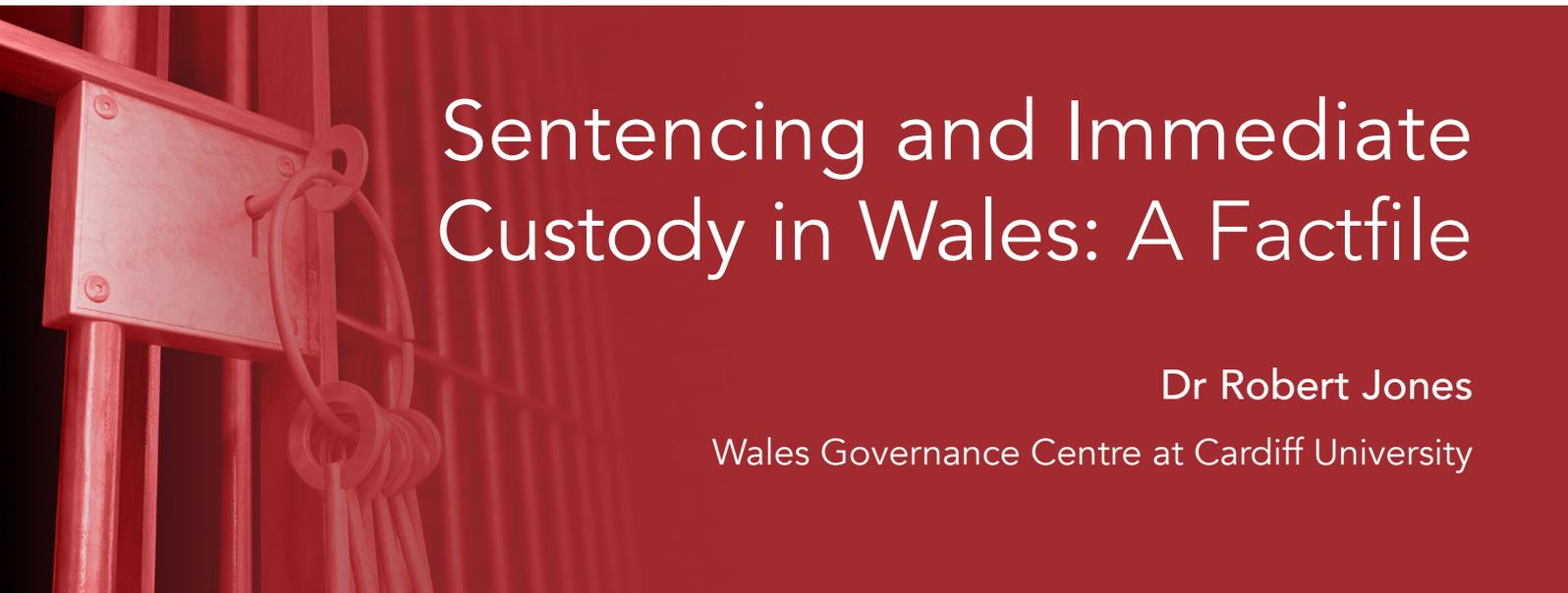




Canolfan
Llywodraethiant Cymru

Wales Governance
Centre

A red background with a faint image of prison bars on the left side.

Sentencing and Immediate Custody in Wales: A Factfile

Dr Robert Jones

Wales Governance Centre at Cardiff University

January 2019

ACKNOWLEDGEMENTS

The author would especially like to thank Lucy Morgan for all of her help in producing this report. I would also like to thank staff working at the Ministry of Justice who have responded to the many requests for information made during the course of this research. Finally, I am extremely grateful to Alan Cogbill, Emyr Lewis, Ed Poole, Huw Pritchard and Richard Wyn Jones for their insightful comments on an earlier draft of this report.

ABOUT US

The Wales Governance Centre is a research centre that forms part of Cardiff University's School of Law and Politics undertaking innovative research into all aspects of the law, politics, government and political economy of Wales, as well the wider UK and European contexts of territorial governance. A key objective of the Centre is to facilitate and encourage informed public debate of key developments in Welsh governance not only through its research, but also through events and postgraduate teaching.

In July 2018, the Wales Governance Centre launched a new project into Justice and Jurisdiction in Wales. The research will be an interdisciplinary project bringing together political scientists, constitutional law experts and criminologists in order to investigate: the operation of the justice system in Wales; the relationship between non-devolved and devolved policies; and the impact of a single 'England and Wales' legal system.

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EXECUTIVE SUMMARY

This report offers the very first disaggregated analysis of sentencing and immediate custody in Wales and England. The research comes after a report by the Ministry of Justice's (2017a:8) *Justice in Wales Working Group* acknowledged the need to take account of any potential "differences in sentencing" between Wales and England. The report draws upon data published by the Ministry of Justice as well as information obtained via the Freedom of Information Act 2000. Some of the key findings are outlined below.

- Wales has the highest imprisonment rate in Western Europe.
- Wales has recorded a higher 'home address' imprisonment rate than England every year since 2013, the first year comparative data is available.
- The total number of immediate custodial sentences handed out in England fell by 16% between 2010 and 2017. In Wales, the number marginally increased (0.3%) during the same period.
- Wales recorded a higher average custody rate than England at the Magistrates' Court and Crown Court between 2010 and 2017.
- The average custody rate for males was higher at the Magistrates' Court and Crown Court in Wales between 2010 and 2017.
- The average custody rate for females sentenced at the Magistrates' Court was higher in England but higher at the Crown Court in Wales.
- Children were more likely to be handed an immediate custodial sentence at the Youth Court in England between 2010 and 2017. The custody rate at the Crown Court was higher in Wales during this period.
- The custody rate for young adults was higher at the Magistrates' Court and Crown Court in Wales between 2010 and 2017.
- Adult offenders sentenced at the Magistrates' Court in England were more likely to receive an immediate custody sentence between 2010 and 2017. The custody rate for adults was higher at the Crown Court in Wales than in England during this period.
- Welsh and English prisoners from a White ethnic group were under-represented in prison in 2017.
- The level of racial disproportionality was higher amongst the Welsh prison population than the English prison population in 2017.

- There were 72 Black people in prison from Wales for every 10,000 of the population in 2017. This rate compared to just 15 White people per 10,000 of the population. There were 25 Asian people in prison per 10,000 and 37 people from a Mixed background per 10,000 in prison.
- 1 in 670 Welsh people who self-identified as White were in prison in 2017. This compared to a rate of 1 in 140 for Black, 1 in 274 for Mixed and 1 in 395 for Asian.
- The custody rate was higher at the Magistrates' Court in Wales in 9 out of 12 offence groups between 2010 and 2017.
- The custody rate was higher at the Crown Court in Wales than in England in 11 out of 12 offence groups between 2010 and 2017.
- A greater number of short-term custodial sentences were handed out in Wales than in England between 2010 and 2017. 68.1% of all custodial sentences in Wales were for less than 12 months compared to 63.9% in England.
- A higher number of sentences of 4 years or more were handed out in England (8.9%) than in Wales (6.2%) between 2010 and 2017.
- In 2017, the average custodial sentence length for all offences in England was 17.2 months. This compared to an average custodial sentence length of 13.4 months in Wales.
- Women are more likely to receive short-term custodial sentences than men. More than three quarters (78.6%) of all females sentenced to immediate custody in Wales between 2010 and 2017 were handed sentences of less than 12 months. This compared to 67% of male offenders sentenced in Wales.
- One in four (24.8%) women handed an immediate custodial sentence in Wales were sentenced to one month or less in prison between 2010 and 2017.
- White offenders (13.2 months) sentenced to immediate custody in Wales had the lowest average custodial sentence length in 2017. Black offenders recorded the highest average sentence length (21.5 months), followed by Asian (19 months) and Mixed (17.7 months) offenders.
- The average custodial sentence length was higher in England within nine out of twelve offence groups in 2017.
- The number of Welsh people in prison serving sentences of 4 year or more increased by 8% between September 2017 and September 2018.

NOTES ON TEXT

Unless otherwise stated, all data used in this report were gathered from the Ministry of Justice's Court Outcomes by Police Force Area data tool (Pivot Table): December 2017.¹

According to the notes accompanying the data tool, all statistics on sentencing included in the pivot table are either derived from the LIBRA case management system, which holds the magistrates' courts records, or the Crown Court's CREST system which holds the trial and sentencing data. The data includes offences where there has been no police involvement, such as those prosecutions instigated by government departments, private organisations and individuals.

The figures given in the pivot table relate to defendants for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.

The more detailed offence groups included in the data (e.g. violence against the person, sexual offences, robbery) broadly align with the offence groups presented by the Home Office counting rules. The Home Office notes that these categorisations may not match completely in terms of group names or the codes included. These differences result from a range of factors, including differences in the offences included (e.g. data only include recorded crime) and the focus of each classification.

Due to data recording issues figures for females prosecuted for 'Sexual activity with a child' offences are not included in the Court Proceedings Database prior to 2015. For the years since 2015, females comprise less than 5% of prosecutions and convictions for these offences.

Ambiguity in the status of small business owners can occasionally lead to defendants recorded as companies receiving sentences only available to people, such as custodial sentence lengths.

According to the Ministry of Justice, if there is an apparent anomaly in a defendant's age, records may automatically be assigned a default age of 25 for an adult or 17 for a 'juvenile' meaning that these ages are overcounted. Additionally, prior to 2017 if a defendant's date of birth was unknown they would be assigned one of these default ages. To improve the accuracy of the 'age range' variable, for 2017 defendants with an unknown date of birth were grouped within 'unknown age – adult' or 'unknown age – juvenile'. The Ministry of Justice warn that caution should be taken when comparing ages between years, because prior to 2017 the age ranges 16-17 and 25+ include a substantial number of defendants with unknown date of birth (Chapter Five, Six and Seven).

¹ <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2017>

Much of the information below has been taken directly from the notes that accompany the Court Outcomes by Police Force Area pivot table.

Prison population data broken down by ethnicity were obtained by the Ministry of Justice from self-reports of prisoners. Sentencing outcomes by ethnicity are categorised by the Ministry of Justice using the 5+1 self-identified classification based on the 16+1 classification used in the 2001 Census. Due to an inconsistency in the recording of 'Chinese and other' by the Ministry of Justice and the 2011 Census, the 'Asian' category included in the tables on prison population do not include those identified as 'Chinese'. Because of this issue, 'Chinese and other' were not included in the analysis of sentencing outcomes by ethnicity (Chapter Eight).

The Ministry of Justice acknowledge that the recording of ethnicity data for defendants at Magistrates' Courts has been insufficient,² with high proportions of unknown ethnicity. The recording of ethnicity data for indictable offences has been more complete than summary offences because in charged cases the defendant will have been seen by the police and asked about their ethnicity. In cases where the defendant received a summons, they will not have been seen by the prosecutor, and may not have appeared in court. High levels of missing data limit what conclusions can be drawn from immediate custody data by ethnic group at Magistrates' Courts in England and Wales (Chapter Eight and Ten).

Sentencing data broken down by police force area is used in this report to compare sentencing outcomes at courts in Wales and England. Although it is understood that not all people sentenced at Welsh courts will be domiciled in Wales, there is an expectation that many people sentenced at courts in Wales will be domiciled in Wales (the same rule applies to England). Section 30 of the Courts Act 2003 provides directions to ensure that where a person is required to appear before a magistrates' court they are required to appear in a place 'in the local justice area'. This includes a location in the local justice area in which the offence is alleged to have been committed, a place in which the person charged resides, a place in which witnesses (or the majority of witnesses) reside, or a place where other cases raising similar issues are being dealt with. There are 10 local justice areas in Wales following the introduction of the Local Justice Areas Order 2016.³ At the Crown Court, Criminal Procedure Rule 9.3 states that in deciding the Crown Court centre at which trial will take place, one of the considerations should be the convenience of the courts location for parties and witnesses involved in the case.⁴

All data relating to the 'home address' of prisoners is based on a prisoner's origin address (home address on reception into custody). The Ministry of Justice state that around 97% of prisoners have an origin location; i.e. addresses that are recorded on its central IT system. If no address is given, an offender's committal court address is used as a proxy for the area in which they are resident. Those with no recorded origin are typically foreign nationals or those recently received into custody. No address has been recorded and no court information is available for around 3% of all offenders; these figures are excluded from the tables included in this report (Chapter Two).

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733998/criminal-justice-statistics-guide-december-2017-update.pdf

³ North West Wales; North Central Wales; North East Wales; Montgomeryshire; Cardiff; Mid Wales; Gwent; Carmarthenshire; Ceredigion; West Glamorgan. https://www.legislation.gov.uk/uksi/2016/941/pdfs/uksem_20160941_en.pdf

⁴ Other considerations include how soon a suitable courtroom will become available; and the directions on the allocation of Crown Court business. <https://www.justice.gov.uk/courts/procedure-rules/criminal/docs/crim-proc-rules-2014-part-09.pdf>

Welsh and English adult prison population data were obtained from the Ministry of Justice using the Freedom of Information Act 2000. The Freedom of Information Act provides a “powerful tool” for social researchers carrying out research in areas where data are not made publicly available (Savage and Hyde, 2014: 315). The Ministry of Justice do not publish Welsh-only or English-only prison population data.

The calculation of average custody rates reveal the proportion of sentences resulting in immediate custody in England and Wales. There are eight possible sentencing outcomes included in the pivot table: absolute discharge, conditional discharge, fine, community sentence, suspended sentence, immediate custody, otherwise dealt with, and compensation (Chapter Three, Four, Five, Six, Seven, Eight and Nine).

Due to small sample sizes for particular groups, year to year changes in the use of immediate custody or in the custody rate are likely to result in large fluctuations in the population change.

The measure of custodial sentence length is used to show how likely offenders are to receive short, medium or long-term custodial sentences. This includes a breakdown by court, sex, age, ethnicity and offence type in England and Wales. There are a total of 18 sentence length options included in the pivot table, these range from up to and including one month in custody to life imprisonment. Imprisonment for Public Protection sentences are not included in the analysis of sentence length. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) abolished the sentence of Imprisonment for Public Protection and Extended Sentences for Public Protection (Chapter Ten).

The calculation of average custody rates and average custodial sentence lengths are used in this report to compare trends between Wales and England. These measurements are frequently calculated and included within the Ministry of Justice’s quarterly *Criminal Justice Statistics* bulletins. However, while such “headline statistics” are described by the Sentencing Council (2018b: 2) as “broad brush” measures that do not take account of the full range of legal factors that determine sentencing outcomes, the unavailability of detailed Welsh-only sentencing data limits what analysis can be undertaken on a disaggregated level. In preparing this report an email requesting access to Welsh-only data from the Crown Court Sentencing Survey was sent to the Sentencing Council. In its response, the Sentencing Council confirmed that disaggregated data exists but that they are “not able to provide Crown Court Sentencing Survey data broken down by country”.

1. INTRODUCTION

The prison population in England and Wales has exponentially increased since the 1990s. This rise in prisoner numbers has led to a continual expansion of the prison estate (Scott, 2018) and repeated government claims that prison numbers in England and Wales will continue to rise in future (Ministry of Justice, 2018a).⁵ While efforts have been made to understand the many factors that have contributed to England and Wales now boasting one of the highest rates of imprisonment in the western world (e.g. Roberts and Ashworth, 2016), scant research or attention has been paid to the role that Wales has played in this remarkable upward trend.

Even as Wales becomes a more distinct and recognisable part of the single jurisdiction (Rawlings, 2018), very little is known about the state of criminal justice in Wales. Both academic and government analyses of sentencing, imprisonment and the use of immediate custody, for example, continue to be undertaken at an England and Wales level (e.g. Hopkins, 2015; Hopkins et al, 2016; Millie et al, 2003). This disregard to the territorial dimension has continued despite repeated concerns over the treatment and welfare of Welsh prisoners (House of Commons Welsh Affairs Committee; 2007; 2015), as well as major changes to the prison estate in Wales including the opening of the second largest prison in Western Europe at Wrexham in 2017.

Indeed, differences in criminal justice practices that exist *within* national borders may often be “as great, or even greater” than those that exist *between* jurisdictions (Edwards et al, 2013: 378). Research has shown that variation *within* the same jurisdictional settings can be found within policing practices (e.g. Crawford and Lister, 2007; House of Commons Home Affairs Committee, 2015); community orders (e.g. Patel and Stanley, 2008) and the use of imprisonment (e.g. Muller and Wildeman, 2016). Importantly, studies on sentencing have identified that court outcomes are likely to vary across areas in the same jurisdiction (e.g. Mason et al, 2007; Goodall and Durrant, 2013).

In 2017, the Ministry of Justice’s (2017a:8) *Justice in Wales Working Group* acknowledged the need to “take into account” any potential “differences in sentencing” between Wales and England. Its final report included a call to consider whether the impact of the Sentencing Council’s guidelines in Wales “may be different to that in England” (Ministry of Justice, 2017a: 8). Despite the Working Group’s findings, the body responsible for issuing and regulating sentencing guidelines in England and Wales appear reluctant to take Wales seriously as unit of analysis. In its written evidence to the Commission on Justice in Wales, the Sentencing Council (2018a:1) downplayed the view that differences might exist in Wales, maintaining that the current guidelines ensure a consistency in approach “regardless of location” within the single jurisdiction. Any

⁵ The Ministry of Justice announced in August 2018 that it expects the prison population in England and Wales to increase by 3,200 places by March 2023.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/735428/prison-population-projections-2018-2023.PDF
 32 new prisons have been opened in England and Wales since 1990.

variations between areas, the Council (2018: 1) explained, are likely to be nothing more than “localised differences” including the fact that offending may be in a rural or urban setting.

The Sentencing Council’s (2018b: 1) disregard of any potential “distinction” between Wales and England is key to shaping the aims of this research. This report consists of nine chapters on imprisonment in Wales; the use of immediate custody at the Magistrates’ and Crown Court; sex and immediate custody; children and immediate custody; young adults and immediate custody; adults and immediate custody; ethnicity and immediate custody; immediate custody by offence type and custodial sentence length. First, it offers a direct response to the Ministry of Justice’s claim that further attention should be paid to potential differences in sentencing in Wales and England. Second, the report seeks to address the existing lacuna in criminal justice research by taking stock of imprisonment levels and the use of immediate custody in Wales. By contributing to ongoing and future debates on criminal justice in Wales, this reports adds much further weight to the claim that Wales should be treated seriously as a unit of criminological analysis by academics, policy makers, politicians and practitioners alike.

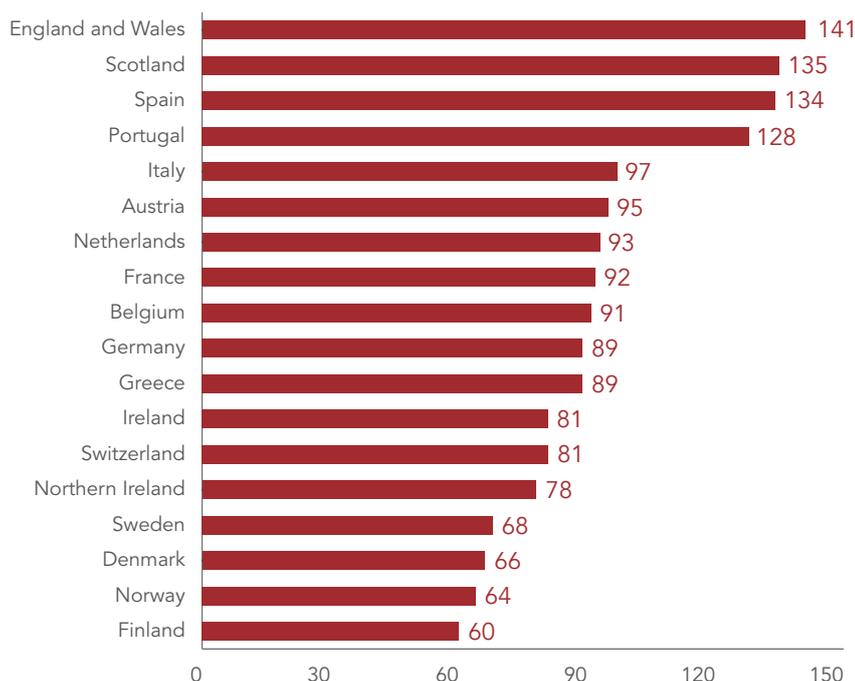
2. IMPRISONMENT IN WALES

- 2.1 National rates of imprisonment are the most accessible and commonly used measure for comparing international penal practices.
- 2.2 Despite concerns that imprisonment rates can often provide a rather narrow conceptualisation of punishment across international jurisdictions (Young and Brown, 1993), imprisonment rates are regularly used to explore international as well as intra-national differences between states, regions and local districts.
- 2.3 In June 2018, Wagner and Sawyer (2018) used state wide imprisonment data to produce a comparison of imprisonment rates across the United States. Their research found that the state of Oklahoma recorded the highest worldwide rate of imprisonment (1,079 per 100,000), followed by Louisiana (1,052 per 100,000) and Mississippi (1,039 per 100,000).
- 2.4 A recently-published study by Scott (2018) used imprisonment levels by local authority to compare the rates of imprisonment between the most and least deprived areas in England. The research found that the rates of imprisonment in the most deprived areas were up to six times higher than the levels recorded in the least deprived local authorities in England.
- 2.5 In November 2018, The Institute for Criminal Policy Research published the twelfth edition of the *World Prison Population List*.⁶ First produced by the Home Office in 1999, the latest report provides a breakdown of imprisonment rates for 223 prison systems worldwide using a calculation based on the number of people held in prison in national borders.
- 2.6 England and Wales has recorded the highest rate of imprisonment in Western Europe in half of the twelve *World Prison Population Lists* published since 1999.⁷
- 2.7 Taking all twelve published *World Prison Population Lists*, England and Wales has recorded the highest prison population rate in Western Europe since 1999.

⁶ The first five editions of the *World Prison Population List* were published by the Research and Statistics Directorate of the United Kingdom Home Office; the next five were published by the International Centre for Prison Studies (ICPS). Following the merger in November 2014 of ICPS with the Institute for Criminal Policy Research (ICPR), the eleventh edition was the first to be published by ICPR.

⁷ 4th, 5th, 6th, 7th, 10th and 11th editions.

Figure 2.1 – The average prison population rate per 100,000 in Western Europe, 1999 to 2018



Source: Institute for Criminal Policy Research (World Prison Population List)⁸

- 2.8 There were an average of 84,866 people in prison in England and Wales in 2017.⁹
- 2.9 With a combined population of 58,744,595, the prison rate for England and Wales was 144 prisoners per 100,000 population in 2017.¹⁰
- 2.10 There were 80,904 people held in 114 English prisons in 2017. Based on the ‘in country’ method used in the *World Prison Population List*, England’s rate of imprisonment was 145 per 100,000 in 2017.¹¹
- 2.11 3,963 people were held in Welsh prisons in 2017.¹² Based upon the number of prisoners held in Welsh prisons, Wales had an imprisonment rate of 127 prisoners per 100,000 in 2017.¹³

8 <http://www.prisonstudies.org/research-publications>

9 Ministry of Justice – Prison Population Figures: 2017 – <https://www.gov.uk/government/statistics/prison-population-figures-2017>. The average population for 2017 was calculated using prison population levels from March, June, September and December 2017. This does not include those held in Immigration Removal Centres.

10 Population data for England and Wales were obtained from Office for National Statistics – mid-2017 population estimates. <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalescotlandandnorthernireland>

11 The figure would be 81,632 if Immigration Removal Centres were included. The rate for this population would be 147 per 100,000.

12 The prison estate in Wales is comprised of five different establishments: HMP Berwyn, HMP Cardiff, HMP and YOI Parc, HMP Swansea and HMP Usk and HMP Prescoed. HMP Usk and HMP Prescoed are two separate prisons located on separate sites but managed as a single prison.

13 Calculated based on a population of 3,125,200. The figures were obtained from Office for National Statistics – mid-2017 population estimates. <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalescotlandandnorthernireland>

- 2.12 The 'in country' rate of imprisonment in Wales is expected to increase significantly once HMP Berwyn becomes fully operational.¹⁴ In November 2018, the 'in country' rate of imprisonment in Wales had increased to 148 per 100,000 compared to a rate of 141 per 100,000 in England.¹⁵
- 2.13 Disaggregated data using the 'home address' of prisoners prior to entering custody allows for an alternative calculation of prison rates in England and Wales. According to the Ministry of Justice, there were a total of 83,411 people in prison with a home address in either England or Wales in 2017.¹⁶
- 2.14 Using 'home address' data that were obtained from the Ministry of Justice, Wales has recorded a higher rate of imprisonment than England each year since 2013.
- 2.15 This is despite the fact that police recorded crime in Wales was lower than England in every year between 2013 and 2017. The average rate of offences in Wales was 62.5 compared to 68.6 offences in England during this period.¹⁷

14 HMP Berwyn is expected to have an operational capacity of 2,106 places. In October 2018 the prison held 1,221 prisoners.
<https://www.gov.uk/government/statistics/prison-population-figures-2018>

15 There were 4,618 prisoners held in Wales and 78,234 people held in English prisons in October 2018. The figure in England would be 78,528 and 141 per 100,000 if Immigration Removal Centres were included.

16 Those excluded from the total number include individuals with a recorded home addresses outside of England and Wales or with no recorded home address. According to the Ministry of Justice, there were 1,796 prisoners neither qualifying as 'Welsh' nor 'English' in 2017.

17 Office for National Statistics - Crime in England and Wales: Police Force Area Data Tables.
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/policeforceareadatatables>

Figure 2.2 – Prison population rates per 100,000 in England and Wales using home address, 2013 to 2017¹⁸

	Population	Prisoners	Rate
2017			
England	55,619,430	78,601	141
Wales	3,125,165	4,810	154
2016			
England	55,268,067	78,456	142
Wales	3,113,150	4,758	153
2015			
England	54,786,327	78,477	143
Wales	3,099,086	4,843	156
2014			
England	54,316,618	77,962	144
Wales	3,092,036	4,700	152
2013			
England	53,865,817	76,698	142
Wales	3,082,412	4,702	153

Source: Office for National Statistics and Ministry of Justice

- 2.16** In 2017, there were 154 Welsh prisoners per 100,000 of the Welsh population. This compared to a rate of 141 English prisoners per 100,000 of the population of England.¹⁹
- 2.17** The English prisoner total recorded in 2017 would need to rise by 7,100 (9%) to achieve an imprisonment rate equal to Wales. Alternatively, the Welsh population would need to increase by 270,000 to bring the Welsh imprisonment rate in line with England's in 2017.
- 2.18** In 2017, 1 in every 650 Welsh people were in prison. This figure compares to 1 in every 708 people in England.

¹⁸ Population data were obtained from the Office for National Statistics – mid-2017 population estimates. See <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland>
Prison population data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

¹⁹ Even if the 1,976 prisoners excluded from the data were added to the English total, England's rate of imprisonment would still be lower than Wales' in 2017.

- 2.19 At the end of September 2018, there were 4,771 Welsh people in prison and 76,570 prisoners with a home address in England. Using ONS population estimates from mid-2017, Wales had an imprisonment rate of 153 per 100,000 in September 2018. This compared to a rate of 138 per 100,000 prisoners from England.²⁰
- 2.20 Despite the fact that Wales has consistently recorded a higher rate of imprisonment since 2013, neither government research nor academic analyses of penal policy in England and Wales have identified this trend, nor offered explanation for potential differences in criminal justice practices in Wales and England.
- 2.21 In 2017, a report by the Ministry of Justice's *Justice in Wales Working Group* acknowledged the need to explore any potential "differences in sentencing" between Wales and England. This included considering whether the impact of the Sentencing Council for England and Wales' guidelines in Wales "may be different to that in England" (Ministry of Justice, 2017a: 8).
- 2.22 In May 2018, the Sentencing Council downplayed the need to consider possible differences between sentencing practices in England and Wales. In its written evidence to the Thomas Commission, the Sentencing Council (2018b: 1) stated that "when assessing current sentencing practice... the Council does not make *any distinction* between the sentences passed in England and Wales (except insofar as the legislative framework is different)".
- 2.23 While research has identified a range of contributing factors to the rise in prisoner numbers in England and Wales since the 1990s (Roberts and Ashworth, 2016; Millie et al, 2003; Sentencing Council, 2018a),²¹ the increasing use of immediate custodial sentences is understood to have played a very significant role.
- 2.24 The Ministry of Justice (2016a: 7) explained that "virtually all of the increase in the prison population" since 1993 was due to the rise in the number of offenders sentenced to immediate custody in England and Wales.
- 2.25 To examine why Wales has a higher imprisonment rate than England, the remaining chapters of this factfile will explore the use of immediate custody in Wales and England.²²

20 Population data were obtained from the Office for National Statistics – mid-2017 population estimates. See <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalescotlandandnorthernireland>. Prison population data were obtained from the Ministry of Justice via the Freedom of Information Act 2000.

21 These contributing factors include the introduction of extended determinate sentences and statutory maximum sentences and minimum terms, a lack of confidence in custodial alternatives, the use of longer sentences, the establishment of new offences, and an increase in the number of serious offences coming before the courts.

22 Although it is understood that not all people sentenced at Welsh courts will be domiciled in Wales, there is an expectation that many people sentenced at courts in Wales will be domiciled in Wales (the same rule applies in England). See 'Notes' section of this on page seven.

3. MAGISTRATES' AND CROWN COURTS²³

Category	Higher Average Custody Rate	England %	Wales %
Magistrates	Wales	3.91	4.02
Crown	Wales	55	58.5

Source: Ministry of Justice

- 3.1 The number of offenders convicted at all courts in England and Wales decreased by 12% from 1.36 million in 2010 to 1.2 million in 2017 (Ministry of Justice, 2018b).²⁴
- 3.2 The Ministry of Justice's most recent Criminal Justice Statistics Bulletin reported that the number of offenders convicted at all courts in England and Wales continued to decline. In June 2018, this conviction figure had fallen to 1.19 million (Ministry of Justice, 2018c).
- 3.3 The total number of immediate custodial sentences handed out at all courts in England and Wales fell by 15% between 2010 and 2017.²⁵
- 3.4 The custody rate across all courts in England and Wales also fell during this period. The rate decreased by 3% from 7.43% in 2010 to 7.21% in 2017.
- 3.5 At Magistrates Courts in England and Wales, the number of immediate custodial sentences fell by 14.1% between 2010 and 2017.²⁶
- 3.6 The proportion of cases resulting in an immediate custodial sentence at Magistrates' Courts also fell (3.1%) during this period.²⁷
- 3.7 However, as the total number of immediate custodial sentences handed out in England fell by 16% between 2010 and 2017, the number in Wales marginally increased (0.3%) during the same period.²⁸
- 3.8 The average custody rate at the Magistrates' Court was higher in Wales (4.02%) than England (3.91%) between 2010 and 2017.
- 3.9 The number of immediate custodial sentences handed out at Magistrates' Court in Wales increased by 12% between 2010 and 2017.²⁹

23 There are six Crown courts and fourteen Magistrates' courts in Wales. Since 2010, twenty-four Crown and Magistrates' courts have closed in Wales as part of the Ministry of Justice's attempts to 'transform' the court and tribunal estate in England and Wales. For a full list of closures in England and Wales (as of April 2018). <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-04-18/136450>

24 From 1,365,347 in 2010 to 1,201,879 in 2017. This includes the 43 forces and special/miscellaneous and unknown police forces.

25 From 101,508 in 2010 to 86,255 in 2017.

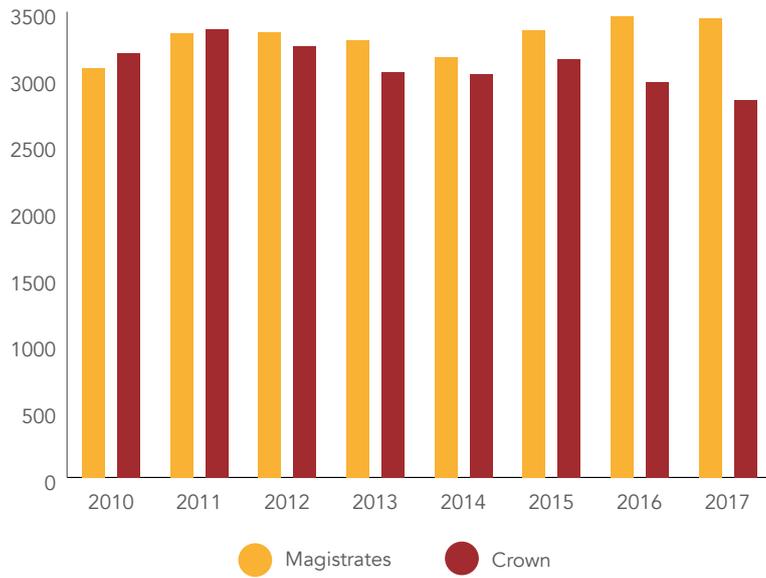
26 From 48,904 in 2010 to 41,992 in 2017.

27 From 3.87% in 2010 to 3.75% in 2017.

28 England: From 95,244 in 2010 to 79,970 in 2017. Wales: From 6,264 in 2010 to 6,285 in 2017.

29 From 3,078 in 2010 to 3,449 in 2017.

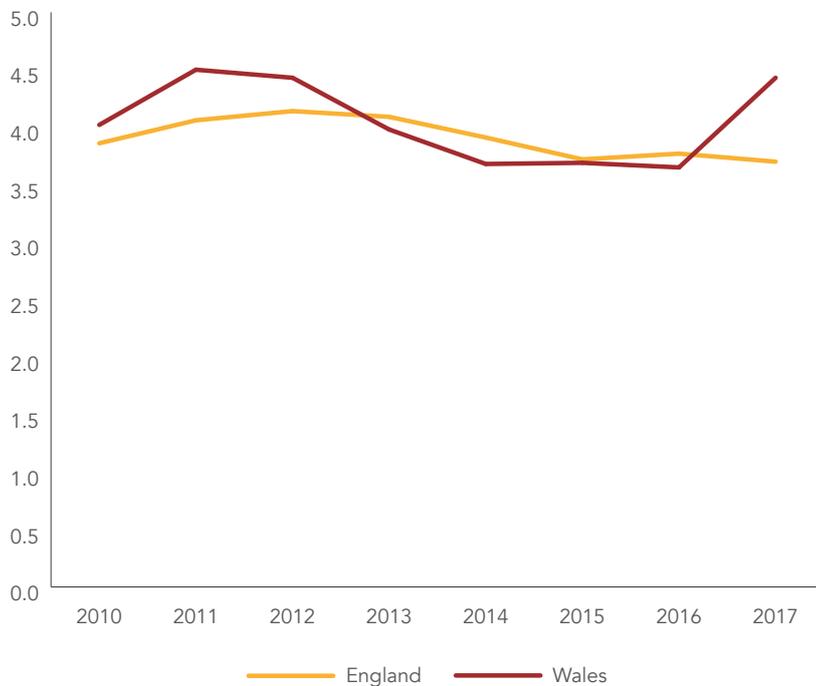
Figure 3.1 – The use of immediate custody at Magistrates’ and Crown Courts in Wales, 2010 to 2017



Source: Ministry of Justice

3.10 The custody rate at Magistrates’ Courts in Wales increased by 10.2% during this period, from a rate of 4.02% in 2010 to 4.43% in 2017.

Figure 3.2 – The custody rate at Magistrates’ Courts in England and Wales, 2010 to 2017



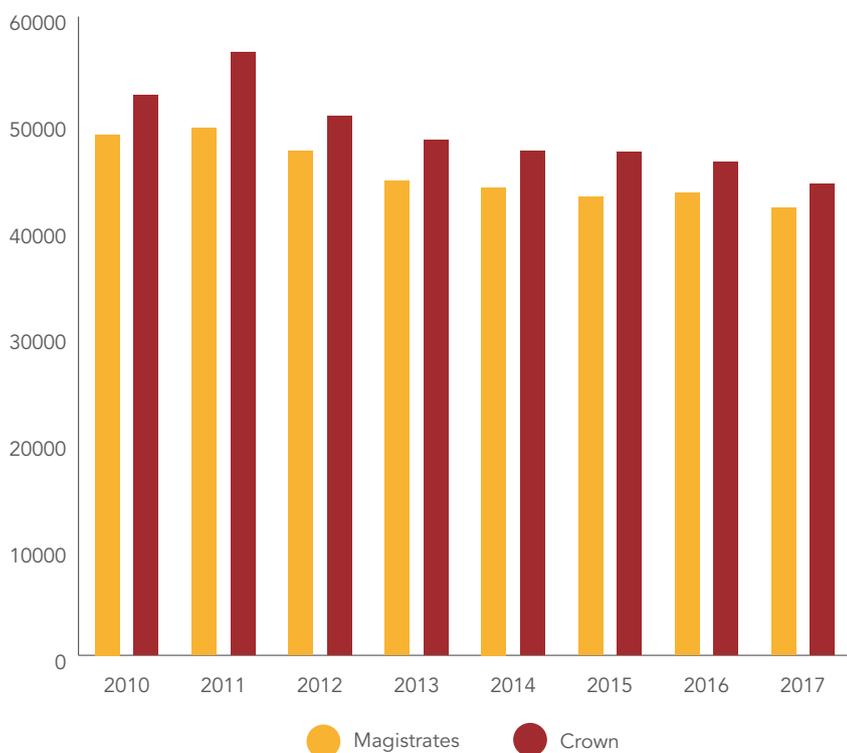
Source: Ministry of Justice

3.11 In contrast to Wales, the number of custodial sentences handed out at Magistrates’ Courts in England fell by 15.9% between 2010 and 2017.³⁰

³⁰ From 45,826 in 2010 to 38,543 in 2017.

3.12 The custody rate at English Magistrates' Courts also decreased by 4.1% during this period, from 3.86% in 2010 to 3.70% in 2017.

Figure 3.3 – The use of immediate custody at Magistrates' and Crown Courts in England, 2010 to 2017



Source: Ministry of Justice

3.13 In England and Wales, the number of immediate custodial sentences handed out at Crown Courts fell by 15.9% between 2010 and 2017.³¹

3.14 During the same period, the custody rate at Crown Courts in England and Wales increased by 12.6%, from 51.6% in 2010 to 58.1% in 2017.

3.15 The trend of falling immediate custodial sentences and rising custody rates has emerged in England and Wales throughout the last decade. The most recent *Criminal Justice Statistics Quarterly* bulletin reported that the custody rate for indictable offences had increased from 24% in June 2010 to 32% in June 2018 (Ministry of Justice, 2018c).

3.16 The average custody rate at the Crown Court was higher in Wales (58.5%) than England (55%) between 2010 and 2017.

3.17 There was not a single year between 2010 and 2017 where the custody rate at the Crown Court in Wales was lower than England.

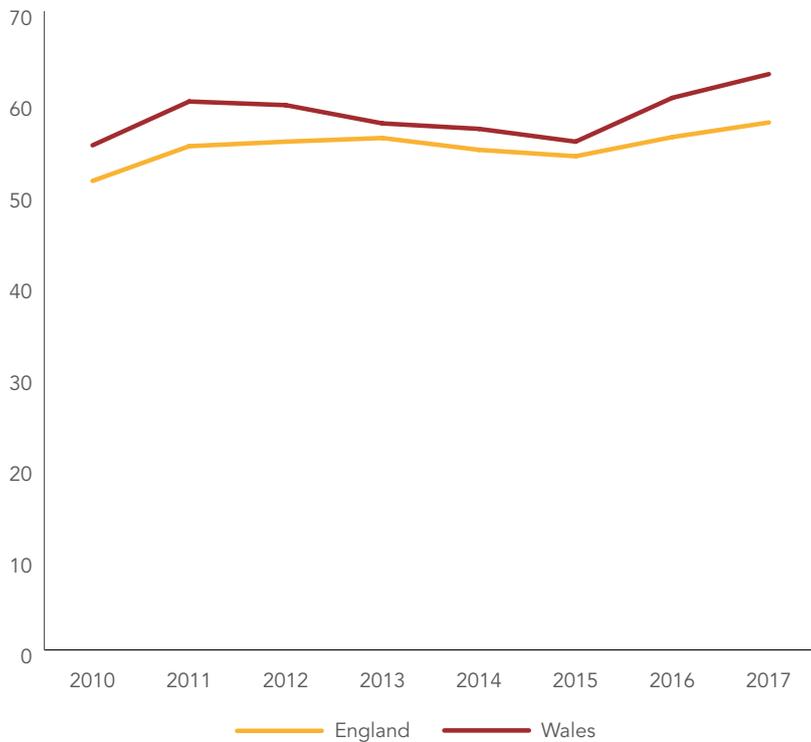
3.18 There was an 11% fall in the number of immediate custodial sentences handed out at Crown Courts in Wales between 2010 and 2017.³²

31 From 52,604 in 2010 to 44,263 in 2017.

32 From 3,186 in 2010 to 2,836 in 2017.

3.19 The proportion of cases resulting in an immediate custodial sentence at Crown Courts in Wales was 14.1% higher in 2017 than in 2010.³³

Figure 3.4 – The custody rate at Crown Courts in England and Wales, 2010 to 2017



Source: Ministry of Justice

3.20 The number of immediate custodial sentences handed out at English Crown Courts fell by 16.2% between 2010 and 2017.³⁴

3.21 Although the number of custodial sentences in absolute terms was lower in 2017, the custody rate was 12.5% higher at Crown Court in England in 2017 than it was in 2010.³⁵

³³ From 55.3% in 2010 to 63.1% in 2017.

³⁴ From 49,418 in 2010 to 41,427 in 2017.

³⁵ From 51.4% in 2010 to 57.8% in 2017.

