

Drug Offences
Response to Consultation

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Foreword



On behalf of the Sentencing Council, I would like to thank everyone who responded to our consultation on the sentencing guidelines for drug offences and who attended our consultation events. The volume of responses has been very encouraging, with a large number of both professionals and members of the public taking time to offer views and share their experience of these offences.

As with the guideline on assault and burglary offences, we published two consultation documents, one for professionals working in the criminal justice system including the judiciary, legal practitioners and the police; and one aimed at members of the public with an interest in this issue. Together they attracted a very heartening 146 written responses. We also published an online questionnaire which attracted 539 responses. The resulting views and comments have been extremely helpful in assessing whether our proposals meet their aims.

We have followed the ‘stepped’ approach taken in the Sentencing Council’s first published guideline, *Assault: Definitive Guideline*, and we are confident that this will aid practitioners and build upon the approach that is now in use for both assault and burglary.

I am pleased that the consultation and draft guideline have been well received and am grateful to all those who have allowed us to share the benefit of their experience; both as practitioners and as members of the public affected by these crimes.

The Rt Hon Lord Justice Leveson
Chairman of the Sentencing Council

Introduction

The Sentencing Council, set up in April 2010, is the independent body responsible for developing sentencing guidelines and promoting greater transparency and consistency in sentencing, whilst maintaining the independence of the judiciary.

Section 125(1) (a) of the Coroners and Justice Act 2009 provides that:

“Every court –

- (a) must, in sentencing an offender, follow any sentencing guideline which is relevant to the offender’s case, and
- (b) must, in exercising any other function relating to the sentencing of offenders, follow any sentencing guidelines which are relevant to the exercise of the function,

unless the court is satisfied that it would be contrary to the interests of justice to do so.”

The guideline will apply to all offenders aged 18 and older, who are sentenced on or after 27 February 2012, regardless of the date of the offence. The duty of the court in relation to the guideline differs depending on whether the offence was committed before or after 6 April

2010. When sentencing offences committed *after* 6 April 2010 the court must follow the guideline unless it is satisfied that it would be contrary to the interests of justice to do so. When sentencing offences committed *prior* to 6 April 2010, the court is to have regard to the guideline.

In March 2011, in accordance with section 120 of the Coroners and Justice Act 2009, the Sentencing Council published a consultation on draft guidelines on the sentencing of drug offences. The Coroners and Justice Act 2009 set out the following matters which the Council must have regard to when preparing sentencing guidelines:

- the sentences imposed by courts in England and Wales for offences;
- the need to promote consistency in sentencing;
- the impact of sentencing decisions on victims of offences;
- the need to promote public confidence in the criminal justice system;
- the cost of different sentences and their relative effectiveness in preventing re-offending; and
- the results of monitoring the operation and effects of its sentencing guidelines.¹

¹ s 120 (11) Coroners and Justice Act 2009

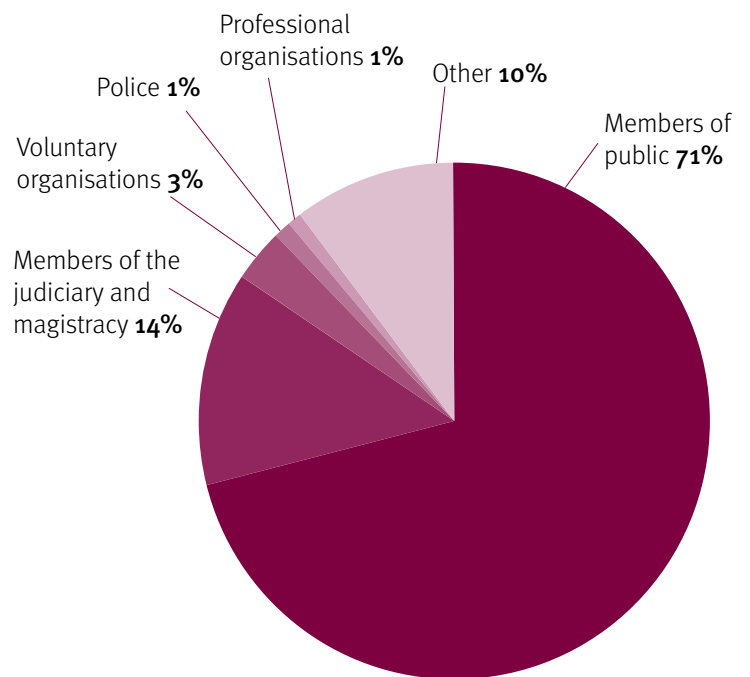
As the guideline will be the principal point of reference in all drug offence cases in both the Crown Court and the magistrates' courts, the Council sought views on the draft guideline from as wide an audience as possible, including members of the judiciary, legal practitioners and organisations involved in the criminal justice system. A consultation document was developed specifically for members of the public with an interest in the criminal justice system and sentencing. An online questionnaire was also made available. A number of consultation events were arranged between May and June involving both professionals and the public.

