



JIMS SURVEY ON POTENTIALLY UNSAFE CONVICTIONS IN LIGHT OF THE 12/11/25 SUPREME COURT JUDGEMENT

JIMS conducted the survey titled “Potential Unsafe Convictions” to obtain a clearer understanding of how many men in Scotland may potentially be eligible to pursue appeals following the recent Supreme Court judgment concerning breaches of human rights within Scottish sexual offence trials.

The purpose of the survey was to estimate the scale of those who may now have grounds to appeal and to identify practical barriers that could prevent them from doing so, such as access to legal representation or funding. As many affected individuals are currently in custody, family members and supporters were invited to complete the survey on their behalf where necessary.

All responses were treated in strict confidence. The survey was designed to gather overall numbers and identify recurring themes or obstacles; it did not seek to examine or debate the specific details of individual cases.

The information collected has assisted JIMS in assessing the potential scale of unsafe convictions and in considering what further action or support may be required.

Survey conducted between December 2025 and January 2026

Report date 03/03/2026

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12/11/2025 UK Supreme Court Judgement in *Daly and Keir v HMA* [2025] UKSC 38

Read full press release here:

https://supremecourt.uk/uploads/uksc_2023_0107_0123_press_summary_d3dec1d8fc.pdf

Read the full judgement here:

https://supremecourt.uk/uploads/uksc_2023_0107_0123_judgment_e1f6f46776.pdf

Extract from the Press release:

Judgment

The Supreme Court unanimously dismisses the appellants’ appeals. It finds that the Scottish courts should modify their current approach to the admission of evidence in trials for sexual offences because it is liable to infringe defendants’ rights under article 6 of the Convention. However, on the facts, both Mr Daly and Mr Keir received a fair trial. Lord Reed gives the judgment with which the other members of the Court agree.

Reasons for the Judgment

The Supreme Court begins holding that the Crown’s decisions as to the charges against the appellants did not affect the fairness of either trial. In both cases, the defence was permitted to lead evidence on matters not covered by the charges, provided it was relevant at common law and admissible under sections 274 and 275. The law of evidence is therefore the proper target of the appeal [32]-[37]. The Supreme Court goes on to survey Scots common law and practice prior to recent developments. It explains that, generally speaking, relevant evidence – that is, evidence which has a reasonably direct bearing on the matter under investigation – is admissible at trial. The courts may exclude relevant evidence which concerns a collateral fact or issue to avoid a distracting and disproportionate inquiry into peripheral issues. Evidence bearing on the credibility or reliability of a witness is generally considered to be collateral and so inadmissible, but it may be admitted if it has a direct bearing on a fact in issue in the case [38]-[44], [115]. This distinction – between inadmissible evidence which is concerned only with the witness’ credibility, on the one hand, and admissible evidence which is also relevant to a fact in issue, on the other – is particularly difficult to draw in trials for rape and other sexual offences. The offence generally takes place in private with no other witnesses present, so the credibility of the complainer’s testimony often becomes the decisive issue at trial [45]-[49]. Next, the Supreme Court considers the modern development of the law in England and Wales and in Scotland, including the introduction and later amendment of “rape shield” legislation such as sections 274 and 275 [55]-[90]. The Supreme Court explains that sections 274 and 275 should be read together as a unified statutory scheme [88]. The early domestic and European case law is clear that they should not be viewed as imposing an absolute prohibition on the introduction of evidence or questioning which concern the

character, behaviour or sexual history of the complainer. Rather, the legislation recognises that the relevance and probative value of evidence of this kind will depend on the circumstances of each case. It therefore gives trial judges the discretion to allow such evidence and questioning to be introduced where it is required in the interests of justice [92]-[103], [165]-[168], [178]. More recently, the High Court of Justiciary in its capacity as an appeal court has developed the common law concepts of relevant and collateral evidence so that evidence concerning the complainer's credibility or previous or subsequent sexual behaviour is almost always excluded from trials for sexual offences [104]-[149]. The Supreme Court holds that this approach is liable to result in violations of defendants' rights to a fair trial under article 6 of the Convention [169], [179]-[180]. The purpose of a criminal trial is to determine whether the defendant is guilty of the crime with which he has been charged and, if so, to impose an appropriate sentence. It is fundamental to our conception of justice that innocent persons must not be convicted or punished. This principle underpins article 6 of the Convention, and protects both individuals who are accused of crimes and society as a whole. Article 6 guarantees a fair trial so that the defendant can present a full defence to the charge against him. To do this, the defendant needs to be able to call evidence to establish his defence and to challenge the evidence called by the prosecution. Excessive restrictions on the evidence or questioning which may be led at trial can therefore be incompatible with the right to a fair trial [170]-[171]. It may be inevitable that a fair trial for sexual offences will require the complainer to be asked some intrusive questions about her private life. In our adversarial criminal justice system, by pleading not guilty, the defendant is necessarily challenging the complainer's version of events. The defence should consequently be able to seek to undermine the credibility of the complainer's testimony, and to rely on evidence of her behaviour, sexual or non-sexual, before or after the events in question if it is relevant to the question of consent (or the defendant's reasonable belief in consent) [173]-[175]. At the same time, the interests of complainers are important and must be given proper weight. The law must therefore ensure that any intrusion into a complainer's privacy is no more than is necessary to ensure that the defendant receives a fair trial. The courts should not allow the jury's fact finding process to be distorted by the admission of evidence whose probative value to the defence is outweighed by the risk which its admission presents to the proper carrying out of that process [175]-[176]. It follows that the Scottish courts are under a duty to modify their current approach, since they are required by section 6(1) of the Human Rights Act 1998 to act in a way that is compatible with the rights guaranteed by the Convention [181]. However, there was no infringement of the appellants' article 6 rights on the facts, so their appeals are dismissed [192].

