

# Sentencing Council

## **Business Plan Financial year 2015/16**

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# Chair's introduction



I am pleased to present the third business plan of the Sentencing Council, which sets out the Council's objectives for the current financial year.

Achievements over the past year include the Council publishing definitive guidelines for fraud, money laundering and bribery offences and the coming into force of definitive guidelines on sexual offences and environmental offences, as well as research and consultations to inform other guidelines, consulting on theft, robbery, health and safety, food safety and corporate manslaughter. We will continue to work with victims' groups, the judiciary, partners in the Criminal Justice System, the public and Government to deliver the priorities in this year's Business Plan.

Our new website, which launched in January 2015, has enabled us to update content quickly and easily. Its primary functions are to deliver guidelines to those who need them, provide people with an easy way to respond to consultations and provide information about how sentencing works. We have introduced a blog, which gives us an opportunity to write about topical matters as well as invite others to provide their own perspective and share their views, and increased our social media activity. The site will continue to evolve and now has the capacity to deliver ever more interactive content, which reflects our commitment to listening and responding to the views of others.

In February, we announced the end of the Crown Court Sentencing Survey in its current format. The survey ran from October 2010 and concluded on 31 March 2015. In future we plan to conduct bespoke data collection in both the Crown Court and magistrates' courts for specific guidelines.

The Business Plan shows the guidelines that are in progress and planned, alongside the associated work that the Council has a statutory duty to undertake. This includes publishing resource implications of its guidelines, monitoring their effect on sentencing practice and assessing the likely impact of Government policy and legislative proposals.

In setting out our current plans for the year, it is important to note that priorities can and do change. The Council is statutorily bound to consider requests from the Lord Chancellor<sup>1</sup> and the Court of Appeal to review the sentencing of particular offences. We may also be required to make amendments to the plan if the Council is required to undertake work on new or complex areas of sentencing. At the end of the financial year 2014/15, the Council received requests from both the Lord Chancellor and the Lord Chief Justice to revise its Definitive Guideline on Allocation, which was not included in our work programme. It has decided to undertake this work in 2015/16.

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<sup>1</sup> s.124 Coroners and Justice Act 2009.

**The aim of publishing the Business Plan is to ensure that those with an interest in our work are kept informed of developments. We will review the plan bi-annually and publish updates, as appropriate, on our website.**

**This year the Council welcomes a number of new members, following the conclusion of the terms of appointment of John Crawforth, Henry Globe, William Davis and Katharine Rainsford. I would like to take this opportunity to acknowledge their significant contributions to the work of the Council.**

**I would also like to acknowledge one of the Council's most valuable resources, the staff of the Office of the Sentencing Council. I am particularly proud of the high quality work consistently produced by the staff. Their contribution and commitment to our work has played a significant role in the success of the Council. This is particularly commendable given the fact that the office is staffed with a complement of 17 people, who work collaboratively within a multi disciplinary framework.**

**Over the next year, staff in the Office of the Sentencing Council will be supported to develop their skills and knowledge, so that over time our capabilities remain aligned with our evolving business needs. We aim to have an organisational model which promotes more effective ways of working and which gives us scope to flex our resources as required.**

**Colman Treacy  
May 2015**

# Background – Sentencing Council

The Sentencing Council for England and Wales ('the Council') was established by Part 4 of the Coroners and Justice Act 2009 (the Act). The Council is a Non Departmental Public Body (NDPB) of the Ministry of Justice (MoJ) whose primary role is to issue guidelines on sentencing which the courts must follow unless it is in the interest of justice not to do so.

The Council is outward-facing, responsive and consultative and draws on expertise from relevant fields wherever necessary whilst ensuring the legal sustainability of all its work. The Council aims to foster close working relationships with judicial, Government and non-Government bodies whilst retaining its independence. The Council engages with the public on sentencing, offers information and encourages debate.

The Council meets 10 times a year; minutes are published on the Council's website.

## Appointments to the Council

The Lord Chief Justice, the Right Honourable Lord Thomas of Cwmgiedd, is President of the Council. In this role he oversees Council business and appoints judicial members. Non judicial members are appointed by the Lord Chancellor.