At the same time as publishing its consultation paper containing the draft guidelines, the Council also published a draft resource assessment and an equality impact assessment. The consultation period closed on 20 June. This report summarises the responses to the questions asked in the consultation documents as well as those expressed during the consultation events, and sets out the Sentencing Council's decisions on key points raised and the next steps for the guideline.

Summary of responses

The consultation sought responses to specific questions on the drug offences draft guideline, including its structure, content, the impact on and the consideration of victims, equality and diversity matters and the sentence ranges and starting points contained within each offence specific guideline.

A total of 685 responses to the consultation paper were received. Of these 146 were emailed or sent in hard copy and 539 were received as responses to the public online questionnaire. Respondents were drawn from a variety of backgrounds including the full time judiciary, the magistracy and professional organisations involved in the criminal justice system. The specific sector breakdown of the responses received is shown here.



Category	Number of Responses
Academics	7
Government	1
Individuals	49
Judges	17
Legal professionals	8
Magistrates	76
Members of the public	486
NDPBs	2
Parliament	1
Police	7
Professional organisations	6
Voluntary organisations	22
Youth panels	3
Total responses	685

A further breakdown detailing the responses to the professional consultation paper can be found at Annex A.

Consultation events with magistrates, judges, legal practitioners, criminal justice organisations and those with an interest in drug offending-related issues all provided the Sentencing Council with much to consider and also helped to provide a number of consultation responses. The in-house research team also carried out research with a number of Crown Court judges over several months, including ‘road testing’ the draft guideline, to better understand current sentencing practice.

The responses have generally been positive about the approach taken by the Sentencing Council to a number of key elements of the draft guideline including the proposed decision-making process and the harm and culpability model. The Justice Select Committee of the House of Commons heard oral evidence and received written submissions from a number of organisations which were supportive of the draft guideline. There was particular support for the Council’s decision to reduce sentences for drug ‘mules’ given these are frequently vulnerable individuals who have been exploited into importing drugs by family members, friends or acquaintances.

Consultees were largely in favour of determining the seriousness of the offence at step one by assessing the role of the offender and the quantity of drugs involved. A minority felt that purity should also be considered at this step. However, the majority agreed that, given that forensic testing for the purity level of drugs is not consistently available, high or low purity would be better considered as an aggravating or mitigating factor respectively. Some respondents raised concerns about certain aspects of this approach. Some consultees felt more detail about the offender’s motivation should be included in the role categories to better reflect the different types of drug offenders. Several consultees were concerned that the quantity

thresholds could cause disproportionate sentences where a tiny amount over or under the threshold could have a significant impact on an offender’s sentence. Other consultees felt the quantity ranges were too inflexible and would quickly become out of date and unreflective of a constantly changing drugs market. Several consultees also felt that for certain offences quantity is not an accurate indicator of harm; for example, possession for personal use, ‘street dealing’ and supply in prison by a person in a position of responsibility.

Consultees were also generally in favour of the aggravating and mitigating factors included in the draft guideline at step two. These are additional factors relevant to the offence which the sentencer may consider and could result in an upward or downward movement from the starting point. In particular, most consultees were in favour of the inclusion of medicinal use of cannabis as a mitigating factor in the possession guideline, reflecting the position currently set out in the *Magistrates’ Court Sentencing Guideline* for this offence. The majority of respondents also felt that the recommended category ranges and starting points were appropriate, save those for ‘street dealers’. However, it was generally felt that it would be fairer were the starting point pegged to a specific quantity rather than to a range of quantities.

The Council also recognises that there is a challenge to get the balance right between the detail of guidance required for magistrates, for district judges and for Crown Court judges. The Council’s intention is for the guideline to be accessible for all sentencers and acknowledges that the significant differences between the Crown and magistrates’ courts’ caseloads make this a complex task. However, it is firmly of the view that having a guideline for use in both jurisdictions delivers significant advantages. Primarily, it will engender a greater consistency of approach across all courts, regardless of the severity of the offence. In informal discussions with sentencers from both courts, it was

apparent that there was little understanding of how the other court sentences. Having one guideline for both courts enables each to become more aware and have a greater understanding of what the other is doing. Additionally, the Council takes its responsibility to victims very seriously and considers that having one guideline will ensure that it is as clear as possible to any member of the public, irrespective of which court is involved in making the decision.

The next section discusses the responses to specific questions and sets out in more detail the decisions reached by the Council following views expressed during the consultation.

Responses to specific questions²

Q1 Do you agree with the proposed groupings of offences into five guidelines?

The professional consultation paper recommended the grouping together of offences with common factors therefore meriting similar starting points and ranges. The aim of this approach is to ensure that offences for which similar considerations are taken into account as part of the sentencing process are sentenced in a consistent way. The Council wanted to ascertain whether respondents felt the proposed grouping of offences into five guidelines would achieve its desired aim. 100 per cent of respondents agreed with the approach. The general feeling was that the approach was practical and would promote and increase consistency and clarity in sentencing.