References in square brackets are to paragraphs in the judgment.

JIMS TAKE ON THE JUDGEMENT

Explanation: The Significance of *Daly and Keir v HMA* [2025] (UK Supreme Court, 12 November 2025)

On 12 November 2025, the UK Supreme Court issued a landmark judgment in *Daly and Keir v HMA* [2025] concerning the operation of Sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995 in sexual offence trials.

These provisions — commonly referred to as “rape shield” laws — regulate the circumstances in which evidence relating to a complainant’s sexual history or character may be led at trial. In practice, Scottish courts had developed a highly restrictive approach to admitting such evidence.

The Supreme Court held that the way Sections 274 and 275 had been applied in Scottish courts risked breaching Article 6 of the European Convention on Human Rights — the right to a fair trial.

The Court made several key findings of relevance:

- Sections 274 and 275 cannot be treated as near-automatic exclusions of defence evidence.
- Where excluding evidence would render a trial unfair, judges are required to admit it.
- In sexual offence cases, credibility is often central to the jury’s decision-making. The defence must be permitted to test credibility effectively.
- Trial courts must conduct a proper balancing exercise to ensure that relevant and probative evidence is not excluded simply because it falls within the statutory framework.

The judgment is legally binding on Scottish courts. It requires a change in judicial approach and reinforces the primacy of Article 6 fair-trial guarantees.

The Relevance of the Daly Appeal

The appeal proceedings in *Daly* further illustrate the broader concerns identified by the Supreme Court.

Contrary to some public reporting, Daly’s appeal was not rejected outright. While one human-rights-based ground was refused at an earlier stage, the substantive appeal was granted and heard in full.

During proceedings, the Crown formally conceded that it had failed in its duties of disclosure in Daly’s case, amounting to a breach of Article 6 rights. Following the grant of permission to appeal by the UK Supreme Court, extensive additional material — which ought to have been disclosed prior to trial — was produced.

It has been acknowledged that this material would not have come to light had the Supreme Court not intervened.

Issues raised during the appeal included:

- Significant disclosure failures
- Missing reports, statements, and recordings
- Prejudice to the defence arising from non-disclosure
- Evidence of prior false allegations
- Evidence of collusion and identifiable motives

These matters are directly relevant to the assessment of trial fairness.

Relevance to the JIMS Survey Findings

The JIMS survey was designed to establish the potential scale of cases that may be affected by the Supreme Court's ruling.

Respondents were asked whether:

- Evidence was excluded under Sections 274/275 that may now be admissible under the revised approach mandated by the Supreme Court.
- Appeals had previously been unsuccessful under the earlier interpretation of the law.
- Disclosure issues arose in their case.
- The convicted person remains in custody.
- An appeal is now being considered in light of the ruling.
- Financial barriers exist to pursuing an appeal.

The significance of *Daly and Keir v HMA* [2025] UKSC 38 lies in its confirmation that the restrictive application of Sections 274 and 275 carried a real risk of unfairness. The Daly proceedings further demonstrate that disclosure failures can materially affect the integrity of a conviction.

The survey findings must therefore be understood against this legal backdrop. The Supreme Court has confirmed that the framework governing these trials was capable of producing unfair outcomes. The survey data seeks to quantify how many individuals may now fall within that category and to identify practical barriers to seeking redress.

THE SURVEY

Disclaimer on Individual Responses

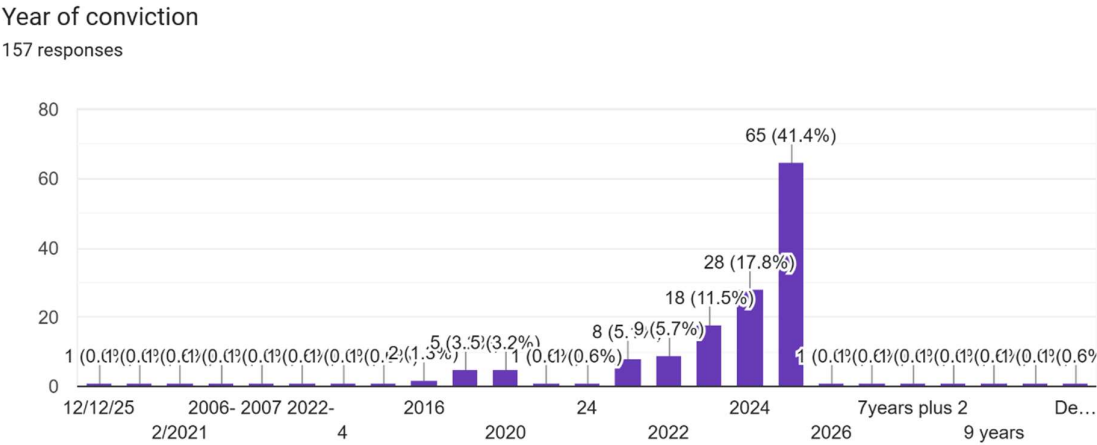
The survey responses used in this report were submitted on a confidential basis. Many of the responses include identifying information, including names and personal details, and therefore cannot be published in full.