## *Members*

The Council comprises eight judicial and six non-judicial members, as follows:

### **Chair: The Right Honourable Lord Justice Treacy**

Colman Treacy was appointed as a Lord Justice of Appeal in July 2012. He has been Chairman of the Sentencing Council since November 2013 and a member of the Council since 6 April 2010.

### **Vice-Chair: The Right Honourable Lady Justice Hallett DBE**

Heather Hallett was appointed to the Sentencing Council on 27 November 2013 and is vice-chair of the Council.

### **Michael Caplan QC**

Michael Caplan is one of the few solicitors to have been appointed QC. He is a partner at Kingsley Napley LLP. He was appointed to the Sentencing Council on 6 April 2013.

### **His Honour Judge Julian Goose QC**

Julian Goose is the Resident Judge and Honorary Recorder of Sheffield. He was appointed to the Sentencing Council on 26 June 2014.

### **Martin Graham**

Martin Graham was the national lead for the Probation Chiefs' Association for several years, and more recently for the Probation Institute on courts and sentencing issues. He was appointed to the Sentencing Council on 1 June 2015.

### **Ms Jill Gramann**

Jill Gramann has been a Magistrate since 1990 and was Chairman of the Kidderminster Bench from 2011-2013. She currently sits as a Magistrate on the Worcestershire Bench. She was appointed to the Sentencing Council on 6 April 2015.

### **The Honourable Mr Justice Holroyde**

Tim Holroyde was appointed a High Court Judge in January 2009 and is a Presiding Judge of the Northern Circuit for the period 2012-2015. He was appointed to the Sentencing Council on 6 April 2015.

### **Javed Khan**

Javed Khan has been Chief Executive of Barnardo's since May 2014. He was previously the Chief Executive of Victim Support 2010-2014. He was appointed to the Sentencing Council on 6 April 2013.

### **Her Honour Judge Munro QC**

Sarah Munro was appointed a Circuit Judge based at Portsmouth Crown Court in 2011. She was appointed to the Sentencing Council on 6 April 2013.

### **Chief Constable Lynne Owens**

Lynne Owens has been Chief Constable of Surrey Police since February 2012. She was appointed to the Sentencing Council on 6 April 2013.

### **Professor Julian Roberts**

Julian Roberts is a Professor of Criminology at the University of Oxford and a fellow of Worcester College. He was appointed to the Sentencing Council on 6 April 2010.

### **The Honourable Mr Justice Saunders**

John Saunders was appointed as a High Court Judge in 2007 and was a Presiding Judge on the South Eastern Circuit from 2009-2012. He was appointed to the Sentencing Council on 12 April 2013.

### **Alison Saunders**

Alison Saunders is the Director of Public Prosecutions and head of the Crown Prosecution Service. She was appointed to the Sentencing Council on 1 November 2013.

### **Richard Williams**

Richard Williams has been a District Judge (Magistrates' Court) in Wales since 2004 and a Crown Court Recorder on the Wales Circuit since 2012. He was appointed to the Sentencing Council on 6 April 2014.

### ***Adviser***

#### **Paul Wiles**

An adviser is invited to advise the Council on matters related to specialist areas. The Council is currently advised by Paul Wiles, former government Chief Social Scientist and Chief Scientific Adviser to the Home Office, whose term has been extended beyond 1 April 2015 while a new advisor is appointed.

### ***Sub-groups***

The Council has sub-groups to provide oversight in three areas: analysis and research, confidence and communications and governance. The sub-groups' roles are mandated by the Council and all key decisions are escalated to the full membership. The sub-groups are internal rather than public-facing.

# Aims & Objectives

## Aims

The Sentencing Council for England and Wales will:

- promote a clear, fair and consistent approach to sentencing;
- produce analysis and research on sentencing; and
- work to improve public confidence in sentencing.

## Objectives

The Council will fulfil the following objectives in line with the Coroners and Justice Act 2009:

Prepare sentencing guidelines to help ensure a consistent approach to sentencing

Publish the resource implications in respect of the guidelines it drafts and issues

Evaluate and monitor the operation and effect of its sentencing guidelines and draw conclusions

Following a reference from the Lord Chancellor, explore and assess the impact of government policy and legislative proposals

Promote awareness and knowledge of sentencing and sentencing practice and work to improve public confidence

Publish an annual report

## Timing and prioritisation

The Business Plan sets out an indicative timeline for preparation and publication of guidelines based on the Council's current priorities and work programme. The plan will be subject to bi-annual review and updates will be published, as appropriate, on the Sentencing Council website.