Given the strength of support for the approach taken, the Council will not be altering the grouping of offences into five guidelines.

² The questions follow the order set out in the professional consultation.

Q2 Do you agree with the Council’s approach to the issue of purity? If you do not agree, it would be helpful to the Council if you would explain your reasoning.

The Council acknowledged that purity can be an indicator of harm and suggested five approaches for its consideration as part of the decision-making process. The professional consultation paper recognised that forensic testing of drugs by law enforcement agencies is not consistent across the country and its frequency is likely to be considerably reduced given the pressures on all public budgets. The Council recommended a departure from the approach currently taken, suggesting that purity should not be taken into account at step 1 and quantity should be determined by the weight of the entire product recovered. However, to cater for analysis where it is available, high purity should be included as an aggravating factor at step 2.

Overall, consultees agreed that the approach set out in the draft guideline would be the fairest and most pragmatic way to deal with the issue of purity; 85 per cent of respondents agreed with the approach. A number of consultees agreed that forensic analysis would become less frequently available and would therefore cause further difficulties with assessing purity. A number of respondents recognised that purity is complex as a factor in determining seriousness and that its consideration would be better placed at step 2.

“Like the other options, [the Council’s proposed approach] has its imperfections, but is probably the most...equitable way of dealing with the questions of purity.” Crown Prosecution Service

“As a standalone indication of seriousness to achieve consistent sentencing practices, purity is a complex, potentially contradictory and unreliable factor.” Ministry of Justice

However, there was some disagreement with the Council’s approach from some Crown Court judges who took part in the ‘road testing’ exercise. They felt that knowledge of purity at step 1 is important in order to sentence different quantities on a consistent basis, particularly for large scale importation offences. They commented that the draft guideline could result in offenders who supply or import less pure drugs receiving higher sentences than offenders with purer drugs. The difficulty with this view, though, is that the availability of forensic testing is outside the Council’s control. This concern was shared by the Criminal Bar Association who also commented that the seriousness of the offence is informed by the potential harmful effects of that substance. However, in terms of the pharmaceutical risk or effect of the drug, the classification of drugs goes some way to determining this.

Some magistrates suggested that, at step 1, purity is only relevant where it can determine the potential number of ‘end-user units’ or ‘wraps’ that drugs found in bulk can be turned into. They suggested that the number of units or ‘deals’ that a quantity of drug could produce is the most effective method of establishing scale of operation and the potential harm to others at step 1. Again, the difficulty with this view is that it is dependent on the availability of forensic analysis. It also requires the sentencer to carry out a fairly complicated calculation to translate purity and quantity into ‘deals’ in a way which reflects the drugs market at any given time. This is problematic given the drugs market is constantly evolving.

Given the support for the proposed approach the Council will adopt its recommended approach, maintaining high purity as an aggravating factor at step 2; in light of the comments received it will also include low purity as a mitigating factor.

Q3 Do you agree with the Council's approach of separating classes B and C?

The Council proposed to separate, rather than combine, classes B and C in the guidelines to allow each guideline to be more specifically tailored to the offence it covers by providing separate starting points and ranges for each class of drug. This would allow a more measured approach to the sentencing of class C drugs by taking into account differences in statutory maximum penalties where appropriate. This approach would therefore be more transparent and offer a greater level of guidance to defendants, legal practitioners and the general public. The proposal met with very strong support; 97 per cent of respondents agreed with the proposed approach, with many commenting that it best reflects the intention of Parliament as set out in the Misuse of Drugs Act 1971.

Q4 Do you agree that the court should be referred to the guideline for supply or possession (according to intent) when the quantity of drug involved in the offence is very small?

The professional consultation paper proposed that the court should be referred to the guidelines for supply or possession for importation offences involving a very small amount of drugs. In recognition of importation being a more serious offence, the paper proposed that the sentence should be aggravated at step 2 of the corresponding guideline. This topic was not covered in the public consultation. The vast majority (about 85 per cent) of respondents agreed with this approach. The Law Society and the Crown Prosecution Service (CPS), in their responses, reflected the general feeling that this approach would enable the sentencer to take a measured approach in those cases.

“a sensible short-cut” An academic

“a logical and flexible approach allowing the court to take a decision based on the facts of the individual case.” The Magistrates’ Association

“this recognises that the culpability and harm involved in this sort of offence are very little different from the offence being committed where drugs are found in a suitcase at the airport to one where drugs are found in a suitcase on top of a wardrobe in the offender’s home.” Justices’ Clerks’ Society

A small minority of consultees questioned this approach. Some supported the approach in terms of very small quantities commensurate with personal use, but did not agree that the same approach should apply to importation where it is the intention of the offender to supply. It was

felt that the aggravation of the sentence does not fully reflect the seriousness of this offence. There was some concern from a recorder and the Serious Organised Crime Agency (SOCA) that cross-referencing between the possession/supply and importation guidelines might be confusing.

