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## MEETING OF THE SENTENCING COUNCIL

30 JANUARY 2015

### MINUTES

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| <u>Members present:</u>                    | Colman Treacy (Chairman)<br>Michael Caplan<br>John Crawford<br>Henry Globe<br>Julian Goose<br>Heather Hallett<br>Lynne Owens<br>Julian Roberts<br>Alison Saunders<br>John Saunders<br>Richard Williams  |
| <u>Apologies:</u>                          | Bill Davis<br>Javed Khan<br>Sarah Munro<br>Katharine Rainsford<br>Paul Wiles  |
| <u>Representatives:</u>                    | Stephen Muers for the Ministry of Justice (Director,<br>Criminal Justice Policy)<br><br>Sophie Marlow for the Lord Chief Justice (Legal<br>Advisor to the Lord Chief Justice, Criminal Justice<br>Team) |
| <u>Members of Office in<br/>Attendance</u> | Claire Fielder (Head of Office)<br>Lissa Matthews<br>Ruth Pope<br>Emma Marshall<br>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 19 December 2014 were agreed.

## **3. MATTERS ARISING**

- 3.1 The Council noted that today's meeting would be Lissa Matthews' last as Head of Policy. The Chairman thanked her for her tremendous contribution to the work of the Council in particular leading on the guidelines on fraud, bribery and money laundering and robbery.
- 3.2 The Chairman congratulated the Communications team for a successful launch of the new website, which went smoothly.
- 3.3 The Council noted the recent publication of the review of efficiency of criminal proceedings by the President of the Queen's Bench Division. The Chairman highlighted some recommendations of direct relevance to the Council in relation to allocation and guilty pleas, as well as more general wide-ranging recommendations about the criminal justice system, which may have implications for the Council in the longer term.
- 3.4 The Chairman updated the Council on a consultation event he spoke at on the proposed health and safety, corporate manslaughter and food offences guideline organised by DWF solicitors. The event was attended by representatives of about 30 very large corporations including construction companies, retailers and food manufactures who offered a valuable insight to how the proposals are being perceived by commercial organisations.

## **4. DISCUSSION ON ANALYSIS AND RESEARCH STRATEGY – PRESENTED BY EMMA MARSHALL, OFFICE OF THE SENTENCING COUNCIL**

- 4.1 The Council was presented with the outcome of a review of its analytical activities and approach. A new approach and remit was agreed, based on a guideline development cycle, and where bespoke, targeted packages of analysis would be put in place on a guideline by guideline basis. These packages would include the full range of methodologies already being used, as well as the development of new ones to help fill any gaps in evidence; in particular smaller, more sample based court surveys will be undertaken.

- 4.2 The Chairman would communicate the new analytical approach to the judiciary and court managers in the forthcoming weeks. He would emphasise the Council's appreciation of the work judges had put into its research to date.
- 4.3 Going forward, the new approach will be planned and implemented by the analysis and research team in conjunction with the subgroup, and plans reviewed and signed off by the Council as part of the initial stages of the policy development process.

**5. DISCUSSION ON YOUTHS – PRESENTED BY LISSA MATTHEWS, OFFICE OF THE SENTENCING COUNCIL**

- 5.1 The Council considered proposals on the offence specific guidelines aspect of this work. The rationale for producing offence specific guidelines for a limited group of offences was discussed. It was agreed to produce offence specific guidelines for offences considered to be particularly complex to sentence and offences that are serious and high in volume.
- 5.2 An analysis and research strategy to support the development of the guideline was considered; the Council noted the difficulties in setting ranges for young offenders but agreed to initially work to develop ranges with starting points based on a 17 year old offender.
- 5.3 The Council then discussed the scope of the sexual offences aspect of this work. Although they are relatively low volume, it was agreed the offences for which SGC guidelines exist must be updated. Guidelines will also be developed for seven further grave sexual offences.
- 5.4 An initial draft of a rape guideline was considered in detail. It was recognised this work is at a very early stage but the draft served to facilitate discussion on how closely the youth guidelines should follow the adult definitive guidelines bearing in mind necessary relevant amendments to the legal framework and to some factors.

**6. DISCUSSION ON MCSG - PRESENTED BY HELEN STEAR, OFFICE OF THE SENTENCING COUNCIL**

- 6.1 This was a preliminary update noting the closure of the recent feedback exercise which sought views from stakeholders on proposed changes to the content of the user guide (in part 2) and explanatory material section (in part 5) of the Magistrates' Court Sentencing Guidelines (MCSG); and also obtained information to assist in the development of a digital version of the MCSG.
- 6.2 There was a good response nationally, and there was overwhelming support for revising the MCSG and towards developing a digital MCSG.

- 6.3 The digital MCSG will enable the Sentencing Council, as authors of the material, to own and be responsible for providing it to those who need it, free of charge and with clear lines of accountability for the accuracy and availability of the content.
- 6.4 There will be a meeting of the MCSG Working Group in February at which there will be a review of the feedback on the content of the explanatory material section, after which a revised version will be put forward for the Council's approval.
- 6.5 The Council agreed that the MCSG Working Group should also consider an approach and timetable for the review of the SGC guidelines in the MCSG for the Council's consideration, and discuss the responses regarding the digital MCSG and potentially comment on any prototypes or design visuals which may be ready by that time.

**7. DISCUSSION ON BREACH OF ORDER – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL**

- 7.1 The Council discussed draft guidelines for breaches of community orders (COs) and suspended sentence orders (SSOs). For breaches of SSOs the Council agreed a structure based on the legislative provisions with guidance for sentencers on the factors that would indicate when the sentence should be activated. For COs the Council agreed a structure based on the legislative provisions with guidance on the appropriate sanction depending on the extent of compliance with the order.
- 7.2 The Council agreed that the guidance should provide sentencers with information on jurisdictional issues. Contact would be made with the National Probation Service to assist in the development of these guidelines.