It should be noted that the Council is bound by section 124 Coroners and Justice Act 2009 to consider requests from the Lord Chancellor and the Court of Appeal to review the sentencing of particular offences. Adjustments to the work programme may also be required if the Council is required to undertake work on new or particularly complex areas of sentencing.

The Council's rationale for the prioritisation of guidelines is set out in Annex A.

# Objective 1

## Prepare sentencing guidelines to help ensure a consistent approach to sentencing

The Council will promote a clear, fair and consistent approach to sentencing through the preparation of sentencing guidelines. This is underpinned at all stages by robust analysis and research.

Indicative timeline for preparation and publication of guidelines				
Guideline	Quarter <sup>2</sup> 1	Quarter 2	Quarter 3	Quarter 4
<b>Magistrates' Courts Sentencing Guidelines</b>	Development of definitive guideline			
<b>Allocation</b>	Development of guideline	Consultation on draft guideline	Publication of definitive guideline	
<b>Theft</b>	Development of definitive guideline	Publication of definitive guideline		
<b>Dangerous Dogs</b>	Consultation on draft guideline	Development of definitive guideline	Development of definitive guideline	Publication of definitive guideline
<b>Health &amp; Safety</b>	Development of definitive guideline	Development of definitive guideline	Publication of definitive guideline	
<b>Robbery</b>	Development of definitive guideline			Publication of definitive guideline
<b>Breach of Order</b>	Development of draft guideline/Consultation on draft guideline		Consultation on draft guideline/Development of definitive guideline	Development of definitive guideline
<b>Youths</b>	Development of draft guideline			Consultation on draft guideline
<b>Guilty Pleas</b>	Development of draft guideline	Consultation on draft guideline/Development of definitive guideline		Development of definitive guideline
<b>Assault</b>	Development of draft guideline			Consultation on draft guideline
<b>Knife offences</b>	Development of draft guideline			

<sup>2</sup> The Business Plan covers the financial year from 1 April 2015 to 31 March 2016.



## Objective 2

### Publish the resource implications in respect of the guidelines it drafts and issues

The Council will assess the resource implications of guidelines and use this knowledge to inform the development of guidelines.

Indicative timeline for preparation and publication of guidelines				
Guideline	Quarter 1	Quarter 2	Quarter 3	Quarter 4
<b>Theft and handling</b>		Re-analyse data based on any changes following consultation. Publish final resource assessment		
<b>Robbery</b>		Re-analyse data based on any changes following consultation	Publish final resource assessment	
<b>Health &amp; safety and food offences</b>			Re-analyse data based on any changes following consultation. Publish final resource assessment	
<b>Dangerous Dogs</b>				Re-analyse data based on any changes following consultation. Publish final resource assessment
<b>Breach of Order</b>	Obtain and analyse sentencing data	Publish consultation stage resource assessment		
<b>Guilty Pleas</b>	Obtain and analyse sentencing data	Publish consultation stage resource assessment		
<b>Youths</b>				Obtain and analyse sentencing data. Publish consultation stage resource assessment
<b>Assault</b>			Obtain and analyse sentencing data	Publish consultation stage resource assessment

## Objective 3

### Evaluate and monitor the operation and effect of its sentencing guidelines and draw conclusions

The Council will monitor the operation and effect of its sentencing guidelines and will use this information to develop guidelines.

Indicative timeline and actions to monitor sentencing guidelines				
Guideline	Quarter 1	Quarter 2	Quarter 3	Quarter 4
<b>Assault offences</b>	Finalise report: Evaluation of the effects of the Assault Offences Definitive Guideline on Sentencing Levels	Publish report: Evaluation of the effects of the Assault Offences Definitive Guideline on Sentencing Levels		
<b>Burglary offences</b>	Analyse MoJ court proceedings database and Crown Court Sentencing Survey data on the sentencing outcome of burglary offences before and after the Definitive Guideline came into force	Publish report: Evaluation of the effects of the Burglary Offences Definitive Guideline on Sentencing Levels		
<b>Drug offences</b>		Obtain sentence outcome data on drug offences from MoJ court proceedings database and Crown Court Sentencing Survey	Analyse MoJ court proceedings database and Crown Court Sentencing Survey data on the sentencing outcome of drug offences before and after the Definitive Guideline came into force	Publish report: Evaluation of the effects of the Drug Offences Definitive Guideline on Sentencing Levels
<b>Environmental offences</b>	Receive sentence outcome data on environmental offences from the Environment Agency		Receive sentence outcome data on environmental offences from the Environment Agency and analyse it to draw conclusions about the effective application of the definitive guideline	