For this reason, individual responses will not be made publicly available as part of this report. The findings presented here are based on the aggregated analysis of the data collected, rather than the publication of personal submissions.

However, the underlying responses are retained by JIMS and may be made available for review by legal professionals, researchers, or relevant authorities upon request, provided that the explicit permission of the individuals who submitted the responses has been obtained.

JIMS remains committed to protecting the privacy, dignity and confidentiality of the individuals and families who contributed to this survey.

Year of conviction



Year of Conviction

Respondents were asked to indicate the year in which the conviction occurred. In total, 157 responses were recorded.

The data shows that the largest concentration of convictions occurred in recent years, particularly 2024, which accounts for 65 responses (41.4%). A further 28 responses (17.8%) relate to 2023, and 18 responses (11.5%) relate to 2022.

Smaller numbers of responses relate to convictions in earlier years, including 2020, 2016, and other isolated years prior to 2020. These earlier cases form a much smaller proportion of the overall responses.

Overall, the survey data indicates that the majority of convictions reported occurred within the last three to four years. This suggests that a large number of individuals potentially affected by the Supreme Court ruling are currently serving sentences or have only recently exhausted their appeal options.

The concentration of convictions in recent years is significant when considered alongside the Supreme Court judgment in *Keir v Crown*. The ruling confirmed that the restrictive way in which Sections 274 and 275 were applied in Scottish sexual offence trials risked breaching fair-trial rights. As these legal practices were still being applied during the period when most of the convictions in this survey occurred, a substantial proportion of respondents may now be considering whether new grounds of appeal exist.

This finding also indicates that the issue is not limited to historic cases, but may affect recent prosecutions conducted under the same judicial approach to defence evidence.

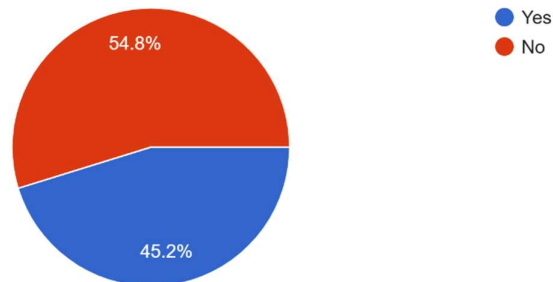
Key Finding

Nearly 71% of the convictions reported in the survey occurred between 2022 and 2024. This indicates that many of the individuals potentially affected by the Supreme Court ruling are likely still serving sentences or remain within the appeals timeframe.

Has the convicted person previously appealed their conviction?

Has the convicted person previously appealed their conviction?

157 responses



Previous Appeals

Respondents were asked whether the convicted person had previously appealed their conviction.

Out of 157 responses:

- 71 respondents (45.2%) indicated that an appeal had already been lodged.
- 86 respondents (54.8%) indicated that no appeal had been made.

The results show that almost half of the cases represented in the survey have already gone through the appeals process. This is significant in the context of the UK Supreme Court judgment in *Keir v Crown*, which confirmed that the way Sections 274 and 275 were applied in Scottish sexual offence trials risked breaching fair-trial rights.

Many of these appeals would have been considered under the previous judicial interpretation, where defence evidence relating to credibility or motive was frequently excluded under the restrictive application of these provisions. As a result, individuals whose appeals were previously unsuccessful may now seek fresh legal advice to determine whether the Supreme Court ruling creates new grounds for challenge.

The results also show that a substantial proportion of convictions have not yet been appealed. For some families, this may reflect financial barriers, limited access to legal advice, or uncertainty about the legal prospects of an appeal prior to the Supreme Court ruling.

Taken together, the responses suggest that the judgment may affect both groups:

- individuals whose previous appeals failed under the earlier legal approach, and
- individuals who have not yet pursued an appeal but may now consider doing so.

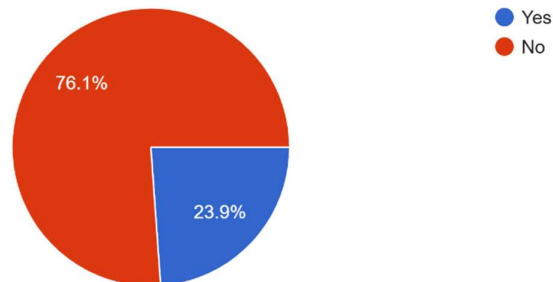
Key Finding

45% of respondents reported that an appeal had already been attempted. This suggests that a significant number of cases may have been reviewed under the previous interpretation of Sections 274 and 275, before the Supreme Court clarified the risk to fair-trial rights.

If yes and unsuccessful – has the case been picked up by MOJO or SCCRC?

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155 responses



Cases Taken Up by MOJO or the SCCRC

Respondents whose appeals had been unsuccessful were asked whether the case had subsequently been taken up by a miscarriage-of-justice organisation (MOJO) or referred to the Scottish Criminal Cases Review Commission (SCCRC).

Out of 155 responses to this question:

- 37 respondents (23.9%) indicated that the case had been taken up by MOJO or the SCCRC.
- 118 respondents (76.1%) indicated that the case had not been taken up by either organisation.

These results suggest that only a minority of unsuccessful appeals have progressed into formal miscarriage-of-justice review channels. In the majority of cases reported in the survey, families appear to be navigating the post-appeal process without the involvement of specialist review bodies.

