Growing proportion of sentences reduced on appeal

- Complex sentencing provisions leading to more mistakes
- Coalition planning to review sentencing rules

A growing proportion of prison sentences are being reduced on appeal, according to figures obtained by Sweet & Maxwell, the legal information provider.

According to Sweet & Maxwell, 75% of appeals resulted in reduced sentence for offenders in 2008, compared to 70% in 2004. 1,567 sentences were reduced by the Court of Appeal in 2008, up from 1,348 in 2004.

Clare Barsby, Editor of Criminal Appeals Reports, published by Sweet & Maxwell, says that the growing complexity of sentencing rules, combined with the enormous increase in the actual number of criminal offences, has made mistakes in sentencing increasingly common.

Sweet & Maxwell says that there have been at least 19 Criminal Justice Acts since 1997. According to Clare Barsby, the sentencing provisions of the Criminal Justice Act 2003, for example, have resulted in a larger number of unlawful sentences being given to convicted offenders.

Clare Barsby says: “Sentencing has become a much more complex decision-making process in recent years. Judges now have an extraordinary number of sentencing provisions to take into account.”

“Senior judges have criticised sentencing provisions as ‘labyrinthine’. The length of sentence an offender is given can be something of a lottery, so it’s hardly surprising that the percentage of appeals leading to reduced sentences is rising.”

Under the provisions of the Criminal Justice Act 2003, which came into force in April 2005, if anyone is convicted of one of 153 specified offences and the judge thinks there is significant risk of serious physical or psychological harm to members of the public then the judge must impose an indefinite or an extended custodial sentence, whether or not such a sentence provides the best form of protection for the public.
Clare Barsby says: “While some offenders get imprisonment for public protection – effectively a life sentence – others will get a sentence of one or two years for similar offences carried out in similar circumstances. Whether an offender poses a significant risk of future harm and should therefore get imprisonment for public protection is in part a subjective judgement. Unsurprisingly, it is not uncommon for appeal court judges to disagree with the original sentence.”

“Judges no longer have the power to tailor sentences to the risk represented by the offender, as they did under the previous law. They now have two choices: an indeterminate life sentence, or a determinate sentence, which is usually much shorter. In many cases neither extreme is appropriate.”

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Notes to Editors:

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