## Objective 4

### Assess the impact of government policy and legislative proposals

Following a reference from the Lord Chancellor, the Council will assess, and report on, the likely impact of the proposal on resources required for the provision of prison places, probation provision and the provision of youth justice services.

## Objective 5

### Promote awareness of sentencing and sentencing practice and work to improve public confidence in sentencing

The Council will communicate its guidelines; report on its analysis and research findings and carry out projects to improve public confidence in sentencing.

Sub-objective	Quarter 1	Quarter 2	Quarter 3	Quarter 4
<b>Publish and distribute sentencing guidelines and other materials</b>	Provide sentencers and criminal justice practitioners with briefing on the introduction of all new guidelines.			
Make accessible to the public, sentencers, criminal justice practitioners and interested parties all guidelines and reports online and in print, as appropriate	Publish online the annual Crown Court Sentencing Survey report	Publish theft definitive guideline. Launch digital guideline for magistrates (MCSG)	Publish health and safety definitive guideline	Publish robbery and dogs definitive guidelines
<b>Provide expert advice and input into sentencing issues</b>	Maintain relationships with the media to ensure we are regularly approached for information and advice on sentencing issues and guidelines, and provides proactive briefing where appropriate. Ensure timely responses to enquiries from the media and interested parties			
<b>Develop productive working relationships with partners and interested parties in order to promote our messages more widely</b>	Use partner communication channels (intranets, e-bulletins) to extend our reach and gain insight into our target audiences.  Brief counterpart policy officials and press offices to ensure they are aware of forthcoming announcements and their relevance.  Ensure Sentencing Council representation (speech, presentation or literature) at a minimum of 20 events, targeting the judiciary, criminal justice practitioners, academics and special interest groups.  Engage with professional groups and other stakeholders/ organisations.			

Co-host events with interested parties to support guideline consultations	Dangerous dogs	Guilty pleas	Youths	Assault
<b>Work to engage the public and victims of crime</b>	Establish links with Citizens Advice to engage with the Witness Service. Develop and implement plans to reach segments of the public and victims through confidence projects.			
National, regional and specialist print, online and broadcast coverage	Dangerous dogs consultation	- Guilty plea consultation - Theft definitive guideline	- Youth consultation - Health and safety definitive guideline - Robbery definitive guideline	- Dogs definitive guideline - Assault consultation
<b>Develop the Council's digital capability in line with the Government's 'digital by default' initiative</b>	Maintain the new website, adding to existing content with more interactive and engaging content and continue increased use of social media and more sophisticated analysis of activity. Syndicate information on sentencing on partner websites.			
	Expand content for Council's website	Launch the digital sentencing guideline for magistrates (MCSG)		

## Objective 6

### Publish an annual report

The Council will publish an annual report in October 2015 on the exercise of the functions of the Sentencing Council to include a sentencing factors and a non-sentencing factors report.

## Staff headcount (as at 31 March 2015)

Area of activity	FTE <sup>3</sup>
Head of Office and support	2
Policy	4
Analysis and research	5.9
Legal	1
Communications	3.9
<b>Total</b>	<b>16.8</b>

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<sup>3</sup> FTE: full-time equivalents

# Budget

Summary of budget and resource allocation

	<b>2014/15 (actual)<sup>4</sup> £000s</b>	<b>2015/16 (budget) £000s</b>
<b>Total funding allocation</b>	1,580	<b>1,532</b>
<b>Office staff costs<sup>5</sup></b>	1,058	<b>1,134</b>
<b>Council members and adviser fees<sup>6</sup></b>	71	<b>72</b>
<b>Analysis and research</b>	146	<b>166</b>
<b>Design and printing services</b>	64	<b>71<sup>7</sup></b>
<b>Confidence and communications</b>	20	<b>52<sup>8</sup></b>
<b>IT services</b>	15	<b>5</b>
<b>Training</b>	6	<b>9</b>
<b>Other office expenditure<sup>9</sup></b>	27	<b>23</b>
<b>Total expenditure</b>	1,409 <sup>10</sup>	<b>1,532</b>

It has not been possible within the allocated budget to make any allowance for future adjustments to the work programme.