The SCCRC is the statutory body responsible for investigating potential miscarriages of justice in Scotland and has the power to refer cases back to the High Court where it believes a miscarriage of justice may have occurred. Organisations such as MOJO also provide support in identifying and investigating potential wrongful convictions.

The findings therefore indicate that a large proportion of families may still be seeking routes to challenge convictions or may not yet have been able to access organisations capable of conducting detailed case reviews.

In the context of the Supreme Court ruling in *Keir v Crown*, this is particularly relevant. Where appeals have previously been unsuccessful and cases have not been subject to further review, individuals may now seek to revisit their cases in light of the Court's clarification regarding the fair-trial implications of Sections 274 and 275.

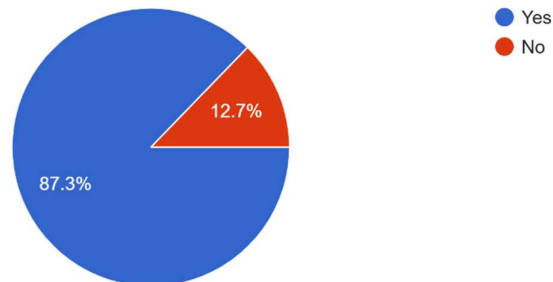
Key Finding

Only 23.9% of cases with unsuccessful appeals had been taken up by MOJO or the SCCRC. The majority (76.1%) had not progressed into formal miscarriage-of-justice review channels.

Is the convicted person currently in custody?

Is the convicted person currently in custody?

157 responses



Custody Status

Respondents were asked whether the convicted person is currently in custody.

Out of 157 responses:

- 137 respondents (87.3%) indicated that the individual is currently serving a custodial sentence.
- 20 respondents (12.7%) indicated that the individual is no longer in custody.

The results show that the vast majority of cases represented in the survey involve individuals who remain imprisoned. This indicates that the potential implications of the Supreme Court ruling are not limited to historical cases or individuals who have already completed their sentences.

Instead, the findings suggest that a significant number of individuals who may be affected by the legal issues identified in *Keir v Crown* are currently serving prison sentences. For these individuals and their families, the possibility of pursuing appeals or legal review is therefore not only a question of historical justice, but one with immediate and ongoing consequences.

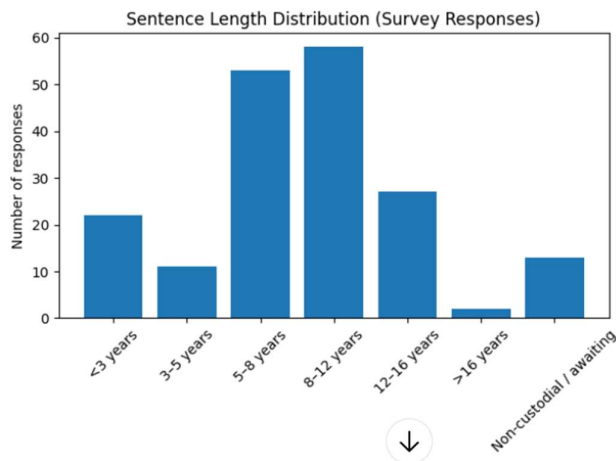
The data also highlights the broader human impact of the issue. Where a conviction is later found to have been unsafe, the consequences extend beyond the individual to partners, children, and extended family members who continue to experience the effects of imprisonment.

Key Finding

87.3% of the individuals represented in the survey are currently in custody, indicating that the potential implications of the Supreme Court ruling may affect a large number of people who are presently serving prison sentences.

Length of sentence

Sentence Length Distribution (Survey Responses)



Length of Sentence

Respondents were asked to indicate the length of the sentence imposed. Answers were provided in free-text format and included a range of custodial sentences, extended sentences, Orders for Lifelong Restriction (OLR), and some non-custodial disposals.

The responses show a wide range of sentence lengths, from community-based disposals and short custodial terms to very lengthy prison sentences exceeding 15–20 years.

However, a clear pattern emerges from the data. The majority of sentences reported fall within the range of approximately 5 to 12 years of imprisonment, often accompanied by extended licence periods or post-release supervision. A number of respondents reported extended sentences, where a custodial term is followed by additional years on licence in the community.

Several cases also involve very long custodial terms, including sentences of 14, 15, 16 and up to 21 years, as well as Orders for Lifelong Restriction, which involve indeterminate detention subject to risk assessment.

A smaller number of responses referred to shorter sentences of between one and three years, community payback orders, electronic monitoring, or individuals who were awaiting sentencing at the time the survey was completed.

Taken together, the responses demonstrate that many individuals represented in the survey are serving substantial prison sentences, often followed by lengthy periods of supervision. This reinforces the significance of the issues raised in the Supreme Court ruling in *Keir v Crown*, as the consequences of a potentially unsafe conviction in these cases involve many years of imprisonment and long-term restrictions on liberty.

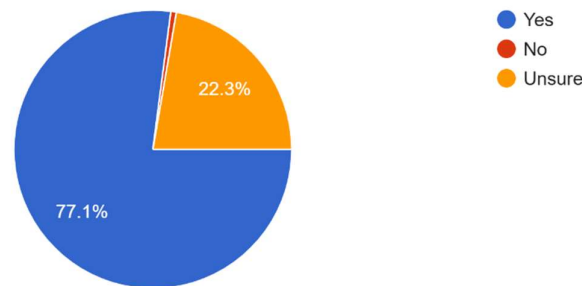
Key Finding

The majority of sentences reported in the survey fall within the range of approximately 5–12 years' imprisonment, often with additional extended licence periods. A number of cases involve significantly longer sentences, including terms exceeding 15–20 years and Orders for Lifelong Restriction.