Sentencers have indicated that they currently treat the importation of very small quantities of drugs in the same way as proposed in the consultation paper and in accordance with current Court of Appeal guidance in this area (*Aramah*³), a point also made by the Criminal Bar Association. With this in mind and given the strong support from other respondents, this approach will be retained in the definitive guideline.

Q5 Do you think that supplying to an undercover officer should be included in the guideline? If yes, please state at which stage.

The draft guideline did not include ‘supplying an undercover officer’ as a factor at either step 1 or step 2 but the Council wanted to consult professionals on whether it should be included because of its apparent significance in ‘*Afonso*’⁴ cases. The vast majority (82 per cent) of professional consultees were opposed to the inclusion of ‘supply to an undercover officer’ in the guideline either at step 1 or step 2.

Most respondents, including the Council of Circuit Judges and the CPS, felt that supply to an undercover officer is not necessarily more or less serious than supply to another and so should not be treated differently. Respondents, including the Ministry of Justice and the Association of Chief Police Officers (ACPO), tended to feel that evidence of supply to a police officer should be used to help prove the offence itself. In the view of Lord Justice Gross and the Justices’ Clerks’ Society, to do otherwise could potentially undermine the use of police undercover operations.

“We agree with the Council that this is still supply and this single factor of itself does not necessarily make the offence any less serious”
Council of District Judges

“supply to an undercover police officer is irrelevant for the purposes of seriousness, and as such, agrees with the Council that ‘Supply to undercover police officers’ should not be included at either step 1 or step 2 of the guideline” Criminal Justice Alliance

3 (1982) 4 Cr App R (S) 407

4 [2005] 1 Cr App R (S) 99

However, a minority of respondents were in favour of its inclusion since, in their view, the harm caused in that situation is relatively slight. Some respondents, including Release, were also in favour of its inclusion because of the reduced culpability of the offender outlined in *Afonso*, that is, an unemployed addict who supplies to others to finance their own addiction. However, this reduced culpability is reflected in step 1 already: the offender would generally fall into the ‘lesser’ role category given his/her motivation.

The Council agrees that ‘supply to an undercover officer’ should not be a factor for consideration at either step 1 or step 2 and it will not be included in the definitive guideline.

Q6 Do you agree that possession of a drug in prison should put an offender into the most serious offences category for possession offences?

The Council proposed that possession of a drug in prison by any person (be this a prisoner, prison officer or any other person in the prison estate) is a singular factor resulting in an offence being categorised in the most serious category (category 1) to reflect the gravity of this offence.

The response to this aspect of the draft guideline on possession was mixed, but overall the majority of consultees (73 per cent) felt the approach taken was not appropriate. Some respondents, including the Judge Advocate General and an academic, in support of the approach, felt that drug offending in prison is a bar to rehabilitation and should be dealt with very seriously. However, quite the opposite view was held by others, including the Criminal Justice Alliance and the Transition to Adulthood Alliance, who commented that the Council’s proposal is inappropriate in terms of rehabilitating offenders and in their view there is no evidence to suggest that it would act as a deterrent either. One academic commented that the research on deterrence tends to suggest that it is certainty of detection rather than level of punishment per se that deters potential offenders. This is supported by the views of the participants in the Revolving Doors consultation event who also commented that such an approach would simply create an extra market by having prisoners in custody for longer. They suggested that a more effective punishment would be the removal of privileges in prison.

Several respondents strongly disagreed that possession of drugs in a prison should place the offender in the most serious category in all instances. Those respondents, including the Criminal Bar Association, felt that this is not a principled assessment of the harm caused by the offence and the offender’s culpability. Several respondents, including the Council of Circuit Judges and SOCA suggested a better approach

would be to include ‘possession of drug in prison’ as an aggravating factor rather than as a distinct category more serious than any other. This approach was supported by the criminal justice organisations at one of the consultation events.

“having drugs in prison is an aggravating feature, but it cannot be said that a small amount in a cell equates with a giant ‘stash’ outside.” Judge

“a better approach would be to include the fact that possession was in a prison as an aggravating factor. In the case of possession by a prison officer or other person in the prison estate, it would be a serious aggravating factor” Criminal Bar Association

Several respondents, including the CPS and Release, commented that the approach in the draft guideline would likely have little impact in any event, observing that the vast majority of these cases are usually dealt with by way of a prison disciplinary hearing.

Despite the split in the professional responses on this issue, the Council agrees with the majority of respondents that ‘possession of a drug in prison’ should not be included as a separate category in step 1 and that it would be more appropriate to include it as an aggravating factor.

Q7 Should “medical evidence that a drug is used to help with a medical condition” be included as a mitigating factor for possession offences?