4. SEX AND IMMEDIATE CUSTODY

Category	Higher Average Custody Rate	England %	Wales %
Female (Magistrates)	England	1.59	1.55
Male (Magistrates)	Wales	5.02	5.45
Female (Crown)	Wales	33	35.1
Male (Crown)	Wales	57.7	61.7

Source: Ministry of Justice

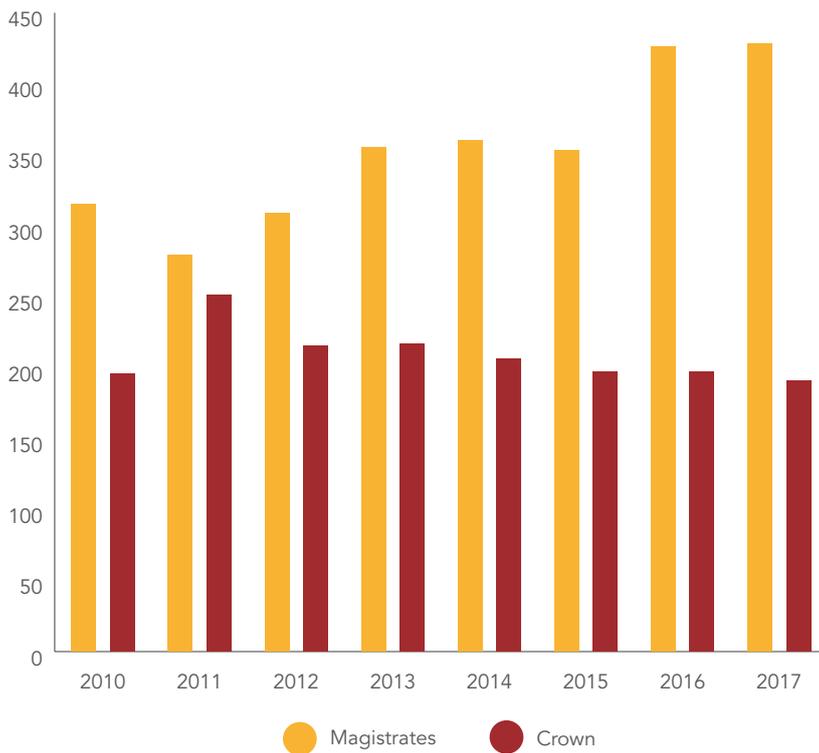
- 4.1 The number of women in prison in England and Wales has more than doubled since 1993 (Prison Reform Trust, 2018).
- 4.2 However, since 2010 the number of female prisoners in England and Wales has fallen. The number of women in prison decreased by 10.1%, from 4,230 in August 2010 to 3,803 at the end of June 2018.³⁶
- 4.3 In its *Female Offender Strategy*, published in June 2018, the Ministry of Justice outlined the need for “an entirely different approach” to the treatment of women in the criminal justice system (Ministry of Justice, 2018d: 5). Drawing upon the findings from Baroness Corston’s review in 2007, the Ministry of Justice identified the use of custodial sentences, especially short-term, as a major problem for women.
- 4.4 Due to the fact that there are no women’s prisons in Wales, all Welsh female prisoners are held in prisons in England. This has led to a recognition of the “distinct set of issues” facing female prisoners from Wales including distances from home, family contact and links with community-based services (Rees et al, 2017; House of Commons Welsh Affairs Committee, 2007:19).³⁷
- 4.5 The average custody rate for female offenders sentenced at the Magistrates’ Court was higher in England (1.59%) than Wales (1.55%) between 2010 and 2017.
- 4.6 Between 2010 and 2017, 62.8% of all immediate custodial sentences handed to female offenders in Wales were at the Magistrates’ Court.³⁸

36 The figure for August 2010 was sourced from the Prison Reform Trust (2010). The data from June 2018 was accessed via Offender Management Statistics Quarterly: April to June 2018 – <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2018>

37 Although the number of immediate custodial sentences handed to females across England and Wales has fallen in recent years, the number of Welsh women in prison reached its highest point in September 2018 since the Wales Governance Centre began collecting disaggregated data from March 2013.

38 Magistrates’ Court: 2,825. Crown Court: 1,670.

Figure 4.1 – The use of immediate custody for females sentenced at Magistrates’ and Crown Courts in Wales, 2010 to 2017

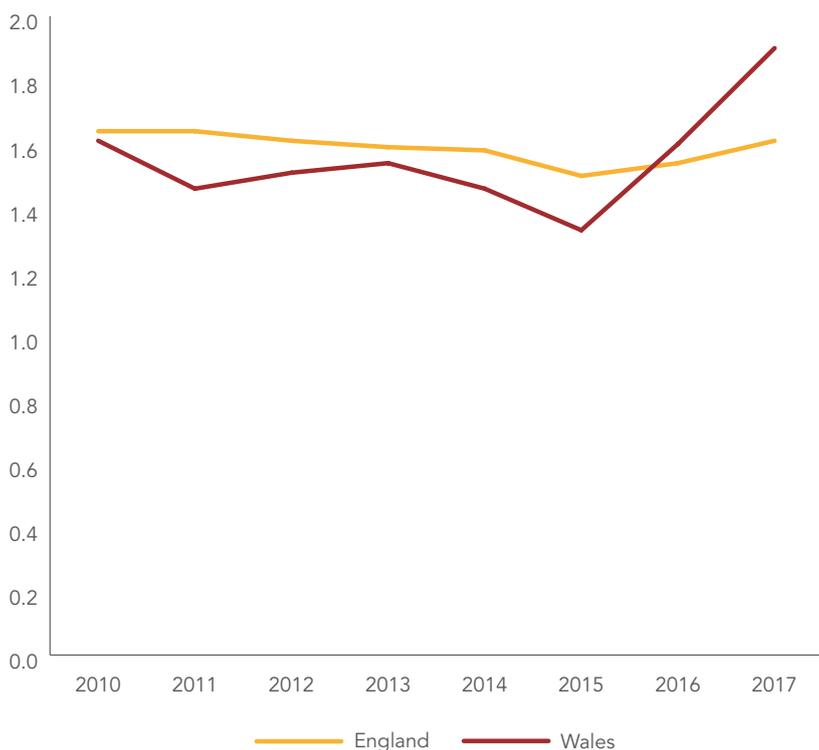


Source: Ministry of Justice

- 4.7** The number of immediate custodial sentences handed to female offenders at Magistrates’ Courts in Wales increased by more than a third (35.9%) between 2010 and 2017.³⁹
- 4.8** The rate at which female offenders were sentenced to immediate custody at Magistrates’ Courts in Wales increased by 18%, from 1.61% in 2010 to 1.9% in 2017.

³⁹ From 315 in 2010 to 428 in 2017.

Figure 4.2 – The custody rate for females sentenced at Magistrates’ Courts in England and Wales, 2010 to 2017



Source: Ministry of Justice

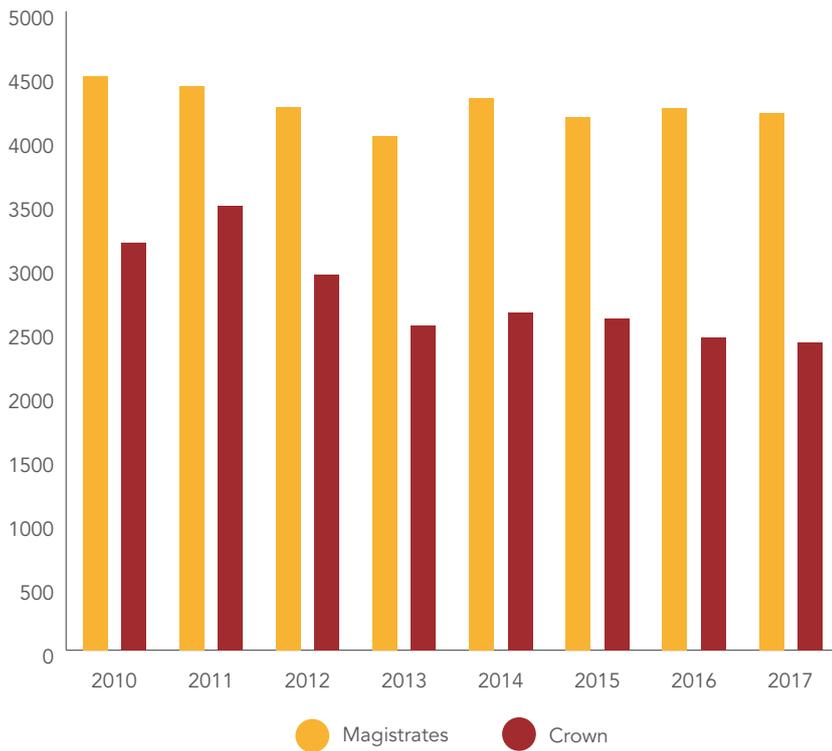
- 4.9 In England, 60.5% of all immediate custodial sentences given to females were handed out at the Magistrates’ Court between 2010 and 2017.⁴⁰
- 4.10 The number of immediate custodial sentences given to females at Magistrates’ Courts in England declined by 6.4% between 2010 and 2017.⁴¹
- 4.11 The custody rate for female offenders sentenced at Magistrates’ Courts in England fell by 1.8% during the same period.⁴²

40 Magistrates’ Court: 34,112. Crown Court: 22,245.

41 From 4,493 in 2010 to 4,206 in 2017.

42 From 1.64% in 2010 to 1.61% in 2017.

Figure 4.3 – The use of immediate custody for females at Magistrates’ and Crown Courts in England, 2010 to 2017



Source: Ministry of Justice

- 4.12** The average custody rate for women sentenced at the Crown Court was higher in Wales (35.1%) than England (33%) between 2010 and 2017.
- 4.13** 37.2% of all immediate custodial sentences handed to female offenders in Wales between 2010 and 2017 were at the Crown Court.
- 4.14** There were 2.6% fewer immediate custodial sentences handed to female offenders at Crown Courts in Wales in 2017 than in 2010.⁴³
- 4.15** Despite this fall, the custody rate for females sentenced at Crown Courts in Wales actually increased by 24.4%.⁴⁴

⁴³ From 196 in 2010 to 191 in 2017.

⁴⁴ From 31.2% in 2010 to 38.8% in 2017.

Figure 4.4 – The custody rate for females sentenced at Crown Courts in England and Wales, 2010 to 2017

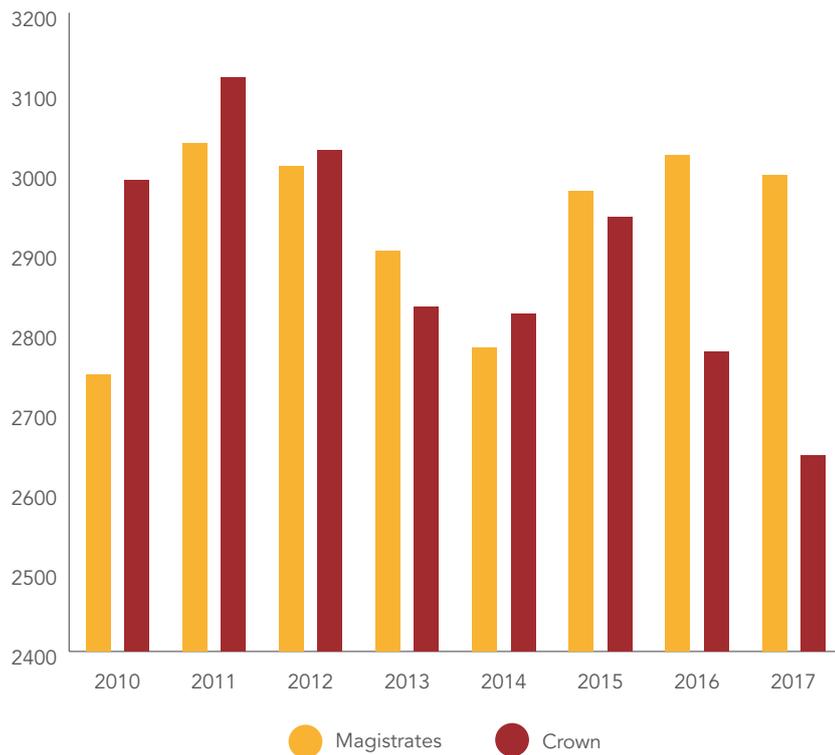


Source: Ministry of Justice

- 4.16 In England, 39.5% of all immediate custodial sentences were handed to female offenders at the Crown Court between 2010 and 2017.
- 4.17 The number of females sentenced to immediate custody at English Crown Courts fell by almost a quarter (24.5%) during this period.
- 4.18 The custody rate for females sentenced at Crown Courts in England was 18.8% higher in 2017 than it was in 2010.⁴⁵

⁴⁵ From 30.9% in 2010 to 36.7% in 2017.

Figure 4.5 – The use of immediate custody for males sentenced at Magistrates’ and Crown Courts in Wales, 2010 to 2017



Source: Ministry of Justice

- 4.19** 91.9% of all immediate custodial sentences handed out across all courts in England and Wales between 2010 and 2017 were given to male offenders.⁴⁶
- 4.20** The total number of immediate custodial sentences given to male offenders fell by 15.5% in England and Wales over this period.⁴⁷
- 4.21** At all courts in Wales, the number of male offenders sentenced to immediate custody was 1.7% lower in 2017 than in 2010.⁴⁸
- 4.22** On average, a higher proportion of male offenders were sentenced to immediate custody at Magistrates’ Court in Wales (5.45%) than in England (5.02%) between 2010 and 2017.
- 4.23** Approximately half (50.3%) of all immediate custodial sentences given to male offenders in Wales were handed out at Magistrates’ Courts in Wales during this period.
- 4.24** The number of immediate custodial sentences handed out to male offenders at Magistrates’ Courts in Wales increased between 2010 and 2017 by 9.1%.⁴⁹
- 4.25** The custody rate for males sentenced at Magistrates’ Courts in Wales increased by 19% between 2010 and 2017. The level rose from 5.11% in 2010 to 6.08% in 2017.

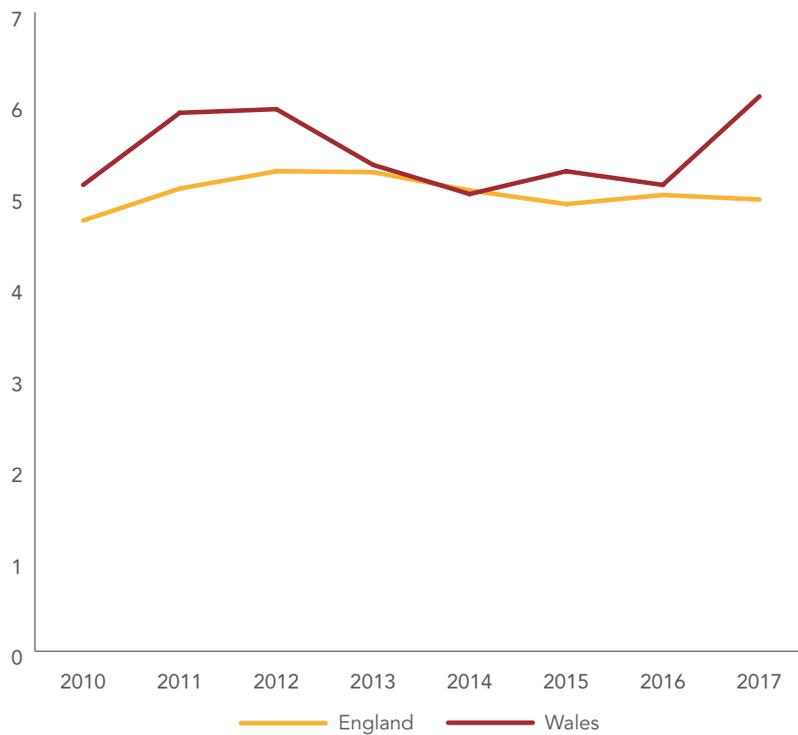
⁴⁶ The male and female total between 2010 and 2017 was 752,815. The male total during this period was 691,957.

⁴⁷ From 93,016 in 2010 to 78,553 in 2017.

⁴⁸ From 5,736 in 2010 to 5,641 in 2017.

⁴⁹ From 2,746 in 2010 to 2,996 in 2017.

Figure 4.6 – The custody rate for males sentenced at Magistrates’ Courts in England and Wales, 2010 to 2017

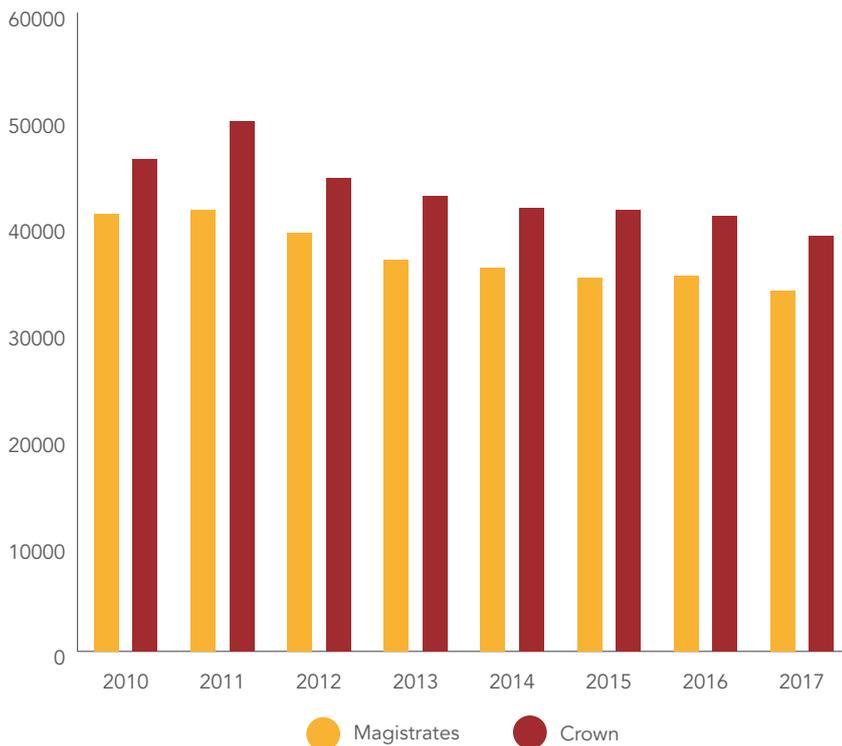


Source: Ministry of Justice

- 4.26** In stark contrast to Wales, the number of immediate custodial sentences given to male offenders at Magistrates’ Courts in England decreased by 17.4% between 2010 and 2017.⁵⁰
- 4.27** 46.3% of all immediate custodial sentences handed to male offenders in England were at the Magistrates’ Court between 2010 and 2017.
- 4.28** The proportion of cases resulting in an immediate custodial sentence increased by 4.9% from 4.72% in 2010 to 4.95% in 2017.

⁵⁰ From 41,054 in 2010 to 33,894 in 2017.

Figure 4.7 – The use of immediate custody for males sentenced at Magistrates’ and Crown Courts in England, 2010 to 2017



Source: Ministry of Justice

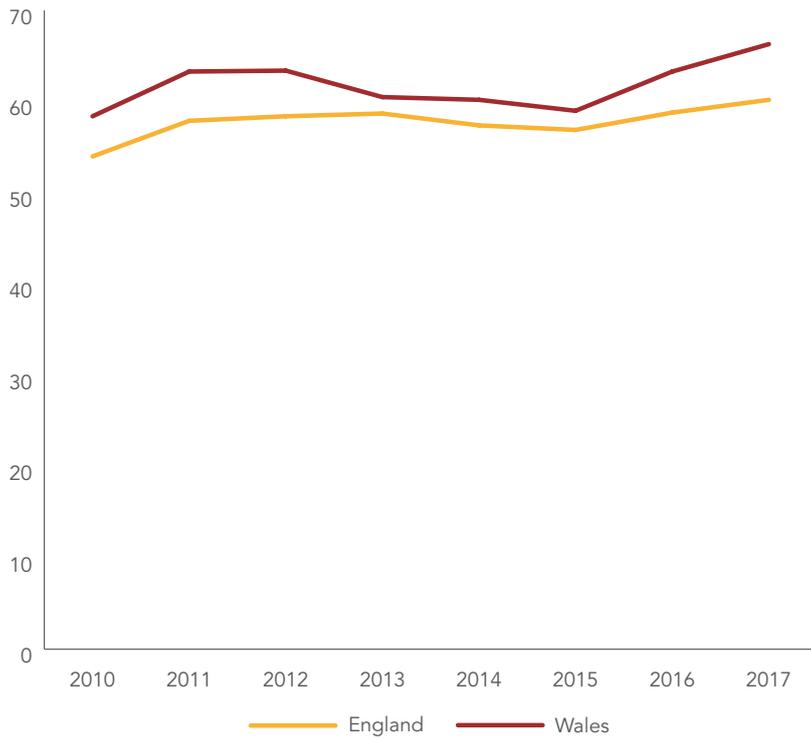
- 4.29** Between 2010 and 2017, the average custody rate for male offenders sentenced at the Crown Court was higher in Wales (61.7%) than England (57.7%).
- 4.30** There was not a single year between 2010 and 2017 in which the custody rate in England exceeded the rate recorded in Wales.
- 4.31** Since 2010, 49.7% of all immediate custodial sentences for male offenders were handed out at the Crown Court in Wales.
- 4.32** Between 2010 and 2017, the number of immediate custodial sentences handed to male offenders at Crown Courts in Wales decreased by 11.5%.⁵¹
- 4.33** The custody rate for male offenders at Crown Courts in Wales was 13.5% higher in 2017 than it was in 2010.⁵²
- 4.34** In England, the number of immediate custodial sentences handed out at Crown Courts fell by 15.6% between 2010 and 2017.⁵³
- 4.35** Over half (53.7%) of all immediate custodial sentences for male offenders in England were handed out at the Crown Court during this period.

⁵¹ From 2,990 in 2010 to 2,645 in 2017.

⁵² From 58.4% in 2010 to 66.3% in 2017.

⁵³ From 46,226 in 2010 to 39,018 in 2017.

Figure 4.8 – The custody rate for males sentenced at Crown Courts in England and Wales, 2010 to 2017



Source: Ministry of Justice

4.36 The custody rate for male offenders sentenced at Crown Courts in England increased by 11.5% between 2010 and 2017.⁵⁴

⁵⁴ From 54% in 2010 to 60.2% in 2017.

5. CHILDREN AND IMMEDIATE CUSTODY⁵⁵

Category	Higher Average Custody Rate	England %	Wales %
Youth Court	England	4.54	4.29
Boys (Youth Court)	England	4.96	4.72
Girls (Youth Court)	England	1.91	1.6
Crown Court	Wales	50.5	54.7
Boys (Crown)	Wales	51.9	55
Girls (Crown)	Wales	29.5	50

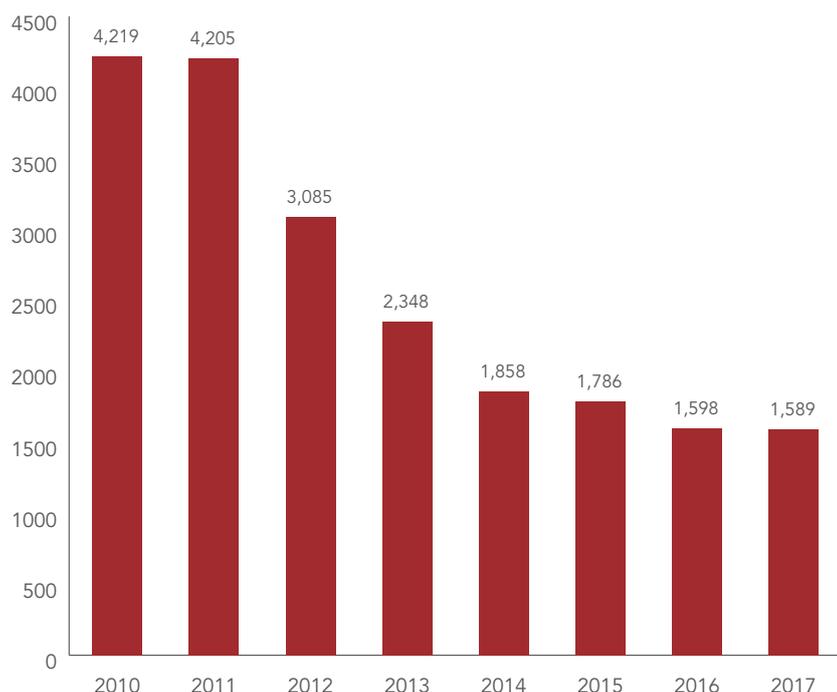
Source: Ministry of Justice

- 5.1 Children charged with criminal offences are tried in either the Youth Court or Crown Court in England and Wales.
- 5.2 The Sentencing Council for England and Wales state that, subject to a number of exceptions, cases that involve children should be heard in the Youth Court.
- 5.3 Operating as a type of Magistrates' Court, the Youth Court is regarded as the site "best designed" to meet the "specific needs" of children and young people ordered to appear in court (Sentencing Council, 2017:7).
- 5.4 Cases involving children and young people will be heard in the Crown Court if the offence charged is likely to result in a possible sentence outcome of more than two years detention. The Sentencing Council (2017: 7) assert that a case will be sent to the Crown Court if the offence charged is a specific offence that, if found guilty, the child or young person will be considered a "significant risk" to the public under the "dangerous offender provisions" set out in Schedule 15 of the Criminal Justice Act 2003.
- 5.5 Between 2010 and 2017, the total number of immediate custodial sentences that were handed to children in England and Wales fell by 62.3%.⁵⁶
- 5.6 While the number of custodial sentences handed to children at Crown Courts in England and Wales decreased by 57.2%, the number at Youth Courts fell by 64.3%.⁵⁷

⁵⁵ Children are defined here as those aged under 18.

⁵⁶ From 4,219 in 2010 to 1,589 in 2017.

⁵⁷ Youth Court: From 3,038 in 2010 to 1,084 in 2017. Crown Court: From 1,181 in 2010 to 505 in 2017.

Figure 5.1 – The use of immediate custody for children in England and Wales, 2010 to 2017

Source: Ministry of Justice

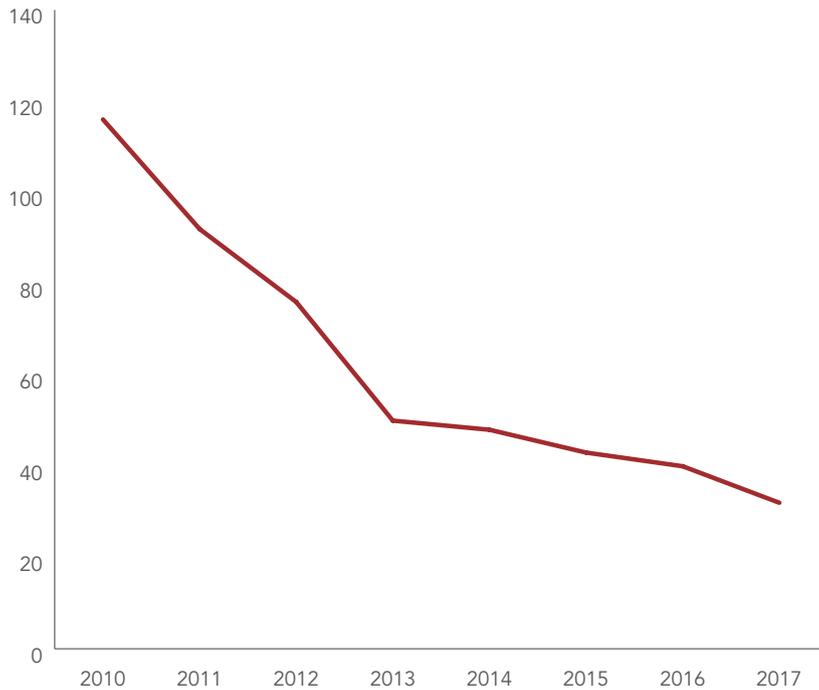
- 5.7** The reduction in immediate custodial sentences has had a significant impact on the number of children in custody.⁵⁸ Between January 2010 and December 2017, the number of children in custody in England and Wales declined by 70.4%.
- 5.8** The number of Welsh children in custody fell by 71.8% from 117 in January 2010 to 33 in December 2017.⁵⁹
- 5.9** At the end of October 2018, there were 27 Welsh children in custody in England and Wales.⁶⁰

⁵⁸ Youth Custody Data – <https://www.gov.uk/government/statistics/youth-custody-data>
From 2,916 in January 2010 to 862 in January 2017.

Research has shown that other factors have made a significant contribution to the reduction in the number of children in custody in England and Wales. These factors include changes in police practice (Sutherland et al, 2017), the use of diversion (Haines, 2008) and falling youth crime in England and Wales (National Audit Office, 2010).

⁵⁹ Youth Custody Data – <https://www.gov.uk/government/statistics/youth-custody-data>
From 117 in January 2010 to 33 in December 2017.

⁶⁰ Youth Custody Data – <https://www.gov.uk/government/statistics/youth-custody-data>

Figure 5.2 – The annual average number of Welsh children in custody, 2010 to 2017

Source: Ministry of Justice

- 5.10** On average, a higher proportion of children were sentenced to immediate custody at the Youth Court in England (4.54%) than Wales (4.29%) between 2010 and 2017.
- 5.11** The total number of immediate custodial sentences given to children in Wales fell by 70.5% between 2010 and 2017.⁶¹
- 5.12** Between 2010 and 2017, 70.6% of all immediate custodial sentences given to children were handed out at the Youth Court in Wales.⁶²
- 5.13** The number of children sentenced to immediate custody at Youth Courts in Wales fell by 71.1% from 173 in 2010 to 50 in 2017.
- 5.14** The rate at which children were sentenced to immediate custody at Welsh Youth Courts was 3.1% higher in 2017 than in 2010.⁶³
- 5.15** In England, 69.8% of all immediate custodial sentences were handed to children at the Youth Court between 2010 and 2017.
- 5.16** The number of immediate custodial sentences given to children at the Youth Court in England fell by 63.9% during this period.⁶⁴
- 5.17** The custody rate for children sentenced at Youth Courts in England was 11.8% higher in 2017 than it was in 2010.⁶⁵

⁶¹ From 254 in 2010 to 75 in 2017.

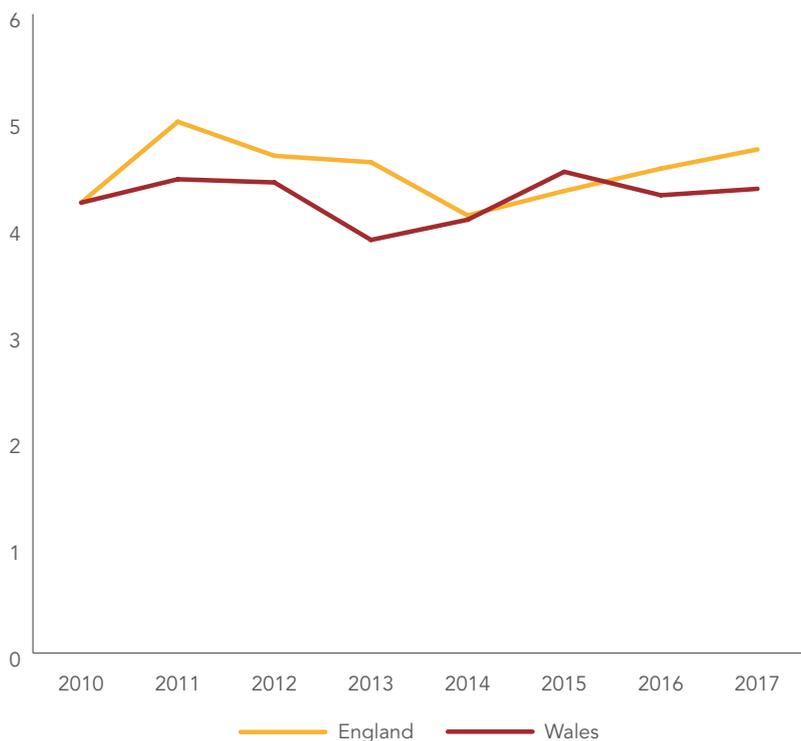
⁶² This figure includes children who were sentenced to 'Imprisonment for public protection' between 2010 and 2017.

⁶³ From 4.23% in 2010 to 4.36% in 2017.

⁶⁴ From 2,865 in 2010 to 1,034 in 2017.

⁶⁵ From 4.23% in 2010 to 4.73% in 2017.

Figure 5.3 – The custody rate for children sentenced at Youth Courts in England and Wales, 2010 to 2017



Source: Ministry of Justice

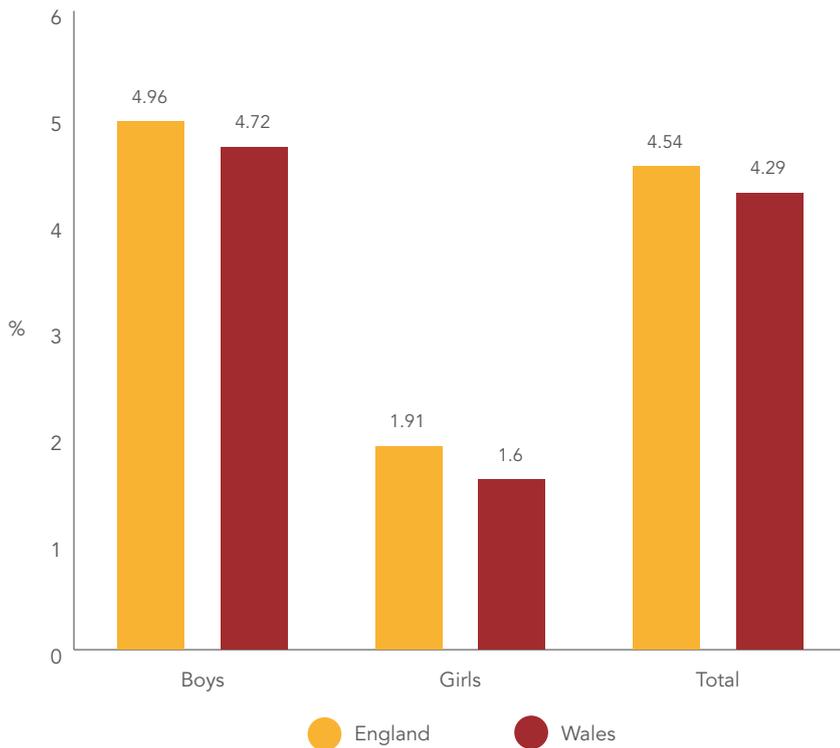
- 5.18 The average custody rate for boys sentenced at the Youth Court was higher in England (4.96%) than Wales (4.72%) between 2010 and 2017.
- 5.19 The number of immediate custodial sentences handed to boys at Youth Courts in Wales fell by three quarters (75.5%) during this period.⁶⁶
- 5.20 The decline in immediate custodial sentences was accompanied by a fall in the custody rate for boys sentenced at Youth Courts in Wales. The rate fell by 14.3% from 4.76% in 2010 to 4.08% in 2017.
- 5.21 In England, the number of boys sentenced to immediate custody at the Youth Court fell by 63.8% between 2010 and 2017.⁶⁷
- 5.22 Despite this decrease, the custody rate for boys sentenced at English Youth Courts was 9.4% higher in 2010 than it was 2017.⁶⁸

⁶⁶ From 163 in 2010 to 40 in 2017.

⁶⁷ From 2,641 in 2010 to 957 in 2017.

⁶⁸ From 4.66% in 2010 to 5.10% in 2017.

Figure 5.4 – The average custody rate for children sentenced at Youth Courts in England and Wales by sex, 2010 to 2017



Source: Ministry of Justice

- 5.23** On average, the custody rate for girls sentenced at Youth Courts was higher in England (1.91%) than Wales (1.6%) between 2010 and 2017.
- 5.24** The number of immediate custodial sentences handed to girls at the Youth Court in Wales fell from nine to six between 2010 and 2017.
- 5.25** Despite this decline, the custody rate for girls in Wales was 178% higher in 2017 than it was in 2010.⁶⁹
- 5.26** In England, both the custody rate and the number of immediate custodial sentences handed to girls at Youth Courts fell between 2010 and 2017.
- 5.27** The number of custodial sentences given to girls at Youth Courts in England declined by 83.4% from 199 in 2010 to 33 in 2017.
- 5.28** The custody rate for girls was 35.1% lower in 2017 than the level recorded in 2010.⁷⁰

⁶⁹ Due to the small sample size year to year changes will result in large fluctuations in the population changes. From 1.39% in 2010 to 3.87% in 2017.

⁷⁰ From 1.91% in 2010 to 1.24% in 2017.

Figure 5.5 – The custody rate for children sentenced at Crown Courts in England and Wales, 2010 to 2017



Source: Ministry of Justice

- 5.29** The average custody rate for children sentenced at the Crown Court was higher in Wales (54.7%) than England (50.5%) between 2010 and 2017.
- 5.30** 29.4% of all immediate custodial sentences given to children were handed out at Crown Courts in Wales between 2010 and 2017.
- 5.31** The number of immediate custodial sentences handed to children at Welsh Crown Courts was 69.1% lower in 2017 than the level recorded in 2010.⁷¹
- 5.32** The custody rate for children sentenced at Welsh Crown Courts decreased by 23.8% during this period.⁷²
- 5.33** In England, 30.2% of all immediate custodial sentences were handed to children at the Crown Court between 2010 and 2017.
- 5.34** There were 56.4% fewer immediate custodial sentences handed to children at Crown Courts in England in 2017 than in 2010.⁷³
- 5.35** The custody rate for children sentenced at English Crown Courts was 7.6% lower in 2017 than 2010. The rate fell from 52.8% in 2010 to 48.8% in 2017.
- 5.36** The average custody rate for boys sentenced at Crown Courts was higher in Wales (55%) than in England (51.9%) between 2010 and 2017.

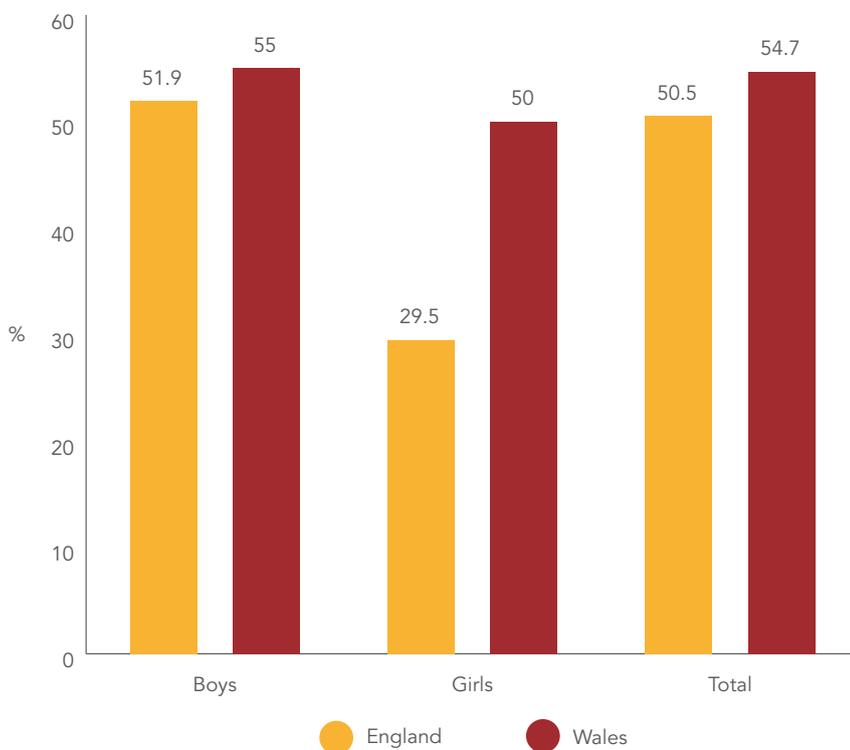
⁷¹ From 81 in 2010 to 25 in 2017.

⁷² From 66.9% in 2010 to 51% in 2017.

⁷³ From 1,100 in 2010 to 480 in 2017.

- 5.37 The number of boys sentenced to immediate custody at Crown Courts in Wales also fell (70.3%) during this period.⁷⁴
- 5.38 The proportion of cases resulting in an immediate custodial sentence for boys sentenced at the Crown Court in Wales fell by 22.1% between 2010 and 2017.⁷⁵
- 5.39 In England, the number of boys sentenced to immediate custody at the Crown Court was halved (55.4%) between 2010 and 2017.⁷⁶
- 5.40 During this period, the custody rate for boys sentenced at English Crown Courts fell by 7.7%.⁷⁷

Figure 5.6 – The average custody rate for children sentenced at Crown Courts in England and Wales by sex, 2010 to 2017



Source: Ministry of Justice

- 5.41 The average custody rate for girls sentenced at Crown Courts was lower in England (29.5%) than Wales (50%) between 2010 and 2017.⁷⁸
- 5.42 The number of girls sentenced to immediate custody at Crown Courts in Wales fell from seven in 2010 to three in 2017 (57.1%).

⁷⁴ From 74 in 2010 to 22 in 2017.

⁷⁵ From 67.3% in 2010 to 52.4% in 2017.

⁷⁶ From 1,057 in 2010 to 471 in 2017

⁷⁷ From 54.6% in 2010 to 50.4% in 2017.

⁷⁸ There were 20 immediate custodial sentences handed to girls sentenced at the Crown Court in Wales between 2010 and 2017.

- 5.43 The custody rate for girls sentenced at Crown Courts in Wales decreased during this period by 32.5%.⁷⁹
- 5.44 At Crown Courts in England, the number of immediate custodial sentences handed to girls fell by 79.1% between 2010 and 2017.⁸⁰
- 5.45 The custody rate for girls at Crown Courts in England also decreased by more than a third (35.9%) from 28.7% in 2010 to 18.4% in 2017.