Are you (or the convicted person) considering challenging the conviction now that the UK Supreme Court ruled that use of Sections 274 and 275 risks breaching fair-trial rights?

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157 responses



Considering a Challenge to the Conviction Following the Supreme Court Ruling

Respondents were asked whether they (or the convicted person) are considering challenging the conviction following the UK Supreme Court judgment of 12 November 2025, which confirmed that the way Scottish courts had been applying Sections 274 and 275 risks breaching the right to a fair trial under Article 6 of the European Convention on Human Rights.

Out of 157 responses:

- 121 respondents (77.1%) indicated that they are considering challenging the conviction.
- 35 respondents (22.3%) indicated they are currently unsure whether they will pursue a challenge.
- 1 respondent (0.6%) indicated that they do not intend to challenge the conviction.

These results show that a substantial majority of respondents are now considering pursuing an appeal or legal challenge in light of the Supreme Court ruling. The judgment appears to have had a significant impact on how families and convicted individuals view their legal options.

The relatively high proportion of respondents who remain unsure may reflect practical barriers such as access to legal advice, uncertainty about the appeal process, or concerns about the financial cost of further legal proceedings. For many families, the ruling is still being understood, and professional legal advice will be necessary to determine whether a conviction can realistically be challenged.

Overall, the findings suggest that the Supreme Court decision has created a strong level of interest in revisiting convictions where defence evidence may have been restricted under Sections 274 and 275.

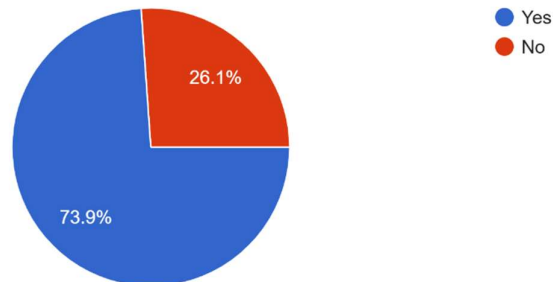
Key Finding

77.1% of respondents indicated that they are considering challenging the conviction following the Supreme Court ruling, demonstrating a high level of interest in pursuing appeals or legal review.

If unsure, do you require further legal advice?

If unsure, do you require further legal advice?

157 responses



Requirement for Further Legal Advice

Respondents who indicated that they were unsure whether to challenge the conviction were asked whether they require further legal advice to help them determine their next steps.

Out of 157 responses:

- 116 respondents (73.9%) indicated that they require further legal advice.
- 41 respondents (26.1%) indicated that they do not require additional legal advice.

The results show that a significant majority of respondents feel they need professional legal guidance in order to decide whether to pursue a challenge to the conviction. This suggests that uncertainty about appealing is largely linked to limited access to specialist legal advice or uncertainty about the legal implications of the Supreme Court ruling.

Appeals in serious criminal cases are complex and often require specialist legal representation. For many families represented in this survey, obtaining advice on whether the Supreme Court judgment in *Keir v Crown* creates viable grounds of appeal will be an essential first step before any formal legal challenge can proceed.

These findings also highlight a practical barrier within the justice system: even where individuals believe a conviction may be unsafe, the ability to act on that belief often depends on access to legal advice and representation.

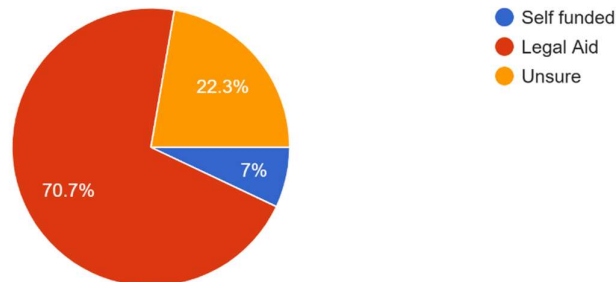
Key Finding

73.9% of respondents indicated that they require further legal advice in order to determine whether to challenge the conviction. This suggests that access to legal guidance will be a critical factor in whether potential appeals move forward.

If yes, are you prepared to cover the cost of the appeal or will you require legal aid?

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157 responses



Funding an Appeal

Respondents were asked whether they would be prepared to fund an appeal privately or would require legal aid if they decided to challenge the conviction.

Out of 157 responses:

- 111 respondents (70.7%) indicated that they would require legal aid.
- 11 respondents (7%) indicated that they would be able to self-fund the appeal.
- 35 respondents (22.3%) indicated that they are currently unsure.

The findings demonstrate that the vast majority of respondents would depend on legal aid in order to pursue an appeal. Only a small minority indicated that they would be able to meet the costs privately.

Appeals in serious criminal cases often involve substantial legal work, including the review of trial transcripts, analysis of disclosure material, preparation of appeal grounds, and representation before the High Court. These processes can involve significant costs, which for many families are simply not affordable without public funding.

The responses therefore highlight financial access to justice as a key practical barrier. Even where individuals believe there may be grounds to challenge a conviction following the Supreme Court ruling in *Keir v Crown*, the ability to pursue that challenge may depend heavily on whether legal aid is available.