The consultation asked specifically whether ‘medical evidence that a drug is used to help with a medical condition’ should be included as a mitigating factor at step 2 for possession offences. Most respondents were in favour of its inclusion: 63 per cent of respondents welcomed the proposal but the vast majority of these were only in favour of its inclusion for cannabis.

It was noted by several consultees, that, “evidence that use was to help cope with a medical condition,” is currently included in the Magistrates’ Court Sentencing Guidelines as a mitigating factor for class B and C drugs. Some consultees, including the Prison Reform Trust, suggested that if it were omitted from the definitive guideline, this could lead to more severe sentencing in some cases than current practice. Indeed, sentencers might assume that non-inclusion of this factor at step 2 is to indicate that it should not mitigate the offence. Other respondents suggested that sentencers would continue to recognise its mitigation whether listed or not as the step 2 factors are non-exhaustive.

However, a number of consultees submitted that its inclusion could result in inconsistent sentencing and delays in proceedings. Whilst many agreed that the court ought to be able to take account of bona fide medical conditions at step 2, there was concern that defendants may not be able to obtain the required evidence on a consistent basis. Some consultees, including the CPS and ACPO, felt that its inclusion would open the door to spurious defences, resulting in a ‘battle of the experts’ and a huge cost in both time and money to the court. There was also concern that its inclusion could be perceived as undermining the law on controlled substances. Others, including the Law Society, commented that including it as a specific mitigating factor could perhaps over-emphasise its significance.

Conversely, numerous other consultees, including the International Drug Policy Consortium (IDPC), the Magistrates Association and Drugscope, referred to evidence of the medical benefits that the active ingredients of cannabis have in the treatment of conditions associated with Multiple Sclerosis and some forms of cancer. It was suggested that if the offender can bring to court evidence that they have been attempting to obtain the drug by legal means and written evidence from their medical practitioner that the use of the drug can alleviate the symptoms of their illness, then this should be a convincing mitigating factor. Some respondents, including the Advisory Council on the Misuse of Drugs (ACMD) and the Council of Circuit Judges, were keen that the mitigation should also include cases where the offender believes that cannabis is helping with his or her medical condition but in reality it is having no or only a placebo effect.

The Council agrees that where cannabis is used to help with a diagnosed medical condition this should serve as a mitigating factor. The following wording will be included at step 2 in the definitive guideline: “offender is using cannabis to help with a diagnosed medical condition”.

Q8 Do you agree with the quantities set out for each of the drugs guidelines?

The quantities included in the draft guideline were met with general support although some of this support was qualified in some way. Consultees were most concerned about the use of quantity as a means of determining seriousness and the structure of step 1. This played out particularly strongly with regard to the importation, supply and possession draft guidelines. The quantities in the production/cultivation and permitting premises draft guidelines were generally accepted as being appropriate.

Number of quantity levels

Respondents to the consultation were largely in agreement with the proposed number of quantity levels set out for each of the drug offences. However, the Council of Circuit Judges commented that the ranges “seem designed to force a scenario into a category” and that five quantity levels risked a “tick box approach” and should be reduced to three. Some Crown Court judges who took part in the ‘road testing’ exercise agreed that the ranges available with five levels were rather narrow. It was felt that a reduced number of categories covering more substantial ranges of quantities, coupled with the identification of the offender’s role, would allow for a more appropriate exercise of judicial discretion.

The Council agrees that fewer but broader categories would afford sentencers greater flexibility in sentencing and therefore the number of categories has been reduced to four in the definitive guideline.

Some judges suggested there should be a further category for ‘massive’ amounts to assist them in sentencing importation and supply offences. Others suggested that there should be no upper limit in the very large category. The judges felt that the approach proposed in the consultation

paper would not help those sentencing in such cases. This was echoed by the Crown Court judges who took part in the ‘road testing’ exercise.

In light of these comments and those made by the CPS regarding the huge quantities dealt with by UKBA, additional wording will be included in the definitive guideline giving greater guidance to the sentencer for cases involving amounts significantly above the quantity upon which the starting point is based in category 1.

Labels

The Crown Court judges involved in the ‘road testing’ exercise recommended that the Council revisit the labels of the quantities of the drugs, particularly those classified as “very small” or “small”, a view echoed by some other consultees. It was felt that those labels did not reflect the quantities in those categories, which could be misleading. The Council considered this and has decided to re-label the categories “1”, “2”, “3” and “4”.

Quantities of drugs

The quantities of drugs proposed in the consultation paper were a point of disagreement in some of the responses, with some respondents suggesting new quantities and others proposing that quantities be expressed in ‘end user’ units or doses. Some criminal justice organisations who attended one of the consultation events commented that the ‘very small’ quantity category for possession of ecstasy was not reflective of current social drug use. Several consultees, including an academic, raised concerns about the applicability of the quantities over time given that the drugs market is in constant flux. Other consultees, including Release, raised concerns regarding the unfair nature of thresholds, where a tiny amount could result in an offence moving up or down into the next offence category. Others felt that the quantity of drugs does not always reflect the harm caused by the offence.