79 From 63.6% in 2010 to 42.9% in 2017.

80 From 43 in 2010 to 9 in 2017.

6. YOUNG ADULTS AND IMMEDIATE CUSTODY⁸¹

Category	Higher Average Custody Rate	England %	Wales %
Magistrates	Wales	4	5.2
Male (Magistrates)	Wales	4.9	6.46
Female (Magistrates)	Wales	1.44	1.86
Crown	Wales	54.7	58.3
Male (Crown)	Wales	56.6	60.7
Female (Crown)	Wales	30.8	32.2

Source: Ministry of Justice

- 6.1 The issue of youth-to-adult transitions has attracted significant academic research and policy interest over the course of the last decade. This body of work has consistently pointed to the developmental and emotional difficulties facing young adults (18-24) in the criminal justice system and has also highlighted the need for alternative responses (e.g. Barrow Cadbury Trust, 2005; Criminal Justice Joint Inspection, 2012; Prior et al, 2011).
- 6.2 Following its inquiry into the treatment of young adults in the criminal justice system, the House of Commons Justice Committee (2016: 61) concluded that there exists a “strong case” for an alternative approach to the way in which young adults are treated in the criminal justice system in England and Wales.
- 6.3 The Justice Committee’s (2016: 3) report criticised the Ministry of Justice and NOMS (i.e. HMPPS) for not giving “sufficient weight” to the possible implications of brain maturation for young adults in prison. In response, the Ministry of Justice’s *Prison Safety and Reform* White Paper outlined the need to recognise the “different problems” facing young adults and committed itself to reflect upon the Committee report’s findings (Ministry of Justice, 2016b: 8).
- 6.4 Concerns have also been raised about the treatment of young adults at the sentencing stage of the criminal justice process. Despite the Sentencing Council’s decision to introduce ‘lack of maturity’ as a mitigating factor in formal sentencing guidelines in early 2011, the Justice Committee (2016: 33) concluded that neither the Crown Prosecution Service nor the Sentencing Council “have a sufficiently sophisticated understanding of maturity to weigh up how it might affect young adults’ culpability”.

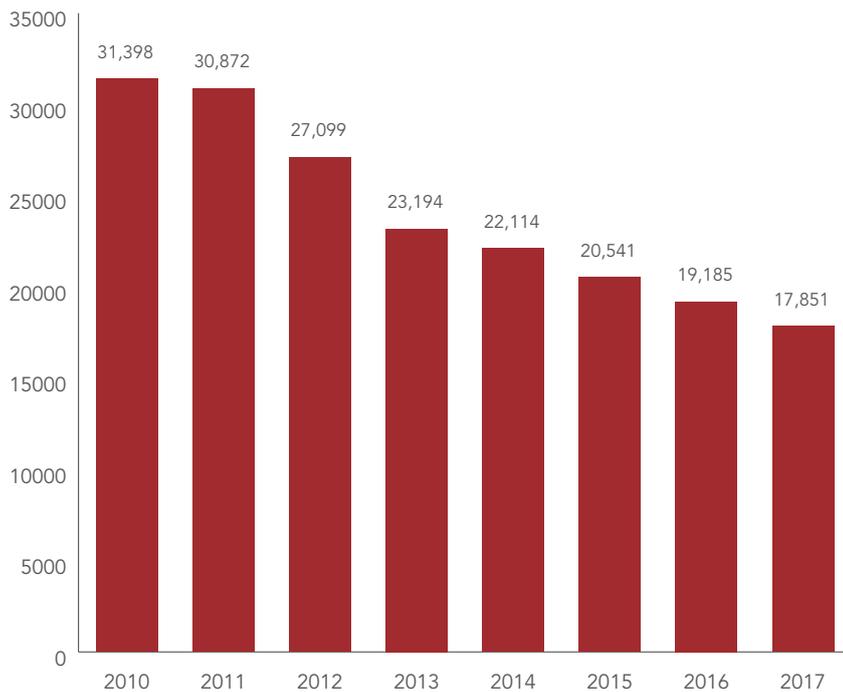
⁸¹ ‘Young Adult’ here refers to those offenders aged 18-24.

- 6.5 The Sentencing Council's most recently published guidelines on children provides some "powerful guidance" on the role of maturation (Transition to Adulthood Alliance, 2017: 8). This includes the advice to sentencers to consider "the developmental and emotional age" of children and young people as of "at least equal importance" to their chronological age. The guidelines also signal the need to determine if children or young people have the "necessary maturity" to fully understand the consequences of their behaviour (Sentencing Council, 2017: 17).
- 6.6 Despite these developments, a follow-up report published by the House of Commons Justice Committee (2018: 25) called for the Ministry of Justice to develop a more "data-driven" approach to improving the guidance that is given to prosecutors and sentencers in England and Wales.
- 6.7 Since 2010, the number of immediate custodial sentences handed to young adults at all courts in England and Wales has fallen by 44%.⁸²
- 6.8 In Wales, young adults in custody have been identified as a specific priority area. The objectives set out in the *Wales Reducing Reoffending Strategy* included the need to develop a better understanding of the needs of young adult offenders and to develop "protocols and procedures" to help support young people as they transition to adult services (Integrated Offender Management Cymru, 2014: 24).
- 6.9 Between 2010 and 2017, a quarter (25.7%) of all immediate custodial sentences in Wales were given to young adults.
- 6.10 In 2010, a third (33.9%) of all immediate custodial sentences handed out at courts in Wales were given to young adults. In 2017, this figure had fallen to a fifth (20.9%) of all immediate custodial sentences.
- 6.11 The total number of immediate custodial sentences handed to young adults in Wales fell by 38.2% between 2010 and 2017.⁸³
- 6.12 In 2017, 18-24 year olds made up 16.2% of the total Welsh prison population.⁸⁴

82 From 31,398 in 2010 to 17,581 in 2017.

83 From 2,124 in 2010 to 1,312 in 2017.

84 Data were obtained from the Ministry of Justice via the Freedom of the Information Act 2000.

Figure 6.1 – The use of immediate custody for young adults in England and Wales, 2010 to 2017

Source: Ministry of Justice

- 6.13** The average custody rate for young adults sentenced at Magistrates' Courts was higher in Wales (5.2%) than England (4%) between 2010 and 2017.
- 6.14** There was not a single year between 2010 and 2017 where the custody rate for young adults sentenced in England was higher than the level recorded in Wales.
- 6.15** 43.7% of all immediate custodial sentences given to young adults were handed out at Magistrates' Courts in Wales between 2010 and 2017.
- 6.16** The number of young adults sentenced to immediate custody at Magistrates' Courts in Wales fell by 33.4% during this period.⁸⁵
- 6.17** Despite this fall, the custody rate for young adults sentenced at Welsh Magistrates' Courts was higher in 2017 (5.65%) than the level recorded in 2010 (5.42%).⁸⁶
- 6.18** In England, the use of immediate custody for young adults fell at a higher rate than in Wales between 2010 and 2017.
- 6.19** In England, 37.9% of all immediate custodial sentences were given to young adults at the Magistrates' Court.
- 6.20** Between 2010 and 2017, the number of immediate custodial sentences handed to young adults at Magistrates' Courts in England fell by 51.3%.⁸⁷

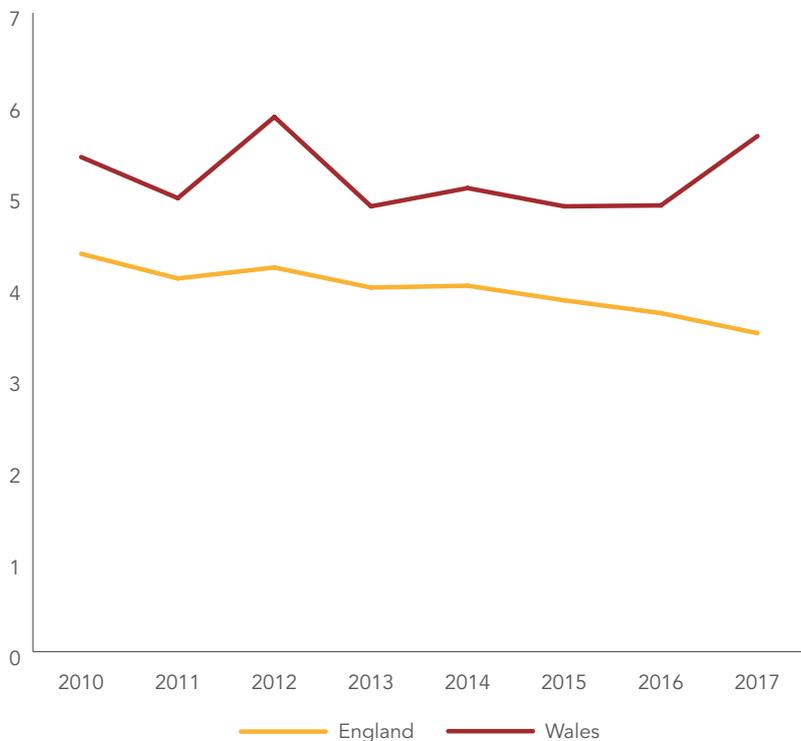
⁸⁵ From 908 in 2010 to 605 in 2017.

⁸⁶ This represents an increase of 4.2%.

⁸⁷ From 11,892 in 2010 to 5,789 in 2017.

6.21 The custody rate for young adults sentenced at the Magistrates’ Court in England was 20% lower in 2017 than in 2010.⁸⁸

Figure 6.2 – The average custody rate for young adults sentenced at Magistrates’ Courts in England and Wales, 2010 to 2017



Source: Ministry of Justice

6.22 A significant amount of the research on youth to adult transitions has focussed upon the disparate problems facing young adult males. The Ministry of Justice’s (2015: 5) own evidence to the Justice Committee highlighted the need to “respond differently” to young adult males based on its own evidence around psychological maturity.

6.23 Between 2010 and 2017, the average custody rate for young adult males sentenced at Magistrates’ Courts was higher in Wales (6.46%) than in England (4.9%).

6.24 The number of young adult males sentenced to immediate custody at Magistrates’ Courts in Wales fell by a third (33.8%) between 2010 and 2017.⁸⁹

6.25 Despite this decline, the custody rate for young adult males sentenced at Welsh Magistrates’ Courts was 13.4% higher in 2017 than in 2010.⁹⁰

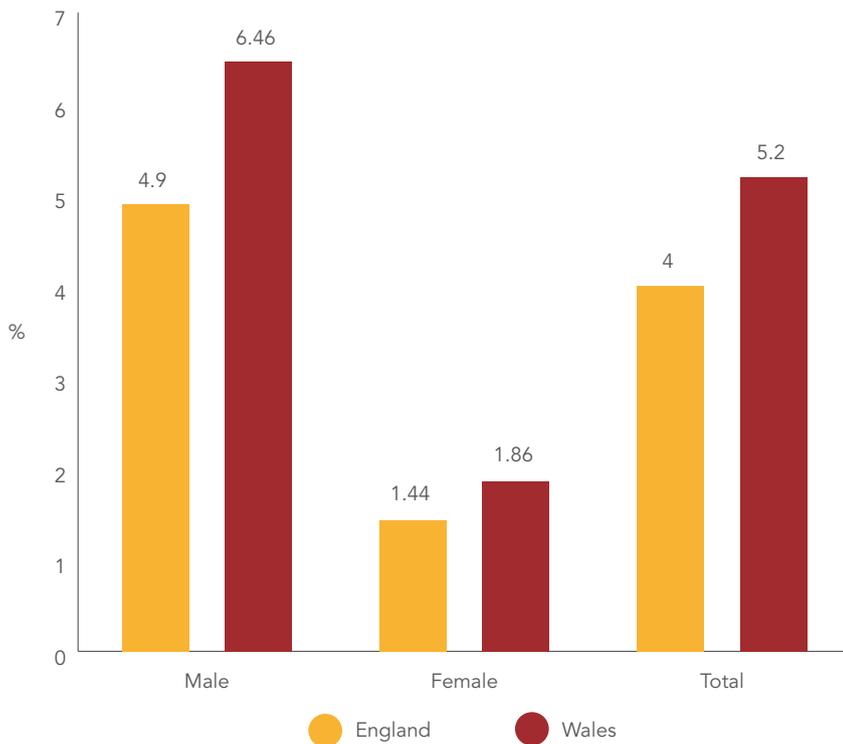
88 From 4.36% in 2010 to 3.49% in 2017.

89 From 828 in 2010 to 548 in 2017.

90 From 6.44% in 2010 to 7.3% in 2017.

- 6.26 The number of immediate custodial sentences handed to young adult males sentenced at the Magistrates' Court decreased by 50.7% between 2010 and 2017.⁹¹
- 6.27 This decline was accompanied by a fall in the custody rate for young adult males at Magistrates' Courts in England. This figure fell from 5.1% in 2010 to 4.44% in 2017.

Figure 6.3 – The average custody rate for young adults sentenced at Magistrates' Courts in England and Wales by sex, 2010 to 2017



Source: Ministry of Justice

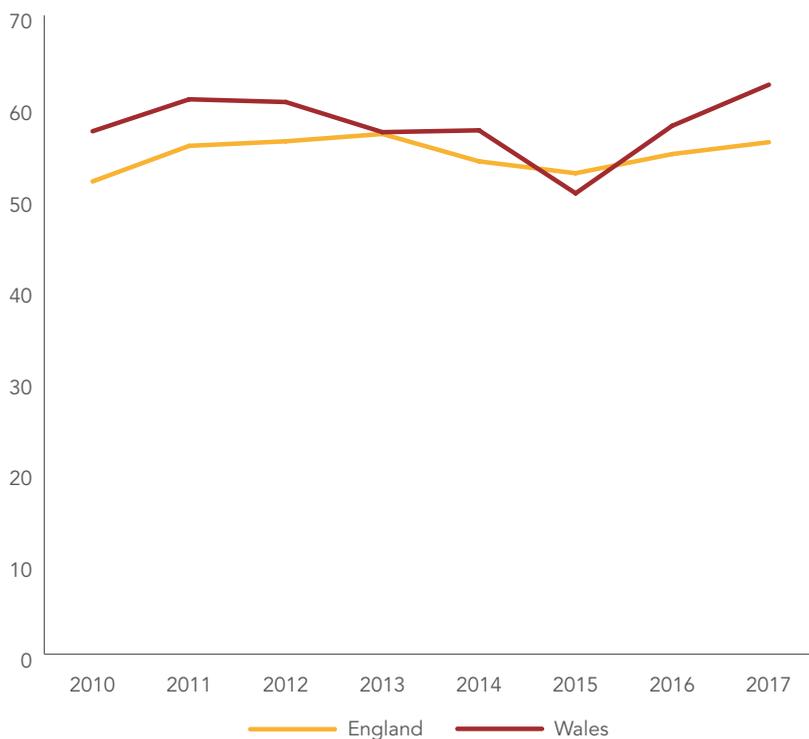
- 6.28 With so much emphasis placed upon the experiences of young adult males, the welfare and treatment of young adult females in the criminal justice system has been subject to little research (House of Commons Justice Committee, 2016).
- 6.29 Despite this lacuna, evidence submitted to the House of Commons Justice Committee's (2016) inquiry into the treatment of young adults in the criminal justice system identified that young adult females adapt and respond differently to the difficulties they face in custody.
- 6.30 Between 2010 and 2017, the average custody rate for young adult females was higher in Wales (1.86%) than England (1.44%).
- 6.31 The number of young adult females sentenced to immediate custody at Magistrates' Courts in Wales decreased by more than a quarter (28.9%) between 2010 and 2017.⁹²

⁹¹ From 10,784 in 2010 to 5,321 in 2017.

⁹² From 76 in 2010 to 54 in 2017.

- 6.32 The custody rate for young adult females was 1.4% lower in 2017 than the level recorded in 2010.⁹³
- 6.33 At Magistrates' Courts in England, the number of immediate custodial sentences handed to young adult females decreased by 60.4% between 2010 and 2017.⁹⁴
- 6.34 During this period the custody rate for young adult females also fell. The rate in 2017 was 39.2% lower than in 2010.⁹⁵

Figure 6.4 – The custody rate for young adults sentenced at Crown Courts in England and Wales, 2010 to 2017



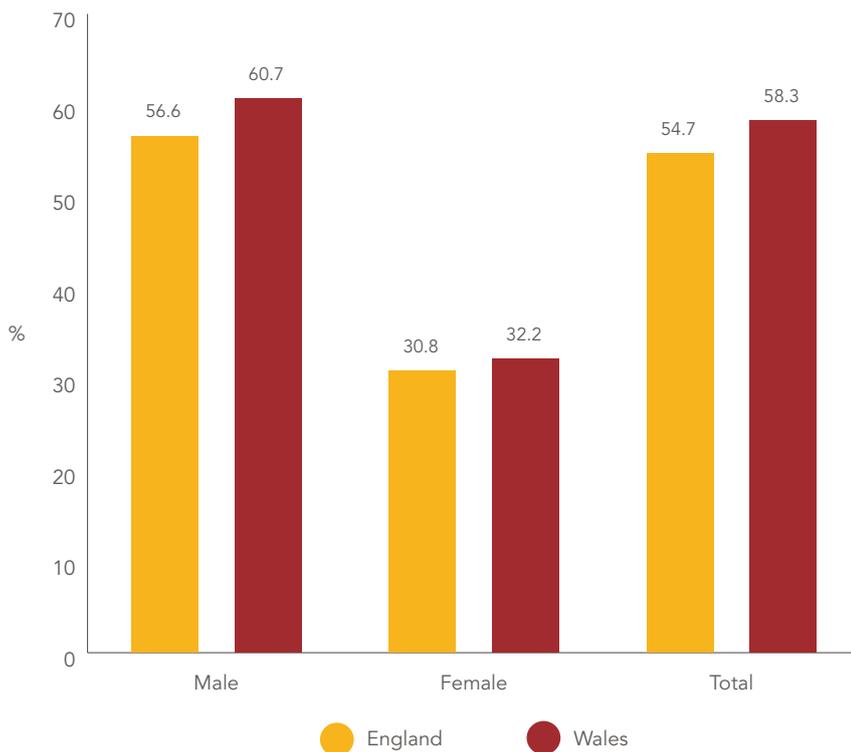
Source: Ministry of Justice

- 6.35 The average custody rate for young adults sentenced at Crown Courts was higher in Wales (58.3%) than in England (54.7%) between 2010 and 2017.
- 6.36 56.3% of all immediate custodial sentences given to young adults were handed out at Crown Courts in Wales between 2010 and 2017.
- 6.37 The number of immediate custodial sentences handed to young adults at Welsh Crown Courts fell by 41.9%, from 1,216 in 2010 to 707 in 2017.
- 6.38 Despite this decline, the custody rate for young adults sentenced at Crown Courts in Wales was higher in 2017 (62.4%) than in 2010 (57.3%).

93 From 2.09% in 2010 to 2.06% in 2017.
 94 From 1,031 in 2010 to 408 in 2017.
 95 From 1.89% in 2010 to 1.15% in 2017.

- 6.39 In England, 62.1% of all immediate custodial sentences were handed to young adults at the Crown Court between 2010 and 2017.
- 6.40 The number of immediate custodial sentences given to young adults at Crown Courts in England was 39.7% lower in 2017 than in 2010.
- 6.41 The custody rate for young adults sentenced at English Crown Courts increased between 2010 and 2017. The rate rose from 51.8% in 2010 to 56.1% in 2017.

Figure 6.5 – The average custody rate for young adults sentenced at Crown Courts in England and Wales by sex, 2010 to 2017



Source: Ministry of Justice

- 6.42 The average custody rate for young adult males sentenced at the Crown Court was higher in Wales (60.7%) than in England (56.6%) between 2010 and 2017.
- 6.43 Between 2010 and 2017, the number of immediate custodial sentences handed to young adult males decreased by 41.4% at Crown Courts in Wales.⁹⁶
- 6.44 However, the custody rate for young adult males sentenced at Welsh Crown Courts increased by 8.2% from 59.8% in 2010 to 64.7% in 2017.
- 6.45 The number of immediate custodial sentences given to young adult males sentenced at Crown Courts in England also fell by 38.9% between 2010 and 2017.⁹⁷

⁹⁶ From 1,155 in 2010 to 677 in 2017.

⁹⁷ From 16,566 in 2010 to 10,117 in 2017.

- 6.46 Despite this reduction, the custody rate for young adult males increased at Crown Courts in England by 7.4% between 2010 and 2017.⁹⁸
- 6.47 The average custody rate for young adult females sentenced at the Crown Court was higher in Wales (32.2%) than in England (30.8%) between 2010 and 2017.
- 6.48 The number of immediate custodial sentences handed to young adult females at Crown Courts in Wales was half the figure (50.8%) in 2017 than it was in 2010.⁹⁹
- 6.49 Despite this decline, the custody rate for young adult females sentenced at the Crown Court in Wales was 9.9% higher in 2017.¹⁰⁰
- 6.50 In England, the number of immediate custodial sentences handed to young adult females at the Crown Court was 55.5% lower in 2017 than in 2010.¹⁰¹
- 6.51 The custody rate for young adult females increased by 2.3% between 2010 and 2017.¹⁰²

98 From 53.7% in 2010 to 57.7% in 2017.

99 From 61 in 2010 to 30 in 2017.

100 From 31.4% in 2010 to 34.5% in 2017.

101 From 816 in 2010 to 363 in 2017.

102 From 30.2% in 2010 to 30.9% in 2017.

7. ADULTS AND IMMEDIATE CUSTODY¹⁰³

Category	Higher Average Custody Rate	England %	Wales %
Magistrates	England	3.93	3.84
Male (Magistrates)	Wales	5.09	5.28
Female (Magistrates)	England	1.62	1.51
Crown	Wales	55.5	58.9
Male (Crown)	Wales	58.3	62.2
Female (Crown)	Wales	33.7	35.8

Source: Ministry of Justice¹⁰⁴

- 7.1** Older prisoners are the fastest growing demographic group in prison in England and Wales. The proportion of older people in prison has risen dramatically over the last two decades.
- 7.2** Research recently published by Public Health England found that the number of prisoners aged 50 or older has increased by 150% in England and Wales since 2002 (Public Health England, 2017).
- 7.3** In September 2011, 10.4% of the prison population in England and Wales were aged 50 or above. By September 2018, this number had increased to 22.5% of the population.¹⁰⁵
- 7.4** The ageing prison population in England and Wales has led to growing concerns over the distinct health and social care needs of older people in custody. A report recently published following an inquiry into prison healthcare in England found that older prisoners are frequently held in establishments unable to meet their needs and many will be released into the community without any social care support in place (House of Commons Health and Social Care Committee, 2018).¹⁰⁶
- 7.5** The proportion of prisoners aged 25 and above in England and Wales has also increased in the last decade. The number of prisoners aged 25 and above rose by 23% between September 2011 and 2018.¹⁰⁷

¹⁰³ 'Adult' here refers to those offenders aged 25 and over.

¹⁰⁴ The total number for the 'Magistrates' and 'Crown' includes cases where sex is recorded as 'not known'. This explains why the custody rate for adult male offenders sentenced in Wales is higher even when the overall rate at the Magistrates' Court is greater in England.

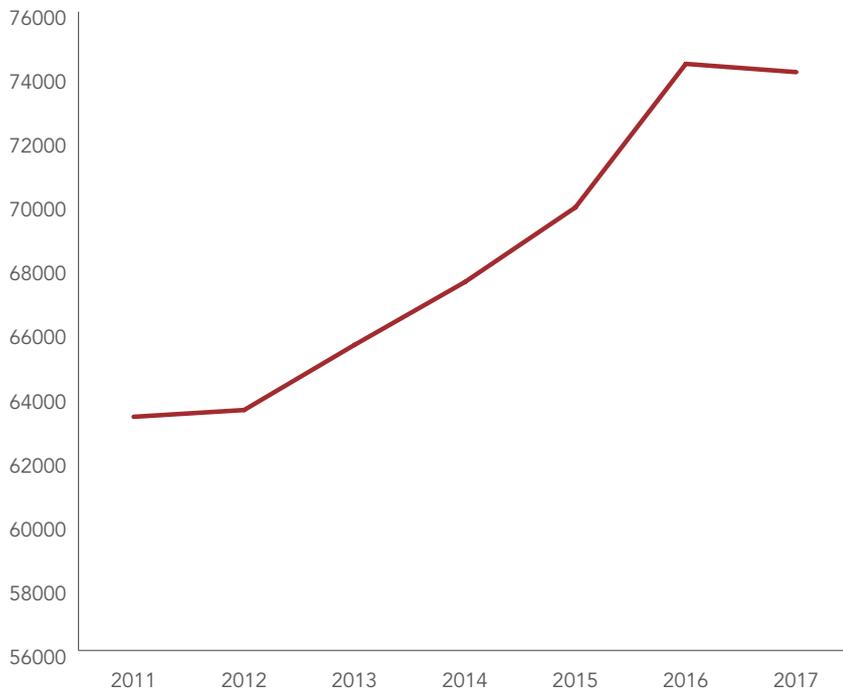
¹⁰⁵ Offender Management Statistics Quarterly (April 2010 and April to June 2018) – <https://www.gov.uk/government/collections/offender-management-statistics-quarterly>

¹⁰⁶ See also HM Inspectorate of Prisons (2008) and House of Commons Justice Committee (2013a).

¹⁰⁷ Offender Management Statistics Quarterly (April 2010 and April to June 2018) – <https://www.gov.uk/government/collections/offender-management-statistics-quarterly>
From 72.1% in September 2011 to 88.7% in September 2018.

7.6 The total number of adult offenders aged 25 and above sentenced to immediate custody in England and Wales increased by 1.8% between 2010 and 2017.¹⁰⁸

Figure 7.1 – The number of prisoners aged 25 and over in England and Wales, September 2011 to September 2018¹⁰⁹



Source: Ministry of Justice

7.7 The total number of immediate custodial sentences handed out to adults in Wales increased by 26% between 2010 and 2017.¹¹⁰

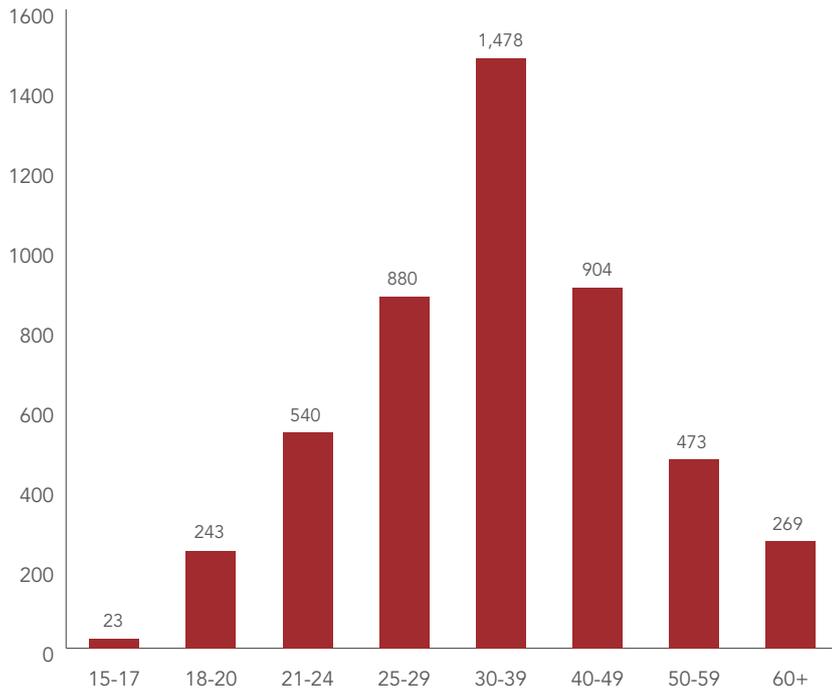
7.8 In 2017, 83.3% of the average Welsh prison population were aged 25 and above.¹¹¹

¹⁰⁸ The total figure includes cases where sex is recorded as 'not known'.
From 65,891 in 2010 to 67,083 in 2017.

¹⁰⁹ Offender Management Statistics Quarterly (multiple years) – <https://www.gov.uk/government/collections/offender-management-statistics-quarterly>

¹¹⁰ From 3,886 in 2010 to 4,897 in 2017.

¹¹¹ Prison population data were obtained from the Ministry of Justice via the Freedom of the Information Act 2000.

Figure 7.2 – Welsh prisoners broken down by age category in 2017

Source: Ministry of Justice

- 7.9** The average custody rate for adults sentenced at Magistrates' Courts was higher in England (3.93%) than Wales (3.84%) between 2010 and 2017.
- 7.10** Over half (53.9%) of all immediate custodial sentences given to adult offenders in Wales were handed out at the Magistrates' Court between 2010 and 2017.
- 7.11** The number of adults sentenced to immediate custody at Magistrates' Courts in Wales increased by 39.9% from 1,997 in 2010 to 2,793 in 2017.
- 7.12** Between 2010 and 2017, the custody rate for adults sentenced at Magistrates' Courts in Wales increased by 27.6% from 3.62% in 2010 to 4.62% in 2017.
- 7.13** In England, the total number of immediate custodial sentences handed to adults at all courts was 0.3% higher in 2017 than in 2010.¹¹²
- 7.14** 50.3% of all immediate custodial sentences given to adult offenders were handed out at Magistrates' Courts in England between 2010 and 2017.
- 7.15** The number of immediate custodial sentences handed to adults at English Magistrates' Courts was 2.1% higher in 2017 than in 2010.¹¹³
- 7.16** During this period, the custody rate for adults sentenced at English Magistrates' Courts increased by 10.5% from 3.7% in 2010 to 4.09% in 2017.

¹¹² From 62,005 in 2010 to 62,186 in 2017.

¹¹³ From 31,069 in 2010 to 31,719 in 2017.

Figure 7.3 – The custody rate for adults sentenced at Magistrates’ Courts in England and Wales, 2010 to 2017



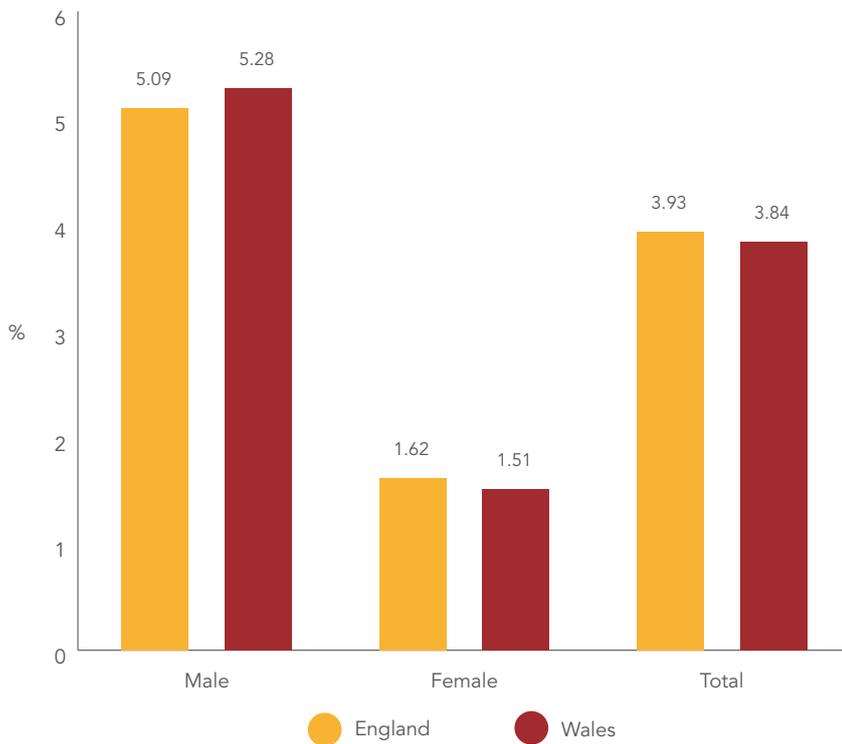
Source: Ministry of Justice

- 7.17 The average custody rate for adult males sentenced at Magistrates’ Courts was higher in Wales (5.28%) than England (5.09%) between 2010 to 2017.
- 7.18 The number of immediate custodial sentences handed to adult male offenders at Magistrates’ Courts in Wales increased by 37.2% between 2010 and 2017.¹¹⁴
- 7.19 The custody rate for adult male offenders sentenced at Welsh Magistrates’ Courts was 35% higher in 2017 than in 2010.¹¹⁵
- 7.20 The number of adult male offenders sentenced to immediate custody at Magistrates’ Courts in England marginally fell between 2010 and 2017. The total declined by 0.05% from 27,629 in 2010 to 27,615 in 2017.
- 7.21 During this period, the custody rate for adult male offenders sentenced at English Magistrates’ Courts increased by 15.7% from 4.6% in 2010 to 5.32% in 2017.

114 From 1,755 in 2010 to 2,407 in 2017.

115 From 4.69% in 2010 to 6.33% in 2017.

Figure 7.4 – The average custody rate for adults sentenced at Magistrates’ Courts in England and Wales by sex, 2010 to 2017



Source: Ministry of Justice

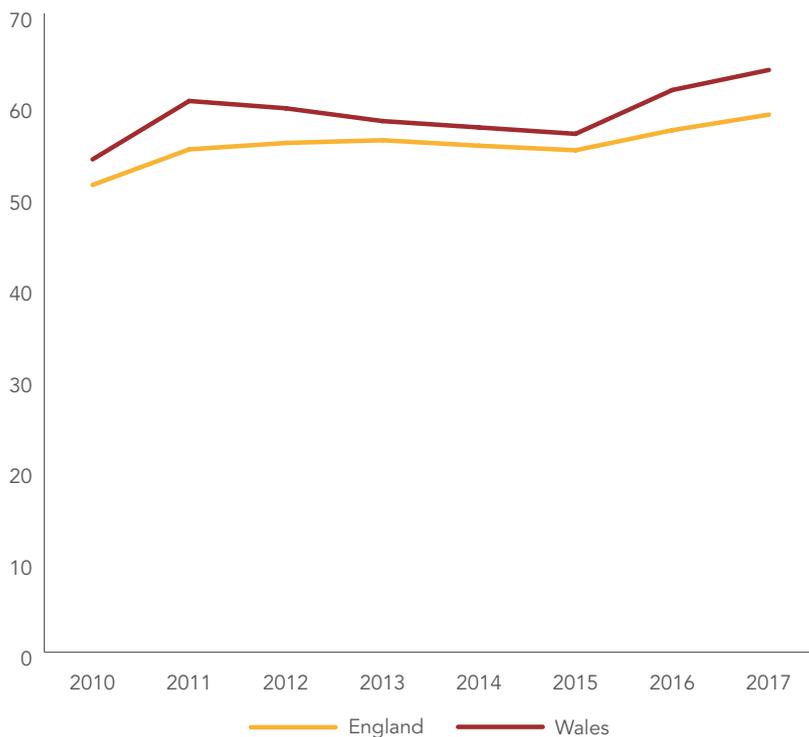
- 7.22** The average custody rate for adult female offenders sentenced at Magistrates’ Courts was higher in England (1.62%) than Wales (1.51%) between 2010 and 2017.
- 7.23** In Wales, the number of immediate custodial sentences handed to adult female offenders at Magistrates’ Courts increased by 60% between 2010 and 2017.¹¹⁶
- 7.24** The custody rate for adult females sentenced at Welsh Magistrates’ Court was 34% higher in 2017 than in 2010.¹¹⁷
- 7.25** In England, the number of immediate custodial sentences handed to adult females at Magistrates’ Courts in England increased by 15.4% between 2010 and 2017.¹¹⁸
- 7.26** The custody rate for adult female offenders at Magistrates’ Courts in England increased by 16% from 1.56 in 2010 to 1.81% in 2017.

¹¹⁶ From 230 in 2010 to 368 in 2017.

¹¹⁷ From 1.5% in 2010 to 2.01% in 2017.

¹¹⁸ From 3,263 in 2010 to 3,765 in 2017.

Figure 7.5 – The custody rate for adults sentenced at Crown Courts in England and Wales, 2010 to 2017



Source: Ministry of Justice

- 7.27 On average, a higher proportion of adults were sentenced to immediate custody at the Crown Court in Wales (58.9%) than England (55.5%) between 2010 and 2017.
- 7.28 There was not a single year between 2010 and 2017 where the custody rate for adults sentenced at the Crown Court in England was higher than the rate in Wales.
- 7.29 46.1% of all immediate custodial sentences for adult offenders were handed out at Crown Courts in Wales during this period.
- 7.30 The number of adults sentenced to immediate custody at the Crown Court in Wales increased by 11.4% between 2010 and 2017.¹¹⁹
- 7.31 The custody rate for adult offenders sentenced at Crown Courts in Wales was 18.1% higher in 2010 than 2017.¹²⁰
- 7.32 In England, 49.7% of all immediate custodial sentences for adults were handed out at the Crown Court during this period.
- 7.33 The number of immediate custodial sentences handed to adult offenders at English Crown Courts fell by 1.5% between 2010 and 2017.¹²¹

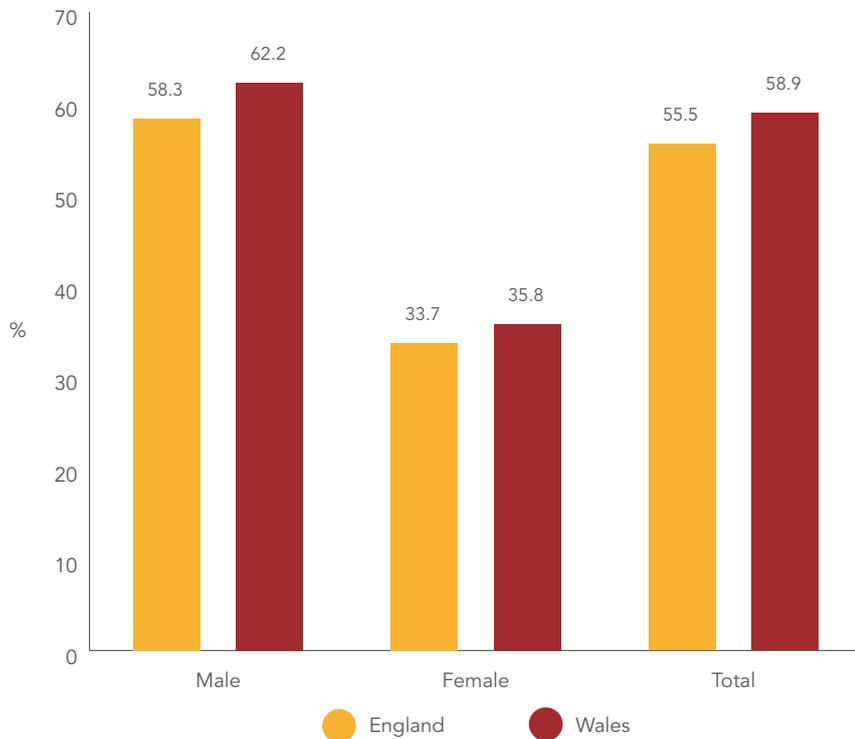
119 From 1,889 in 2010 to 2,104 in 2017.

120 From 54% in 2010 to 63.8% in 2017.

121 From 30,936 in 2010 to 30,467 in 2017.

7.34 The custody rate at English Crown Courts also increased between 2010 and 2017. The rate rose by 15% from 51.2% in 2010 to 58.9% in 2017.

Figure 7.6 – The average custody rate for adults sentenced at Crown Courts in England and Wales by sex, 2010 to 2017



Source: Ministry of Justice

7.35 The average custody rate for adult males sentenced at Crown Courts was higher in Wales (62.2%) than England (58.3%) between 2010 and 2017.

7.36 The number of immediate custodial sentences handed to adult male offenders at Crown Courts in Wales increased by 10.5% between 2010 and 2017.¹²²

7.37 The custody rate for adult males sentenced at Crown Courts in Wales increased by 17.3% from 57.2% in 2010 to 67.1% in 2017.

7.38 At English Crown Courts, the number of adult males sentenced to immediate custody decreased by 0.6% between 2010 and 2017.¹²³

7.39 The custody rate at English Crown Courts increased by 13.3% during this time.¹²⁴

7.40 The average custody rate for adult females sentenced at Crown Courts through 2010 and 2017 was also higher in Wales (35.8%) than it was in England (33.7%).

¹²² From 1,761 in 2010 to 1,946 in 2017.

¹²³ From 28,603 in 2010 to 28,430 in 2017.

¹²⁴ From 54.1% in 2010 to 61.3% in 2017.