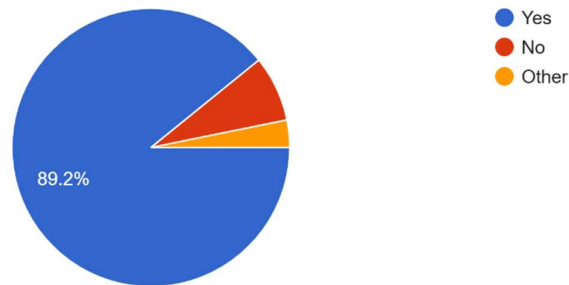
Key Finding

70.7% of respondents indicated that they would require legal aid in order to pursue an appeal, while only 7% stated that they would be able to fund the appeal privately.

Was the convicted person not able to present evidence in their defence during the original trial and this evidence could now potentially be allowed? – i.e. but not limited to: proof of previous false allegation made by the complainer(s), witness collusion or clear motives for false accusations?

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157 responses



Exclusion of Defence Evidence at Trial

Respondents were asked whether the convicted person was unable to present evidence in their defence during the original trial, and whether this evidence might now potentially be admissible following the UK Supreme Court ruling on the application of Sections 274 and 275.

Examples of such evidence included previous false allegations made by the complainer, evidence of witness collusion, or clear motives for false accusations.

Out of 157 responses:

- 140 respondents (89.2%) indicated that relevant defence evidence had not been allowed to be presented during the trial.
- 11 respondents (7.0%) indicated that this had not occurred in their case.
- 6 respondents (3.8%) selected other, indicating circumstances that did not fit neatly within the provided categories.

The results show that a very large majority of respondents report that potentially relevant defence evidence was excluded during the original trial. This is particularly significant in the context of the Supreme Court judgment in *Keir v Crown*, which confirmed that the restrictive way in which Sections 274 and 275 had been applied by Scottish courts risked breaching the right to a fair trial.

Where evidence relating to credibility, motives to fabricate, or potential collusion is excluded, the jury may be prevented from hearing material that could assist them in assessing the reliability of testimony. The survey responses therefore indicate that many respondents believe that evidence relevant to the defence may not have been fully considered during the trial process.

Taken together with the earlier findings in this survey — including the high number of individuals currently in custody and the large proportion considering appeals — this result suggests that the issue identified by the Supreme Court may have affected a significant number of cases represented in the survey.

Key Finding

89.2% of respondents reported that relevant defence evidence was not permitted during the original trial and could now potentially be admissible following the Supreme Court ruling.

OVERALL ANALYSIS OF THE SURVEY

The JIMS survey was conducted to establish the potential scale of cases that may be affected by the UK Supreme Court judgment of 12 November 2025 in *Daly and Keir v HMA* [2025]. The ruling confirmed that the way Scottish courts had been applying Sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995 risks breaching the right to a fair trial under Article 6 of the European Convention on Human Rights.

A total of 157 responses were received. The survey did not seek to assess the merits of individual cases, but rather to identify patterns relating to appeals, custody status, access to legal advice, and the exclusion of defence evidence during trial.

When considered together, the responses reveal several significant trends.

1. The issue is not historical — most convictions are recent

The survey shows that the majority of convictions reported occurred between 2022 and 2024, with 2024 alone accounting for over 40% of responses.

This indicates that many of the individuals potentially affected by the Supreme Court ruling were convicted relatively recently, during a period when the restrictive approach to Sections 274 and 275 was still being applied by Scottish courts.

As a result, many individuals represented in the survey may still be within the timeframe for pursuing appeals or legal review.

2. Most individuals affected remain in custody

The survey found that 87.3% of the individuals represented are currently serving custodial sentences.

Sentence lengths reported by respondents vary widely, but the majority fall within the range of approximately 5 to 12 years of imprisonment, often with additional extended licence periods. Some cases involve significantly longer sentences, including sentences exceeding 15–20 years or Orders for Lifelong Restriction.

This means that the potential implications of the Supreme Court ruling are not merely theoretical or retrospective. For many families represented in the survey, the consequences involve ongoing imprisonment and long-term restrictions on liberty.

3. A large number of cases have already been through the appeals process

Almost 45% of respondents reported that an appeal had previously been lodged.

These appeals would have been considered before the Supreme Court clarified the fair-trial risks created by the restrictive interpretation of Sections 274 and 275.

This raises the possibility that some cases may now seek fresh legal advice regarding whether new grounds of appeal exist in light of the judgment.

4. Few cases have been taken up by formal miscarriage-of-justice review bodies

Among those whose appeals had failed, only 23.9% reported that their case had been taken up by MOJO or referred to the Scottish Criminal Cases Review Commission (SCCRC).

The majority of cases therefore appear not to have progressed into formal miscarriage-of-justice review processes, suggesting that many families may still be navigating the appeals landscape without specialist support.

5. The Supreme Court ruling has prompted widespread consideration of appeals

The survey found that 77.1% of respondents are now considering challenging the conviction following the Supreme Court ruling.

This demonstrates that the judgment has already had a substantial impact on how affected individuals and families view their legal options.

A further 22.3% remain unsure, suggesting that many people are still seeking clarity about the implications of the ruling.

6. Access to legal advice is a major barrier

Among respondents who were unsure whether to pursue a challenge, 73.9% stated that they require further legal advice in order to make that decision.

