

MEETING OF THE SENTENCING COUNCIL

17 APRIL 2015

MINUTES

- Members present: Colman Treacy (Chairman)
John Crawford
Julian Goose
Jill Gramann
Heather Hallett
Tim Holroyde
Javed Khan
Sarah Munro
Julian Roberts
Alison Saunders
John Saunders
Richard Williams
- Apologies: Michael Caplan
Lynne Owens
- Advisers present: Paul Wiles
- Representatives: Stephen Muers for the Ministry of Justice (Director, Criminal Justice Policy)
Mr Justice William Davis (Senior Judicial lead on youth justice)– for item 8
Martina Petronio (Assistant Private Secretary to the Lord Chief Justice) – for item 8
Rebecca Lewis for the Lord Chief Justice (Legal Secretary to the Senior President of Tribunals)
- Members of Office in Attendance Claire Fielder (Head of Office)
Mandy Banks
Lisa Frost
Joanne Keatley
Emma Marshall
Caroline Nauth-Misir
Helen Stear

1. WELCOME AND APOLOGIES FOR ABSENCE

- 1.1 Apologies were received as set out above.

2. MINUTES OF LAST MEETING

- 2.1. The minutes from the meeting of 6 March 2015 were agreed.

3. MATTERS ARISING

- 3.1 The Chairman welcomed Sam Goozee. Justices' Clerk for North and West Yorkshire and Vice President of the Justices' Clerks Society who was observing the Council meeting.
- 3.2 The Chairman informed the Council that the Lord Chancellor and the Lord Chief Justice have confirmed the appointment of Martin Graham to the Council, to replace John Crawforth. He has a long history of working in probation and is currently the Chief Executive of Norfolk and Suffolk Community Rehabilitation Company.
- 3.3 The Chairman thanked Julian Roberts who had recently given a presentation on the Council to Middle Temple, Cardiff Law School, and Lancaster Law School.

4. UPDATE ON WORK PROGRAMME 2015 AND BUSINESS PLAN 2015/16 – PRESENTED BY CLAIRE FIELDER, OFFICE OF THE SENTENCING COUNCIL

- 4.1 The Council discussed progress against the 2014/15 work programme and agreed a revised three year work programme for guideline development running from 2015 to 2018, which would be published as part of its Business Plan for the current financial year. It noted that this would be subject to amendment between now and the end of the three year period, to take account of changing priorities and additional projects. In particular, revision of the definitive guideline on allocation and the magistrates' courts sentencing guidelines were added to the plan for 2015/16.
- 4.2 There were several consultations and definitive guidelines scheduled for publication over the coming year. The Business Plan provided a fuller picture of the work of the Council beyond the publication of new guidelines.

5. DISCUSSION ON COSTS OF SENTENCING – PRESENTED BY CAROLINE NAUTH-MISIR, OFFICE OF THE SENTENCING COUNCIL

- 5.1 The Council considered whether it should publish data about the costs of different types of sentencing options. The Council decided that as this data was already collected and published by the Ministry of Justice, it would provide links from its own website signposting users to the relevant Ministry of Justice data.

6. DISCUSSION ON THEFT - PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL

- 6.1 The Council considered further revisions to and findings from research on the draft theft guidelines. The Council agreed that a new format should be adopted to assess harm within certain theft guidelines, and also proposed a number of revisions to the wording used within the guidelines.

- 6.2 The Council considered the complex issues relating to consistency of approach and consistency of outcomes in sentencing theft cases. The draft guidelines would be considered again in May.

7. DISCUSSION ON BREACH OF ORDER – PRESENTED BY LISA FROST, OFFICE OF THE SENTENCING COUNCIL

- 7.1 The Council considered which ancillary and miscellaneous orders should be included in the definitive breach guideline.
- 7.2 The Council decided that separate guidelines should be developed for breach of disqualification from keeping an animal and breach of a company director disqualification. They also agreed the approach to sentencing a number of other breach offences with varying and fairly low statutory sentence levels, by treating these as analogous to another group of more serious offences for the purposes of determining culpability and harm.
- 7.3 Finally, the Council agreed which orders should not be included in the definitive guideline and the rationale for not including them.

8. DISCUSSION ON YOUTHS – PRESENTED BY JOANNE KEATLEY, OFFICE OF THE SENTENCING COUNCIL

- 8.1 The Council considered a first draft of the revision of the Overarching Principles for Youths. The Council was reminded that the rationale for revising the Sentencing Guidelines Council's Overarching Principles was not to significantly alter the content, but to create a more functional version.
- 8.2 The Council discussed the approach that the guideline should take to allocation, with regards to section 53 of the Criminal Justice and Courts Act 2015. The Council agreed that it would be important to monitor any cases that exercise this power in the near future and to finalise the guideline in light of such cases.

- 8.3 The Council discussed the possibility of providing generic culpability and harm factors to assess the seriousness of various offences. It agreed that this approach was desirable but that further research was required to inform what these factors should be.
- 8.4 The Council considered the level of detail that should be included in the revised Overarching Principles. It agreed that slightly more detail would be useful, retaining other important elements of the current guideline without negating the aim of making it more practical and functional
- 8.5 Finally, the Council confirmed that it was content with the overall style and format of the revised Overarching Principles.

9. DISCUSSION ON HEALTH AND SAFETY – PRESENTED BY LISA FROST, OFFICE OF THE SENTENCING COUNCIL

- 9.1 Paul Wiles notified the Council of a conflict of interest in relation to the discussion on health and safety and took no part in the discussion. .
- 9.2 This was the Council's first review of the consultation responses following the consultation closure on 18th February 2015. The Council considered the responses to questions relating to the aims and overarching principles of the guideline, and agreed revisions to the guideline in a number of areas where responses had suggested greater clarity was required.

10. DISCUSSION ON ALLOCATION – PRESENTED BY CLAIRE FIELDER, OFFICE OF THE SENTENCING COUNCIL

- 10.1 The Council considered a draft allocation guideline and discussed how best to reinforce the message that cases should be tried summarily except in certain circumstances. In light of the level of consultation and consensus already achieved on this matter, the Council agreed that a short, targeted, consultation with stakeholders was sufficient, rather than a full public consultation. It would consider a revised guideline in May.

11. UPDATE ON MAGISTRATES' COURTS SENTENCING GUIDELINES (MCSG) DIGITALISATION AND WEBSITE – PRESENTED BY HELEN STEAR, OFFICE OF THE SENTENCING COUNCIL

- 11.1 The Council was given a brief update on the progress of two projects upon which the digital MCSG is dependent: the national roll-out of Professional Court Users' wifi and the Bench Solution. Both projects are progressing well but it was emphasised that any delay in the roll-out of these projects would have an impact on the wider adoption of the digital MCSG.

- 11.2 The Council was given briefing to provide members with background information concerning the rationale for its approach and answers to frequently asked questions.
- 11.3 The Council was then given a demonstration of the designs for the new site showing key functions such as the search, how a guideline will be set out and how the explanatory material will be presented. The Council was supportive of the approach and offered their feedback.