In respect of the guideline on production/cultivation, moving away from the number of cannabis plants (or weight) at the higher end of the scale of operation was considered to better reflect the harm caused by the offence, particularly the potential harm that could be caused through multiple yields harvested from a mature plant. However, some respondents felt that the wording regarding the type of operation could be improved. The draft guideline described medium-scale operation as being ‘15 plants or more’. Given the potential profit that this number of plants could generate it was considered potentially misleading to call this a ‘domestic’ operation. There was also some concern from one consultee that the number of plants given in the quantity categories in the production/cultivation guideline did not correspond with the quantity in grams or kilograms in the other guidelines.

The Council took these concerns seriously and has decided that it would be more appropriate to include single indicative quantities in each category, upon which the starting point is based, rather than a rigid quantity range as set out in the consultation. An exception has been created for two types of offenders in the supply guideline: ‘street dealers’ and prison employees who supply in prison. For these offenders, the quantity of drug recovered is less representative of the harm caused because the nature of the activity involved means that only small amounts of drugs can be carried by the offender. Therefore, for the purpose of assessing harm at step one, prison employees and ‘street dealers’ will always fall within category 3, irrespective of the quantity involved. The production guideline will also provide descriptions of the type of operation in the two larger quantity categories with indicative quantities for categories 3 and 4, based on an assumed yield from the plant. This will avoid potential confusion and give more flexibility to the sentencer to assess the type of operation involved.

Starting points

A few consultees, including a number of judges, commented that the approach taken to starting points in the draft guideline would not produce a fair scheme given the starting point in each range of quantities is the same whatever the quantity. The Council reflected on this and has decided to amend the approach: the starting point will now be linked to a specific indicative quantity. The Council is aware that this is a different approach to that taken in the guidelines on assault and burglary, but it believes that this is the only fair and appropriate approach for these offences. It will then be left to the discretion of the judge to determine the extent of movement from the starting point within the category range.

Possession

Several respondents, including Drugscope and Release, did not support the division of drugs by quantity for determining the offence category for possession for personal use, on the basis that quantity is an arbitrary measure. Consultees set out several reasons for this. Firstly, the quantity of drugs that are found in a defendant's possession at the point of arrest may depend on the timing of their arrest. Secondly, the quantity of drugs at the point of arrest will depend on the way a drug user accesses drug markets, for example buying in bulk to limit their contact with the criminal market. Thirdly, a drug user may adjust their drug use and behaviour depending on the purity of the products that are available in a particular market at a given time (for example, reducing their use when only more potent strains of cannabis are available locally). Finally, the quantity of drugs in a defendant's possession may reflect their tolerance, with more frequent or longer term drug users having a higher tolerance and therefore purchasing greater quantities. There was some concern that determining offence category for possession for personal use by quantity could result in people with more chronic and entrenched drug problems receiving the most severe sentences for possession. The discussion at the consultation event with criminal justice organisations made this point strongly. It was concluded that quantity is an arbitrary

means by which to determine offence category for possession. It was suggested that a better approach would be to have the classification of drugs as the only determinant of seriousness at step 1 for possession offences, rather than quantity. This was also suggested by the participants in the 'Revolving Doors' consultation event.

The Council has reflected carefully on these responses and agrees that, for possession for personal use offences, quantity is an arbitrary measure of seriousness and it recognises the potential for perverse outcomes and disproportionality in sentencing. Step 1 for possession for personal use will therefore include only the classification of the drugs as the determinant of seriousness.

Q9 Do you agree with the roles as proposed for each of the offences covered by the draft guideline?

The majority of respondents (91 per cent) agreed with the proposed roles for each of the offences set out in the draft guideline, with one academic commenting that the factors as drafted are very comprehensive and should aid consistency of approach. However, the Council of Circuit Judges commented that, “at present a sentencing judge is able to grade the defendants on the basis of information and adjust the range of sentences accordingly. The rigidity of categories will hinder this useful approach.” The judges who road tested the draft guidelines commented that the roles did not reflect sentencing practice and could lead to inconsistency since sentencers would likely depart from the guideline.

Role categories are not in line with sentencing practice

The judges who took part in the ‘road testing’ exercise did not on the whole agree with the way in which the role of the offender had been categorised or defined in the draft guideline – in particular, they felt that the position of a ‘street dealer’ needed to be revisited and that clarification was needed in respect of couriers.

In the road testing exercise it was found that the judges tended to place offenders one category lower than the Council would; in a small number of instances, they placed them two categories lower. For many, this related to their interpretations of the three different roles and what type of offender they would, from their experience, place in these roles. Therefore when they did offer sentences more in line with what might be expected using the draft guideline, this was generally when they were strictly applying the guidance on role, even if they did not agree with it. For some, however, sentences using the draft guideline were more in line with what they would favour.