This indicates that access to specialist legal advice will be a critical factor in determining whether potential appeals move forward.

Without appropriate legal guidance, individuals may struggle to determine whether their case falls within the scope of the issues identified by the Supreme Court.

7. Financial barriers are significant

The survey also shows that 70.7% of respondents would require legal aid in order to pursue an appeal, while only 7% indicated that they would be able to fund an appeal privately.

Given the complexity and cost of criminal appeals, this finding highlights the importance of legal aid availability in enabling individuals to challenge convictions where new legal grounds may exist.

8. The exclusion of defence evidence appears to be widespread among respondents

Perhaps the most striking finding in the survey is that 89.2% of respondents reported that relevant defence evidence was not permitted during the original trial.

Examples cited include:

- Evidence of previous false allegations
- Evidence of witness collusion
- Evidence suggesting clear motives for false accusations

These are precisely the types of evidence whose exclusion formed part of the concerns identified by the Supreme Court regarding the application of Sections 274 and 275.

While the survey does not assess the legal merits of individual cases, this result indicates that many respondents believe their trials involved restrictions on defence evidence similar to those highlighted in the Supreme Court judgment.

Overall Conclusion

Taken together, the survey results suggest that the Supreme Court ruling in *Daly and Keir v HMA* [2025] may have implications for a substantial number of individuals represented in this survey.

The findings indicate that:

- many convictions occurred recently,
- most individuals remain in custody,
- a large proportion are now considering appeals,
- access to legal advice and funding are significant barriers, and
- many respondents believe that relevant defence evidence was excluded during their trials.

The survey therefore provides an initial indication of the potential scale of cases that may now seek legal review in light of the Supreme Court's clarification of fair-trial rights.

Further legal analysis will ultimately determine which individual cases may meet the legal threshold for appeal. However, the survey findings demonstrate that the issues identified by the Supreme Court are not confined to isolated cases, but are reported by a significant number of respondents across different years and sentence lengths.

POTENTIAL APPEAL DEMAND AND PRACTICAL BARRIERS

One of the clearest findings of the survey relates to the number of individuals now considering challenging their convictions following the Supreme Court judgment in *Daly and Keir v HMA* [2025].

Out of 157 respondents, 121 individuals (77.1%) indicated that they are actively considering pursuing an appeal or legal challenge. A further 35 respondents (22.3%) indicated that they are currently unsure whether they will challenge the conviction.

However, when these figures are considered alongside the responses to the follow-up question on legal advice, a clearer picture emerges. 73.9% of respondents who were unsure stated that they require further legal advice in order to decide whether to pursue an appeal.

This suggests that a significant proportion of those who are currently unsure may simply lack the specialist legal guidance needed to assess whether their case falls within the scope of the Supreme Court ruling. In practical terms, the number of individuals who may ultimately seek to challenge their convictions could therefore be considerably higher than the 77% currently stating they intend to appeal, once access to legal advice is obtained.

Financial Barriers to Pursuing Appeals

The survey also reveals a significant gap between the potential demand for appeals and the financial capacity to pursue them.

While 121 respondents are already considering challenging their convictions, only 11 respondents (7%) indicated that they would be able to fund an appeal privately.

By contrast, 111 respondents (70.7%) stated that they would require legal aid in order to proceed, while 35 respondents (22.3%) remain unsure.

This indicates that the overwhelming majority of potential appeals would depend on the availability of legal aid. Without access to public funding, many individuals who believe their convictions may be unsafe may simply be unable to pursue a legal challenge.

Previous Appeals and Potential Reconsideration

The survey also found that 71 respondents (45.2%) reported that an appeal had previously been lodged, while 86 respondents (54.8%) had not previously appealed.

Among those whose appeals were unsuccessful, only 37 cases (23.9%) had subsequently been taken up by MOJO or referred to the Scottish Criminal Cases Review Commission (SCCRC).

This means that the majority of cases represented in the survey have not yet undergone formal miscarriage-of-justice review by specialist bodies.

Importantly, many of the appeals that were previously unsuccessful would have been considered before the Supreme Court clarified that the restrictive application of Sections 274 and 275 risks breaching fair-trial rights. As a result, cases that were previously unsuccessful may now be reassessed in light of the new legal interpretation.

Overall Implication

When these findings are considered together, the survey suggests the potential for a substantial number of appeals to arise from the issues identified by the Supreme Court.

- **77% of respondents are already considering an appeal.**
- **A further 22% remain unsure but largely require legal advice to determine their options.**
- **Only 7% report being able to fund an appeal privately.**
- **Nearly half of cases have already been through the appeals process under the previous legal framework.**
- **Most unsuccessful cases have not yet been reviewed by specialist miscarriage-of-justice bodies.**

Taken together, these figures indicate that a significant number of individuals represented in the survey may now seek to revisit their convictions, subject to access to legal advice, funding, and the formal appeal process.

The survey therefore highlights not only the potential scale of interest in pursuing appeals, but also the practical legal and financial barriers that will determine whether those appeals can proceed.

SOCIETAL IMPACT OF THE FINDINGS

While the survey records 157 individual convictions, the wider impact extends far beyond the individuals themselves. Every conviction represented in the survey affects entire families and communities, creating long-term social, emotional and financial consequences.

A single imprisonment typically impacts multiple people directly connected to the convicted individual. Partners, children, parents, siblings and extended family members often experience significant disruption to their lives as a result of incarceration. In many cases families become the primary support network for prisoners, while also dealing with the emotional and practical consequences of long-term imprisonment.