- 7.41 The number of immediate custodial sentences handed to adult female offenders sentenced at the Crown Court in Wales increased by 23.4% from 128 in 2010 to 158 in 2017.
- 7.42 The custody rate for adult female offenders at Crown Courts in Wales was 31.5% higher in 2017 than it was in 2010.¹²⁵
- 7.43 In England, the number of immediate custodial sentences given to adult females sentenced at the Crown Court fell by 12.7% between 2010 and 2017.¹²⁶
- 7.44 The custody rate for adult females sentenced at the Crown Court in England increased by 22.5% during this period. The rate rose from 31.1% in 2010 to 38.1% in 2017.¹²⁷

125 From 30.2% in 2010 to 39.7% in 2017.

126 From 2,333 in 2010 to 2,037.

127 From 30.9% in 2010 to 36.8% in 2017.

8. ETHNICITY AND IMMEDIATE CUSTODY¹²⁸

Category	Higher Average Custody Rate	England %	Wales %
White (Magistrates) ¹²⁹	Wales	15.4	16.8
Black (Magistrates)	Wales	12.9	17.2
Asian (Magistrates)	Wales	13.8	15.3
Mixed (Magistrates)	Wales	13.8	20.6
White (Crown)	Wales	55.7	60.2
Black (Crown)	Wales	63.8	74
Asian (Crown)	Wales	59.5	71.6
Mixed (Crown)	Wales	60.3	66.6

Source: Ministry of Justice

- 8.1** The persistent and continuous over-representation of ethnic minorities in criminal justice systems worldwide has prompted numerous academic investigations into sentencing practices in many international jurisdictions. This work includes studies that have identified racial disparities in the use of custodial sentences in Australia (Bond and Jeffries, 2011; Snowball, and Weatherburn, 2006), Canada (Perreault, 2009; Weinrath, 2007), Ireland (Brandon and O’Connell, 2018), and the United States (American Civil Liberties Union, 2014; Mitchell, 2005).
- 8.2** Research carried out in England and Wales has shown that Black, Asian and Minority Ethnic (BAME) offenders are disproportionately represented in prison. Hood’s (1992) research on sentencing at the Crown Court found that Black and Asian offenders were more likely to receive a custodial sentence because of earlier decisions taken in the criminal justice process. These included plea decisions, the use of remand, and a failure to rely upon a probation report, each of which limited the opportunities for “effectively pleading mitigation” (Hood, 1992:31).
- 8.3** A study by Hopkins (2015) reported that offenders from Black, Asian or Minority Ethnic backgrounds are “more likely to be sentenced to prison” when compared to White offenders “under similar circumstances” in England and Wales (Hopkins, 2015: 7). In a more recent research paper, Hopkins et al (2016) found that self-identifying as Black or Asian correlated with a 50-55% increase in the likelihood of imprisonment compared to those self-identifying as White.

¹²⁸ The figures for ethnicity from sentencing outcome data are categorised by the Ministry of Justice using the 5+1 self-identified classification based on the 16+1 classification used in the 2001 Census. All prison population data on ethnicity are obtained from the Ministry of Justice from self-reports of prisoners. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/750699/guide-offender-management-statistics.pdf

¹²⁹ High levels of missing data place considerable limitations on what conclusions can be drawn from immediate custody data by ethnic group at Magistrates’ Courts in England and Wales.

- 8.4 The Ministry of Justice’s (2017b: 7) most recent Race in the Criminal Justice System report identified that non-White ethnic groups are “over-represented” in most stages of the criminal justice system in England and Wales. The findings showed that Black and Asian offenders receive longer custodial sentences and that Black and Mixed defendants are more likely to be remanded in custody in Crown Court for indictable offences (Ministry of Justice, 2017b).
- 8.5 The Lammy Review in 2017 concluded that people from minority ethnic backgrounds in England and Wales are drawn disproportionately into the criminal justice system. The review found that despite comprising just 12% of the population of England and Wales, BAME men and women make up 25% of its prison population (Lammy, 2017).
- 8.6 At the end of June 2016, 74% of all prisoners in England and Wales self-identified as White, 12% as Black, 8% as Asian, 4% as Mixed and 1% as Chinese or Other (Ministry of Justice, 2018).

Figure 8.1 – The percentage of Welsh people in the general population and in prison by ethnic group in 2017

Ethnic Group	General Population	Prison Population	Rate ¹³⁰
White	95.6	90.8	0.95
Black	0.6	2.7	4.5
Asian ¹³¹	1.8	3	1.7
Mixed	1	2.4	2.4

Source: Office for National Statistics and Ministry of Justice¹³²

- 8.7 The level of racial disproportionality in the prison population was higher amongst the Welsh prison population than the England prison population in 2017.
- 8.8 In 2017, 90.8% of all Welsh people in prison had self-identified as White, 2.7% as Black, 3% as Asian, 2.4% as Mixed.

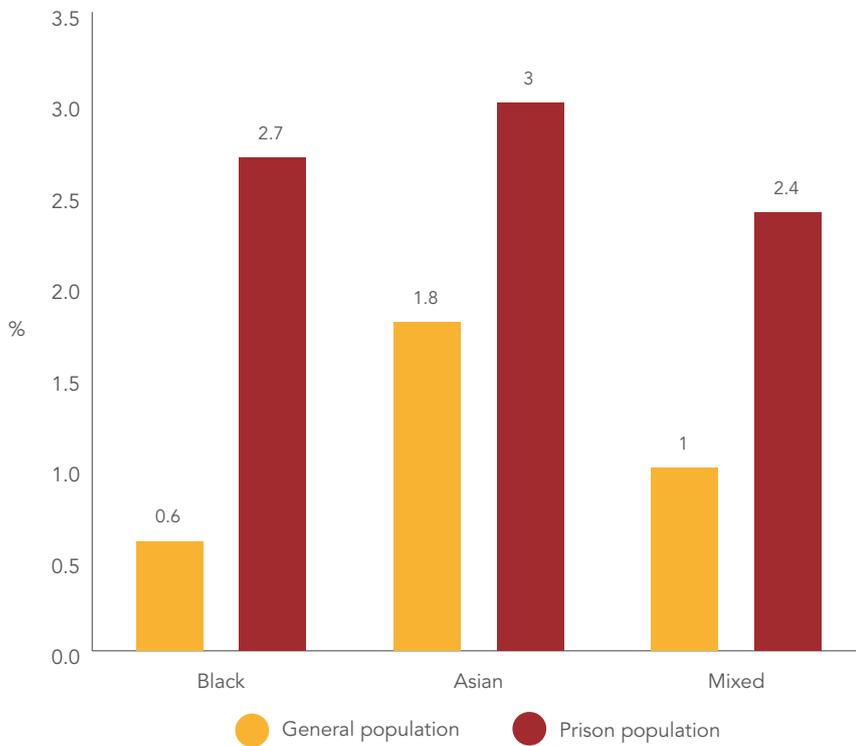
130 1 = accurate representation.
 < 1 = under representation.
 >1 = over representation.

131 Due to an inconsistency in the recording of ‘Chinese and other’ by the Ministry of Justice and the 2011 Census, the ‘Asian’ category included here does not include those identified as ‘Chinese’ in the 2011 census.

132 All prison population data on ethnicity are obtained from the Ministry of Justice from self-reports of prisoners. Prison population data by ethnicity were obtained from the Ministry of Justice via Freedom of the Information Act 2000. Data relating to the population of Wales by ethnic background were obtained from the 2011 Census. This is the most up-to-date information available on ethnic identity in Wales. <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland>
 Population by ethnicity: White (2,928,253); Black (18,276); Asian (56,490); Mixed (31,521).
 Prison population by ethnicity: White (4,368); Black (131); Asian (143); Mixed (115).

8.9 When analysed alongside Welsh population data drawn from the 2011 Census, Black people in Wales were 4.5 times over represented in prison in 2017. Asian prisoners were 1.7 times over represented and individuals from Mixed ethnic group were 2.4 times over-represented in prison.

Figure 8.2 – The percentage of non-White Welsh people in the general population and in prison by ethnic group in 2017



Source: Office for National Statistics and Ministry of Justice

8.10 72.5% of English people in prison identified as White in 2017, 13.1% as Black, 8.2% as Asian and 4.5% as Mixed.

Figure 8.3 – The percentage of English people in the general population and in prison by ethnic group in 2017

Ethnic Group	General Population	Prison Population	Rate ¹³³
White	85.4	72.5	0.85
Black	3.5	13.1	3.7
Asian ¹³⁴	7.1	8.2	1.2
Mixed	2.3	4.5	2

Source: Office for National Statistics and Ministry of Justice

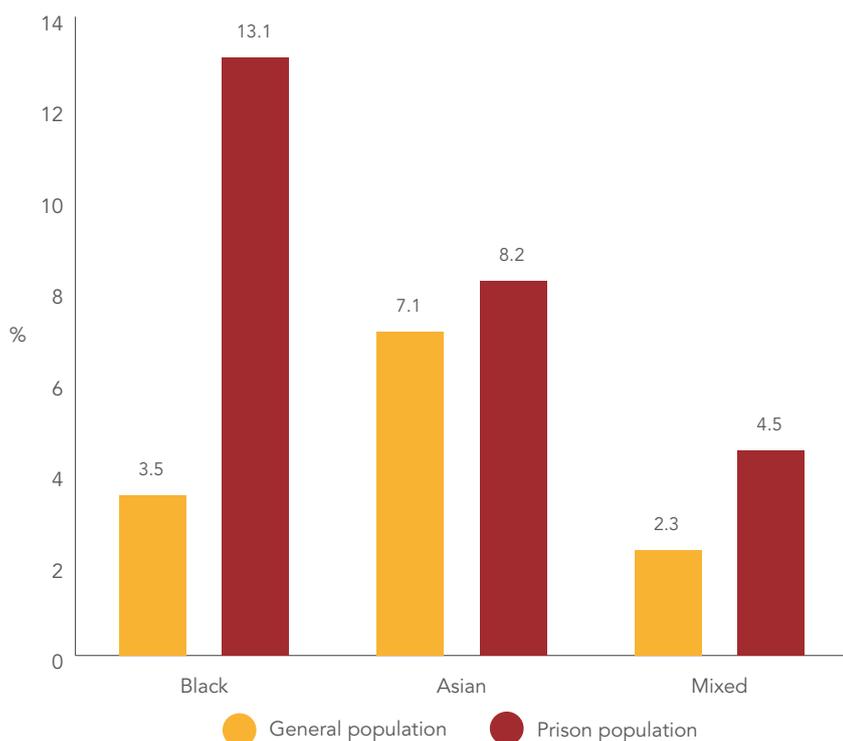
133 1 = accurate representation.
 < 1 = under representation.
 >1 = over representation.

134 Due to an inconsistency in the recording of 'Chinese and other' by the Ministry of Justice and the 2011 Census, the 'Asian' category included here does not include those identified as 'Chinese' in the 2011 census.

8.11 Alongside population data drawn from the 2011 Census, Black people in England were 3.7 times over-represented in prison in 2017. Prisoners from a Mixed ethnic background were twice as over-represented and Asian prisoners were 1.2 times over-represented.¹³⁵

8.12 In both Wales and England, prisoners from a White ethnic group were under-represented in prison in 2017.

Figure 8.4 – The percentage of non-White English people in the general population and in prison by ethnic group in 2017

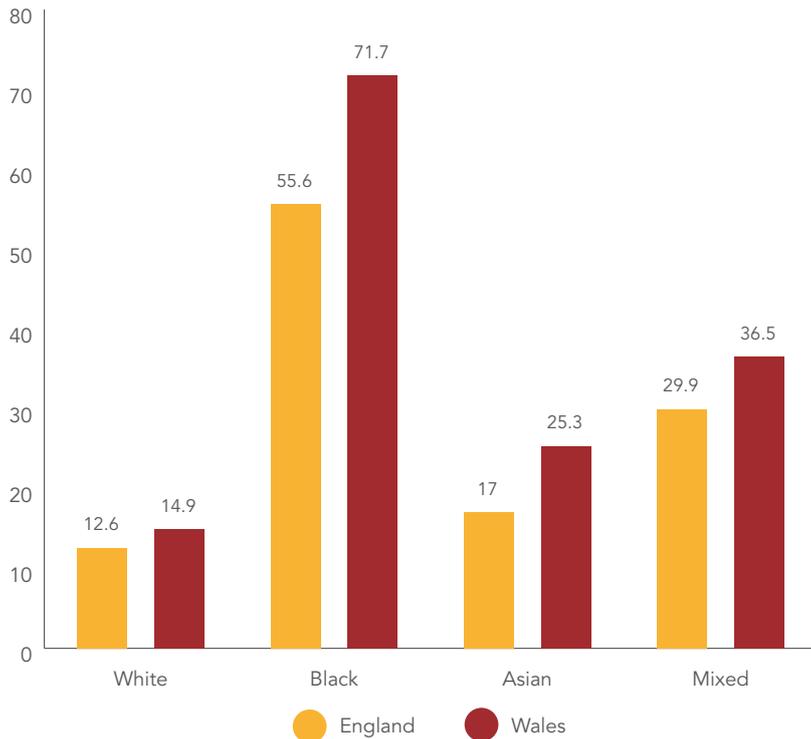


Source: Office for National Statistics and Ministry of Justice

8.13 In 2017, there were 72 Black people in prison in Wales for every 10,000 in the population. This rate compared to just 15 White people per 10,000 of the population. There were 25 Asian people in prison per 10,000 and 37 people from a Mixed background per 10,000 in prison.

8.14 In England, there were 56 Black people in prison for every 10,000 compared to 13 White people per 10,000 in 2017. There were 17 Asian people in prison per 10,000 and 30 people from a Mixed background per 10,000 in 2017.

¹³⁵ Population by ethnicity: White (45,281,142); Black (1,846,614); Asian (3,763,900); Mixed (1,192,879).
Prison population by ethnicity: White (56,994); Black (10,260); Asian (6,406); Mixed (3,567).

Figure 8.5 – Rates of imprisonment per 10,000 people by ethnic group in 2017¹³⁶

Source: Office for National Statistics and Ministry of Justice

- 8.15** 1 in 670 White people in Wales were in prison in 2017. This compared to a rate of 1 in 140 for Black, 1 in 274 Mixed and 1 in 395 Asian people from Wales.
- 8.16** In England, 1 in 794 White people were in prison in 2017. This can be compared to a rate of 1 in 180 for Black, 1 in 334 for Mixed and 1 in 588 for Asian people from England.
- 8.17** The Lammy Review in 2017 called for improvements to the way in which data on ethnicity is collected at the Magistrates' Court in England and Wales. While this recommendation referred to improvements in data gathering on pleas and the use of remand it also extended to the verdicts reached by magistrates' when sentencing BAME offenders in England and Wales.¹³⁷
- 8.18** Between 2010 and 2017, a total of 35,123 immediate custodial sentences were handed out at Magistrates' Courts in Wales. In over half of these cases (51.1%) the ethnic identity of offenders sentenced at Magistrates' Courts in Wales were recorded as either 'Not stated' or 'Not available'.¹³⁸

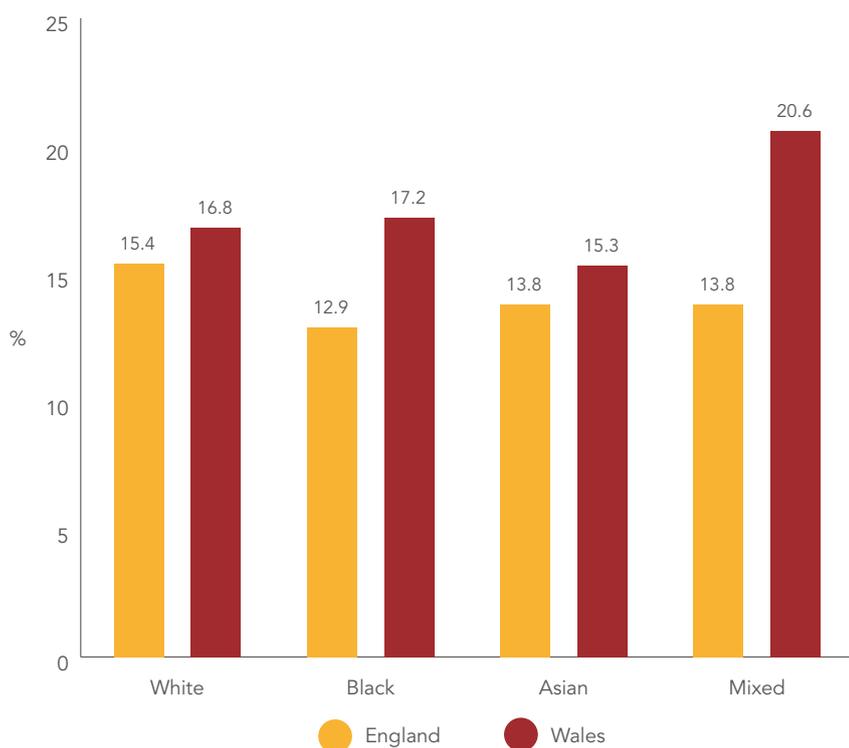
¹³⁶ Rates per 10,000 were calculated using imprisonment data from 2017 and population data broken down by ethnicity from the 2011 Census. This is the most up-to-date information on ethnicity in England and Wales available. Due to an inconsistency in the recording of 'Chinese and other' by the Ministry of Justice and the 2011 Census, the 'Asian' category included here does not include those identified as 'Chinese' in the 2011 census.

¹³⁷ The review emphasised the need to think about the experiences of BAME women at Magistrates' Courts in England and Wales.

¹³⁸ There were 18,283 cases where the ethnic identity of an offenders was 'Not stated' or recorded as 'Not available' between 2010 and 2017.

- 8.19 High levels of missing data place considerable limitations on what conclusions can be drawn from immediate custody data by ethnic group at Magistrates' Courts in England and Wales.¹³⁹
- 8.20 Analysis of the available sentencing data show that the average custody rate for White, Black, Asian and Mixed offenders was higher at Magistrates' Courts in Wales than in England between 2010 and 2017.
- 8.21 Offenders from a Mixed (20.6%) background had the highest average custody rate at Magistrates' Courts in Wales between 2010 and 2017. This group were followed by Black (17.2%), White (16.8%) and Asian (15.3%) offenders.
- 8.22 The custody rate for offenders from a Mixed background was 22.6% higher than the average rate for White offenders sentenced at Welsh Magistrates' Courts between 2010 and 2017.
- 8.23 At Magistrates' Courts in England, offenders from a White (15.4%) background had the highest average custody rate at English Magistrates' Courts between 2010 and 2017. The second highest levels were recorded for Mixed and Asian (13.8%), followed by Black (12.9%) offenders.¹⁴⁰

Figure 8.6 – The average custody rates at Magistrates' Courts in England and Wales by ethnicity, 2010 to 2017¹⁴¹



Source: Ministry of Justice

¹³⁹ According to the Ministry of Justice, The recording of ethnicity data for indictable offences has been more complete than summary offences because in charged cases the defendant will have been seen by the police and asked about their ethnicity. In cases where the defendant received a summons, they will not have been seen by the prosecutor, and may not have appeared in court. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756066/criminal-justice-statistics-guide-june-2018.pdf

¹⁴⁰ A total of 336,289 immediate custodial sentences were handed out at Magistrates' Courts in England between 2010 and 2017. In 41.1% of these cases the ethnic identity of the offender was recorded as either 'Not stated' or 'Not available'.

¹⁴¹ The average custody rates recorded for White, Black, Asian and Mixed were far higher than the total average for the Magistrates' Court in Wales (4.02%).

- 8.24 The number of immediate custodial sentences increased for White, Asian and Mixed offenders sentenced at Magistrates' Courts in Wales between 2010 and 2017.
- 8.25 The largest increase was for Mixed (45.5%) offenders, followed by Asian (31.8%) and White (0.5%) offenders in Wales.¹⁴²
- 8.26 The same number of immediate custodial sentences were handed to Black offenders at Magistrates' Courts in Wales in 2017 and in 2010.¹⁴³
- 8.27 Between 2010 and 2017, the custody rate for all ethnic groups increased at Magistrates' Courts in Wales.
- 8.28 The largest increase was for Mixed (115.2%) offenders, followed by White (93.7%), Asian (77.6%) and Black (45.7%) offenders in Wales.¹⁴⁴
- 8.29 In England, the total number of immediate custodial sentences fell for White, Black, Asian and Mixed offenders between 2010 and 2017.
- 8.30 The largest decrease was recorded for Mixed (24.5%) offenders, followed by White (23.9%), Black (19.4%) and Asian (18.7%) offenders.¹⁴⁵
- 8.31 At Magistrates' Courts in England, the use of immediate custody fell across all four ethnic groups between 2010 and 2017.
- 8.32 The largest decrease in the number of immediate custodial sentences handed out at Magistrates' Courts in England was for Mixed (23.3%) offenders, followed by White (21.2%), Asian (12.4%) and Black (7%) offenders.¹⁴⁶
- 8.33 Despite this fall, the custody rate for White, Black, Asian and Mixed offenders increased at Magistrates' Courts in England between 2010 and 2017.
- 8.34 The largest increase in the custody rate was experienced by White (57%) offenders, followed by Mixed (53.1%), Black (38.3%) and Asian (36.9%).¹⁴⁷

142 White - From 1,759 in 2010 to 1,767 in 2017; Asian - From 22 in 2010 to 29 in 2017; Mixed - From 22 in 2010 to 32 in 2017.

143 There were 34 immediate custodial sentences handed out in 2010 and 2017.

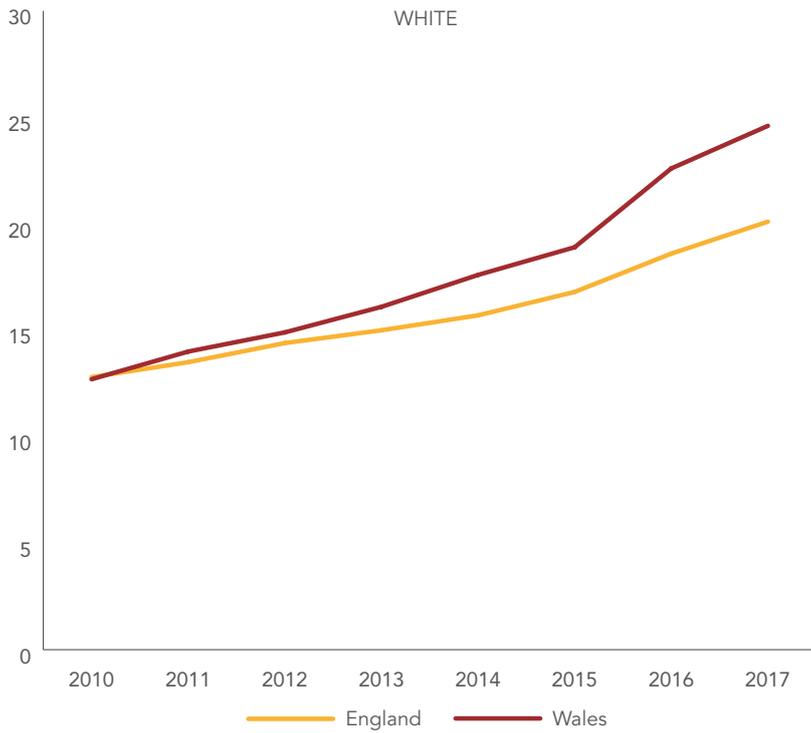
144 White - From 12.7% in 2010 to 24.6% in 2017; Black - From 17.3% in 2010 to 25.2% in 2017; Asian - From 14.7% in 2010 to 26.1% in 2017; Mixed - From 15.8% in 2010 to 34% in 2017.

145 White - From 54,665 in 2010 to 41,603 in 2017; Black - From 7,328 in 2010 to 5,908 in 2017; Asian - From 4,523 in 2010 to 3,675 in 2017; Mixed - From 2,158 in 2010 to 1,630 in 2017.

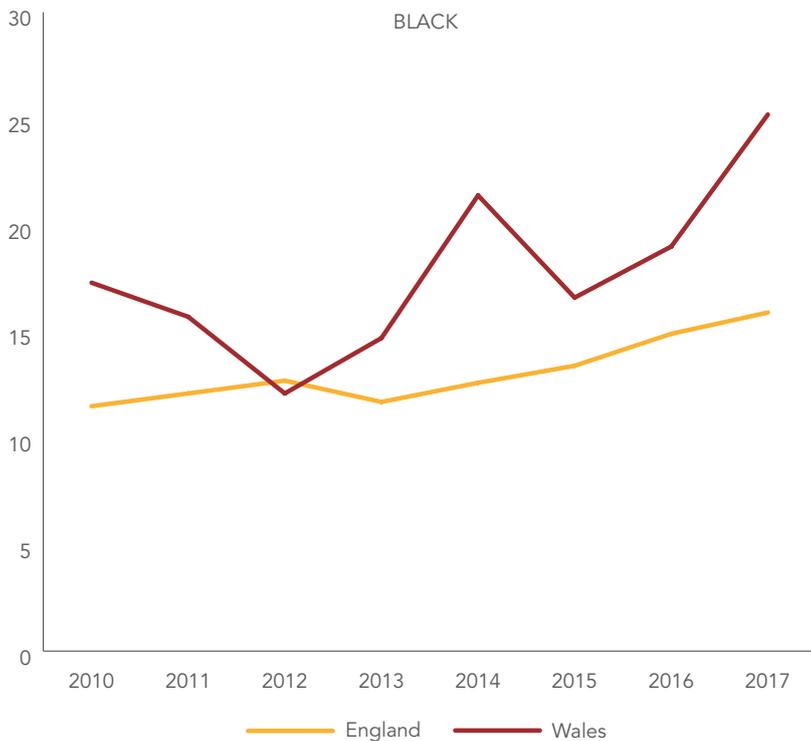
146 White - From 22,626 in 2010 to 17,828 in 2017; Black - From 1,981 in 2010 to 1,842 in 2017; Asian - From 1,154 in 2010 to 1,011 in 2017; Mixed - From 781 in 2010 to 599 in 2017.

147 White - From 12.8% in 2010 to 20.1% in 2017; Black - From 11.5% in 2010 to 15.9% in 2017; Asian - From 12.2% in 2010 to 16.7% in 2017; Mixed - From 11.3% in 2010 to 17.3% in 2017.

Figure 8.7 – The custody rate at Magistrates’ Courts in England and Wales by ethnicity, 2010 to 2017



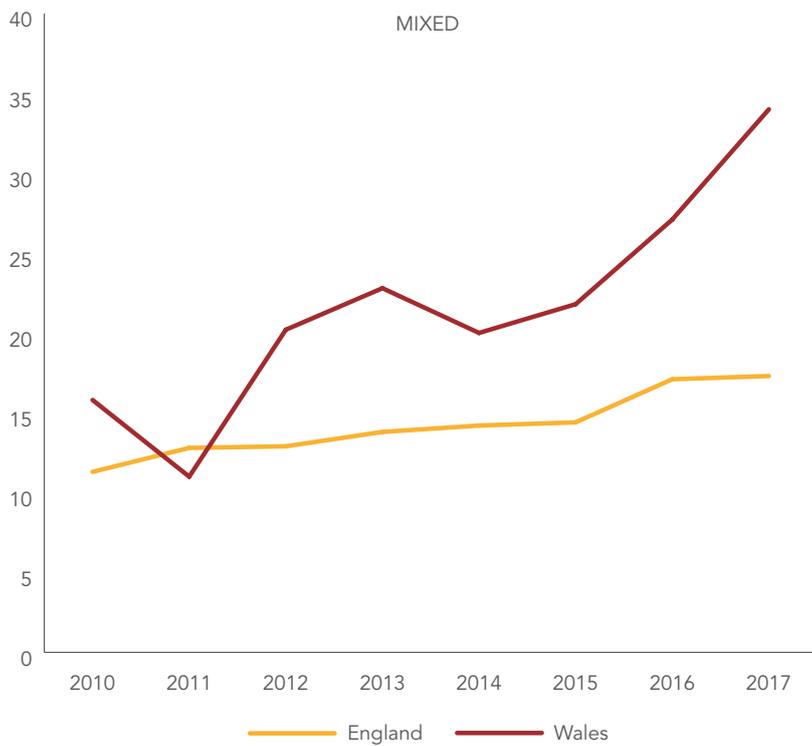
Source: Ministry of Justice



Source: Ministry of Justice



Source: Ministry of Justice

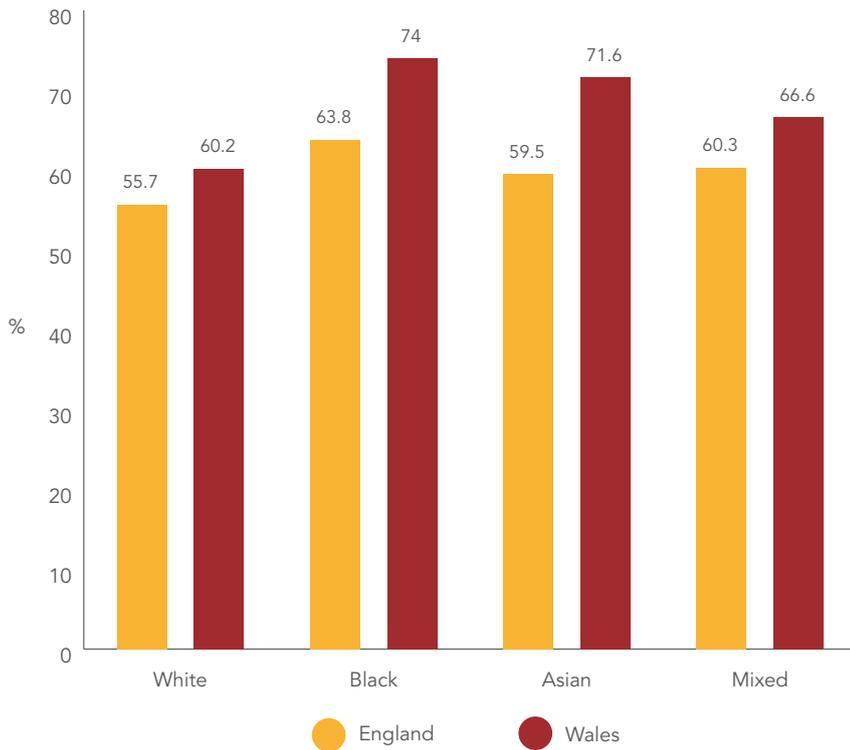


Source: Ministry of Justice

- 8.35 The average custody rate was higher for White, Black, Asian and Mixed offenders sentenced at the Crown Court in Wales than in England between 2010 and 2017.
- 8.36 There was not a single year between 2010 and 2017 where the custody rate for White, Black, Asian and Mixed offenders was higher for offenders sentenced at the Crown Court in England than in Wales.
- 8.37 The average custody rate was highest for Black (74%) offenders sentenced at Crown Courts in Wales between 2010 and 2017. This group were followed by offenders from an Asian (71.6%), Mixed (66.6%) and White (60.2%) background.¹⁴⁸
- 8.38 The average custody rate for Black offenders sentenced at Crown Courts in Wales was 18.6% higher than the rate for White offenders between 2010 and 2017.
- 8.39 The average custody rate was 15.9% higher for Asian offenders and 9.6% higher for Mixed offenders when compared to the rate for White offenders sentenced at Crown Courts in Wales during this period.
- 8.40 In England, the average custody rate was highest for Black (63.8%) offenders sentenced at Crown Courts between 2010 and 2017.
- 8.41 The second highest rate was recorded by offenders from a Mixed (60.3%) background, followed by Asian (59.5%) and White (55.7%) offenders.
- 8.42 The average custody rate for Black offenders was 14.5% higher than the average rate recorded for White offenders sentenced at English Crown Courts between 2010 and 2017.
- 8.43 The average custody rate was 6.8% higher for Asian offenders and 8.3% higher for Mixed offenders when compared to the rate for White offenders sentenced at English Crown Courts.

¹⁴⁸ The recording of ethnicity data is better at the Crown Court. Between 2010 and 2017, a total of 33,171 immediate custodial sentences were handed out at Crown Courts in Wales, in 29.4% (9,754) of these cases the ethnic identity of offenders were recorded as either 'Not stated' or 'Not available'.

Figure 8.8 – The average custody rates at Crown’ Courts in England and Wales by ethnicity, 2010 to 2017



Source: Ministry of Justice

- 8.44** Between 2010 and 2017, the number of immediate custodial sentences handed to White, Black and Asian offenders fell at Crown Courts in Wales.
- 8.45** The largest decrease was recorded for Black (20.3%) offenders, followed by Asian (15.6%) and White (11.6%) offenders sentenced at the Crown Court in Wales.¹⁴⁹
- 8.46** The number of immediate custodial sentences handed to offenders from a Mixed (281.8%) ethnic background was higher in 2017 than in 2010.¹⁵⁰
- 8.47** The custody rate increased for White (19.6%), Black (4.7%) and Mixed (24.9%) offenders sentenced at Crown Courts in Wales between 2010 and 2017.¹⁵¹
- 8.48** Between 2010 and 2017, the custody rate for Asian offenders sentenced at Crown Courts in Wales fell by 6% from 73.6% in 2010 to 69.2% 2017.

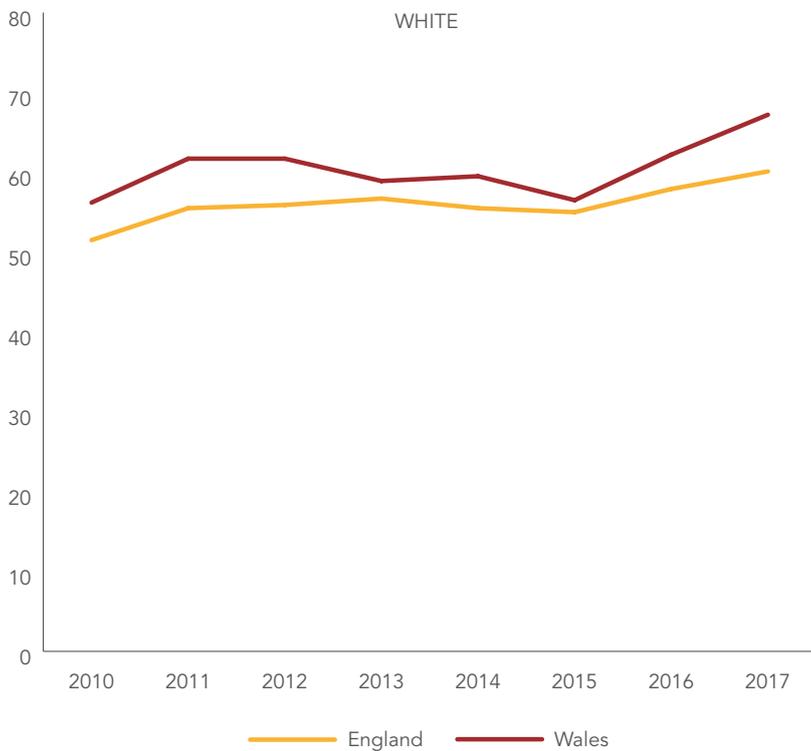
149 White - From 2,412 in 2010 to 2,133 in 2017; Black - From 74 in 2010 to 59 in 2017; Asian - From 64 in 2010 to 54 in 2017.

150 Mixed – From 11 in 2010 to 42 in 2017.

151 White – From 56.2% in 2010 to 67.2% in 2017; Black – From 70.5% in 2010 to 73.8% in 2017; Mixed – From 64.7% in 2010 to 80.8% in 2017.

- 8.49 In England, the use of immediate custody for White, Black, Asian and Mixed offenders fell at the Crown Court between 2010 and 2017.
- 8.50 The largest decrease was for offenders from a White (25.8%) background, followed by Mixed (25.1%), Black (24%) and Asian (20.9%) offenders.¹⁵²
- 8.51 The custody rate was higher for all ethnic groups sentenced at the Crown Court in England in 2017 than in 2010.
- 8.52 The largest increase was recorded for White (16.7%) offenders, followed by Asian (9.7%), Mixed (9%) and Black (4.4%) offenders sentenced between 2010 and 2017.¹⁵³

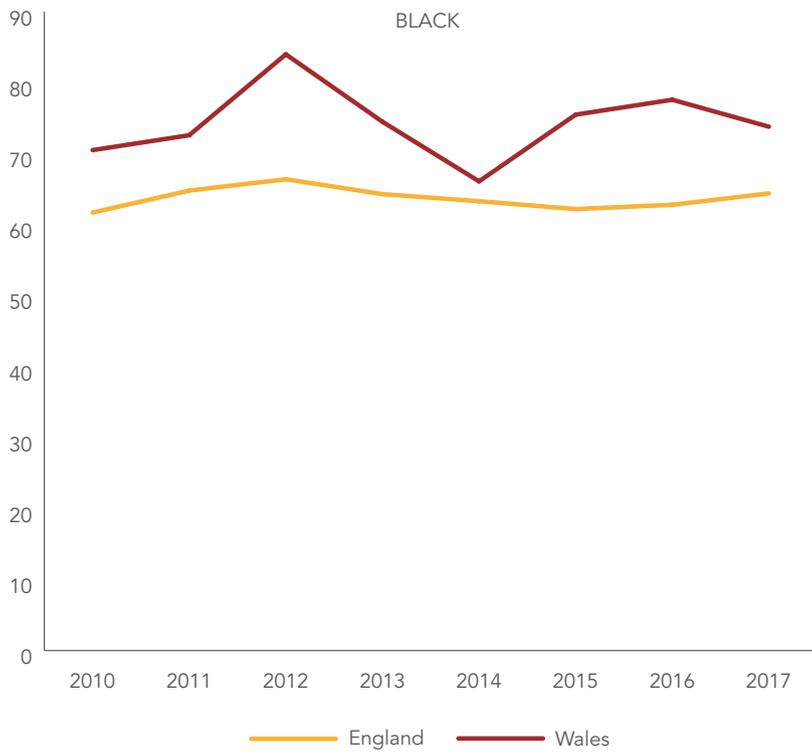
Figure 8.9 – The custody rate at Crown Courts in England and Wales by ethnicity, 2010 to 2017



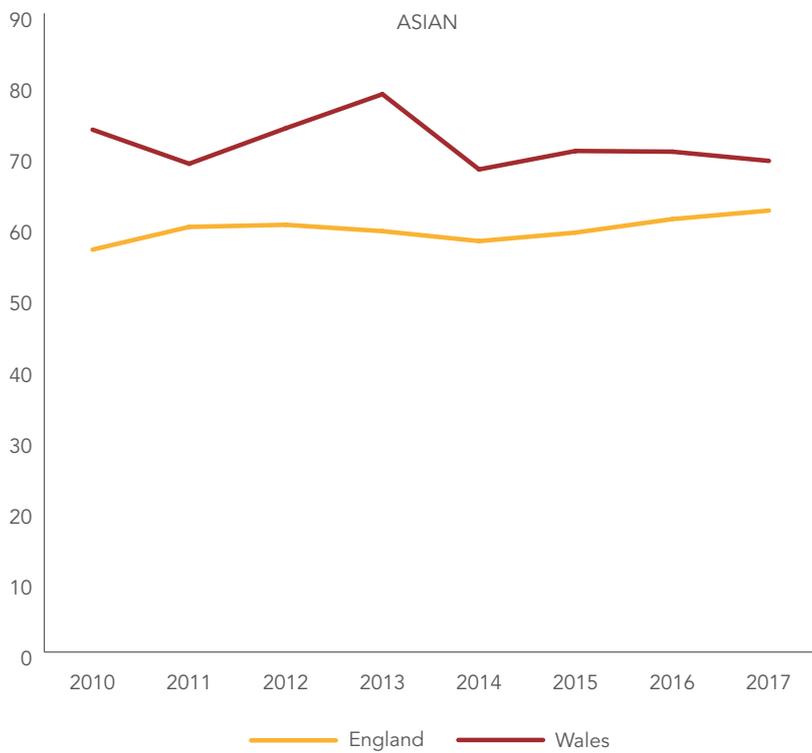
Source: Ministry of Justice

¹⁵² White – From 32,039 in 2010 to 23,775 in 2017; Black – From 5,347 in 2010 to 4,066 in 2017; Asian – From 3,369 in 2010 to 2,664 in 2017; Mixed – From 1,377 in 2010 to 1,031 in 2017.

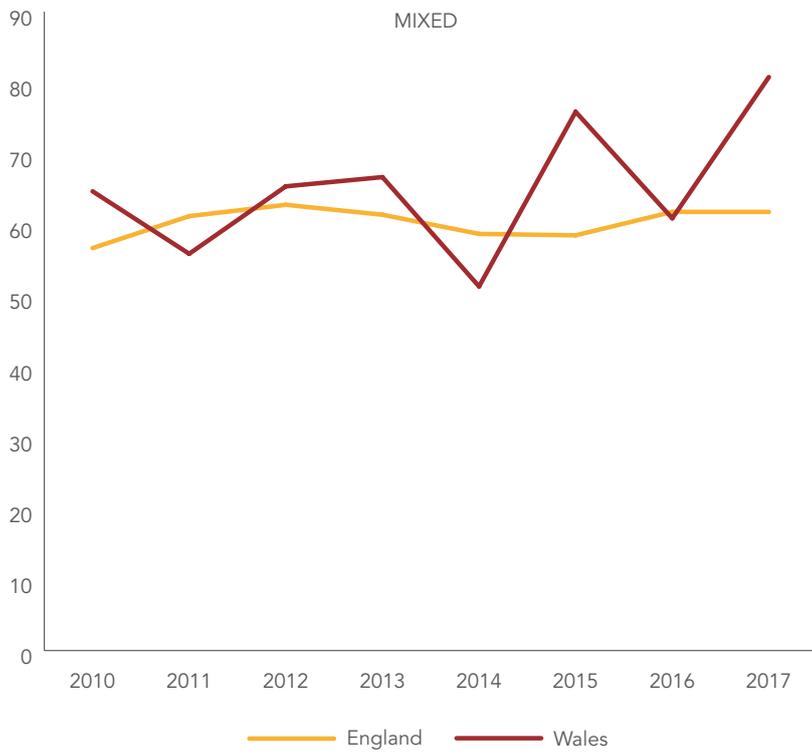
¹⁵³ White – From 51.5% in 2010 to 60.1% in 2017; Black – From 61.7% in 2010 to 64.4% in 2017; Asian – From 56.7% in 2010 to 62.2% in 2017; Mixed – From 56.7% in 2010 to 61.8% in 2017.