The main implication of this was that some judges may not apply the stepped approach as it was intended – some judges were observed to consider the categories of role and quantity in step 1, what this would mean in terms of a starting point and category range, and then move to a different starting point and range at step 2 that aligned more closely with their personal judgment of the appropriate sentence.

This was a particular issue with regard to ‘street dealers’. Some respondents agreed that ‘street dealers’ were correctly characterised as being in a ‘leading’ role. However, there was strong disagreement from others, including the Criminal Justice Alliance and Release. Several judges commented that in their experience, dealers at this level are not as culpable or dangerous as those offenders involved at a higher level. In their view, the draft guideline would result in significantly longer sentences for defendants in this category.

The Magistrates Association commented that rather than being in a ‘leading’ role ‘street dealers’ could be at the lowest level of the organisation, if in fact there is an organisation at all. Several criminal justice organisations commented that individuals who are addicted to drugs may become ‘street dealers’ to earn money to buy drugs, or in response to pressure or coercion from their own dealers. In their view it would, therefore, be inappropriate to place them in the same category in terms of role as those who have a top tier organisational role.

The Council considered these comments carefully and has included further indicators about the motivation of the offender in the role categories, to better reflect the different types of supplier. Reference to ‘street dealing’ will be removed from the ‘leading’ role category as will all other labels to give the sentencer greater flexibility to weigh up all of the offender’s characteristics to reach a fair assessment of his culpability. In order to reflect comments that a chain of supply is not always present, the ‘subordinate’ role category will be re-named ‘lesser’ role to avoid confusion. As set out earlier, for the purpose of assessing harm, these offenders will always fall within category 3.

Supply in prison

There was some disagreement regarding the role of offenders who supply to prisoners and prisoners who supply to other prisoners. Some consultees agreed with the inclusion of ‘supply to prisoner’ as an indicator of a significant role in the supply guideline. However, an academic and several magistrates felt that the distinction between ‘supply to a prisoner’ and ‘supply by a prisoner (other than by a prison officer)’ was anomalous. The academic suggested that both should be regarded as coming within the ‘leading’ role; the magistrates suggested that both come within the ‘significant’ role. Another respondent suggested that some prisoners who share their drugs with a cell mate on a non-commercial basis should fall into the subordinate category.

The Transition to Adulthood Alliance also suggested that ‘supply to a prisoner (other than by a prison officer)’ should not be automatically seen as a ‘significant’ role because they were concerned that this could disproportionately penalise the families of prisoners who bring drugs into prison as a result of pressure and coercion. In their view, offenders who have been put under huge pressure or are coerced into supplying prisoners have significantly reduced culpability.

The Ministry of Justice welcomed the inclusion of those working in prisons as a named example of those carrying out a ‘leading’ role. However, they suggested that this could be reframed as ‘person working within a prison’ or similar since the term ‘prison officer’ is a narrow one which excludes prison operational support grades and staff working in private sector prisons.

The Council considered these submissions and concluded that those who abuse a position of trust or responsibility should be classed as undertaking a ‘leading’ role for the purpose of assessing culpability. This will cover prison officers but also anyone who works in a prison. It also includes other offenders who breach a position of trust or responsibility outside the prison context, such as a doctor. The Council has also decided to include in the ‘significant’ category those offenders who are not in a position of responsibility in a prison but who

supply to a prisoner for gain. The Council has also carefully considered some consultees’ concerns about offenders who have been coerced into bringing drugs into prison. In genuine cases of this kind, where there is no evidence of gain, the offender would likely fall into the ‘lesser’ role category.

Drug ‘mules’

The majority of consultees, including the Prison Reform Trust, IDPC, Hibiscus, the Law Society and Drugscope, agreed with the approach recommended by the Council with regard to drug ‘mules’. In terms of culpability, they will likely fall into the ‘lesser’ role category, on the basis of their limited culpability, where their offending results from coercion by others. Other consultees, however, maintained that ‘mules’ play a significant part in supporting the importation of drugs.

The Justice Select Committee endorsed the Council’s maintenance of three years in custody for the importation of even a small quantity of class A or B drugs and recognised that because of the harm caused by drug smuggling such offences merit a starting point of a custodial sentence. However, in their view some reduction in the length of custodial sentence for drug mules may be appropriate given their circumstances.

Release, whilst welcoming the approach, felt that the guideline could go further in reducing the severity of sentencing for this group of offenders; however, the Council feels that the sentence ranges proposed in the draft guideline are appropriate.

