

MEETING OF THE SENTENCING COUNCIL

25 OCTOBER 2013

MINUTES

<u>Members present:</u>	Brian Leveson (Chairman) Anne Arnold Michael Caplan John Crawforth William Davis Henry Globe Anthony Hughes (a.m. only) Javed Khan Katharine Rainsford Julian Roberts Alison Saunders John Saunders Colman Treacy
<u>Apologies:</u>	Sarah Munro 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 and Rehabilitation)
<u>Observers:</u>	Elizabeth O'Neil, Criminal Appeal Office Alyson Sprawson, Crown Prosecution Service
<u>Members of Office in Attendance</u>	Michelle Crotty (Head of Office) Mandy Banks Bee Ezete Mary Jones Lissa Matthews Karen Moreton Ruth Pope Ameer Rasheed Helen Stear Trevor Steeples Vanessa Watling

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 27 September 2013 were agreed.

3. MATTERS ARISING

3.1. The Chairman confirmed that this would be his last meeting as chair of the Sentencing Council. It was expected that the new chair would be appointed in time for the next Council meeting. It was also hoped that the new Vice President of the Court of Appeal (Criminal Division) would be in post by the next meeting and would be a member of the Council. The Chair welcomed Alison Saunders as a new member of the Council in advance of her forthcoming appointment as Director of Public Prosecutions.

3.2. Members were pleased to hear that, following a letter that had been sent from the Chairman to courts, there had been an increase in the response rate for Crown Court Sentencing Survey forms. Officials will continue to monitor progress.

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

4.1. The consultation on draft guidelines for sentencing fraud offences closed on 4 October. The Council considered the responses received to the corporate fraud section of the consultation and discussed an alternative model which had been submitted.

4.2. The Council agreed that the guideline should place more emphasis on confiscation and that confiscation should be clearly flagged as a step to consider immediately after compensation. It was suggested that in this way there would be full disgorgement of the financial gain before the sentencer goes on to consider what level of fine to impose.

4.3. The Council discussed the harm and culpability factors and the aggravating and mitigating factors in the light of comments received. The Council also considered concerns that the proposed fine levels might not be high enough for some of the large corporate offenders and agreed to undertake further testing of the model ahead of the next Council meeting.

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

5.1. The Council considered sentences for companies within the guideline in the light of concerns over the proportionality of the penalties used in the draft guideline, particularly for very large companies. The Council discussed the definitions for small, medium and large companies and considered whether

the EU definitions for small and medium enterprises would be more appropriate. The Council also discussed whether there should be a micro category to give assistance to sentencers dealing with very small offender companies. It was agreed that a model with four categories should be produced for consideration at the next meeting.

- 5.2. The Council discussed the consultation responses relating to penalties for individuals. The Council considered the scope of the guideline and additional offences that had been suggested by consultation respondents for inclusion in the guideline.

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

- 6.1. Paul Wiles notified the Council that he has a conflict of interest in relation to this guideline and took no part in the discussion.
- 6.2. The Council considered the options for the scope of the health and safety guideline. It was suggested that it would be helpful to speak to prosecutors to get further information on charging decisions, volume of offences and procedures.

7. DISCUSSION ON THEFT AND HANDLING OFFENCES – PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL

- 7.1. The Council discussed and revised versions of the draft shoplifting and handling guidelines, which had been amended following suggestions made at the previous meeting. Following discussion, a number of further changes were suggested, including to the wording relating to persistent offenders and prevalence issues.
- 7.2. The Council also considered a draft guideline which had been prepared for offences of going equipped to steal and recommended some amendments to the draft guideline. Draft guidelines for the remaining offences to be included in the theft guideline would be presented to the Council at subsequent meetings.

8. DISCUSSION ON SEXUAL OFFENCES GUIDELINE – PRESENTED BY VANESSA WATLING, OFFICE OF THE SENTENCING COUNCIL

- 8.1. The Council discussed the draft consultation response paper and agreed to deal with minor drafting changes out of committee, with a view to its being published along with the definitive guideline in December. The Council commented that the consultation response paper demonstrated that the Council had listened and made changes following the consultation process.
- 8.2. The Chair asked the Council to join him in thanking Vanessa Watling for the enormous effort she had put into the sexual offences guideline over the past two and a half years describing it as far above and beyond the call of duty.