<sup>4</sup> The total expenditure has been rounded to the nearest £1,000 independently from the constituent parts, therefore summing the parts may not equal the rounded total.

<sup>5</sup> Includes office staff travel and subsistence costs.

<sup>6</sup> Includes travel and subsistence costs incurred by Council members and advisers.

<sup>7</sup> The increase in planned expenditure is attributable to the greater number of publications scheduled in 15/16 than were produced in 14/15.

<sup>8</sup> The very significant increase in expenditure reflects the additional costs to the Council now that its website is not supported by the Ministry of Justice, and in particular ongoing development costs associated with the transition to provision of guidelines in digital format.

<sup>9</sup> Other office expenditure includes off-site storage cost and postage.

<sup>10</sup> The underspend was largely attributable to unplanned vacancies.

# Annex A:

## Rationale for the prioritisation of guidelines

Under section 120 of the Coroners and Justice Act 2009 the Sentencing Council must prepare sentencing guidelines about:

- the discharge of a court's duty under section 144 of the Criminal Justice Act 2003 (c. 44) (reduction in sentences for guilty pleas),<sup>11</sup> and
- sentencing guidelines about the application of any rule of law as to the totality of sentences.<sup>12</sup>

Section 120(4) provides that the Council may prepare sentencing guidelines about any other matter.

The overarching aim of the Council in publishing guidelines is to promote a clear, fair and consistent approach to sentencing. In agreeing its three-year rolling work plan, the Council will prioritise the publication of guidelines that will fulfil that aim.

The Sentencing Council will schedule guideline production on the basis of one or more of the following factors:

- The Lord Chancellor or Lord Chief Justice formally requests the review of sentencing for a particular offence, particular category of offence or particular category of offender and the production of a guideline.
- New legislation requires supporting sentencing guidelines.
- Guidelines issued by the Sentencing Guidelines Council require conversion into the Council's step by step approach to sentencing or current guidelines are out of date or incomplete.
- A substantial body of interested parties request a guideline to be issued for a particular area of sentencing.
- Sentencing data suggests that there may be inconsistency in sentencing for a particular offence, particular category of offence or particular category of offender.
- Evidence suggests that the guideline would have a significant effect on sentencing practice, for example, the potential range of available sentences is wide and/or the number of offences sentenced is significant.
- The resource required to produce a guideline and other work pressures

