

MEETING OF THE SENTENCING COUNCIL

22 NOVEMBER 2013

MINUTES

<u>Members present:</u>	Colman Treacy (Chairman) Michael Caplan John Crawforth William Davis Henry Globe Heather Hallett Anthony Hughes (items 2 and 3 only) Javed Khan Sarah Munro Katharine Rainsford Julian Roberts Alison Saunders John Saunders
<u>Apologies:</u>	Anne Arnold Lynne Owens
<u>Advisers present:</u>	Paul Cavadino Paul Wiles
<u>Representatives:</u>	Ruth Coffey for the Lord Chief Justice (Legal Secretary to the Lord Chief Justice) Stephen Muers for the Ministry of Justice (Director, Sentencing Policy and Penalties Unit)
<u>Members of Office in Attendance</u>	Michelle Crotty (Head of Office) Mandy Banks Bee Ezete Ingrid Giesinger Mary Jones Lissa Matthews Karen Moreton Victoria Obudulu Ruth Pope 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 25 October 2013 were agreed.

3. MATTERS ARISING

- 3.1. Council members welcomed Colman Treacy LJ to his first meeting as Chairman of the Sentencing Council. The Chairman and members paid tribute to Brian Leveson LJ for his exceptional leadership of the Council since its creation. It was noted that he had been instrumental in the recruitment of new members and had set the tone for the open and constructive working environment the Council is known for. His support for the work of the officials enabled them to produce high quality and innovative work for, and on behalf of, the Council. It was noted that under his leadership the Council has consulted on and published guidelines on sentencing assault, burglary, drugs offences, allocation, offences taken into consideration, totality, dangerous dogs offences and the soon to be published guidelines on sentencing sexual offences. The Chair expressed his intention to build on the good work of the previous chairman and wished him all the best in his new role as President of the Queen's Bench Division. The Chair welcomed Lady Justice Hallett to her first meeting as a member of the Council.
- 3.2. The Council received an update on the Crown Court Sentencing Survey response rate and agreed to review it at the next meeting before deciding whether to contact courts again.

4. DISCUSSION ON THEFT AND HANDLING STOLEN GOODS – PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL

- 4.1. The Council discussed the draft guideline for sentencing shoplifting offences, and suggested some further amendments. The Council also considered the issue of how to group the remainder of the theft offences within the draft guideline. After discussion of the different possible approaches to the grouping of offences, the Council decided to group together a number of theft offences within a 'general theft' guideline. It was also decided to have two separate guidelines for 'abstracting electricity' and 'making off without payment', making a total of six guidelines within the draft theft guidelines.
- 4.2. The Council also considered whether the section 12 and section 12A 'vehicle taking' offences should be included within the theft guideline, or within a new motoring offences guideline which the Council is due to start work on in due course. After discussion of the issues involved it was decided that these offences would not be included in the theft guideline, but within the motoring offences guideline.

5. DISCUSSION ON CORPORATE FRAUD OFFENCES GUIDELINE – PRESENTED BY LISSA MATTHEWS, OFFICE OF THE SENTENCING COUNCIL

- 5.1. The Chairman and Lord Hughes updated the Council on the outcome of meetings held with key interested parties since the last Council meeting. Concerns that had previously been raised relating to the level of fines available under the draft model had now been allayed.
- 5.2. The Council agreed to insert wording on committal and confiscation and signed off the guideline for corporate offenders. It is due to be published online on 31 January 2014.
- 5.3. A draft response to the consultation paper was circulated and Council members were asked to email any comments to Lissa Matthews by 29 November.

6. DISCUSSION ON ENVIRONMENTAL OFFENCES – PRESENTED BY MARY JONES, OFFICE OF THE SENTENCING COUNCIL

- 6.1. Further to the discussion at last month's meeting, the Council reviewed and approved amendments that had been made to the categorisation of organisations in the guideline and revisions to the penalties for organisations. The Council also approved amendments to the section on 'other offences'.
- 6.2. The Council agreed final amendments to the guidance on ancillary orders and on harm factors following feedback in the consultation. Subject to these amendments being reflected, the Council signed off the definitive guideline on sentencing environmental offences, to be published in February 2014.

7. DISCUSSION ON HEALTH AND SAFETY OFFENCES – PRESENTED BY MARY JONES, OFFICE OF THE SENTENCING COUNCIL

- 7.1. Paul Wiles notified the Council of a conflict of interest in relation to the discussion on health and safety offences and took no part in the discussions.
- 7.2. The Council discussed two models of harm and culpability for health and safety offences. The Council agreed that further work should be done to produce a model of harm distinguishing between offences that had caused actual harm and those that had caused risk of harm.
- 7.3. The Council agreed that they wished to invite experts to address the Council directly on sentencing health and safety offences.

8. DISCUSSION ON REDUCTION IN SENTENCE FOR GUILTY PLEAS – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL

- 8.1. The Council discussed a draft guilty pleas guideline. Council members welcomed the clarity of the proposed guideline as this would encourage offenders to plead guilty early with consequent benefits to victims and witnesses.

- 8.2. There was a detailed discussion about when a plea should be indicated to qualify for the full reduction and it was agreed that the draft would have to be considered in the light of any changes to early guilty plea schemes in the Crown Court. It was agreed to consult on whether the guideline would allow for a lower reduction where there was overwhelming evidence. A further draft of the guideline would be discussed at the January 2014 meeting.
9. **DISCUSSION ON SENTENCING COUNCIL WORK PROGRAMME – PRESENTED BY MICHELLE CROTTY, HEAD OF OFFICE OF THE SENTENCING COUNCIL**
- 9.1. The Council discussed its work programme and noted the achievements of the past year and the challenges of the busy work programme for the next three years.