Source: Ministry of Justice



Source: Ministry of Justice



Source: Ministry of Justice

9. OFFENCE TYPE AND IMMEDIATE CUSTODY

Category	Higher Average Custody Rate	England %	Wales %
Violence against the person (Magistrates)	Wales	21.4	22.4
Sexual offences (Magistrates)	Wales	14.2	16.4
Robbery (Magistrates)	Wales	13.1	23.2
Theft offences (Magistrates)	Wales	19.2	20.7
Criminal damage and arson (Magistrates)	England	6.9	6.2
Drug offences (Magistrates)	Wales	2.5	4
Possession of weapons (Magistrates)	Wales	17.8	21.4
Public order offences (Magistrates)	Wales	22.2	30.2
Miscellaneous crimes against society (Magistrates)	Wales	11.2	12.9
Fraud offences (Magistrates)	England	7.4	7.3
Summary non-motoring (Magistrates)	Wales	2.5	3
Summary motoring (Magistrates)	-	0.6	0.6
Violence against the person (Crown)	Wales	56.2	58.6
Sexual offences (Crown)	Wales	72.9	76.8
Robbery (Crown)	Wales	82.6	90
Theft offences (Crown)	Wales	65.7	74.1
Criminal damage and arson (Crown)	Wales	51.4	58.8
Drug offences (Crown)	Wales	54.1	55.8
Possession of weapons (Crown)	Wales	48.6	53.3
Public order offences (Crown)	Wales	43.2	45.7
Miscellaneous crimes against society (Crown)	Wales	48.2	49.7
Fraud offences (Crown)	England	41.5	38
Summary non-motoring (Crown)	Wales	29.4	37.1
Summary motoring (Crown)	Wales	24.9	27.4

Source: Ministry of Justice

9.1 The analysis of sentencing outcomes by offence group has played a major role in studies seeking to understand the nature of sentencing practice.

- 9.2 Research studies show that offence type is key to determining sentencing outcome. Analysis by Hopkins (2015: 7) showed that, amongst other variables, the type of offence provides a “strong predictor of imprisonment” with offenders convicted of violence against the person, sexual offences and robbery most likely to receive an immediate custodial sentence in England and Wales.
- 9.3 The breakdown of sentencing outcomes by offence type can also help to detect sentencing inconsistency. This approach is upheld by the view that offence type offers researchers a ‘like for like’ comparison when examining the custody rates and average custodial sentence lengths for offenders.
- 9.4 Outcomes by offence type have been compared in research on sentencing and ethnicity (Hood, 1992; Hopkins, 2015) as well as investigations into geographical variation in sentencing outcomes and immediate custody (Hedderman and Moxon, 1992; Mason et al, 2007).
- 9.5 Between 2010 and 2017, the number of immediate custodial sentences handed out across England and Wales fell in ten out of the twelve offence groups listed by the Ministry of Justice.¹⁵⁴
- 9.6 The number of immediate custodial sentences handed out for sexual offences (25.1%) and possession of weapons (50.5%) increased between 2010 and 2017.
- 9.7 Theft offences comprised almost a third (31.2%) of all immediate custodial sentences handed out in England and Wales since 2010.

¹⁵⁴ Violence against the person (0.2%); robbery (43.8%); theft offences (23.7%); criminal damage and arson (38.7%); drug offences (14%); public order offences (9.6%); miscellaneous crimes against society (16.3%); fraud offences (22.8%); summary non-motoring (17.9%); summary motoring (22%).

Figure 9.1 – Offence group and type of offences

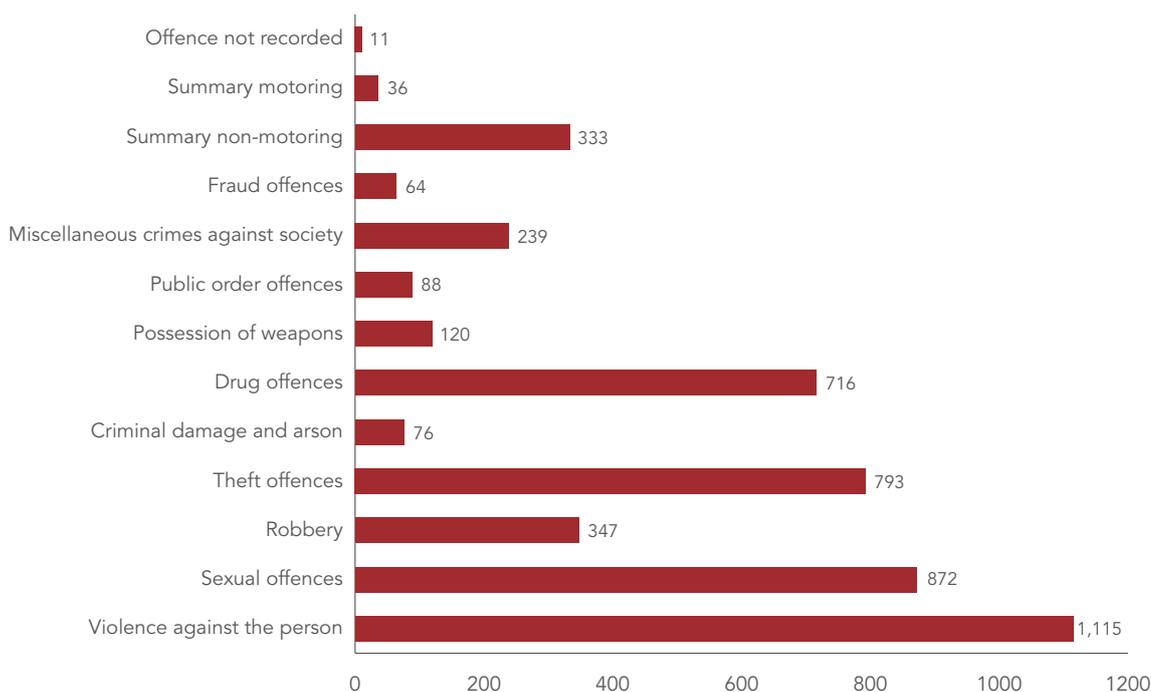
Offence Group	Type of offences
Violence against the person	Murder, manslaughter, attempted murder, assault with intent to cause serious harm, endangering life, assault with injury, threats to kill, cruelty to children/young persons, assault without injury, modern slavery, harassment, stalking, malicious communications, causing death or serious injury by dangerous driving.
Sexual offences	Rape, sexual activity involving a child, sexual grooming, abuse of children through sexual exploitation, exposure and voyeurism.
Robbery	Robbery of a business property, robbery of personal property.
Theft offences	Theft from the person, bicycle theft, shoplifting, theft by an employee, theft from an automatic machine or meter, theft of mail, theft – making off without payment.
Criminal damage and arson	Arson endangering life, arson not endangering life, criminal damage to a dwelling, criminal damage to a vehicle, racially or religiously aggravated criminal damage
Drug offences	Trafficking in controlled drugs, possession of controlled drugs, possession with intent to supply, supplying or offering to supply a controlled drug, production of a controlled drug.
Possession of weapons	Possession of firearms, possession of firearms with intent, possession of article with blade or point, possession of other weapons.
Public order offences	Violent disorder, riot, affray, public nuisance, causing intentional harassment, alarm or distress,
Miscellaneous crimes against society	Profiting from or concealing proceeds of crime, handling stolen goods, soliciting for prostitution, perjury, possession of false documents, perverting the course of justice, dangerous driving, absconding from legal custody, wildlife offences, assisting a prisoner to escape, going equipped for stealing.
Fraud offences	Consumer and retail fraud, consumer phone fraud, charity fraud, door to door sales and bogus tradesmen, mortgage related fraud, banking and credit industry fraud, false accounting, pension fraud, insurance related fraud, computer misuse crime, fraud by failing to disclose information.
Summary non-motoring	TV license evasion, less serious criminal damage, alcohol consumption in designated public places, offences relating to keeping of dangerous dogs, common assault and battery.
Summary motoring	Failing to stop after a road traffic accident, speeding, driving whilst disqualified, seat belt offences.

Source: Home Office¹⁵⁵

155 Experimental statistics: Principal offence proceedings and outcomes by Home Office offence code data tool https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/738814/HO-Code-Tool-2017.xlsx

- 9.8 Trends in the use of immediate custody by offence type at courts in England mirrored those captured at an England and Wales level.
- 9.9 The number of immediate custodial sentences handed out at all courts in England also fell in ten offence groups between 2010 and 2017.¹⁵⁶
- 9.10 The number of immediate custodial sentences handed to those convicted of possession of weapons (53%) and sexual offences (23.8%) was higher in England in 2017 than in 2010.
- 9.11 By contrast, the number of immediate custodial sentences in Wales fell in just **five** offence groups between 2010 and 2017.¹⁵⁷
- 9.12 During this period the total number of immediate custodial sentences handed out at all courts increased for violence against the person (2.5%), sexual offences (47.5%), possession of weapons (11.9%), public order offences (10.6%), fraud offences (48.8%), summary non-motoring offences (20.8%) and summary motoring offences (10.9%).

Figure 9.2 – Welsh people in prison by offence type in 2017



Source: Ministry of Justice

- 9.13 Almost a quarter (23.2%) of all Welsh people in prison in 2017 were serving sentences for violence against the person.

156 Violence against the person (0.4%); robbery (44.2%); theft offences (21.9%); criminal damage and arson (36.8%); drug offences (14.4%); public order offences (10.8%); miscellaneous crimes against society (17%); fraud offences (25.2%); summary non-motoring (20.4%); summary motoring (24.3%).

157 Robbery (34.5%); theft offences (10.3%); criminal damage and arson (57.3%); drug offences (8.3%); miscellaneous crimes against society (3.6%).

- 9.14 47.4% of all Welsh people in prison were serving sentences for non-violence offences in 2017.
- 9.15 The number of Welsh people serving sentences for theft offences was 19.3% higher in September 2018 (786) than in September 2017 (569).

MAGISTRATES' AND CROWN COURT

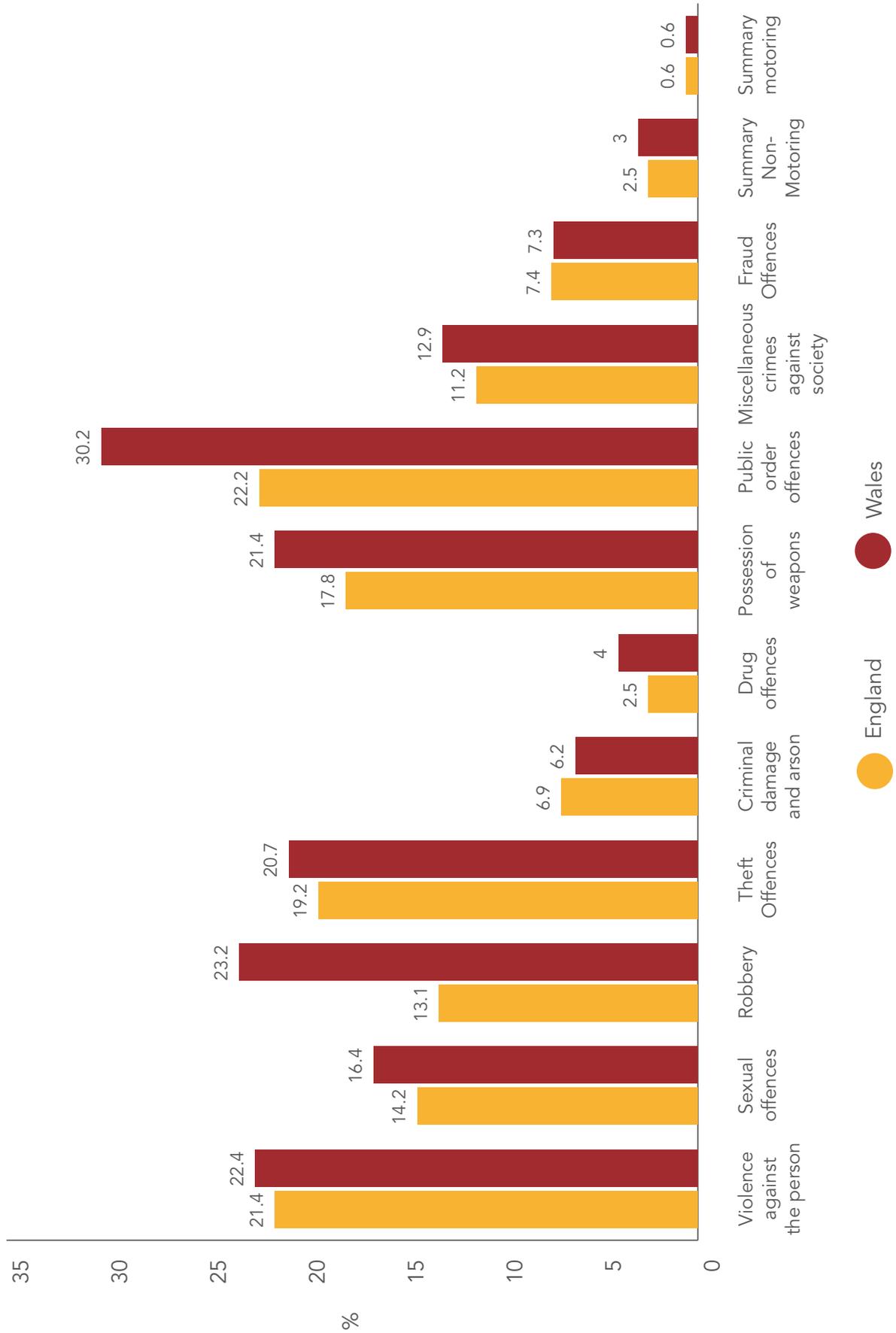
- 9.16 The average custody rate was higher at Magistrates' Courts in Wales in **nine** offence groups between 2010 and 2017.
- 9.17 The average custody rates for criminal damage and fraud were higher in England during this period.
- 9.18 The average custody rates for summary motoring offences in England and Wales were identical throughout the period 2010 to 2017.
- 9.19 At Magistrates' Courts in England, the number of immediate custodial sentences fell in **eight** offence groups between 2010 and 2017.¹⁵⁸
- 9.20 During this period, the number of immediate custodial sentences increased for violence against the person (82.4%), sexual offences (63.8%), possession of weapons (44.7%) and public order offences (8.8%) in England.
- 9.21 The custody rate increased in ten offence groups at English Magistrates' Courts between 2010 and 2017.
- 9.22 The largest increase was for criminal damage and arson (106.8%), followed by violence against the person (61.4%), possession of weapons (53.4%), theft offences (41%), sexual offences (37.8%), drug offences (28%), miscellaneous crimes against society (24.8%), robbery (15.1%), fraud (11.1%) and public order offences (1.3%).
- 9.23 The rates for summary non-motoring offences (14.8%) and summary motoring offences (28.6%) decreased at Magistrates' Courts in England during this period.¹⁵⁹
- 9.24 In Wales, the number of immediate custodial sentences handed out at Magistrates' Courts decreased in **six** offence groups.¹⁶⁰
- 9.25 The number of immediate custodial sentences increased for violence against the person (122.1%), sexual offences (145.5%), possession of weapons (25.9%), public order offences (70.4%), summary non-motoring offences (23.6%) and summary motoring offences (12%).

158 Robbery (62.5%); theft offences (22%); criminal damage and arson (52.7%); drug offences (31.5%); miscellaneous crimes against society (40.4%); fraud offences (28%); summary non-motoring (20.2%); summary motoring (26.7%).

159 Summary non-motoring: From 2.7% in 2010 to 2.3% in 2017.
Summary motoring: From 0.7% in 2010 to 0.5% in 2017.

160 Robbery (85.7%); theft offences (0.2%); criminal damage and arson (75%); drug offences (7.8%); miscellaneous crimes against society (34.9%); fraud offences (23.6%).

Figure 9.3 – The average custody rate at Magistrates’ Courts in England and Wales by offence group, 2010 to 2017

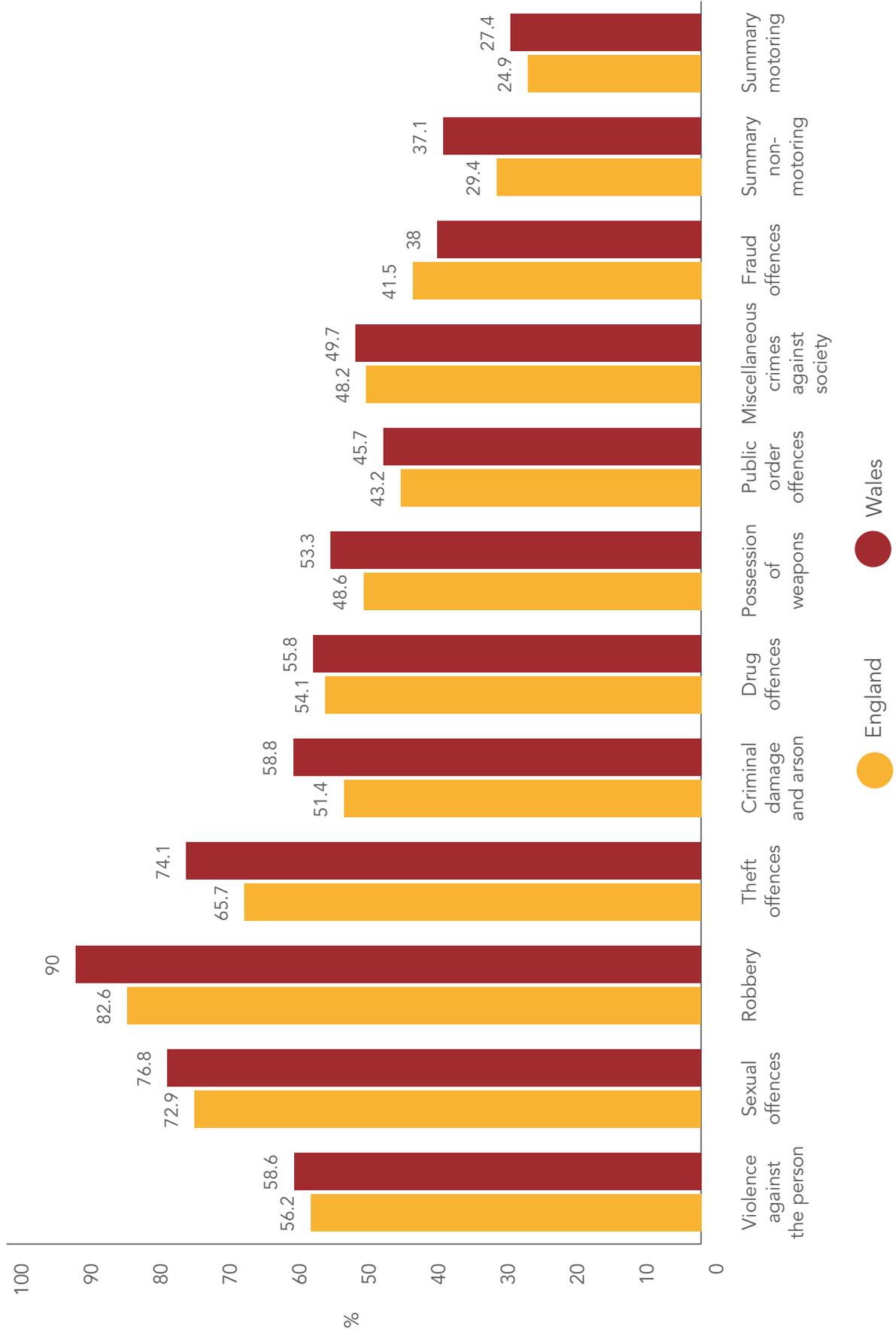


- 9.26 The custody rate increased for **ten** offence categories at Magistrates' Courts in Wales between 2010 and 2017.
- 9.27 The largest increase was recorded for those convicted of criminal damage and arson (134.9%), followed by violence against the person (100.8%), sexual offences (85.3%), drug offences (81.8%), possession of weapons (75.4%), theft offences (62%), public order offences (45.1%), miscellaneous crimes against society (32.3%), fraud (35%) and summary non-motoring offences (14.8%).
- 9.28 The custody rate at the Magistrates' Court fell for robbery offences (60.8%) and summary motoring offences (12.5%) between 2010 and 2017.¹⁶¹
- 9.29 Due to the fact that more serious cases are heard at the Crown Court, the custody rates are considerably higher at the Crown Court than at the Magistrates' Court. The average custody rate at the Crown Court in England and Wales was 55.2% compared with 3.9% at the Magistrates' between 2010 and 2017.
- 9.30 The average custody rate was higher in Wales for **eleven** offence groups at the Crown Court between 2010 and 2017.
- 9.31 The average custody rate for those convicted of fraud offences was higher in English Crown Courts during this period.
- 9.32 At Crown Courts in Wales, the number of immediate custodial sentences handed out in 2017 was lower for **seven** offence groups.¹⁶²
- 9.33 Immediate custodial sentences increased for those convicted of sexual offences (41.3%), miscellaneous crimes against society (24.4%) and fraud offences (86%) in Wales during this period.

161 One immediate custodial sentence was handed out for robbery at Magistrates' Courts in Wales in 2017. The rate fell from 21.2% in 2010 to 8.3% in 2017.

162 Violence against the person (20.6%); robbery (32.7%); theft offences (27.1%); criminal damage and arson (47.4%); drug offences (8.4%); public order offences (27.6%) and summary non-motoring (2.1%).

Figure 9.4 – The average custody rate at Crown Courts in England and Wales by offence group, 2010 to 2017



- 9.34 The number of immediate custodial sentences handed out for possession of weapons and summary motoring offences was the same at Welsh Crown Courts in 2017 as it was in 2010.¹⁶³
- 9.35 The custody rate increased for all offence groups at Welsh Crown Courts between 2010 and 2017 with the exception of summary motoring offences.¹⁶⁴
- 9.36 The rate for summary motoring offences fell by 2.8% from 35.3% in 2010 to 34.3% in 2017.
- 9.37 The number of immediate custodial sentences at Crown Courts in England decreased in **nine** offence groups between 2010 and 2017.¹⁶⁵
- 9.38 The use of immediate custody increased for those convicted of possession of weapons (59.9%), sexual offences (21.9%) and summary motoring offences (21.1%) at English Crown Courts.
- 9.39 The custody rate in England increased for **eleven** offence groups between 2010 and 2017.
- 9.40 The most significant increase in the custody rate was for criminal damage and arson (46.1%), followed by possession of weapons (44.5%), public order offences (28.5%), violence against the person (22%), theft offences (21.5%), fraud (19.6%), summary non-motoring (13.4%), summary motoring (11.9%), robbery (7.4%), drug offences (2.3%) and sexual offences (2%).
- 9.41 The custody rate in Crown Courts in England for miscellaneous crimes against society fell by 1.9%, from 48.1% in 2010 to 47.2% in 2017.

SEX

- 9.42 91.9% of all immediate custodial sentences were handed to male offenders in England and Wales between 2010 and 2017.¹⁶⁶
- 9.43 The highest proportion of immediate custodial sentences were handed to male offenders convicted of theft offences (29.8%). This was followed by those sentenced for summary non-motoring offences (14.3%) and violence against the person (12.5%).
- 9.44 Between 2010 and 2017, the average custody rate was higher for male offenders sentenced in Wales compared to those sentenced in England in **nine** offence groups.

163 100 immediate custodial sentences were handed out for possession of weapon offences in 2010 and 2017.

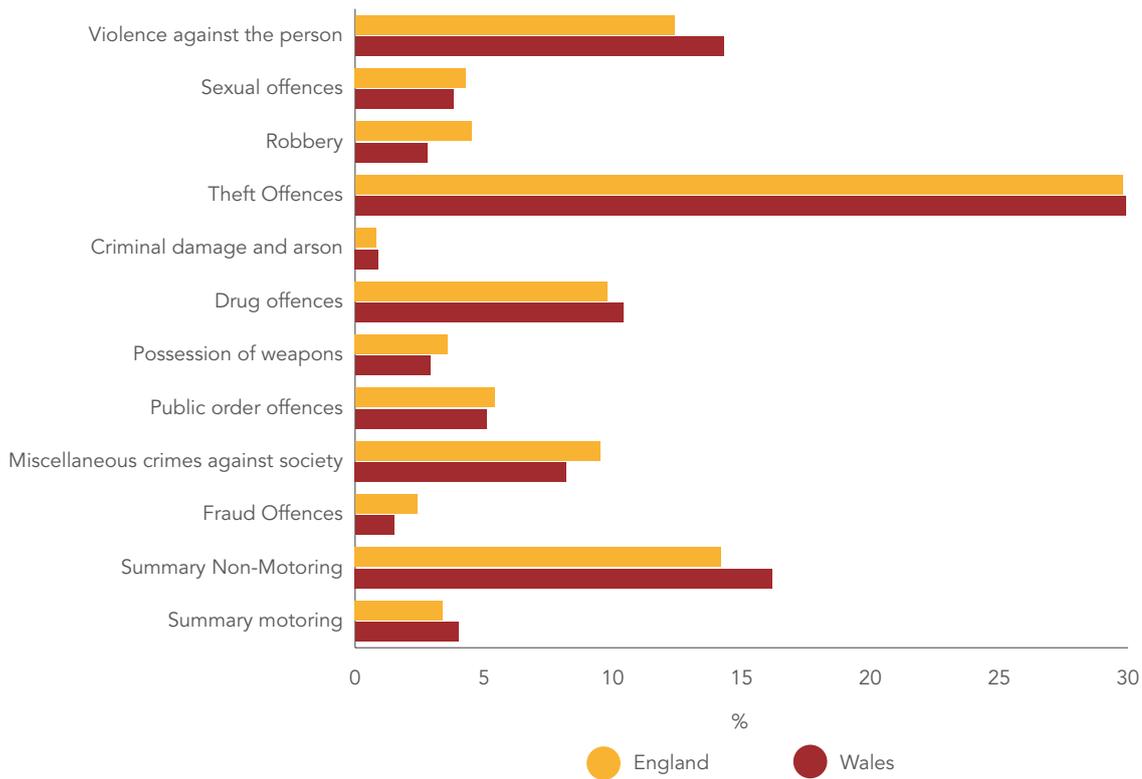
24 immediate custodial sentences were given out for those convicted of summary motoring offences in 2010 and 2017.

164 Violence against the person (19.8%); robbery (1.7%); theft offences (17.1%); criminal damage and arson (25.3%); drug offences (13.2%); possession of weapons (33.6%); public order offences (35.2%); miscellaneous crimes against society (9.4%); fraud offences (19.6%) and summary non-motoring (29.8%).

165 Violence against the person (17.9%); robbery (42.8%); theft offences (29.3%); criminal damage and arson (29.7%); drug offences (12.1%); public order offences (29.2%); miscellaneous crimes against society (5.1%); fraud offences (24.2%) and summary non-motoring (22.5%).

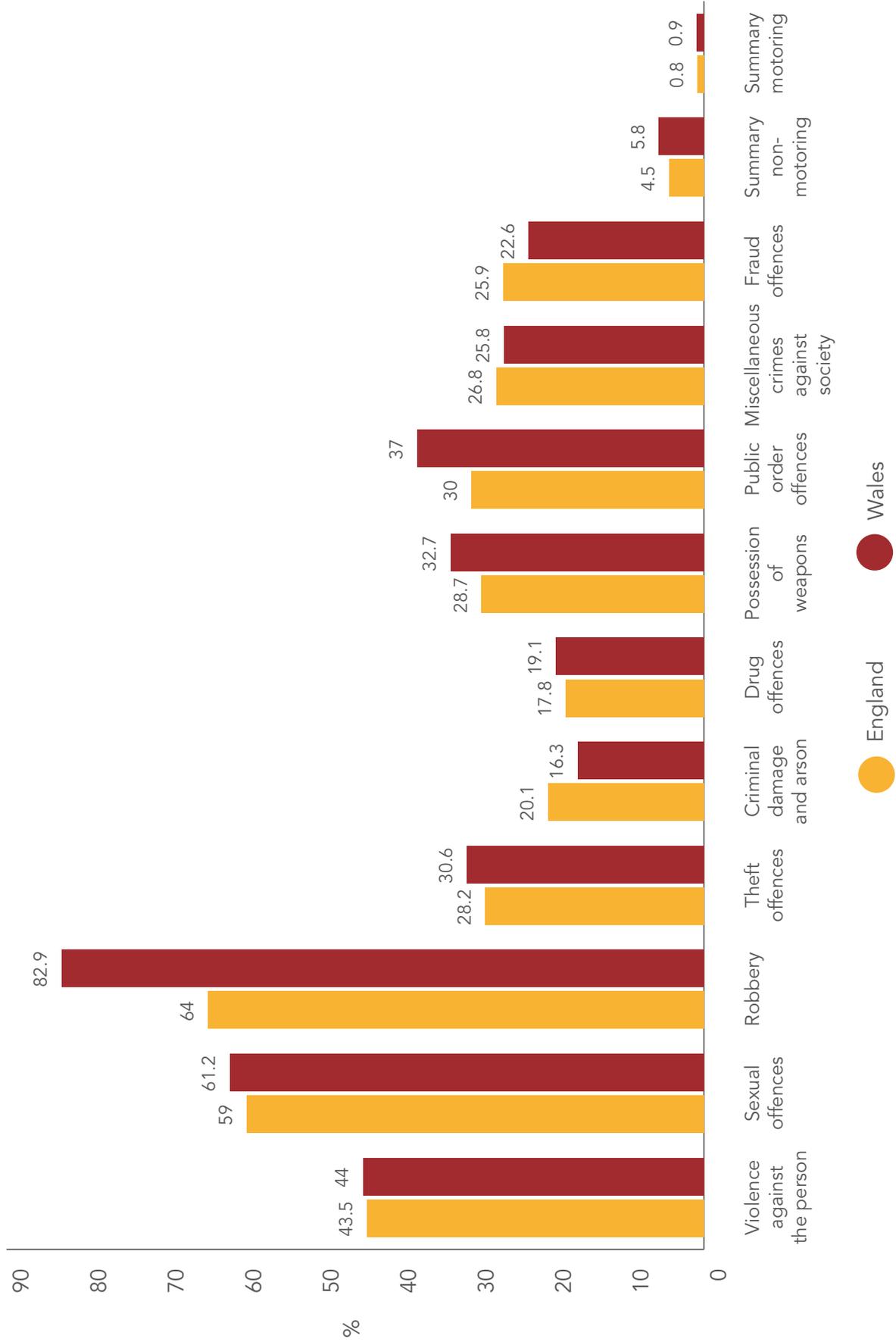
166 The male and female total between 2010 and 2017 was 752,815. The male total during this period was 691,957.

Figure 9.5 – The proportion of immediate custodial sentences handed out to males sentenced in England Wales by offence group, 2010 to 2017



Source: Ministry of Justice

Figure 9.6 – The average custody rate for males sentenced in England and Wales by offence group, 2010 to 2017

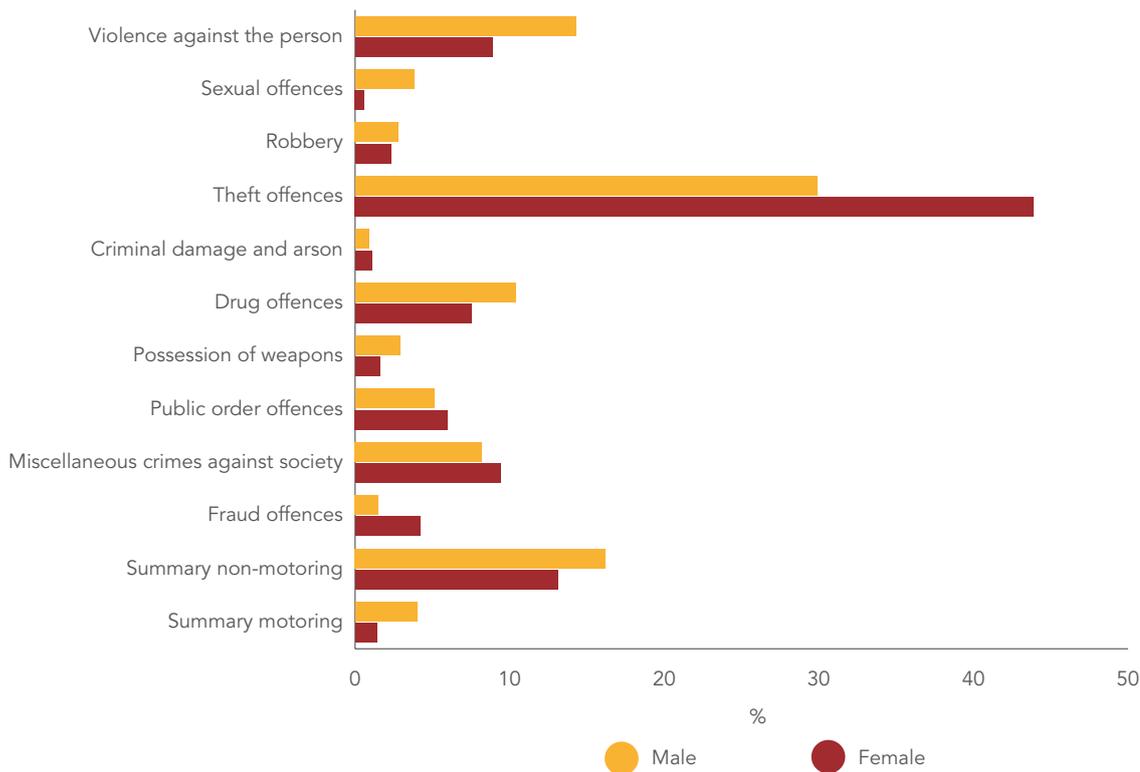


- 9.45 29.8% of all immediate custodial sentences handed to male offenders in Wales between 2010 and 2017 were for theft. The second highest number were for summary non-motoring offences (16.2%), followed by violence against the person (14.3%).
- 9.46 The number of immediate custodial sentences handed to male offenders increased for **seven** offence groups in Wales between 2010 and 2017.¹⁶⁷
- 9.47 The total number of immediate custodial sentences fell for robbery (35.6%), theft offences (15.3%), criminal damage and arson (62.8%), drug offences (7.9%) and miscellaneous crimes against society (1.1%).
- 9.48 Despite decline in immediate custodial sentences for **five** offence groups, the custody rate for males sentenced in Wales increased for **eleven** offence categories.
- 9.49 The largest increase was for criminal damage and arson (165.2%) offence category, followed by offences for fraud (72.3%), possession of weapons (62.4%), miscellaneous crimes against society (58.8%), drug offences (57.8%), theft offences (47.6%), public order offences (28.1%), summary non-motoring offences (27.1%), violence against the person (14.3%), sexual offences (10.7%) and robbery (2.3%).
- 9.50 The custody rate fell by 9.1% for males sentenced in Wales for summary motoring offences
- 9.51 The average custody rate was higher for males sentenced at courts in England for criminal damage and arson, miscellaneous crimes against society and fraud offences.
- 9.52 At all courts in England, the number of immediate custodial sentences handed to male offenders was lower in **nine** offence categories in 2017.¹⁶⁸
- 9.53 The number of immediate custodial sentences increased for adult males convicted in England of sexual offences (22.7%), possession of weapons (52.4%) and violence against the person (0.1%) between 2010 and 2017.
- 9.54 The custody rate increased for **all** offence groups in England, except for a decline in the rate for summary motoring offences (11.1%) between 2010 and 2017.
- 9.55 The largest increase in the custody rate was for criminal damage and arson (118%), followed by possession of weapons (53.9%), drug offences (44%), miscellaneous crimes against society (38.8%), theft offences (34.1%), fraud offences (18.2%), robbery (17.7%), violence against the person (14.1%), sexual offences (3.7%), summary non-motoring offences (2.3%) and public order offences (2%).

167 Violence against the person (2%); sexual offences (46.4%); possession of weapons (16.9%); public order offences (6.9%); fraud offences (53.1%); summary non-motoring (18.2%); summary motoring (6.7%).

168 Robbery (45.1%); theft offences (27.9%); criminal damage and arson (38.3%); drug offences (12.5%); public order offences (11.4%); miscellaneous crimes against society (15%); fraud offences (25.6%); summary non-motoring (20.4%); summary motoring (25%).

Figure 9.7 – The proportion of immediate custodial sentences handed to males and females sentenced in Wales by offence group, 2010 to 2017



Source: Ministry of Justice

- 9.56** 43.9% of all immediate custodial sentences handed to female offenders in Wales were for theft offences between 2010 and 2017. This compared to a rate of 29.8% for male offenders sentenced in Wales.
- 9.57** The average custody rate for female offenders was higher in Wales for **six** offence categories between 2010 and 2017.
- 9.58** The custody rate was higher in England for **five** offence groups during this period.
- 9.59** The average custody rate for miscellaneous crimes against society was the same in Wales and England between 2010 and 2017.

Figure 9.8 – The average custody rate for females sentenced in England and Wales by offence group, 2010 to 2017

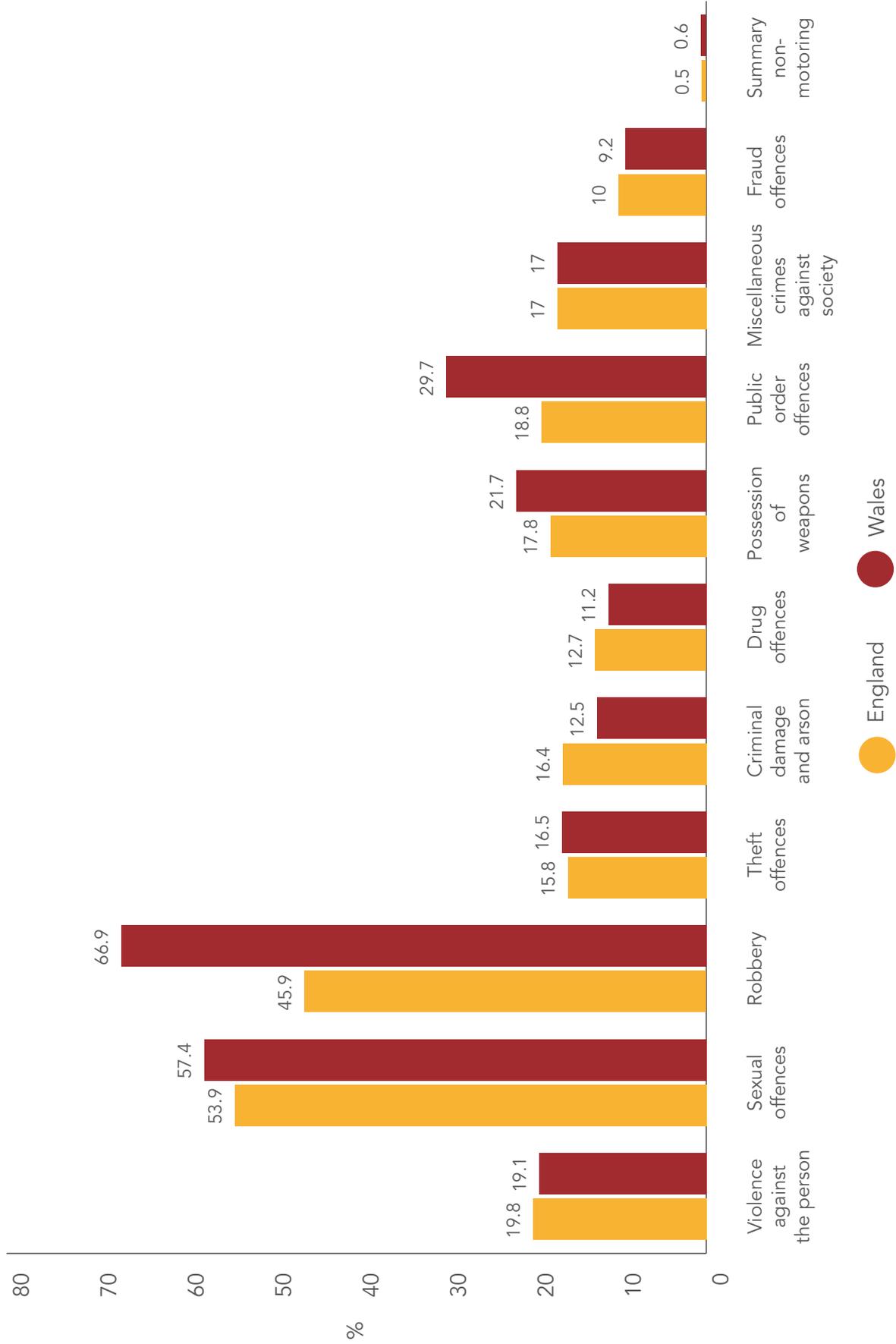
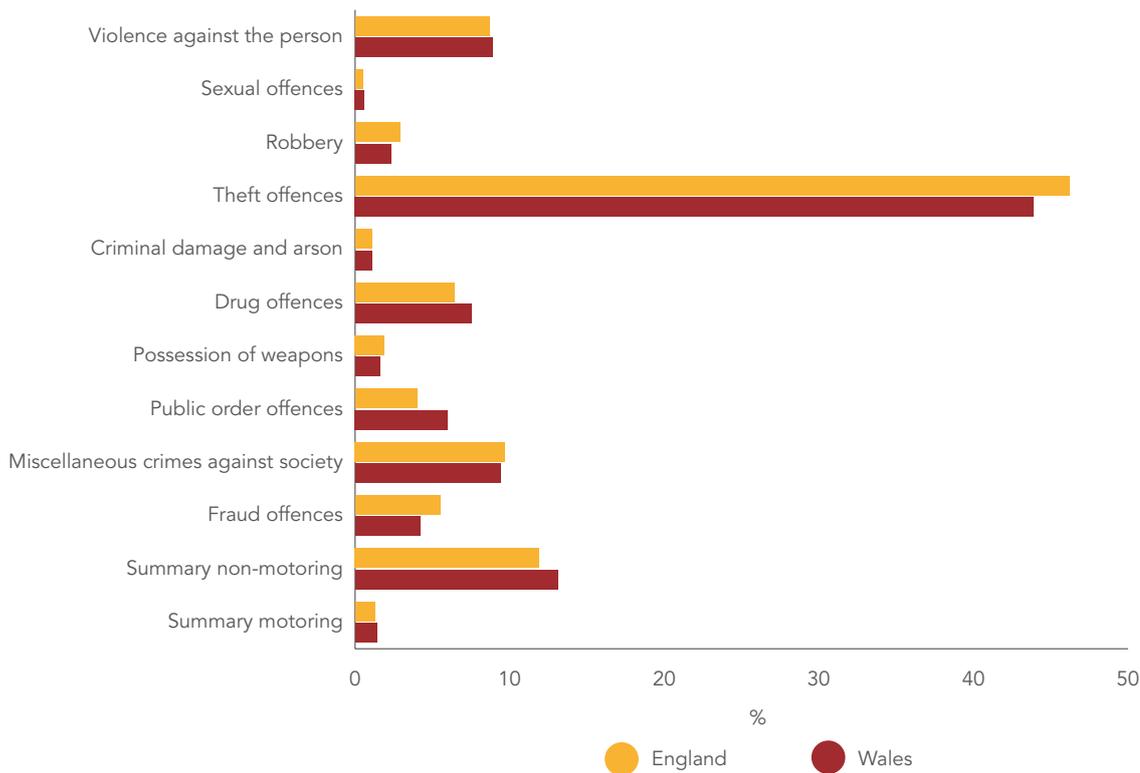


Figure 9.9 – The proportion of immediate custodial sentences handed to females sentenced in England and Wales by offence group, 2010 to 2017



Source: Ministry of Justice

- 9.60** The number of immediate custodial sentences handed to females sentenced in Wales increased for **eight** offence groups between 2010 and 2017.¹⁶⁹
- 9.61** The total number handed out to females fell for robbery (20%), drug offences (14%), possession of weapons (58.3%) and miscellaneous crimes against society (26.3%).
- 9.62** The custody rate for females sentenced at all courts in Wales increased for **ten** offence groups between 2010 and 2017.
- 9.63** The most significant increase was for females convicted of criminal damage and arson (300%),¹⁷⁰ followed by fraud (76.5%), theft offences (62.7%), summary motoring (66.7%),¹⁷¹ violence against the person (61.2%), drug offences (54.3%), robbery (33.3%), summary non-motoring offences (33.3%), miscellaneous crimes against society (23.6%) and public order offences (13%).
- 9.64** The custody rate for female offenders in Wales declined for sexual offences (31.8%) and possession of weapons (47.2%) during this period.
- 9.65** The majority of immediate custodial sentences handed to female offenders in England were for theft offences (46.2%) between 2010 and 2017.