If we take a conservative estimate of approximately 8–10 people directly affected per case (including immediate family and close relatives), the 157 responses received in this survey represent roughly 1,200 to 1,500 people whose lives are directly affected by these convictions.

This estimate does not include the wider circle of friends, workplaces, communities, or the broader social networks impacted by imprisonment. When those wider connections are considered, the number of people indirectly affected is likely to be considerably higher.

The survey findings also show that 87.3% of the individuals represented are currently in custody, meaning that the consequences are ongoing rather than historical. Families continue to experience the effects of separation, financial strain, and long periods of uncertainty while navigating complex legal processes.

Long custodial sentences — frequently 5 to 12 years or longer — amplify this impact. Children grow up without a parent present, relationships are placed under significant strain, and families often carry the emotional and financial burden of supporting an imprisoned loved one.

The potential scale of appeals arising from the Supreme Court ruling in *Daly v HMA & Keir v HMA* [2025] UKSC 38 therefore has implications not only for the individuals convicted, but also for the many families whose lives have been shaped by these convictions.

If a significant number of cases ultimately require legal review or appeals, the consequences will extend across multiple areas of society, including:

- families navigating the appeals process and supporting imprisoned relatives
- legal aid and justice system resources required to review cases
- the wider social and emotional impact on communities affected by long-term imprisonment

The survey demonstrates that the issues identified by the Supreme Court are not confined to a small number of isolated cases. Instead, they affect a substantial network

of families and communities across Scotland, many of whom continue to live with the consequences of these convictions today.

In practical terms, the 157 cases represented in this survey translate into well over a thousand people directly impacted, illustrating the significant human dimension behind what might otherwise appear as individual legal cases.

CALL FOR ACTION

The findings of this survey demonstrate that the UK Supreme Court ruling in *Keir v Crown* has immediate and practical implications for a significant number of individuals and families across Scotland.

The survey indicates that:

- A large proportion of convictions occurred in recent years, meaning many individuals remain within the appeals timeframe.
- 87% of individuals represented remain in custody, often serving lengthy sentences.
- Over three quarters of respondents are now considering challenging their convictions, while many others require legal advice before deciding.
- Access to legal aid will be essential, as the vast majority of respondents are unable to fund appeals privately.
- A very high proportion report that defence evidence was excluded during their trials, an issue central to the Supreme Court's ruling.

Taken together, these findings suggest that a substantial number of cases may now require legal review in light of the Supreme Court's clarification of fair-trial rights.

For the individuals and families affected, this is not an abstract legal question. Many people remain imprisoned while questions are now being raised about whether their trials were conducted under a framework that risked unfairness.

In light of these findings, there are several areas where action may now be required.

First, clear guidance should be issued on how cases potentially affected by the Supreme Court ruling will be identified and reviewed. Individuals and their legal representatives need clarity on the process available to challenge convictions.

Second, access to legal advice and legal aid will be critical. Without adequate funding for appeals and case reviews, individuals who may have been affected by the issues identified by the Supreme Court could be unable to pursue justice.

Third, there must be transparency about how the justice system intends to respond to the ruling. Where legal frameworks have been found to risk breaching fair-trial rights, public confidence in the justice system depends on ensuring that those concerns are properly addressed.

The purpose of this survey has been to highlight the potential scale of the issue and the real-world impact on families across Scotland. The responses demonstrate that the concerns identified by the Supreme Court are not confined to a small number of cases, but may affect a broader group of individuals whose convictions were secured under the previous interpretation of the law.

The next step must be ensuring that those who may have been affected have a clear, fair and accessible route to have their cases reviewed.

Justice requires not only that trials are conducted fairly, but also that when concerns about fairness are identified, there is a meaningful mechanism to address them.

CLOSING STATEMENT FROM JIMS

This survey does not determine guilt or innocence, nor was it intended to assess the merits of individual cases. Its purpose was to understand the potential scale of the issue following the UK Supreme Court's ruling in *Keir v Crown*, which confirmed that the way Sections 274 and 275 were applied in Scottish courts risked breaching the fundamental right to a fair trial.

The 157 responses recorded in this survey represent far more than individual convictions. Behind each case is a person, and behind each person are families — partners, children, parents and communities — whose lives have been shaped by long prison sentences and years of uncertainty. When considered together, these responses reflect the experiences of well over a thousand people directly affected by the consequences of these convictions.

What the survey demonstrates is that a significant number of respondents believe their trials took place within a legal framework that the UK's highest court has now recognised as carrying a real risk of unfairness. In any justice system built on the principle of fairness, that concern cannot simply be set aside.

The Supreme Court's ruling has opened the door to examining whether some convictions were secured under procedures that may not have allowed juries to hear all relevant evidence. The responsibility now lies with Scotland's justice system to ensure that those who may have been affected have a clear, fair and accessible route to have their cases properly reviewed.

Justice does not rest solely on the outcome of a trial; it depends on confidence that the process itself was fair. Where the highest court in the land has identified a risk that fairness may have been compromised, the question must be addressed openly and thoroughly.

For the individuals and families represented in this survey, the issue is not abstract. It is personal, immediate and ongoing. Ensuring that those who may have been affected have the opportunity to seek proper legal review is essential not only for those families, but also for maintaining public confidence in the integrity of Scotland's justice system.

