

## MEETING OF THE SENTENCING COUNCIL

14 SEPTEMBER 2012

### MINUTES

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<u>Members present:</u>	Brian Leveson (Chairman) John Crawforth William Davis Siobhain Egan Henry Globe Tim Godwin Anthony Hughes Alistair McCreath Katharine Rainsford Julian Roberts Keir Starmer Colman Treacy
<u>Apologies:</u>	Anne Arnold Gillian Guy
<u>Advisers present:</u>	Paul Cavadino Paul Wiles
<u>Observers:</u>	Ruth Coffey (Legal advisor to the Lord Chief Justice) Helen Judge (Director of Sentencing and Rehabilitation, Ministry of Justice) Robert Lennox (Effective Sentencing Policy, Ministry of Justice) Lynne Owens (Chief Constable, Surrey Police) Jonathan Solly (Secretary to the Criminal Procedure Rule Committee)
<u>Members of Office in Attendance</u>	Michelle Crotty (Head of Office) Jackie Burney Bee Ezete Azhar Hasham Emma Marshall Karen Moreton Nigel Patrick Ameer Rasheed Keir Rodgers Helen Stear Trevor Steeples Vanessa Watling

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**1. WELCOME AND APOLOGIES FOR ABSENCE**

- 1.1. Apologies were received as set out above.

**2. MINUTES OF LAST MEETING**

- 2.1. Minutes from the meeting of 20 July 2012 were agreed.

**3. MATTERS ARISING**

- 3.1. The Chairman noted that this is Tim Godwin's last meeting and thanked him for his contribution to the work of the Council during what has been a very busy period for him.
- 3.2. The Council discussed its forthcoming work on fraud offences, bribery and money laundering in the light of its already full work programme. It was suggested that the work programme should be reviewed and this work properly timetabled.

**ACTION: OFFICE TO REVIEW THE WORK PLAN FOR 2013-2016 AND PRESENT TO COUNCIL AT THE NEXT MEETING.**

- 3.3. The Council discussed the letter received from the Chief Magistrate Judge Howard Riddle on organised theft and pick-pocketing in the Westminster area.
- 3.4. The Council discussed the draft update to the Magistrates' Court Sentencing Guidelines. It was noted that recent research amongst the magistracy has highlighted inconsistency of training and receiving updates as some of their major concerns. Julian Roberts agreed to write to the Chairman with the findings of this research and his report. Katharine Rainsford agreed to liaise with the Office to discuss how best to ensure that Sentencing Council updates are received by those that need them without causing too much disruption to court staff.

**ACTION: JULIAN ROBERTS TO WRITE TO CHAIRMAN RE RESEARCH FINDINGS ON MAGISTRATES' TRAINING.**

**4. PRESENTATION ON CROWN COURT SENTENCING SURVEY (CCSS) STATISTICS – PRESENTED BY JULIAN ROBERTS AND AZHAR HASHAM, OFFICE OF THE SENTENCING COUNCIL**

- 4.1. A presentation was given on the CCSS and how its findings are being used to assist the Council in its work. The Council discussed ways in which the response rate could be improved and agreed that the forthcoming Resident Judges Conference and Circuit Judge Seminars would be a good opportunity to publicise the CCSS.
- 4.2. There was a discussion about the guilty pleas statistics published in the statistical bulletin and it was suggested that it would be useful to undertake further research into this area.

**ACTION: JULIAN ROBERTS TO CONDUCT FURTHER RESEARCH ON THE CCSS DATA ON GUILTY PLEAS.**

- 4.3. Julian Roberts explained the analysis and research sub-group's proposals for conducting further analyses to assess compliance with the guidelines. The Council agreed to the quantitative research, but expressed some reservations about the proposed qualitative research. Although it would be helpful to ascertain judges' views on whether the guidelines are user-friendly, it was felt that care must be taken to avoid the perception of monitoring of individual judges. It was agreed that the analysis and research sub-group would give this some further thought and report back to Council.

**ACTION: ANALYSIS AND RESEARCH SUB-GROUP TO DEVELOP FURTHER ITS PROPOSAL FOR QUALITATIVE RESEARCH AND REPORT BACK TO THE COUNCIL.**

**5. DISCUSSION ON SEX OFFENCES GUIDELINE – PRESENTED BY VANESSA WATLING, OFFICE OF THE SENTENCING COUNCIL**

- 5.1. The Council discussed the draft consultation paper and was of the view that it is important to include sufficient detail to help explain the thinking behind the Council's proposals. It was suggested that the consultation paper should make clear that the Council is aware of the sensitivity and complexity of this topic, especially from the point of view of victims, but the Council has not shied away from this very challenging piece of work. It was noted that the consultation paper might trigger interest in the work of other agencies that are involved with, for example, crime prevention, rehabilitation or victim care and it would be helpful to keep them updated.
- 5.2. Council members will have an opportunity to comment on the draft consultation paper at the next meeting, but it would be helpful to receive comments and amendments before then.

**6. DISCUSSION ON ENVIRONMENTAL OFFENCES – PRESENTED BY JACKIE BURNEY, OFFICE OF THE SENTENCING COUNCIL**

- 6.1. The Council considered the results of the road-testing and the newly developed hybrid model. There was a discussion around whether a risk of harm being caused is equally as serious as harm that has actually been caused. The Council was of the view that a risk of harm could not be equated with actual harm. The Council then considered what approach the draft guideline should take to assessing the risk of harm. It was suggested that the draft guideline could address this through culpability.
- 6.2. The Council considered the models used in the attempted murder guideline which has three sub categories for situations where death did not actually occur. The Council also considered the model used in the drugs guideline. It was suggested that the guideline could include gradations of culpability from 'deliberate' through to 'no culpability'.
- 6.3. The Council agreed with the draft guideline's approach which treats publicly-funded and charitable bodies in the same way as small companies.

- 6.4. There was a discussion around whether the guideline should give advice on the circumstances under which the case should be committed to the Crown Court. It was felt that only more unusual cases should be committed to the Crown Court and magistrates' should be given the confidence to deal with most cases.

7. **DISCUSSION ON THEFT OFFENCES GUIDELINE – PRESENTED BY NIGEL PATRICK, OFFICE OF THE SENTENCING COUNCIL**

- 7.1. The Council discussed the scope of the draft guideline and what offences might be included. It was suggested that in addition to the offences proposed in the paper, guidelines should be included on metal theft. Theft from vehicles could also be included due to its high volume, but guidelines for the offence of aggravated vehicle taking would be better left for the guideline on traffic offences.