¹⁶⁹ Violence against the person (11.1%); sexual offences (150%); theft offences (30.3%); criminal damage and arson (100%); public order offences (39.4%); fraud offences (42.9%); summary non-motoring (50.8%); summary motoring (225%).

¹⁷⁰ The custody rate for criminal damage increased from 3% in 2010 to 30% in 2017.

¹⁷¹ The average custody rate for females convicted of summary motoring offences was 0.08% in Wales and 0.1% in England between 2010 and 2017. This offence group was not included in Figure 9.8.

- 9.66 During this period, the number of immediate custodial sentences for females sentenced in England fell in **eight** offence categories.¹⁷²
- 9.67 The number of immediate custodial sentences handed to female offenders in England increased for sexual offences (152.1%), possession of weapons (46.2%) summary motoring offences (5.6%) and theft (1.1%).
- 9.68 Between 2010 and 2017, the custody rate increased for female offenders in England in **ten** offence categories.
- 9.69 The largest increase was for criminal damage and arson (149%), robbery (71.2%), theft offences (58.1%), possession of weapons (54%), fraud (29.8%), violence against the person (24.6%), miscellaneous crimes against society (14.8%), sexual offences (13.4%), public order offences (12.1%) and drug offences (4.8%).
- 9.70 The custody rate fell by 16.7% for females sentenced for summary non-motoring offences and remained the same for summary motoring offences during this period.

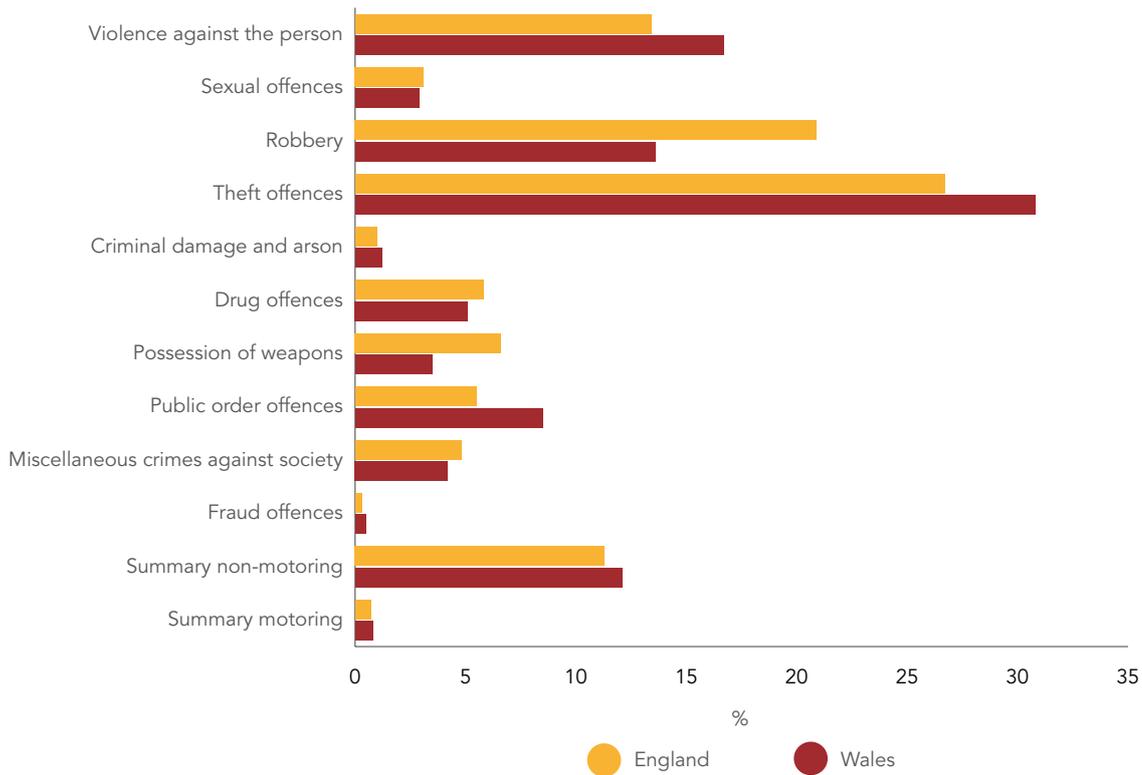
CHILDREN

- 9.71 The average custody rate for children was higher in **six** offence groups in England and five offence categories in Wales between 2010 and 2017.
- 9.72 The rates of imprisonment were the same for summary motoring offences in England and Wales throughout this period.
- 9.73 The average custody rate for robbery was 85.3% higher in Wales than the level recorded in England between 2010 and 2017.¹⁷³

172 Violence against the person (10.8%); robbery (30.5%); criminal damage and arson (18.5%); drug offences (39.5%); public order offences (2.5%); miscellaneous crimes against society (38%); fraud offences (21.4%) and summary non-motoring offences (18.1%).

173 148 children were sentenced to immediate custody for robbery offences in Wales between 2010 and 2017.

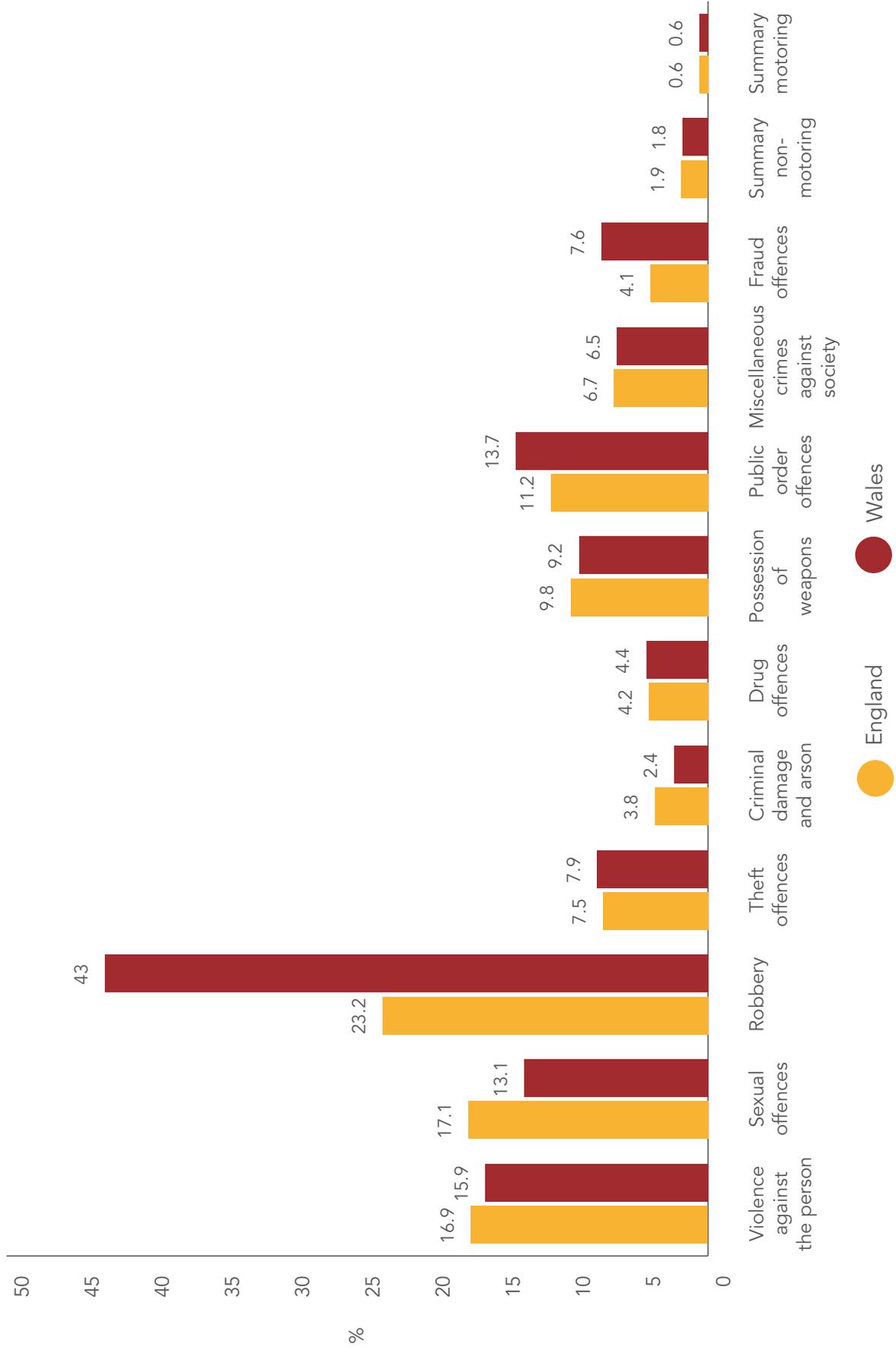
Figure 9.10 – The proportion of immediate custodial sentences handed out to children in England and Wales by offence group, 2010 to 2017



Source: Ministry of Justice

9.74 The use of immediate custody increased for children sentenced for sexual offences (33.3%), drug offences (11.1%) and summary motoring offences (200%) in Wales.

Figure 9.11 – The average custody rate for children sentenced in England and Wales by offence group, 2010 to 2017



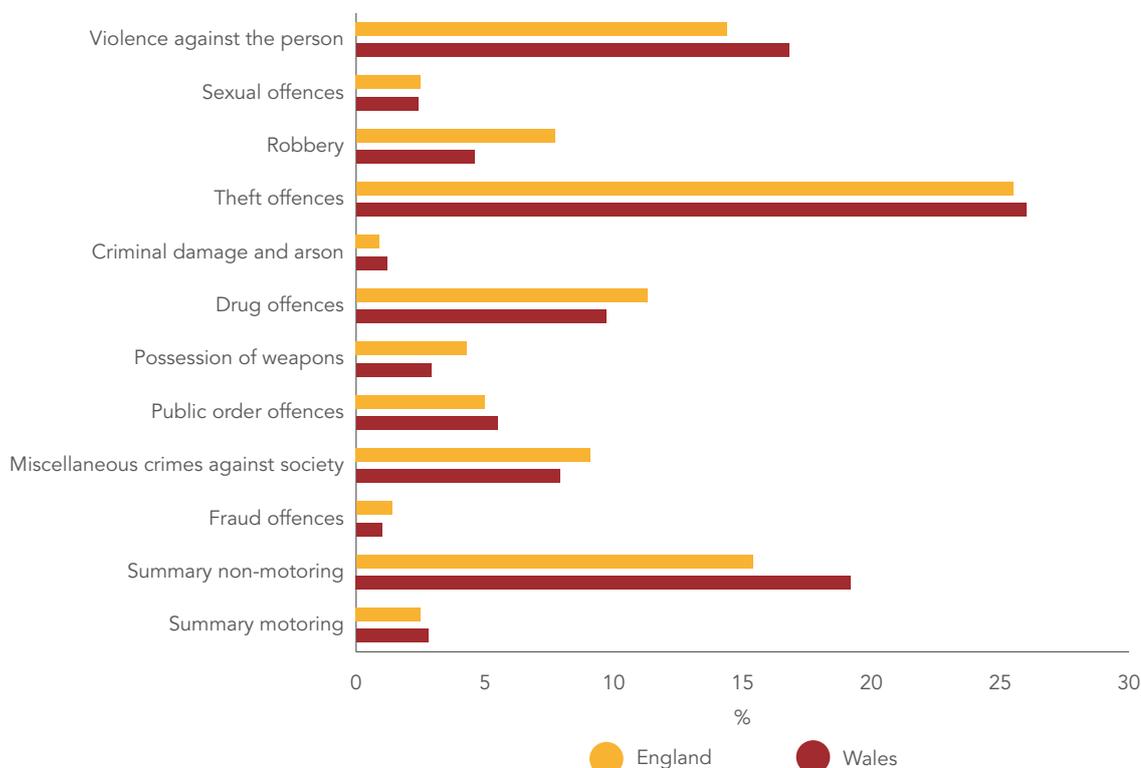
- 9.75 There were no immediate custodial sentences handed to children in Wales for fraud offences in 2010 or 2017. Five immediate custodial sentences have been given to children in Wales for fraud offences between 2010 and 2017.
- 9.76 The custody rate for children sentenced at courts in Wales between 2010 and 2017 increased for **six** offence categories.
- 9.77 The largest increase in the custody rate was those convicted of summary motoring offences (600%),¹⁷⁴ followed by miscellaneous crimes against society (120%), sexual offences (102.1%), possession of weapons (58.3%), drug offences (11.1%) and theft offences (10.1%).
- 9.78 During this period, the custody rate fell for children sentenced in Wales for violence against the person (39.4%), robbery (4.8%), criminal damage and arson (100%), public order offences (27.5%) and summary non-motoring offences (33.3%).
- 9.79 The custody rates for those convicted of fraud offences (0%) were the same in 2010 and 2017 in Wales.
- 9.80 In England, a quarter (26.7%) of all immediate custodial sentences given to children in England between 2010 and 2017 were for theft. A fifth (20.9%) were for robbery and 13.4% were handed out for violence against the person.
- 9.81 The number of immediate custodial sentences handed to children at courts in England decreased for **eleven** offence groups.
- 9.82 The most significant decline was for children convicted of fraud offences (86.7%), followed by theft offences (80.1%), public order offences (76.8%), criminal damage and arson (71.8%), miscellaneous crimes against society (64.9%), summary non-motoring (62.5%), robbery (61.3%), summary motoring (60.6%), violence against the person (58%), drug offences (44.6%) and sexual offences (26.1%).
- 9.83 The only increase in the use of immediate custody in England between 2010 and 2017 was recorded for the possession of weapons (39.2%).
- 9.84 The custody rate for children sentenced in England increased in **seven** offence groups between 2010 and 2017.¹⁷⁵
- 9.85 The custody rate fell for children sentenced in England for sexual offences (1.2%), theft offences (8.1%), public order offences (22.9%), fraud (50%) and summary motoring offences (14.3%).

174 There were 3 immediate custodial sentences handed out for this offence in 2017. The custody rate increased from 0.3% in 2010 to 2.1% in 2017.

175 Violence against the person (28.6%); robbery (15.1%); criminal damage and arson (59.3%); drug offences (47.4%); possession of weapons (50.6%); miscellaneous crimes against society (25.4%) and summary non-motoring offences (17.6%).

YOUNG ADULTS

Figure 9.12 – The proportion of immediate custodial sentences handed out to young adults in England and Wales by offence group, 2010 to 2017



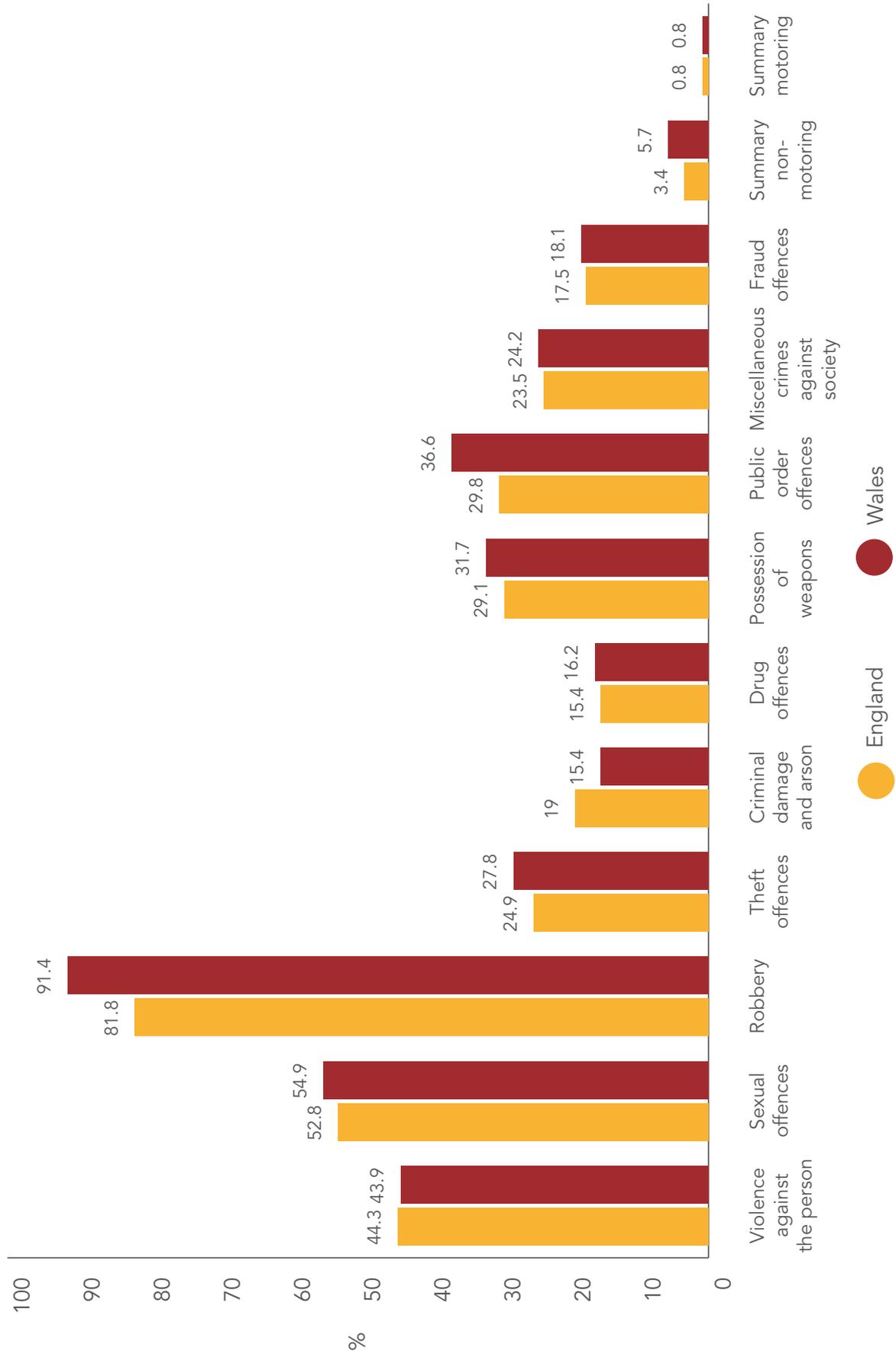
Source: Ministry of Justice

- 9.86 The average custody rate for young adults was higher in Wales than England in **nine** offence categories between 2010 and 2017.
- 9.87 The custody rates for young adults convicted of violence against the person and criminal damage and arson was higher for those sentenced at courts England throughout this period.
- 9.88 The average custody rate for summary motoring offences between 2010 and 2017 was the same in England and Wales.
- 9.89 In Wales, a quarter (26.7%) of all immediate custodial sentences handed to young adults between 2010 and 2017 were for theft. The second largest offence category was summary non-motoring offences (19.2%), followed by violence against the person (16.9%).
- 9.90 The total number of immediate custodial sentences handed to young adults was lower in **nine** offence groups in 2017 than the level recorded in 2010.¹⁷⁶
- 9.91 The number of custodial sentences were higher for sexual offences (2.3%), drug offences (20.9%) and fraud (5.6%) in Wales in 2017.

¹⁷⁶ Violence against the person (44%); robbery (56.8%); theft offences (57.1%); criminal damage and arson (90%); possession of weapons (7.3%); public order offences (51.7%); miscellaneous crimes against society (27.3%); summary non-motoring (29.8%) and summary motoring (19.7%).

- 9.92 Despite a decrease in immediate custodial sentences in nine offence categories, the custody rate was higher for young adults in **eight** offence groups in 2017 than 2010.
- 9.93 The largest increase was for drug offences (134.6%), followed by fraud (121.7%), miscellaneous crimes against society (83.7%), possession of weapons (56.9%), theft offences (36%), public order offences (31.9%), violence against the person (5.6%) and summary motoring offences (5%).

Figure 9.13 – The average custody rate for young adults sentenced in England and Wales by offence group, 2010 to 2017



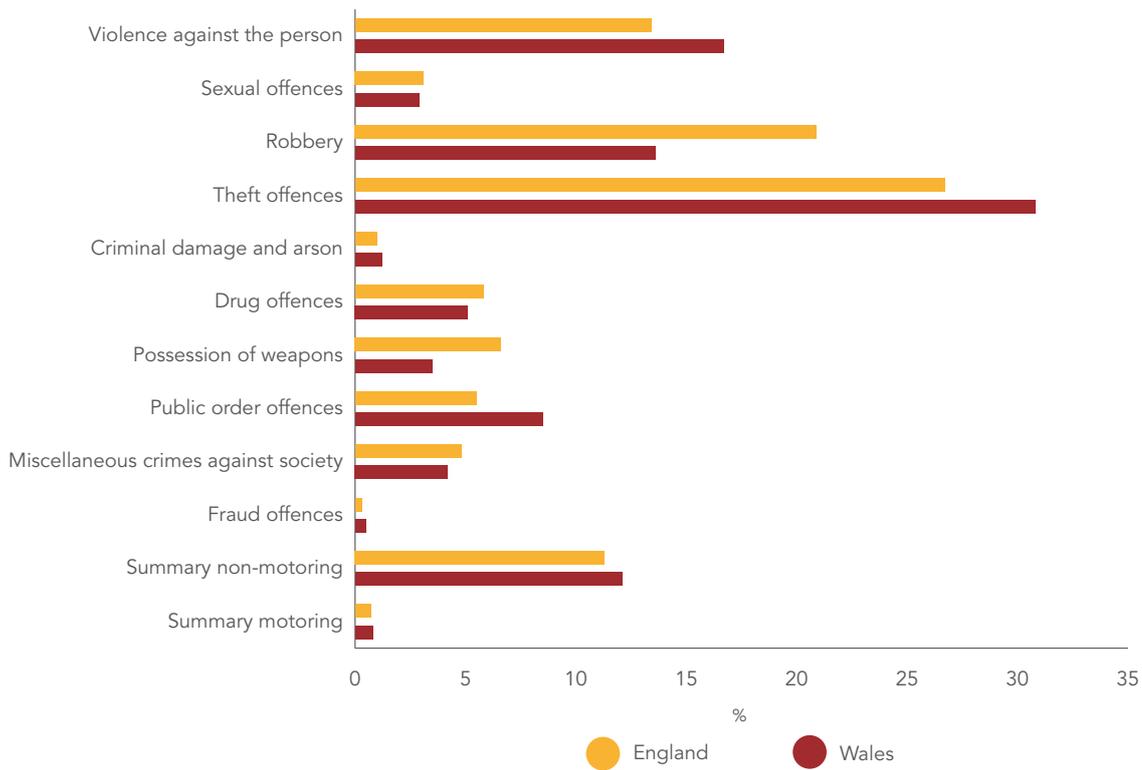
- 9.94 The custody rate was lower in 2017 for young adults sentenced in Wales for sexual offences (13.8%), robbery (1.3%), criminal damage and arson (8.5%) and summary non-motoring offences (1.7%).
- 9.95 In England, the number of immediate custodial sentences given to young adults decreased for **nine** offence groups between 2010 and 2017.¹⁷⁷
- 9.96 The number of immediate custodial sentences increased for young adults convicted of sexual offences (0.4%), drug offences (4%) and possession of weapon offences (28.7%) in England.
- 9.97 The custody rate was higher for **nine** offence categories in England in 2017 than in 2010.
- 9.98 The largest increase took place for the offence category of criminal damage and arson (84.9%), followed by drug offences (73.8%), miscellaneous crimes against society (59.2%), possession of weapons (38.2%), theft offences (19.7%), fraud (20.3%), violence against the person (6.5%), public order offences (0.7%) and robbery (0.1%).
- 9.99 The custody rate was lower for young adults convicted and sentenced in England for summary non-motoring offences (25.6%), summary motoring offences (12.1%) and sexual offences (6.6%) in 2017.
- 9.100 A quarter (25.5%) of all immediate custodial sentences were given to young adults in England for theft offences between 2010 and 2017. Almost a fifth of immediate custodial sentences were for summary non-motoring offences (19.2%) and 14.4% were for violence against the person.

ADULTS

- 9.101 The average custody rate was higher for adults sentenced in Wales for **seven** offence groups between 2010 and 2017.
- 9.102 The average custody rate was higher in England for criminal damage and arson, miscellaneous crimes against society and fraud offences.

¹⁷⁷ Violence against the person (43.5%); robbery (66.7%); theft offences (64.5%); criminal damage and arson (66%); public order offences (49.2%); miscellaneous crimes against society (29.9%); fraud offences (53.7%); summary non-motoring (53.2%); summary motoring (35.5%).

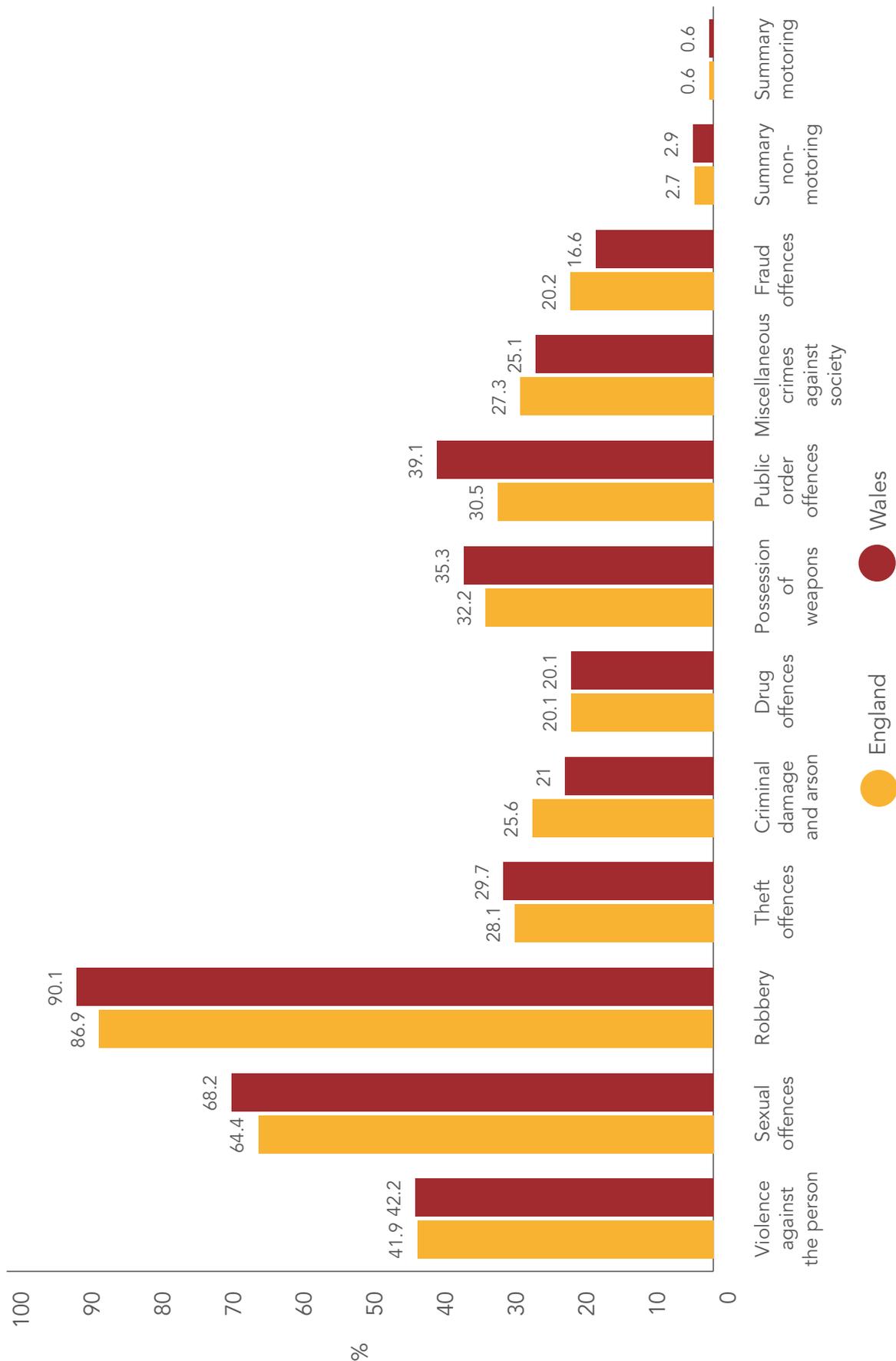
Figure 9.14 – The proportion of immediate custodial sentences handed out to adults in England and Wales by offence group, 2010 to 2017



Source: Ministry of Justice

- 9.103 The average custody rates for adults sentenced for drug offences (20.1%) and summary motoring offences (0.6%) were the same in England and Wales between 2010 and 2017.
- 9.104 A third of all sentences handed to adults in Wales between 2010 and 2017 were for theft (33%). The second highest represented offence group was summary non-motoring (14.9%) offences, followed by violence against the person (12.7%).

Figure 9.15 – The average custody rate for adults sentenced in England and Wales by offence group, 2010 to 2017



- 9.105 The number of immediate custodial sentences handed to adult offenders increased in Wales for **ten** offence groups between 2010 and 2017.
- 9.106 The largest increase was recorded for public order offences (77.8%), followed by summary non-motoring (66.9%), sexual offences (62.5%), fraud (60.3%), violence against the person (56.1%), possession of weapons (28%), summary motoring (19.5%), theft offences (15.1%), miscellaneous crimes against society (7.1%) and robbery (2.5%),
- 9.107 The number of custodial sentences handed to adult offenders convicted of drug offences (18%) and criminal damage and arson (19%) declined in Wales between 2010 and 2017.
- 9.108 The custody rate for adults sentenced in Wales increased in **eleven** offence groups between 2010 and 2017.¹⁷⁸
- 9.109 The custody rates for summary motoring offences (0.8%) in Wales were the same in 2010 and 2017.
- 9.110 In England, theft offences (33.3%), summary non-motoring offences (13.7%) and violence against the person (11.2%) were the most common offence groups for adults sentenced to immediate custody.
- 9.111 The number of immediate custodial sentences handed to adults decreased in **seven** offence groups between 2010 and 2017.¹⁷⁹
- 9.112 The number of immediate custodial sentences increased for adults convicted of violence against the person (35.8%), sexual offences (30.8%), possession of weapons (70%), public order offences (14.3%) and summary non-motoring offences (0.7%).
- 9.113 The custody rate increased for adults in England in ten offence categories between 2010 and 2017.
- 9.114 The largest increase was for those convicted of criminal damage and arson (92.3%), followed by possession of weapons (61.2%), theft offences (26.9%), miscellaneous crimes against society (23.3%), drug offences (20.3%), fraud (14.3%), violence against the person (12.7%), robbery (10.6%), summary non-motoring offences (3.7%) and sexual offences (1.4%).
- 9.115 The custody rate was lower in 2017 for adults sentenced in England for public order offences (4.2%) and summary motoring offences (14.3%).

178 Violence against the person (23.9%); sexual offences (7.8%); robbery (0.1%); theft offences (39%); criminal damage and arson (260.5%); drug offences (30.7%); possession of weapons (45.4%); public order offences (22.3%); miscellaneous crimes against society (43.1%); fraud offences (58.6%) and summary non-motoring (47.8%).

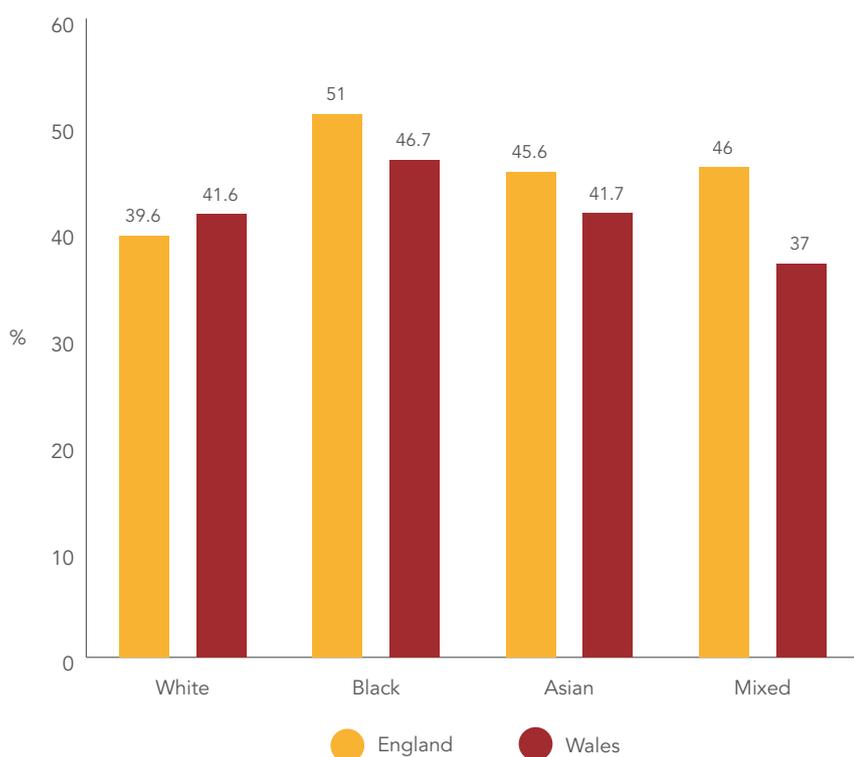
179 Robbery (0.7%); theft offences (6%); criminal damage and arson (16.2%); drug offences (21%); miscellaneous crimes against society (11%); fraud offences (19.1%); summary motoring (20.4%).

ETHNICITY

- 9.116** Because of poor data recording at the Magistrates' Court and a small sample size for ethnic groups in Wales sentenced to immediate custody for certain offences, comparisons by ethnicity and offence group have only been completed for four offence categories. These are violence against the person, theft offences, drug offences and miscellaneous crimes against society.¹⁸⁰
- 9.117** The lowest number of immediate custodial sentences recorded in these four offence groups was for Mixed offenders (37) sentenced for violence against the person.
- 9.118** The average custody rate was higher in Wales than in England for White, Black, Asian and Mixed offenders sentenced for theft, drug offences and miscellaneous crimes against society between 2010 and 2017.
- 9.119** The average custody rate for Black, Asian and Mixed offenders sentenced for violence against the person was higher in England during this period.
- 9.120** The average custody rate was higher in Wales for offenders from a White background sentenced for violence against the person.
- 9.121** Because 96.6% of all immediate custodial sentences for violence against the person were handed to White offenders, Wales still recorded a higher overall custody rate for this offence between 2010 and 2017.

¹⁸⁰ Only two offenders categorised as Asian and three who were categorised as Black were sentenced to immediate custody for criminal damage and arson in Wales between 2010 and 2017. Nine offenders from a Mixed background were sentenced for Robbery, 11 offenders from a Mixed background for fraud offences and 11 for sexual offences in Wales between 2010 and 2017.

Figure 9.16 – The average custody rate for violence against the person by ethnicity in England and Wales, 2010 to 2017



Source: Ministry of Justice

- 9.122** The number of immediate custodial sentences handed out for violence against the person increased for White (3.2%), Black (18.2%) Asian (71.4%) and Mixed (250%) offenders sentenced at courts in Wales between 2010 and 2017.¹⁸¹
- 9.123** The custody rate for violence against the person in Wales was higher for all ethnic groups sentenced in 2017 than 2010.
- 9.124** The largest increase was recorded for Mixed (249.1%) offenders, followed by Asian (40.1%), White (26.2%), and Black (2.9%).¹⁸²
- 9.125** In England, the number of custodial sentences for violence against the person increased for Black (0.8%) and Asian (2.8%) offenders between 2010.¹⁸³
- 9.126** The number given to offenders from a White (12.8%) and Mixed (6.6%) background fell during this period.¹⁸⁴
- 9.127** The custody rate increased for each group sentenced for violence against the person between 2010 and 2017.

¹⁸¹ White – From 697 in 2010 to 719 in 2017; Black – From 11 in 2010 to 17 in 2017; Asian – From 7 in 2010 to 12 in 2017; Mixed – From 2 in 2010 to 7 in 2017.

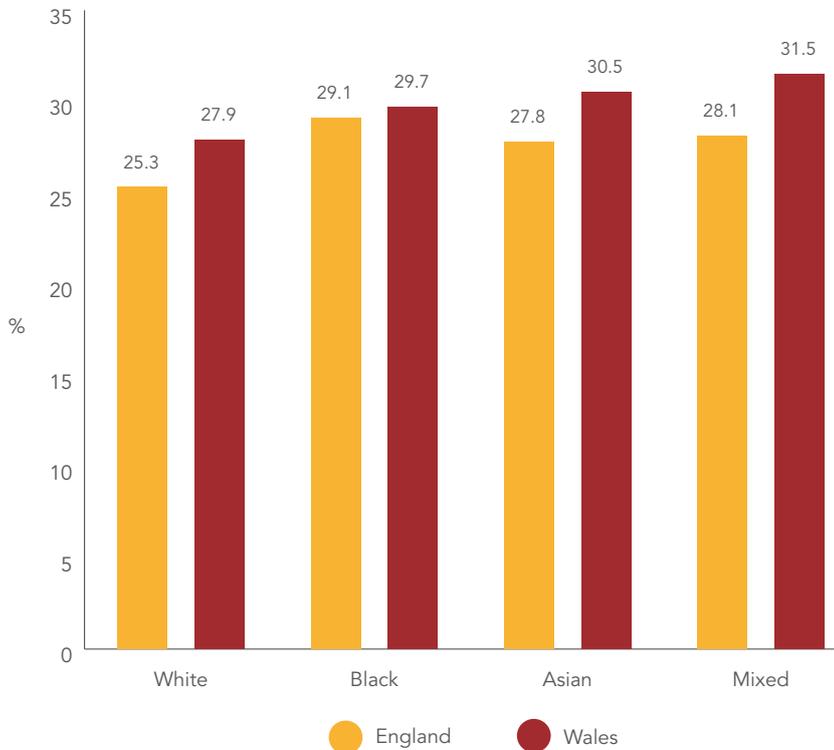
¹⁸² White – From 35.1% in 2010 to 44.3% in 2017; Black – From 40.7% in 2010 to 41.9% in 2017; Asian – From 38.9% in 2010 to 54.5% in 2017; Mixed – From 16.7% in 2010 to 58.3% in 2017.

¹⁸³ Black – From 891 in 2010 to 898 in 2017; Asian – From 600 in 2010 to 617 in 2017.

¹⁸⁴ White – From 8,158 in 2010 to 7,115 in 2017; Mixed – From 316 in 2010 to 295 in 2017.

9.128 The largest rise was recorded for Mixed (19.7%) offenders, followed by White (17.8%), Asian (11.4%) and Black (8.9%) offenders.¹⁸⁵

Figure 9.17 – The average custody rate for theft offences by ethnicity in England and Wales, 2010 to 2017



Source: Ministry of Justice

9.129 The number of immediate custodial sentences for theft offences increased for Asian (25%) and Mixed (78.6%) offenders in Wales between 2010 and 2017.¹⁸⁶

9.130 The number of immediate custodial sentences decreased for White (14.2%) and Black (30.8%) offenders sentenced for theft during this period.¹⁸⁷

9.131 The custody rate for theft offences in Wales was higher in 2017 for all four ethnic groups.

9.132 The largest increase was for Mixed (100.5%) offenders sentenced in Wales, followed by White (64.7%), Asian (59.3) and Black (1.1%) offenders.¹⁸⁸

9.133 In England, the number of immediate custodial sentences for theft fell for White (31.9%), Black (30.5%), Asian (25.4%) and Mixed (39.3%) offenders between 2010 and 2017.¹⁸⁹

¹⁸⁵ White – From 34.8% in 2010 to 41% in 2017; Black – 47.2% in 2010 to 51.4% in 2017; Asian – From 41.2% in 2010 to 45.9% in 2017; Mixed – From 38.5% in 2010 to 46.1% in 2017.

