

# New South Wales sentencing reforms: results from a survey of judicial officers

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## SUMMARY

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### BACKGROUND

In September 2018 significant legislative changes were introduced to expand the community-based sentencing options available to offenders in NSW. A key driver for the changes was to increase opportunities for offenders to be supervised and to engage in rehabilitation programs.

To assess whether the sentencing reforms are operating as intended and identify any barriers to implementation, an online survey of 93 NSW judicial officers was undertaken in October 2019.

The survey aimed to assess:

- judicial officers' perceptions of the sentencing reforms
- whether judicial officers feel there is more flexibility in sentencing decisions
- whether the process of obtaining a 'Sentencing Assessment Report' for a community-based order had improved
- whether any barriers exist to imposing the new community-based sentencing options.

### KEYWORDS

sentencing reforms

survey

judicial officers

legislative change

### KEY FINDINGS

Overall, the majority of judicial officers agreed that the sentencing reforms are operating as intended.

**Table 1. General questions (n=93)**

	% Agree	% Neutral	% Disagree
Overall, the new penalty regime has increased the opportunity for offenders to serve supervised community-based orders	71.0	11.8	17.2
Overall, the new community-based sentencing options provide me with more flexibility in sentencing decisions to tailor an order to individual circumstances	57.0	23.7	19.4
Overall, the new penalty regime has increased the opportunity for offenders to participate in rehabilitation programs that address their offending behaviour	47.3	26.9	25.8

Table 1 shows:

- 71% agreed the changes have increased the opportunity for offenders to serve supervised community-based orders.
- 57% agreed that the new community-based options provide more flexibility in sentencing decisions.
- 47% agreed that the changes have increased the opportunity for offenders to participate in rehabilitation programs.

However, judicial officers identified a number of concerns including:

- the suspension of supervision for low-medium risk offenders
- Offence exclusions for intensive correction orders (ICOs), i.e., custodial sentences that are served in the community
- the lack of information available to the court regarding ICO breaches
- lack of services particularly in rural locations to allow the full range of conditions to be used.

### CONCLUSION

While the majority of judicial officers surveyed agree that the sentencing reforms are operating as intended, a number of practical issues remain that may affect the extent to which the expanded community-based sentencing options are used.