

da " www.telegraph.co.uk "

Four in ten offenders caught with a gun avoid the minimum jail terms that courts are supposed to hand down, according to new figures.

By Tom Whitehead, Home Affairs Editor

Published: 17 Aug 2009

Almost one in five adults sentenced for the crime receive no custodial sentence at all despite the Government's promises to crack down on armed offenders.

The Liberal Democrats, who obtained the latest figures, said it makes a mockery of the supposed tough rhetoric and raised "serious concerns" over the policy.

A total of 264 people were sentenced for possession of a firearm in 2007 – the most recent statistics available – but only 60 per cent were handed the mandatory minimum term.

Under current laws, possession of a gun is supposed to carry a minimum five year term for adults and three years for juveniles, but a clause in the legislation allows judges to use their discretion in exceptional circumstances.

Across the age groups, less than 13 per cent of those under 18 were given the minimum while 60 per cent of 18 to 20-year-olds and 63 per cent of adults were.

The average custodial sentence for adults was 56.3 months – just over four and a half years – while 37 of the 208 adults sentenced avoided jail altogether.

Chris Huhne, the Liberal Democrat home affairs spokesman, said: ““Ministers are playing Mr Macho on minimum sentencing, but this is just posturing is just empty words.

“One in five adults caught with a gun avoids prison, making a mockery of the supposedly ‘mandatory’ five year tariffs.

“Judges are right to take account of circumstances when it comes to sentencing. That is what they are there for. If we remove their discretion, we may as well put a computer in court instead.

“Mandatory sentences undermine the expertise and independence of judges and as these figures show are all too easily ignored.

“There are also serious concerns that mandatory sentences deter people from handing themselves in and co-operating with the police.”

A Ministry of Justice spokesman said: "The UK has some of the toughest firearms laws in the world. Sentence lengths have increased since the Government introduced the minimum five-year sentence in 2004. In 2007, the average sentence length was 56 months for adults and 30 months for juveniles - almost triple the average for a decade before.

"The independence of the judiciary is a cornerstone of the British justice system and it is right that sentencing in individual cases is a matter for the courts. The mandatory five-year sentence for possession of a prohibited firearm is a starting point. Judges must then take aggravating and mitigating factors into consideration when determining their final sentence."