¹⁸⁶ Asian – From 16 in 2010 to 20 in 2017; Mixed – From 14 in 2010 to 25 in 2017.

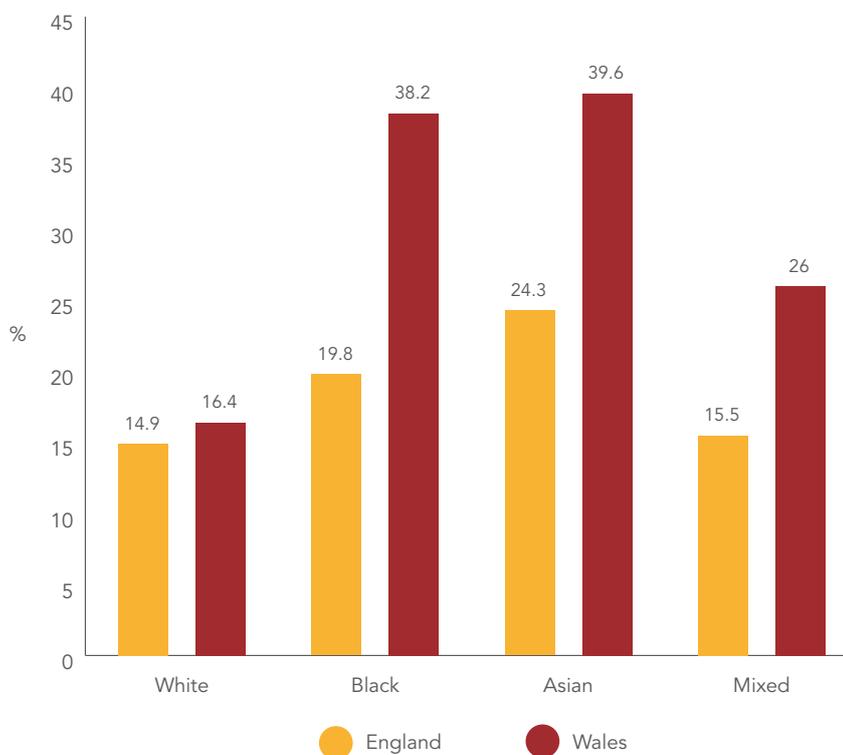
¹⁸⁷ White – From 1,727 in 2010 to 1,481 in 2017; Black – From 26 in 2010 to 18 in 2017.

¹⁸⁸ White – From 22.4% in 2010 to 36.9% in 2017; Black – From 28.3% in 2010 to 28.6% in 2017; Asian – From 24.6% in 2010 to 39.2% in 2017; Mixed – 21.5% in 2010 to 43.1% in 2017.

¹⁸⁹ White – From 23,030 in 2010 to 15,688 in 2017; Black – From 1,670 in 2010 to 1,161 in 2017; Asian – From 934 in 2010 to 691 in 2017; Mixed – From 741 in 2010 to 450 in 2017.

9.134 The custody rate was higher for each group in 2017 with the largest increase recorded for White (41.3%) offenders, followed by Asian (35.9%), Black (35.2%), and Mixed (33.6%) offenders.¹⁹⁰

Figure 9.18 – The average custody rate for drug offences by ethnicity in England and Wales, 2010 to 2017



Source: Ministry of Justice

9.135 The number of immediate custodial sentences handed out for drug offences in Wales decreased for White (11.1%) and Asian (25%) offenders between 2010 and 2017.¹⁹¹

9.136 While the number of immediate custodial sentences handed to Black offenders remained the same, custodial sentences for offenders from a Mixed background increased by 280%.¹⁹²

9.137 The custody rate for drug offences in Wales increased for White (78%), Black (63.6%) and Mixed (278.9%) offenders between 2010 and 2017.¹⁹³

9.138 The rate for Asian offenders sentenced in Wales declined by 1.9% during this period.¹⁹⁴

190 White – From 21.8% in 2010 to 30.8% in 2017; Black – From 24.4% in 2010 to 33% in 2017; Asian – From 24.5% in 2010 to 33.3% in 2017; Mixed – From 23.5% in 2010 to 31.4% in 2017.

191 White – From 469 in 2010 to 417 in 2017; Asian – From 32 in 2010 to 24 in 2017.

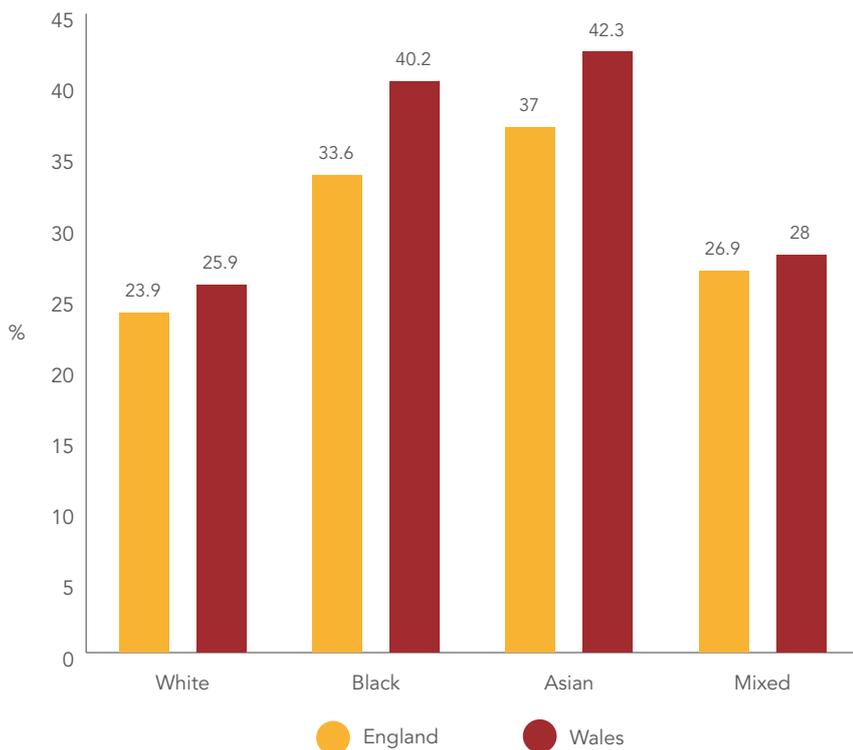
192 Black – From 33 in 2010 to 33 in 2017; Mixed – From 5 in 2010 to 19 in 2017.

193 White – From 13.2% in 2010 to 23.5% in 2017; Black – From 38.8% in 2010 to 63.5% in 2017; Mixed – From 15.2% in 2010 to 57.6% in 2017.

194 Asian – From 37.6% in 2010 to 36.9% in 2017.

- 9.139 At courts in England, the use of immediate custody fell for White (29%), Black (3.4%), Asian (26.6%) and Mixed (3.4%) offenders sentenced for drug offences.¹⁹⁵
- 9.140 The custody rate for drug offences, however, was higher for all groups sentenced in England in 2017.
- 9.141 The largest increase was recorded for offenders from a Mixed (66.9%) background, followed by White (56.6%), Black (20.3%), Asian (13%) offenders sentenced in England.¹⁹⁶

Figure 9.19 – The average custody rate for miscellaneous crimes against society by ethnicity in England and Wales, 2010 to 2017



Source: Ministry of Justice

- 9.142 The number of immediate custodial sentences handed out for miscellaneous crimes against society in Wales decreased for White (4%), Black (18.2%) and Asian (45%) offenders between 2010 and 2017.¹⁹⁷
- 9.143 The number of custodial sentences for offenders from a Mixed background increased by 233.3% during this period.¹⁹⁸

¹⁹⁵ White – From 4,983 in 2010 to 3,540 in 2017; Black – From 1,408 in 2010 to 1,360 in 2017; Asian – From 1,044 in 2010 to 766 in 2017; Mixed – From 295 in 2010 to 285 in 2017.

¹⁹⁶ White – From 12.9% in 2010 to 20.2% in 2017; Black – From 18.7% in 2010 to 22.5% in 2017; Asian – From 23.8% in 2010 to 26.9% in 2017; Mixed – From 12.4% in 2010 to 20.7% in 2017.

¹⁹⁷ White – From 422 in 2010 to 405 in 2017; Black – From 11 in 2010 to 9 in 2017; Asian – From 20 in 2010 to 11 in 2017.

¹⁹⁸ From 3 in 2010 to 10 in 2017.

- 9.144 The custody rate for miscellaneous crimes against society in Wales increased for White (67.3%), Black (44.4%) and Mixed (232.9%) offenders between 2010 and 2017.¹⁹⁹
- 9.145 The rate for Asian offenders sentenced in Wales fell by 8.2%.²⁰⁰
- 9.146 The use of immediate custody for miscellaneous crimes against society in England fell for White (21.4%), Black (51.2%), Asian (29.2%) and Mixed (20.4%) offenders between 2010 and 2017.²⁰¹
- 9.147 The custody rate was higher in 2017 for all groups sentenced for miscellaneous crimes against society in England.
- 9.148 The largest increase was recorded for offenders from a Mixed (78.4%) background, followed by White (50.3%), Asian (14.7%) and Black (0.3%) offenders sentenced in England.²⁰²

199 White – From 22% in 2010 to 36.8% in 2017; Black – From 29.7% in 2010 to 42.9% in 2017; Mixed – From 16.7% in 2010 to 55.6% in 2017.

200 Asian – From 57.1% in 2010 to 52.4% in 2017

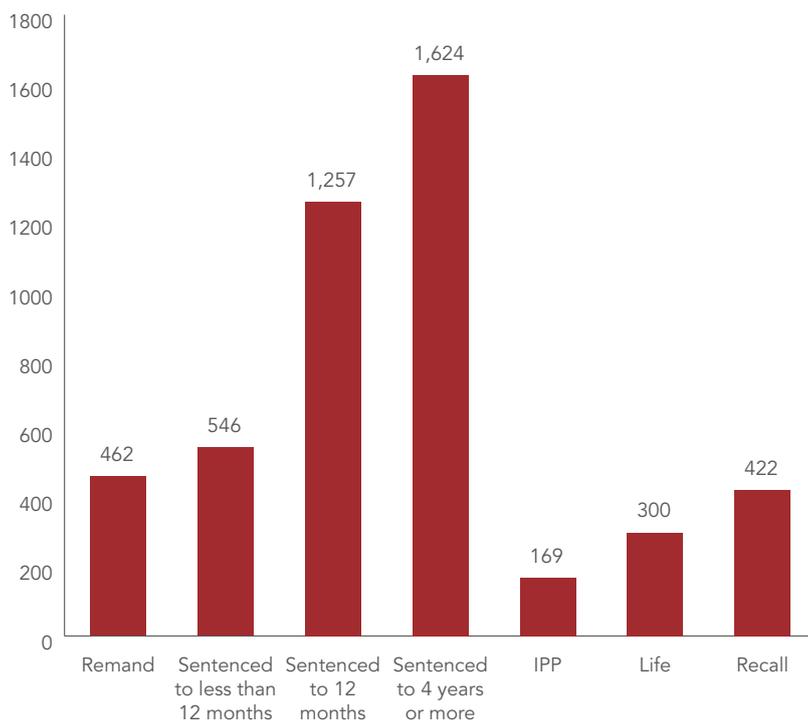
201 White – From 5,551 in 2010 to 4,365 in 2017; Black – From 1,241 in 2010 to 606 in 2017; Asian – From 807 in 2010 to 571 in 2017; Mixed – From 221 in 2010 to 176 in 2017

202 White – From 19.9% in 2010 to 29.9% in 2017; Black – From 34.7% in 2010 to 34.8% in 2017; Asian – From 34.1% in 2010 to 34.8% in 2017; Mixed – From 19.4% in 2010 to 34.6% in 2017.

10. CUSTODIAL SENTENCE LENGTH

- 10.1** An increase in the use of long-term sentences has been a major contributing factor in the rise of prisoner numbers in England and Wales. In 1993, 54% of the sentenced prison population were serving sentences of less than 4 years. By 2016, this rate had fallen to 34% of sentenced prisoners in England and Wales (Ministry of Justice, 2016a).
- 10.2** The introduction of legislative and policy changes has been responsible for a rise in the number of long-term sentences. These changes include the introduction of indeterminate sentences for public protection and their replacement with extended determinate sentences in 2012. Further developments include changes in the minimum terms for offences such as murder as well as increases in the sentencing severity for offences such as the possession of weapons, sex offences, and motoring offences (Sentencing Council, 2018a).
- 10.3** The average custodial sentence length in England and Wales has increased from 15.2 months in March 2008 to 20.0 months in March 2018 (Ministry of Justice, 2018b).

Figure 10.1 – Welsh people in prison by sentence length in 2017²⁰³



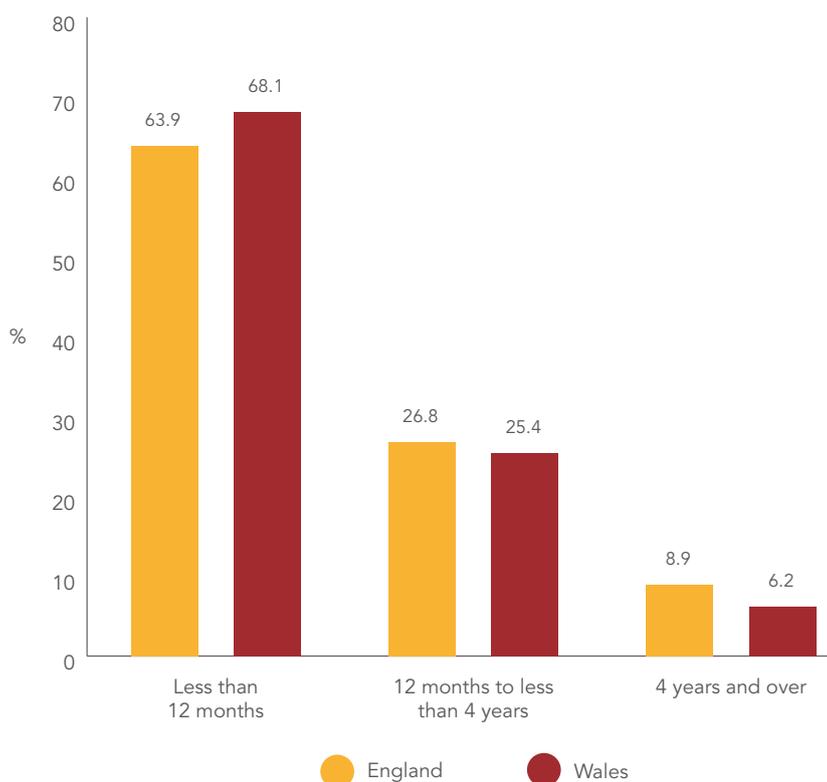
Source: Ministry of Justice

- 10.4** 11.4% of all Welsh prisoners were serving sentences of less than 12 months in 2017.
- 10.5** 8.8% were in prison having been recalled to custody and a slightly higher proportion (9.6%) of Welsh people in prison were being held on remand in 2017.

²⁰³ There were 30 people in prison for 'non-criminal' and 'unknown' sentence lengths in 2017.

- 10.6 One in three (33.8%) of all Welsh people in prison in 2017 were serving custodial sentences of 4 years or more.
- 10.7 The number of prisoners from Wales serving sentences of 4 years or more increased by 8% between September 2017 (1,615) and September 2018 (1,745).
- 10.8 There were 120 Welsh prisoners serving Imprisonment for Public Protection sentences at the end of September 2018. This number was 28.1% lower than the figure 12 months previous.²⁰⁴

Figure 10.2 – The proportion of immediate custodial sentences in England and Wales by sentence length, 2010 to 2017



Source: Ministry of Justice

- 10.9 Between 2010 and 2017, a higher proportion of short-term sentences (less than 12 months) were handed out at courts in Wales (68.1%) than England (63.9%).
- 10.10 A higher number of sentences of 4 years or more were given out in England (8.9%) than Wales (6.2%) throughout this period.
- 10.11 In 2017, the average custodial sentence length for all offences in England was 17.2 months. This compared to an average custodial sentence length of 13.4 months in Wales.²⁰⁵

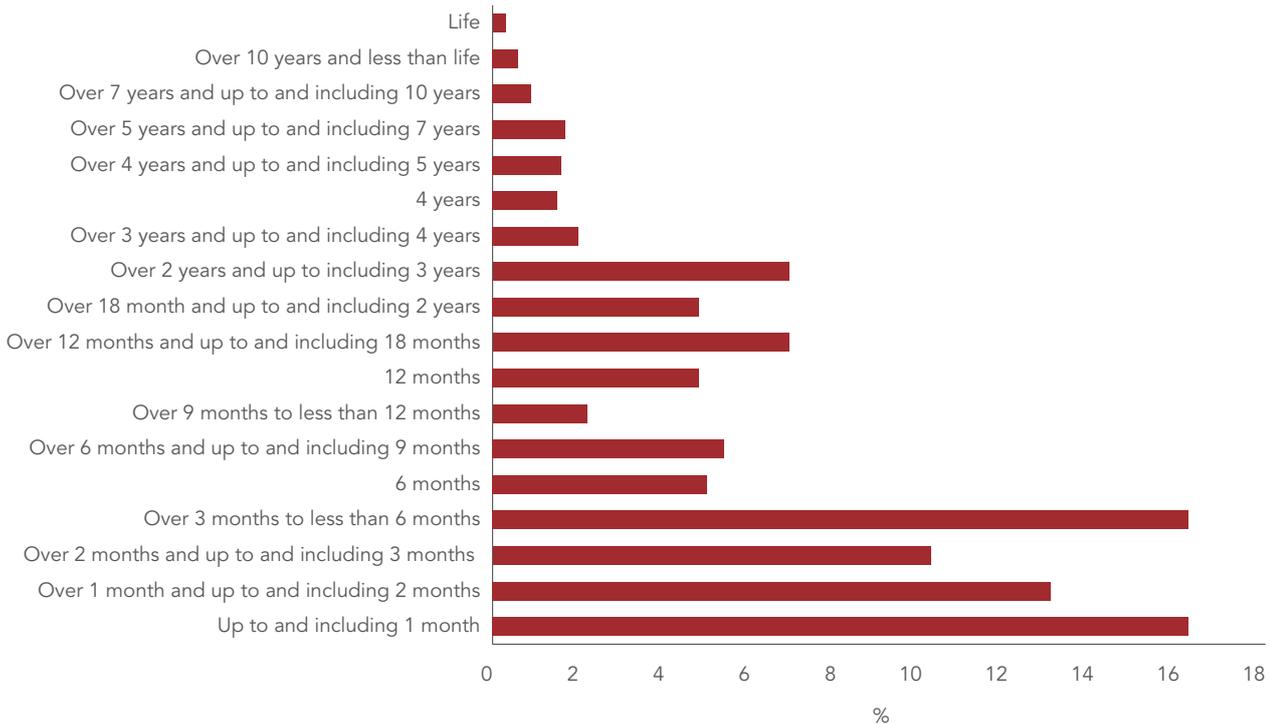
²⁰⁴ There were 167 Welsh people serving IPP sentences in September 2017.

²⁰⁵ Data were obtained from the Ministry of Justice via Freedom of the Information 2000.

10.12 A total of 132 life sentences were handed out to offenders sentenced in Wales between 2010 and 2017. Life sentences comprised 0.3% of all sentences handed out in Wales during this period.

10.13 In England, 0.4% of all immediate custodial sentences between 2010 and 2017 were life sentences. In total, 3,034 life sentences were handed out in England during this period.

Figure 10.3 – The proportion of immediate custodial sentences in Wales by custodial sentence length, 2010 to 2017



Source: Ministry of Justice

10.14 The limited sentencing powers available to Magistrates’ mean that the sentencing range at the Magistrates Court is far narrower than at the Crown Court.²⁰⁶

10.15 A study by Mason et al (2007) found that the average custodial sentence length in Magistrates’ Courts in England and Wales was 3 months. This compared to an average custodial sentence length of 25 months for those sentenced to immediate custody at the Crown Court.

10.16 28.8% of all offenders sentenced to immediate custody at the Magistrates’ Court in Wales were handed sentences of up to one month or less in custody between 2010 and 2017.

10.17 In England, 29.5% of offenders sentenced at the Magistrates’ Courts received a sentence of up to and including one month in prison.

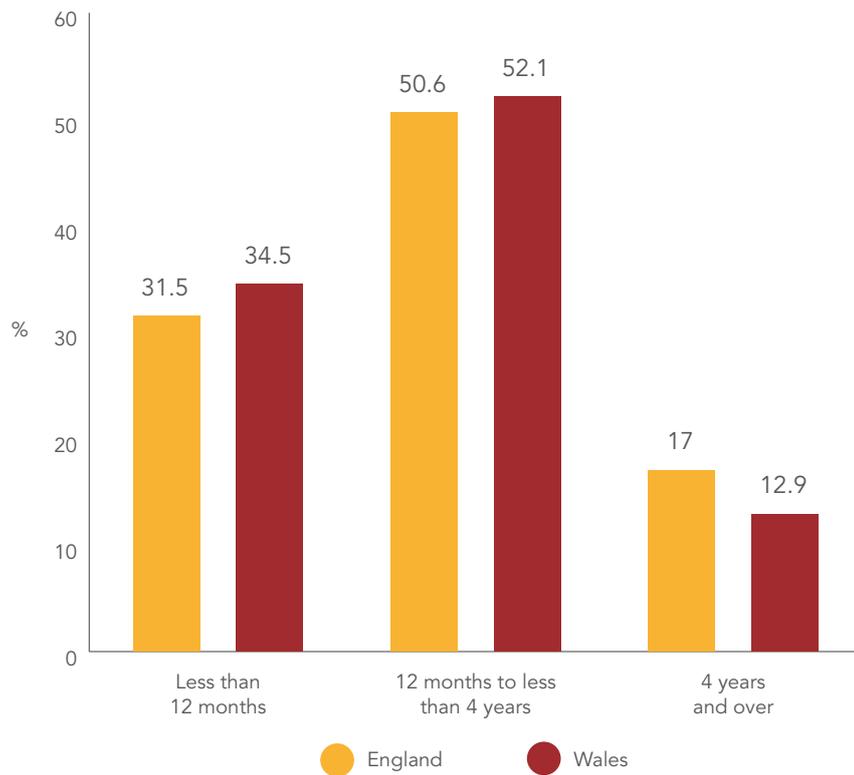
²⁰⁶ In recent years the Ministry of Justice has broken down the average custodial sentence length by type of offence (e.g. indictable) rather than court type.

10.18 The majority (94.6%) of custodial sentences handed out at Magistrates’ Courts in Wales between 2010 and 2017 were for less than 6 months. The rate in England was 94.2% during the same period.

10.19 5.4% of all custodial sentences handed out at the Magistrates’ Court in Wales were for a period of 6 months or more between 2010 and 2017.

10.20 In England, the proportion of sentences for 6 months or more was marginally higher (5.8%) at Magistrates’ Courts during this period.

Figure 10.4 – The proportion of immediate custodial sentences handed out at Crown Courts in England and Wales by custodial sentence length, 2010 to 2017



Source: Ministry of Justice

10.21 At the Crown Court, a higher number of short-term sentences were handed out in Wales than in England between 2010 and 2017.

10.22 34.5% of all custodial sentences handed out at the Crown Court in Wales were for less than 12 months.

10.23 In England, sentences of less than 12 months comprised 31.5% of all immediate custodial sentences handed out at the Crown Court.

10.24 Offenders sentenced at the Crown Court were more likely to receive a sentence of 4 years or more in England than in Wales between 2010 and 2017.

- 10.25** While 17% of all custodial sentences at the Crown Court in England were for a period of 4 years or more, just 12.9% of offenders sentenced to immediate custody in Wales were handed this sentence.
- 10.26** Despite a higher use of longer-term sentences in England, the number of offenders sentenced to 4 years or more in custody increased in Wales between 2010 and 2017.
- 10.27** The number of offenders sentenced to four years or more at Crown Courts in Wales was 39.5% higher in 2017 than in 2010.²⁰⁷ In England, the number had increased by 20.5% during the same period.²⁰⁸

SEX

- 10.28** Women are more likely to be given shorter custodial sentences than men. More than three quarters (78.6%) of all females sentenced to immediate custody in Wales between 2010 and 2017 were handed sentences of less than 12 months. This compared to 67% of male offenders sentenced in Wales during this period.
- 10.29** The frequent use of short-term sentences often brings considerable “chaos and disruption” to the lives of women and their families (Corston, 2007: i). Recent research has also shown that women sentenced to short-term custodial sentences are more likely to re-offend than those sentenced to a court order (Hillier and Mews, 2018).²⁰⁹

207 From 304 in 2010 to 424 in 2017.

208 From 7,000 in 2010 to 8,432 in 2017.

209 The study found similar results for males sentenced to short-term custodial sentences.

Figure 10.5 – The proportion of immediate custodial sentences in Wales by custodial sentence length and sex, 2010 to 2017



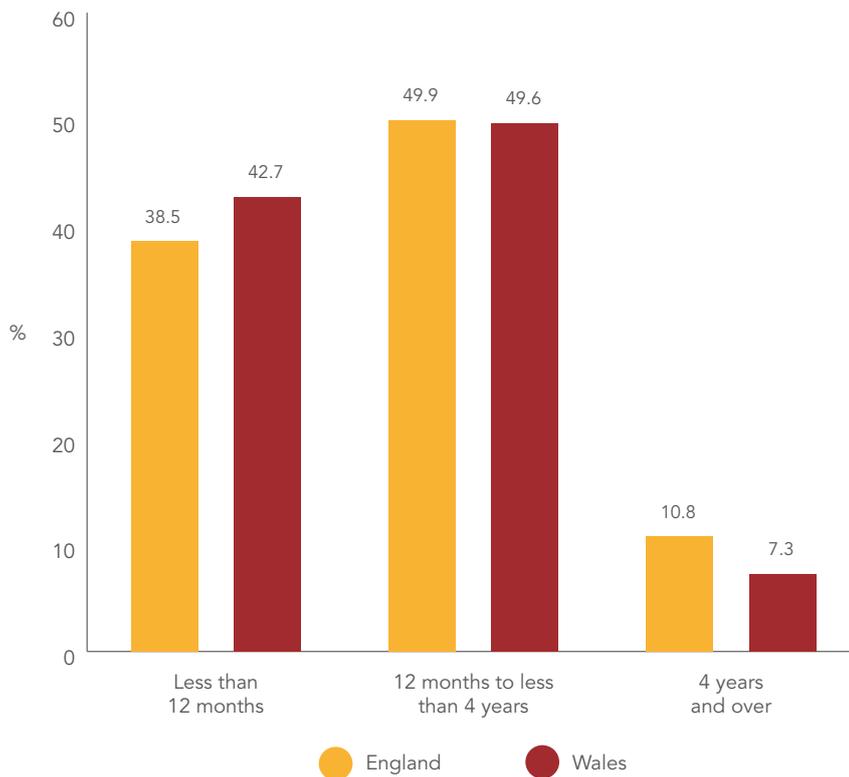
Source: Ministry of Justice

- 10.30 The Ministry of Justice’s (2018d) *Female Offender Strategy* recognised the ineffective use of short-term custodial sentences and outlined its commitment to seeing fewer women sentenced to short periods in custody.
- 10.31 Female offenders sentenced to immediate custody between 2010 and 2017 were more likely to be handed shorter sentences in Wales than in England.
- 10.32 78.6% of all females sentenced to immediate custody in Wales were handed sentences of less than 12 months between 2010 and 2017.
- 10.33 In England, 75.6% of all women sentenced to immediate custody were sent for a period of less than 6 months during this period.
- 10.34 In 2010, two-thirds (67.4%) of all custodial sentences given to female offenders in Wales were for periods of less than 6 months. This figure had increased by 9.3% to 73.7% in 2017.
- 10.35 65.5% of females convicted in England were sentenced to less than 6 months in custody between 2010 and 2017.
- 10.36 One in four women (24.8%) sentenced to immediate custody in Wales were sentenced to a period of one month or less in prison between 2010 and 2017. This compared to a rate of 15.2% for men in Wales.

10.37 92.5% of all females sentenced to one month or less were sentenced at the Magistrates' Court in Wales.

10.38 97.2% of females sentenced to immediate custody at Magistrates' Courts in Wales were handed sentences of less than 6 months. The rate at Magistrates' Courts in England was 96.7% between 2010 and 2017.

Figure 10.6 – The proportion of immediate custodial sentences handed to female offenders sentenced at the Crown Court in England and Wales by custodial sentence length, 2010 to 2017



Source: Ministry of Justice

10.39 Women sentenced to immediate custody at the Crown Court in Wales were more likely to receive a short-term sentence than females sentenced in England between 2010 and 2017.

10.40 42.7% of females sentenced in Wales were handed sentences of less than 12 months compared to 38.5% of women sentenced at the Crown Court in England.

10.41 A higher percentage of females were handed longer-term sentences at the Crown Court in England between 2010 and 2017.

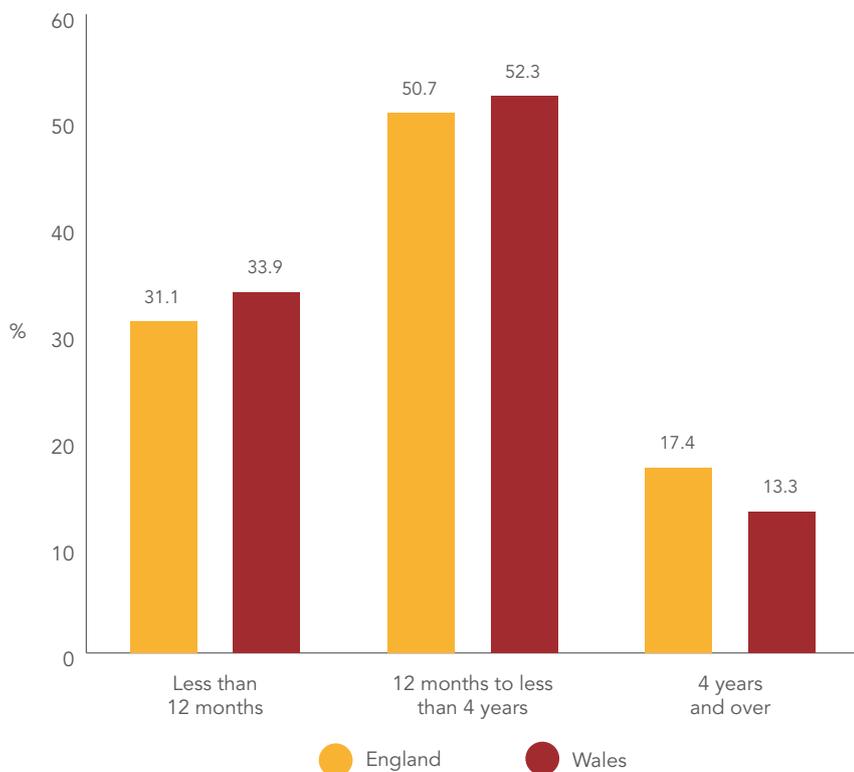
10.42 One in ten (10.8%) of all females sentenced to immediate custody at the Crown Court in England were sentenced to 4 years or more in custody during this period.

10.43 In Wales, 7.3% of all females sentenced to immediate custody at the Crown Court were handed sentences of 4 years or more between 2010 and 2017.

10.44 Seven females (0.4%) were sentenced to life imprisonment in Wales between 2010 and 2017.

10.45 In England, 178 (0.8%) women were sentenced to life imprisonment at the Crown Court during this period.

Figure 10.7 – The proportion of immediate custodial sentences handed to male offenders sentenced at the Crown Court in England and Wales by custodial sentence length, 2010 to 2017



Source: Ministry of Justice

10.46 Male offenders are more likely to receive longer custodial sentences than females who are sentenced to immediate custody (House of Commons Justice Committee, 2013b).

10.47 A third (33%) of all males sentenced to immediate custody in Wales received sentences of 12 months or more. A fifth (21.4%) of all females received the same sentence between 2010 and 2017.

10.48 6.6% of all custodial sentences handed to male offenders in Wales were for a period of 4 years or more between 2010 and 2017. This compared to 2.7% for female offenders sentenced in Wales.

10.49 At the Magistrates’ Court in Wales, 94.3% of male offenders were sentenced to less than 6 months in custody between 2010 and 2017. This compared to 93.9% of males sentenced at Magistrates’ Courts in England.

10.50 At the Crown Court, male offenders in Wales were more likely to be handed a short-term sentence than those sentenced in England between 2010 and 2017.

10.51 33.9% of male offenders in Wales were sentenced to a period of less than 12 months in custody compared to 31.1% of males sentenced at the Crown Court in England.

- 10.52** A higher proportion of male offenders were sentenced to 4 years or more in custody at the Crown Court in England between 2010 and 2017.
- 10.53** 17.4% of all sentences handed to male offenders at the Crown Court were for 4 years or more. This compared to 13.3% of male offenders sentenced to immediate custody at Crown Courts in Wales between 2010 and 2017.
- 10.54** In Wales, the number of male offenders handed sentences of 4 years or more was 39.7% higher in 2017 than in 2010.²¹⁰
- 10.55** Although the proportion of longer-term sentences handed to male offenders was higher at the Crown Court in England, the use of long-term sentences increased at a higher rate in Wales between 2010 and 2017.
- 10.56** The proportion of cases resulting in a custodial sentence of 4 years or more increased by 56% in Wales between 2010 and 2017. In England, there was a 39.9% increase during this period.
- 10.57** Immediate custodial sentences of 4 years or more increased for male offenders sentenced at Crown Courts in England by 20.2% over the same period.²¹¹
- 10.58** Between 2010 and 2017, 125 life sentences (0.5%) were handed to male offenders at Crown Courts in Wales.
- 10.59** In England, 2,856 (0.8%) life sentences were handed to male offenders at the Crown Court during this period.

CHILDREN

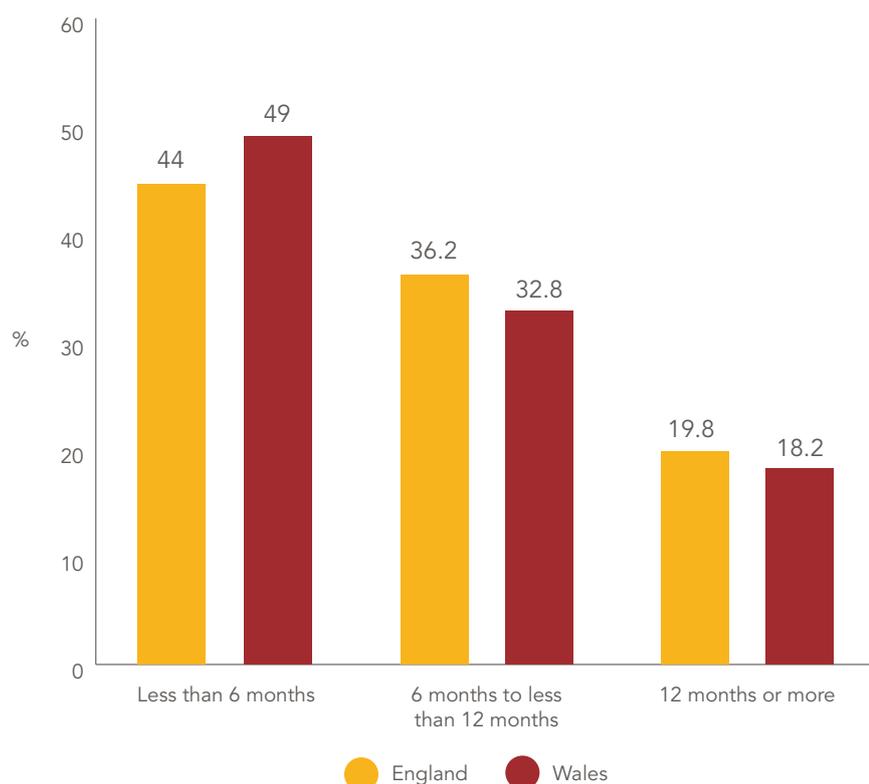
- 10.60** While the total number of children sentenced to immediate custodial in England and Wales has declined over the last decade, the average custodial sentence lengths for children increased during this period.
- 10.61** In 2007, the average custodial sentence length for children convicted of indictable offences was 11.5 months. By March 2017, this had increased to 16.0 months for children sentenced to immediate custody in England and Wales (Youth Justice Board, 2018).
- 10.62** The level recorded for summary offences was the same (4.5 months) in 2007 and 2017 (Youth Justice Board, 2018).
- 10.63** Seven out of ten (70.7%) children sentenced to immediate custody in Wales were sentenced at the Youth Court between 2010 and 2017 (Youth Justice Board, 2018).²¹²

²¹⁰ From 295 in 2010 to 412 in 2017.

²¹¹ From 6,716 in 2010 to 8,074 in 2017.

²¹² This figure does not include children who were sentenced to 'Imprisonment for public protection' between 2010 and 2017.

Figure 10.8 – The proportion of immediate custodial sentences handed to children sentenced at the Youth Court in England and Wales by custodial sentence length, 2010 to 2017

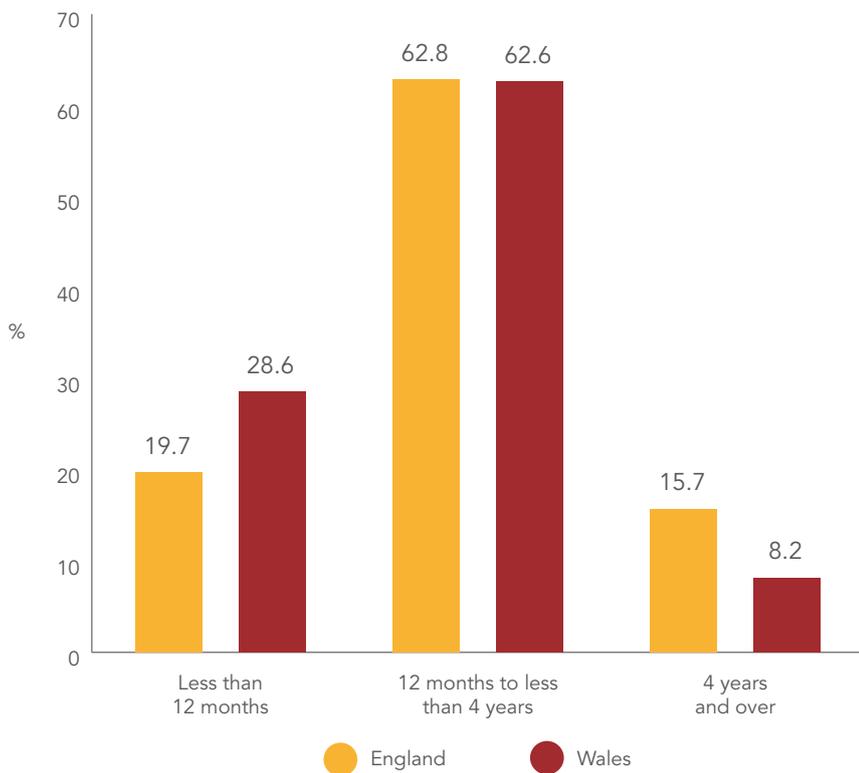


Source: Ministry of Justice

- 10.64** Sentence lengths for children were longer at the Youth Court in England than in Wales between 2010 and 2017.
- 10.65** Approximately half (49%) of all children sentenced to immediate custody at the Youth Court in Wales were sentenced to less than 6 months in custody.
- 10.66** In England, 44% of all immediate custodial sentences handed to children at the Youth Court were for a period of less than 6 months between 2010 and 2017.
- 10.67** 56.1% of children sentenced to immediate custody in England were handed sentences of less 6 months between 2010 and 2017. This compared to 51% of children handed an immediate custodial sentence in Wales.
- 10.68** A higher proportion of children sentenced at the Youth Court were handed immediate custodial sentences of 12 months or longer in England (19.8%) than in Wales (18.2%).
- 10.69** All children sentenced to immediate custody for 12 months or longer at the Youth Court in England and Wales were given a Detention and Training Order. The orders can last between 4 months and 2 years.²¹³

²¹³ A total of 140 Detention and Training Orders were handed out at Welsh Youth Courts between 2010 and 2017. 2,714 Detention and Training Orders were given to children in England during this period.

Figure 10.9 – The proportion of immediate custodial sentences handed to children sentenced at the Crown Court in England and Wales by custodial sentence length, 2010 to 2017



Source: Ministry of Justice

- 10.70** Children sentenced at Crown Courts in Wales were more likely to end up receiving a short-term sentence between 2010 and 2017 than those sentenced in England.
- 10.71** Over a quarter (28.6%) of all children sentenced at Crown Courts in Wales were handed a sentence of less than 12 months. This compared to a fifth (19.7%) of children sentenced at English Crown Courts during this period.
- 10.72** A higher number of long-term sentences (4 years or more) were handed out to children sentenced at Crown Courts in England between 2010 and 2017.
- 10.73** 15.7% of all immediate custodial sentences handed to children at Crown Courts in England were for 4 years or more.
- 10.74** In Wales, 8.2% of all custodial sentences handed to children at the Crown Court were for 4 years or more between 2010 and 2017.
- 10.75** Despite a greater use of longer-term sentences at Crown Courts in England, the use of longer-term sentences for children increased in Wales at a higher rate during this period.
- 10.76** The proportion of children sentenced to immediate custody for 4 years or more increased by 215.8% at the Crown Court in Wales between 2010 and 2017.²¹⁴

²¹⁴ From 3.8% in 2010 to 12% in 2017.

