criminal law. The CLSA is responding to the consultation on behalf of its members.

Consultation Questions

Blackmail

Question 1: Do you have any comments on the culpability factors? Are there any that should be removed or added?

- Use of violence or credible threat of serious violence.
- Nature of the blackmail intended to humiliate/degrade the victim – this is an aggravating factor, we think it should be part of the culpability.

Question 2: Do you agree with the approach to assessing harm? Are there any factors you think should be removed or included?

- Serious distress and/or physical or psychological harm.

Question 3: Do you agree with the proposed sentence table for this offence? If not, please tell us why.

- As a rule we consider that longer sentences should be reduced as a better way to deal with the prison crisis. A sentence of 6 years rather than 8 years, for example, will have just as much of a deterrent and punitive impact and yet would, if widely adopted, reduce the prison population. As such, we consider the sentences at the top end as too high.
- More specifically, we are concerned that a persistent demand of a relatively low amount that might be the result of, for example, a family grievance could be classified as A1 and have a starting point of 8 years.

Question 4: Do you agree with the proposed aggravating and mitigating factors?

- Mitigating factor – nothing of value actually obtained.

Question 5: Do you have any other comments on this guideline?

- No

Kidnap and false imprisonment

Question 6: Do you agree with the proposal that there is one combined guideline for both offences? If not, please tell us why.

- Yes

Question 7: Do you have any comments on the culpability factors? Are there any that should be removed or added?

- Use of a highly dangerous weapon or weapon equivalent* to inflict or threaten violence.
- High culpability: movement over a significant distance.

Question 8: Do you agree with the approach to assessing harm? Are there any factors you think should be removed or included?

- No observation.

Question 9: Do you agree with the proposed sentence table for this offence? If not, please tell us why.

- As a rule we consider that longer sentences should be reduced as a better way to deal with the prison crisis. A sentence of 6 years rather than 8 years, for example, will have just as much of a deterrent and punitive impact and yet would, if widely adopted, reduce the prison population. As such, we consider the sentences at the top end as too high.

Question 10: Do you agree with the proposed aggravating and mitigating factors?

- We aren't sure why the aggravating factor of the victim being an emergency worker is a statutory aggravating feature for kidnap but an "other" aggravating factor for false imprisonment.

Question 11: Do you have any other comments on this guideline?

- No

Equality and Diversity

Question 12: What is your view on the proposed inclusion of the wording in the boxes above? Should it be included? If not please tell us why

- No observation

Question 13: Are there any aspects of the draft guidelines that you feel may cause or increase disparity in sentencing?

- No

Question 14: Are there any existing disparities in sentencing of the offences covered in this guideline that you are aware of, which the draft guideline could and should address?

- No

Question 15: Are there any other matters relating to equality and diversity that you consider we ought to be aware of and / or that we could and should address in the guideline?

- No

Question 16: Do you have any other comments on the proposed guidelines that have not been covered elsewhere?

- No