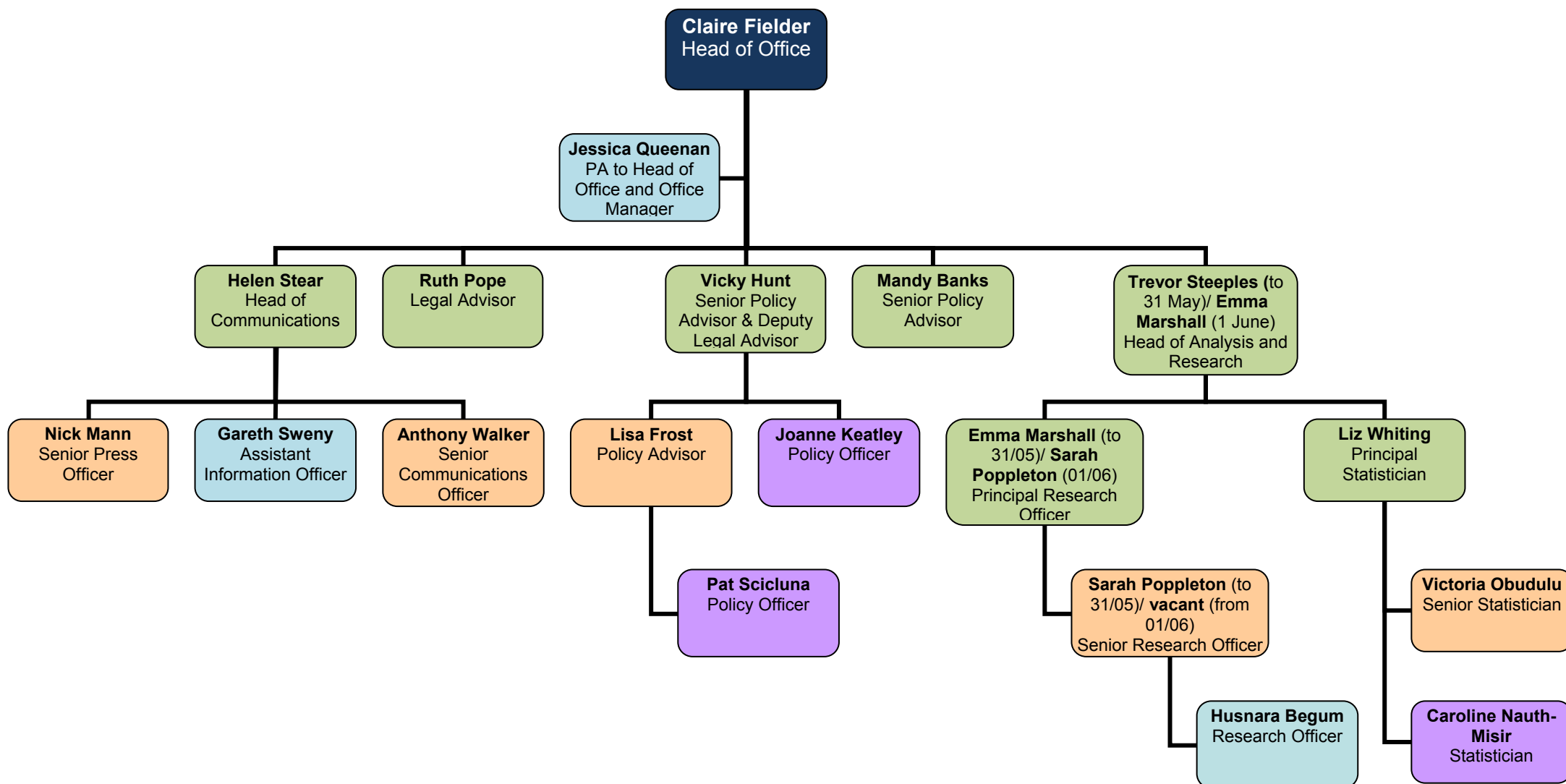
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<sup>11</sup> s.120 (3)(a)

<sup>12</sup> s.120 (3)(b)

# Annex B: The Office of the Sentencing Council organisation

The Sentencing Council is supported in its work by a multi-disciplinary team of civil servants, as shown below.





## Annex C- Sentencing Council Guideline Work Plan – 2015 to 2018\*

<b>Guideline</b>	<b>First discussion of guideline by Council</b>	<b>Consultation period</b>	<b>Publish definitive guideline</b>	<b>Definitive guideline in force</b>
Theft	July 2013	April – June 2014	October 2015	January 2016
Health & Safety	October 2013	November 2014 – February 2015	November 2015	January 2016
Robbery	January 2014	October 2014 – January 2015	January 2016	April 2016
Dangerous Dogs	June 2014	March – June 2015	February 2016	April 2016
Allocation	March 2015	June – July 2015	October 2015	October 2015
MCSG explanatory material	January 2014 (current phase)	Feedback exercise December 2014 – January 2015	Autumn 2015	Autumn 2015
MCSG offence specific guidelines	March 2015	January – March 2016, depending on extent of changes	September 2016	January 2017
Breach of order including Bail	October 2014	December 2015 – March 2016	September 2016	January 2017
Guilty pleas	November 2014	September – December 2015	July 2016	October 2016
Youths	October 2014	January – March 2016	December 2016	April 2017
Assault	March 2015	July – October 2016	July 2017	July 2017
Knife/ bladed article possession	December 2015	September – November 2016	September 2017	January 2018
Public order	January 2016	October 2016 – January 2017	October 2017	January 2018
Motoring (death/injury)	September 2016	May – August 2017	April 2018	July 2018
Manslaughter (including SGC provocation guideline)	September 2014	February – June 2017	January 2018	April 2018

\* The dates shown in this work plan are indicative and may be subject to change.

\*\* Currently we allow a three month implementation period between publication and the definitive guideline coming into force.