10.77 In England, the proportion of custodial sentences of 4 years or more handed to children at the Crown Court rose by 137.4% during this period.²¹⁵

10.78 There were 112 (1.9%) life sentences handed to children at Crown Courts in England between 2010 and 2017.

10.79 Two life sentences were handed to children at the Crown Court in Wales between 2010 and 2017. Life sentences comprised just 0.6% of all custodial sentences handed to children at the Crown Court in Wales.

YOUNG ADULTS

10.80 Almost two-thirds (64.5%) of all young adults sentenced to immediate custody in Wales between 2010 and 2017 were given sentences of less than 12 months in custody. This compared to 58.1% of all young adults sentenced to immediate custody in England.

10.81 The total number of young adults sentenced to less than 12 months in custody in Wales fell by 39.8% between 2010 and 2017.²¹⁶

10.82 In England, the number of short-term sentences (less than 12 months) handed to young adults was halved (49.9%) during the same period.²¹⁷

Figure 10.10 – The proportion of immediate custodial sentences handed to young adults and adults sentenced in Wales by custodial sentence length, 2010 to 2017



Source: Ministry of Justice

215 From 11.5% in 2010 to 27.3% in 2017.

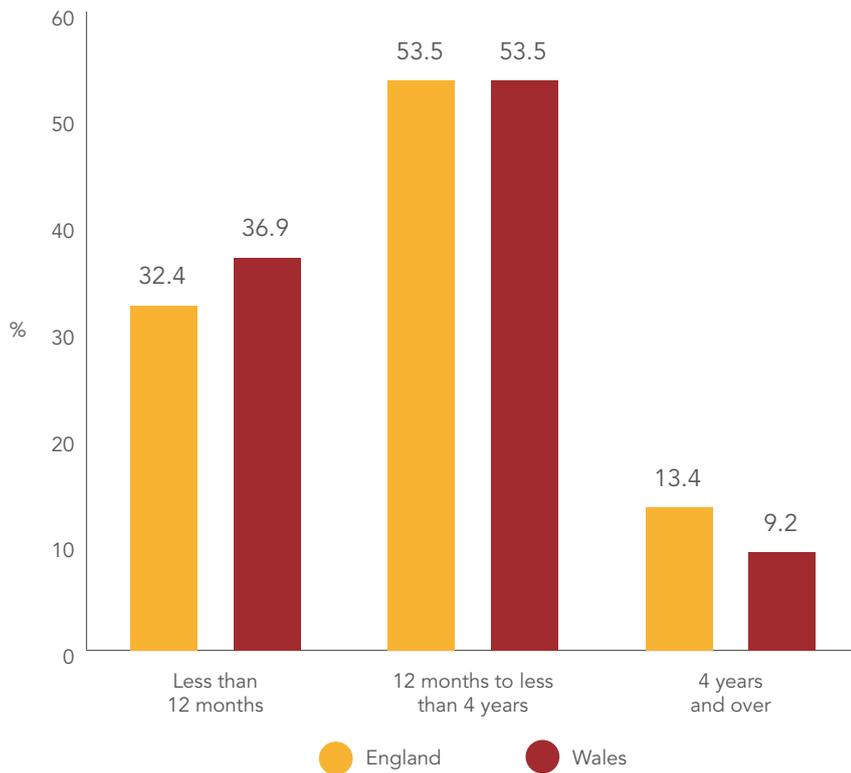
216 From 1,398 in 2010 to 842 in 2017.

217 From 17,671 in 2010 to 8,858 in 2017.

10.83 The majority of young adults sentenced at the Magistrates Court in England (96%) and Wales (96.2%) between 2010 and 2017 were given sentences of less than 6 months in custody.

10.84 The number of young adult offenders sentenced for 6 months and over was marginally higher at Magistrates' Courts in England (4%) than Wales (3.8%) during this period.

Figure 10.11 – The proportion of immediate custodial sentences handed to young adults sentenced at the Crown Court in England and Wales by custodial sentence length, 2010 to 2017



Source: Ministry of Justice

10.85 Young adults sentenced at the Crown Court were more likely to receive a short-term custodial sentence in Wales between 2010 and 2017.

10.86 While 36.9% of all young adult offenders sentenced to immediate custody received a sentence of less than 12 months in Wales, the rate at Crown Courts in England was 32.4% during the same period.

10.87 A larger number of young adults were sentenced to longer-term sentences (4 years or more) at Crown Courts in England than in Wales between 2010 and 2017.

10.88 13.4% of all custodial sentences handed to young adults at the Crown Court in England were for a period of 4 years or more.

10.89 In Wales, 9.2% of young adult offenders sentenced to immediate custody were handed sentences of 4 years or more during this period.

- 10.90 Despite the fact that young adults were more likely to receive a long-term sentence at the Crown Court in England, the number of young adults being handed sentences of 4 years or more increased in Wales (37.7%) at a time when the number in England fell by 8%.²¹⁸
- 10.91 Between 2010 and 2017, 27 life sentences (0.4%) were given to young adults sentenced to immediate custody at the Crown Court in Wales.
- 10.92 In England, 761 life sentences (0.7%) were given to young adults sentenced at the Crown Court during this period.

ADULTS

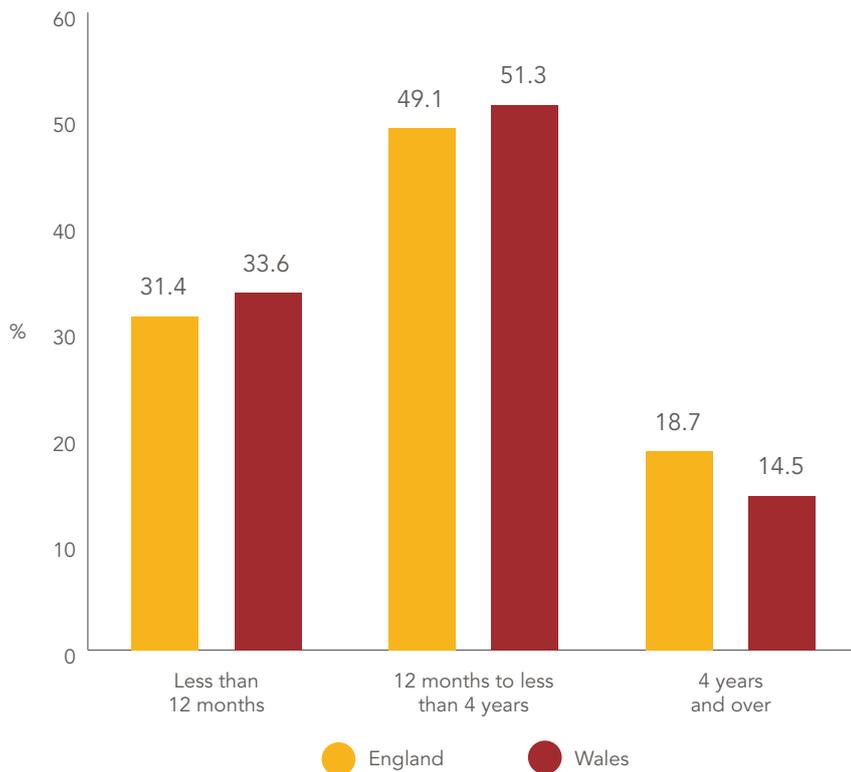
- 10.93 Adults convicted and sentenced to immediate custody in Wales (69.4%) were more likely to be handed a short-term custodial sentence (69.4%) than those sentenced in England (66%).
- 10.94 The total number of short-term custodial sentences (less than 12 months) handed to adults sentenced in Wales increased by 32.9% between 2010 and 2017.²¹⁹
- 10.95 During this same period, the number of short-term sentences for adults sentenced in England declined by 1%.²²⁰
- 10.96 Adult offenders were more likely to receive a longer-term custodial sentence at courts in England than in Wales between 2010 and 2017.
- 10.97 9.2% of all custodial sentences given to adults in England were for a period of 4 years or more. This compared to 6.7% of adults sentenced to immediate custody in Wales.

218 England: From 1,982 in 2010 to 1,806 in 2017.
Wales: From 61 in 2010 to 84 in 2017.

219 From 2,617 in 2010 to 3,478 in 2017.

220 From 41,075 in 2010 to 40,667 in 2017.

Figure 10.12 – The proportion of immediate custodial sentences handed to adults sentenced at the Crown Court in England and Wales by custodial sentence length, 2010 to 2017



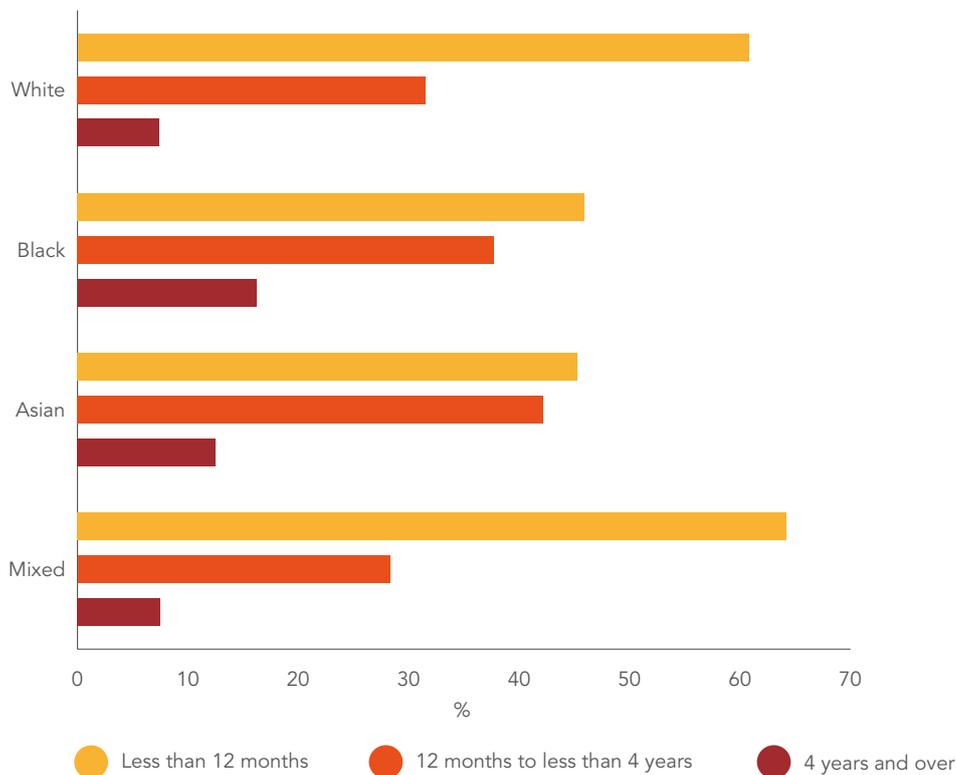
Source: Ministry of Justice

- 10.98** At the Magistrates' Court, the majority of adults sentenced to immediate custody in England (96.4%) and Wales (95.9%) were given sentences of less than 6 months in custody between 2010 and 2017.
- 10.99** A slightly higher number of offenders were sentenced to more than 6 months in custody at the Magistrates' Court in Wales (4.1%) than in England (3.6%) during this period.
- 10.100** At the Crown Court, adult offenders sentenced to immediate custody in Wales were more likely to end up receiving a short-custodial sentence than those sentenced to custody in England.
- 10.101** 33.6% of adults sentenced at the Crown Court in Wales received a sentence of less than 12 months, compared with 31.4% of adult offenders sentenced in England.
- 10.102** Adults were more likely to receive a long-term sentence at the Crown Court in England between 2010 and 2017.
- 10.103** Custodial sentences of 4 years or more comprised 18.7% of all sentences handed out at the Crown Court in England during this period.
- 10.104** In Wales, 14.5% of adults sentenced to immediate custody at the Crown Court were sentenced to 4 years or more during this period.
- 10.105** 103 life sentences (0.6%) were handed out to adult offenders at the Crown Court in Wales between 2010 and 2017.

10.106 In England, 2,161 life sentences (0.8%) were given to adults sentenced to immediate custody at the Crown Court during the same period.

ETHNICITY

Figure 10.13 – The proportion of immediate custodial sentences handed to White, Black, Asian and Mixed offenders sentenced in Wales by custodial sentence length, 2010 to 2017

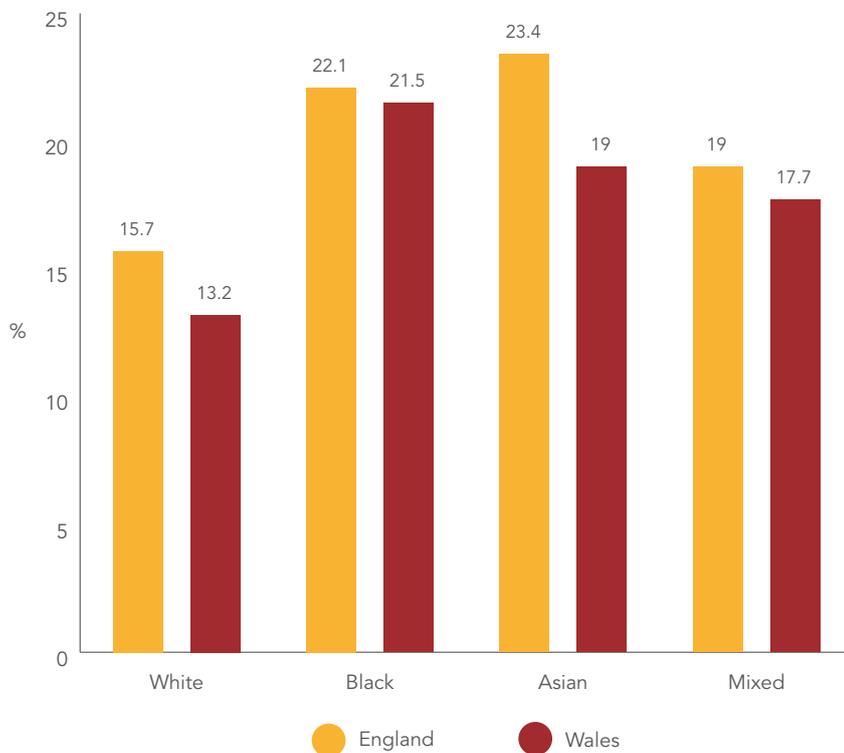


Source: Ministry of Justice

- 10.107** The average custodial sentence length in England and Wales is “consistently higher” for all non-White ethnic groups when compared to White offenders (Ministry of Justice, 2017b: 53).
- 10.108** In 2016, the average custodial sentence length was 17.9 months for White offenders, 24.0 months for Black offenders, 24.8 months for Asian offenders and 20.7 months for offenders from a Mixed background (Ministry of Justice, 2017b).
- 10.109** In Wales, White offenders sentenced to immediate custody in 2017 had the lowest average custodial sentence length, of 13.2 months.
- 10.110** Black offenders sentenced to immediate custody in Wales recorded the highest average sentence length (21.5 months), followed by Asian (19 months) and Mixed (17.7 months) offenders.
- 10.111** In England, White offenders also recorded the lowest average custodial sentence length in 2017, of 15.7 months.

10.112 Asian offenders (23.4 months) recorded the highest average custodial sentence length, followed by Black (22.1 months) and Mixed (19 months) offenders sentenced in England in 2017.

Figure 10.14 – The average custodial sentence length (in months) by ethnicity in 2017, England and Wales



Source: Ministry of Justice

10.113 At the Magistrates' Court in Wales, offenders from a White (93.4%) background were the most likely to receive a short-term custodial sentence of 6 months or less between 2010 and 2017.

10.114 The second highest rate was recorded by offenders from a Mixed (93%) background, followed by Black (90.8%) and Asian (87.2%) offenders sentenced at the Magistrates' Court.

10.115 12.8% of Asian offenders were sentenced to 6 months or longer at Magistrates' Courts in Wales between 2010 and 2017. Black offenders had the (9.2%) second highest rate, followed by Mixed (7%) and White (6.6%).

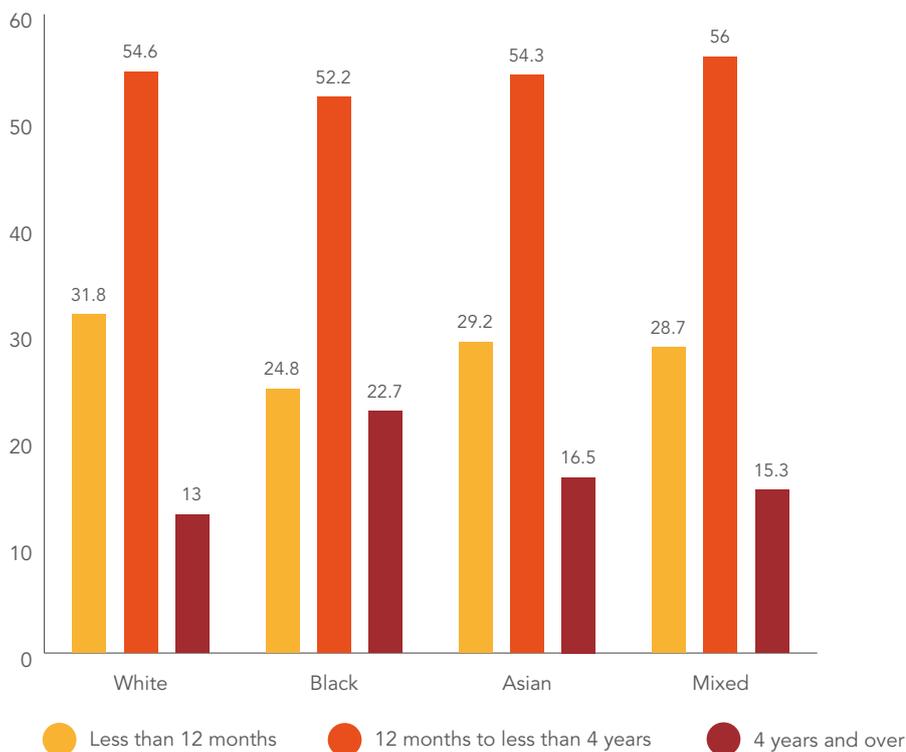
10.116 In England, White offenders received the highest number (93.4%) of short-term sentences (less than 6 months) and the lowest number (6.6%) of long-term sentences (6 months or more) at the Magistrates' Court between 2010 and 2017.

10.117 12.9% of all custodial sentences handed to Black offenders were for 6 months or longer at Magistrates' Courts in England during this period. The next highest proportion was for Mixed (11.1%), followed by Asian (9.6%) and White (6.6%) offenders sentenced at the Magistrates' Court.

10.118 At the Crown Court in Wales, White offenders (31.8%) sentenced to immediate custody were the most likely to receive a sentence of less than 12 months in custody.

10.119 The second highest rate was recorded for Asian (29.2%) offenders, followed by Mixed (28.7%) and Black (24.8%) offenders sentenced at the Crown Court in Wales.

Figure 10.15 –The proportion of immediate custodial sentences handed to White, Black, Asian and Mixed offenders at the Crown Court in Wales by custodial sentence length, 2010 to 2017



Source: Ministry of Justice

10.120 One in five of all Black offenders (22.7%) sentenced to immediate custody at the Crown Court in Wales received a sentence of 4 years or more between 2010 and 2017.

10.121 White offenders (13%) were the least likely to receive a sentence of 4 years or more at the Crown Court during this period.

10.122 The proportion of Black offenders sentenced to 4 years or more in custody was 74.6% higher than the proportion of White offenders given the same sentence between 2010 and 2017.

10.123 16.5% of all Asian offenders in Wales were sentenced to 4 years or more in custody. This compared to a rate of 15.3% for offenders from a Mixed background in Wales.

10.124 115 life sentences were handed to White offenders sentenced at the Crown Court in Wales between 2010 and 2017. Two life sentences were given to Black offenders and 15 to individuals where ethnicity was not stated.

10.125 At the Crown Court in England, White offenders (29.6%) were the group most likely to be handed an immediate custodial sentence of less than 12 months between 2010 and 2017.

- 10.126 White offenders (16.2%) were the group least likely to receive a custodial sentence of 4 years or more in England during this period.
- 10.127 Black offenders (22.7%) sentenced at the Crown Court in England had the highest rate of long-term sentences and were the group least likely (26.9%) to receive a sentence of less than 12 months in prison.
- 10.128 One in five of all Asian offenders (20.3%) and 18.7% of offenders from a Mixed background received a custodial sentence of 4 years or more between 2010 and 2017.
- 10.129 3,034 life sentences were handed out at Crown Courts in England between 2010 and 2017.
- 10.130 1,749 offenders from a White background (0.7%) received a life sentence during this period. 460 were handed to Black offenders (1.2%), 223 given to Asian offenders (0.9%), 106 handed to offenders from a Mixed background (1%), 37 to Chinese and other and 459 to offenders where ethnicity was either not stated or unknown.

OFFENCE TYPE

- 10.131 The breakdown of sentence length outcomes by offence type has played a very important role in research on sentencing practice and inconsistency (e.g. Hopkins et al, 2016; Ministry of Justice, 2017b).
- 10.132 At the Magistrates' Court, where the sentencing range is much narrower, a higher proportion of short-term sentences (less than 6 months) were handed to offenders sentenced in Wales for violence against the person (86.2%), theft offences (95.9%), criminal damage and arson (96.8%), drug offences (94.5%), miscellaneous crimes against society (93.5%) and fraud offences (92.8%) between 2010 and 2017.²²¹
- 10.133 In England, a higher proportion of sentences of less than 6 months were handed to those sentenced for sexual offences (76.6%), robbery (19.1%), possession of weapons (80.1%), public order offences (93.2%), summary non-motoring offences (97.5%) and summary motoring offences (98.4%).²²²
- 10.134 Offenders sentenced at the Magistrates' Court in England were more likely to receive a sentence of 6 months or more for violence against the person (14.1%), theft offences (4.5%), criminal damage and arson (8.2%), drug offences (10.6%), miscellaneous crimes against society (7%) and fraud offences (7.7%).²²³
- 10.135 In Wales, a higher proportion of sentences of more than 6 months were recorded for sexual offences (26.4%), robbery (90.6%), possession of weapons (20.4%), public order offences (8.4%), summary non-motoring offences (2.8%) and summary motoring offences (1.9%).²²⁴

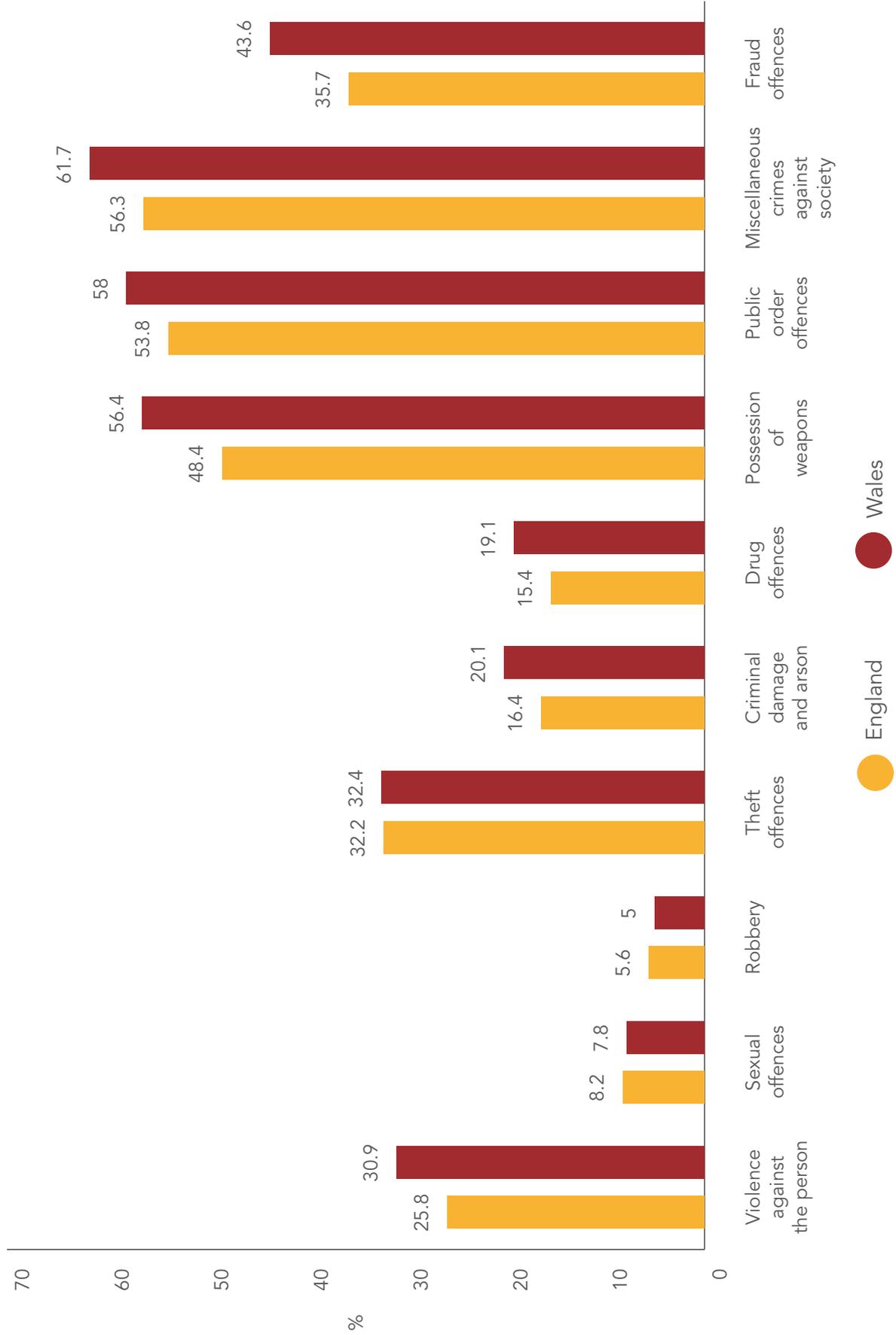
221 England: Violence against the person (85.9%); theft offences (95.5%); criminal damage and arson (91.8%); drug offences (89.4%); miscellaneous crimes against society (93%) and fraud offences (92.3%).

222 Wales: Sexual offences (73.6%); robbery (9.4%); possession of weapons (79.6%); public order offences (91.6%); summary non-motoring offences (97.2%) and summary motoring offences (98.1%).

223 Wales: Violence against the person (13.8%); theft offences (4.1%); criminal damage and arson (3.2%); drug offences (5.5%); miscellaneous crimes against society (6.5%) and fraud offences (7.2%).

224 England: Sexual offences (23.4%); robbery (80.9%); possession of weapons (19.9%); public order offences (6.8%); summary non-motoring offences (2.5%); summary motoring offences (1.6%).

Figure 10.16 – The proportion of immediate custodial sentences of ‘less than 12 months’ handed to offenders at the Crown Court in England and Wales, 2010 to 2017



Source: Ministry of Justice

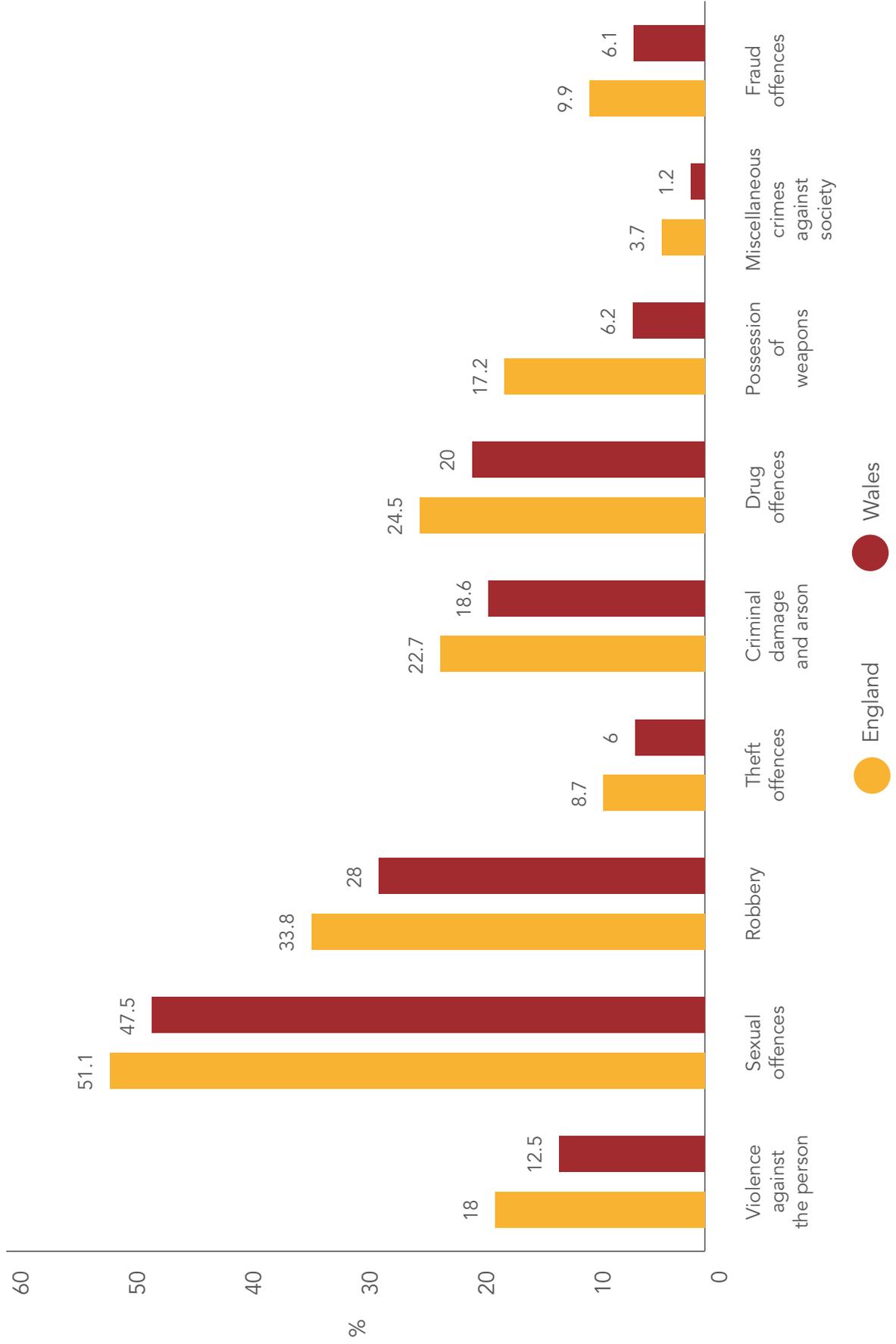
- 10.136 At the Crown Court, offenders convicted of a range of different offences were more likely to receive a short-term custodial sentence in Wales between 2010 and 2017.
- 10.137 A higher proportion of offenders were sentenced for a period of less than 12 months at Crown Courts in Wales for violence against the person (30.9%), theft offences (32.4%), criminal damage and arson (20.1%), drug offences (19.1%), possession of weapons (56.4%), public order offences (58%), miscellaneous crimes against society (61.7%) and fraud offences (43.6%).²²⁵
- 10.138 Those sentenced at the Crown Court in England were more likely to receive a custodial sentence of less than 12 months for sexual offences (8.2%) and robbery (5.6%).²²⁶
- 10.139 100% of offenders sentenced to immediate custody for summary non-motoring offences and summary motoring offences were handed sentences of less than 12 months at Crown Courts in Wales and England.
- 10.140 A higher number of long-term custodial sentences were handed out at Crown Courts in England between 2010 and 2017 for almost every single offence group.
- 10.141 Offenders sentenced at the Crown Court in England were more likely to receive a sentence of 4 years or more for violence against the person (18%), sexual offences (51.1%), robbery (33.8%), theft offences (8.7%), criminal damage and arson (22.7%), drug offences (24.5%), public order offences (1%), possession of weapons (17.2%), miscellaneous crimes against society (3.7%) and fraud offences (9.9%).²²⁷
- 10.142 There were no sentences of 4 years or more handed to individuals sentenced to immediate custody for summary non-motoring and summary motoring offences in England and Wales between 2010 and 2017.
- 10.143 There were no immediate custodial sentences of 4 years or more handed out for public order offences in Wales between 2010 and 2017.

²²⁵ England: Violence against the person (25.8%); theft offences (32.2%); criminal damage and arson (16.4%); drug offences (15.4%); possession of weapons (48.4%); public order offences (53.8%); miscellaneous crimes against society (56.3%) and fraud offences (35.7%).

²²⁶ Wales: Sexual offences (7.8%) and robbery (5%).

²²⁷ Wales: Violence against the person (12.5%), sexual offences (47.5%), robbery (28%), theft offences (6%), criminal damage and arson (18.6%), drug offences (20%), public order offences (0%), possession of weapons (6.2%), miscellaneous crimes against society (1.2%) and fraud offences (6.1%).

Figure 10.17 –The proportion of immediate custodial sentences of '4 years or longer' handed to offenders at the Crown Court in England and Wales by offence type, 2010 to 2017

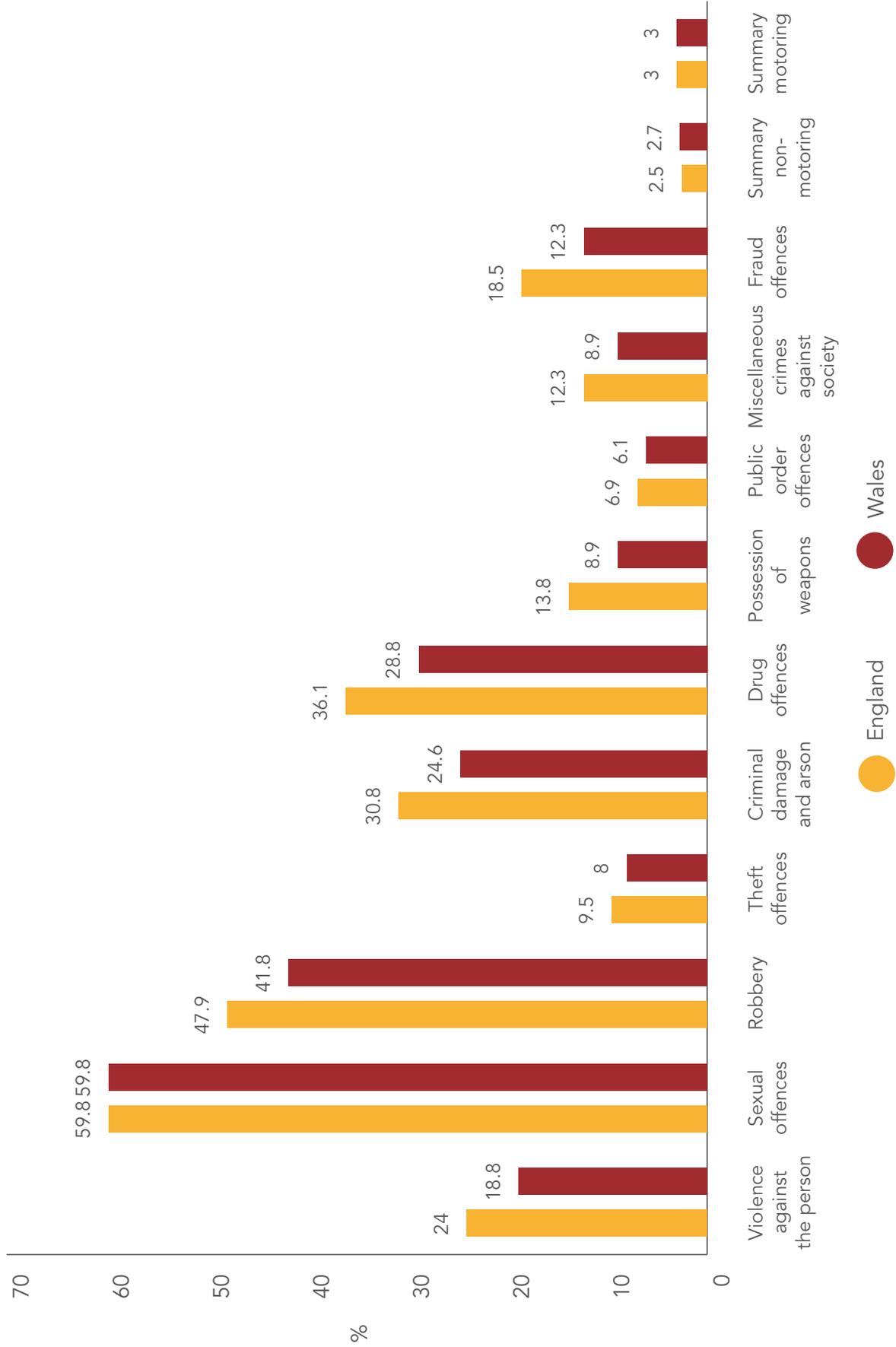


- 10.144 The majority of life sentences handed out in Wales were for those convicted of violence against the person offences (118), followed by sexual offences (11), criminal damage and arson (1), robbery (1) and theft offences (1).²²⁸
- 10.145 In England, there were 3,034 life sentences handed out to offences sentenced to immediate custody between 2010 and 2017. The majority were for violence against the person (2,693), followed by sex offences (240), robbery (56), criminal damage and arson (23), public order offences (11), possession of weapons (5), theft offences (4) and miscellaneous crimes against society (2).
- 10.146 In 2017, the average custodial sentence length was higher in England than in Wales for **nine** out of the twelve offence groups listed by the Ministry of Justice.
- 10.147 Those sentenced to immediate custody in England, on average, received a longer sentence for violence against the person (24 months), robbery (59.8 months), theft offences (9.5 months), criminal damage and arson (30.8 months), drug offences (36.1 months), possession of weapons (13.8 months), public order offences (6.9 months), miscellaneous crimes against society (12.3 months) and fraud offences (18.5 months).²²⁹
- 10.148 A higher average custodial sentence length was recorded in Wales for summary non-motoring offences (2.7 months) in 2017.
- 10.149 The average sentence length for sexual offences (59.8 months) and summary motoring offences (3 months) were the same in England and Wales in 2017.

228 In 2016, the average custodial sentence length was higher in England for every offence group with the exception of summary non-motoring and summary motoring offences.

229 Wales: Violence against the person (18.8 months); robbery (41.8 months); theft offences (8 months); criminal damage and arson (24.6 months); drug offences (28.8 months); possession of weapons (8.9 months); public order offences (6.1 months); miscellaneous crimes against society (8.9 months) and fraud offences (12.3 months).

Figure 10.18 – The average custodial sentence length (months) by offence type in 2017, England and Wales



11. CONCLUSION

This factfile provides the first detailed analysis of sentencing and immediate custody in Wales. Not only does Wales have *the* highest imprisonment rate in Western Europe, but this report also finds average custody rates that are higher in Wales than in England for different groups, various offences and at both Magistrates' and Crown Courts. 2017 data also show that non-White Welsh prisoners are overrepresented in prison and that the likelihood of receiving a short-term sentence is greater for those sentenced in Wales than in England. The findings from this report, therefore, pose a number of significant questions and raise many further difficult issues.

First, wider research is needed to try explain Wales' high rate of imprisonment. While this will undoubtedly include further analysis of sentencing outcomes including the use of community sentences, fines and suspended sentences, attention should also be drawn to the significance of wider socio-economic factors in Wales. In particular, the data should be considered in light of Wales' status as one of the poorest parts of the UK (Joseph Rowntree Foundation, 2018). Previous research has identified the symbiosis between poverty, marginalisation and imprisonment (e.g. Reiman and Leighton, 2010; Wacquant, 2009).

Second, the report's findings add further weight to the *Justice in Wales Working Group's* call to acknowledge the potential for sentencing differences between Wales and England (Ministry of Justice, 2017a). Although the Sentencing Council's (2018b) evidence to the Thomas Commission downplayed the likelihood that meaningful differences exist between Wales and England, the data published in this report show that this is an area that can no longer be disregarded.

Third, while it is necessary and important to reflect upon the significance of the findings presented in this factfile, future analyses must take account of the full range of legal factors that influence sentencing decisions.²³⁰ To achieve this, detailed 'Welsh-only sentencing data need to be made publicly available to ensure that researchers can move beyond the use of "broad brush" measures, such as average custody rates and average custodial sentence lengths, to produce more sophisticated analyses of sentencing outcomes in Wales (Sentencing Council, 2018a: 2). Without a breakdown of sentencing data by country, analyses of court outcomes will continue to offer a partial picture of the sentencing differences that are described in detail throughout this report.²³¹

Finally, following the publication of *Imprisonment in Wales: A Factfile* in June 2018, this report can further contribute to the emergence of a more critically informed debate on criminal justice in Wales (e.g. National Assembly for Wales Debate, 9 October 2018). While the discovery

²³⁰ This includes aggravating factors that indicate a higher culpability (e.g. previous convictions, abuse of power or trust, vulnerability of the victim) as well as mitigating factors that suggest a lower level of culpability (e.g. youth or age, genuine remorse, mental illness or disability).

²³¹ As indicated in the 'Notes on Text', an email requesting access to Welsh-only data from the Crown Court Sentencing Survey was sent to the Sentencing Council in November 2018. In its response, the Sentencing Council confirmed that disaggregated data exists but that they are "not able to provide Crown Court Sentencing Survey data broken down by country".

that Wales has the highest imprisonment rate in Western Europe is a cause of major concern, equally disturbing is that such an alarming trend has emerged in Wales without detection. This undoubtedly calls into question the role being played by UK justice agencies in Wales as well as civil society organisations and academic researchers. It is hoped that the findings of this research will feed into the ongoing work of the Commission on Justice in Wales as well as further debates on criminal justice within the National Assembly for Wales. If nothing else, this report is further testament to what can be uncovered and achieved when Wales is taken seriously as a unit of criminological analysis.

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