Drug ‘mules’ are generally “poor, foreign people, often women, who have imported drugs in circumstances falling short of the legal defence of duress but which have elements of coercion and in which personal profit is minimal.” Justice Select Committee

Equipment

There was some disagreement about the mention of equipment as evidence of a ‘leading’ role. One judge questioned whether ‘drug lists’, ‘paraphernalia’ and ‘amounts of cash not consistent with legitimate sources of income’ necessarily provide evidence of professional dealing, as opposed to dealing for a relatively small profit. In his view, such cases fall into the ‘significant’ rather than the ‘leading’ role category. Release also commented that such paraphernalia is common at every level of the supply chain and that in many cases those who purchase drugs for their own use may have equipment such as scales. The Council considered these comments and agrees that equipment or drugs lists do not necessarily reflect the culpability of the offender with any accuracy and it is for that reason that the definitive guideline will not reference these.

Motivation

As part of the response to the Council’s proposed approach to purity, one respondent felt that it overplayed the significance of purity to the detriment of other considerations of seriousness, a concern shared by some of the Crown Court judges who took part in the ‘road testing’ of the draft guideline. This echoes some arguments put forward by the IDPC and the Justice Select Committee that the draft guideline overplays ‘purity’ and ‘quantity’ and underplays the motivation of the offender. They proposed that factors such as the level of knowledge, coercion, vulnerability of the offender and gain should be primary considerations in conjunction with quantity and purity.

The approach to gain in the draft guideline was not fully supported. Several consultees felt that where addiction is the predominant motivation for an offender supplying drugs then he should be classed as having a ‘subordinate’ role. The judges who road tested the draft guideline felt that if the role descriptions were applied strictly,

this may lead some judges to place drug mules in a ‘significant’ role on the basis of them receiving ‘some gain’, despite the wide consensus that they should be placed in a lesser role. The judges were also concerned that mentioning ‘gain’ in both the significant and leading categories effectively placed all suppliers in these categories, and never in a lesser role.

Some criminal justice organisations thought that there should be recognition of the lower culpability of young adults “who purchase drugs for friends, sometimes making a small profit to cover costs or compensate them for time spent, so that they do not receive sentences that would be more appropriate for a genuinely commercial supplier.”

The Council considered these comments carefully and agrees that the inclusion of more factors reflecting the motivation of the offender would help to more accurately reflect differing levels of culpability. The guideline has been amended to include more on the motivation of the offender at step 1, bringing some factors placed at step 2 in the draft guideline into step 1. ‘Involvement through naivety/exploitation’ will be included in the ‘lesser’ role category and ‘some awareness or understanding of scale of operation’ and ‘very little, if any, awareness or understanding of the scale of operation’ will be included in the ‘significant’ and ‘lesser’ role categories respectively. References to motivation for gain are limited to the ‘significant’ and ‘leading’ role categories. The wording “if own operation, absence of any financial gain, for example joint purchase for no profit, or sharing minimal quantity between peers on non-commercial basis” will be included in the ‘lesser’ role category.

Q10 Do you agree with the aggravating and mitigating factors outlined for each of the offences covered by the draft guideline?

The Council was keen to seek views on the general aggravating and mitigating factors replicated from the Assault definitive guideline and those common to all offences but also those factors highlighted as relevant to particular drug offences. The vast majority of respondents (80 per cent) felt that the aggravating and mitigating factors included in the draft guidelines were appropriate and helpful. However, constructive comments were made with regard to several factors.

Several consultees were concerned about the inclusion of ‘failure to respond to warnings or concerns expressed by others about the offender’s behaviour’ as an aggravating factor. Some judges commented that it has little relevance to possession offences and “is unlikely to aggravate the offence appreciably.” Some criminal justice organisations felt that its inclusion would lead to disproportionate sentences for drug dependent offenders. Consultees highlighted that it is very likely that drug addicted offenders would be told by a concerned family member or friend that they need to address their problem and suggested that its inclusion would disproportionately aggravate sentences for such offenders. The Council carefully considered the proportionality issue and agreed that this factor could have a disproportionate effect on drug dependent offenders, for whom rehabilitation is a long process likely to involve relapses. The Council has therefore decided that this factor will not be included in the list of aggravating factors at step 2.

Consultees were also asked to consider the inclusion of the aggravating factor ‘exposure of others to more than usual danger, for example drugs cut with harmful substances’. Release, focusing on the example of harmfully adulterated drugs, welcomed the inclusion of this as an aggravating factor but only in relation to those

who have control over the drugs at the point of adulteration. They highlighted a perceived possible disproportionality for subordinate offenders who do not have any knowledge or control over the adulteration of the drug. The same argument was made with regard to the inclusion of high purity as an aggravating factor. The Council considered this concern but has decided this factor will be included as an aggravating factor at step 2. The sentencer will have taken into account the naivety and lack of awareness of the offender at step 1, and step 2 requires the sentencer to balance additional contextual factors relevant to the case. The exposure of others to a more than usual danger, whether through drugs cut with harmful substances or by other means, should be taken into account at step 2 as a factor increasing harm.

Consultees were asked to consider the inclusion in the draft supply and production/cultivation guidelines of ‘established evidence of community impact’ as an aggravating factor. There was some disagreement from criminal justice organisations regarding its inclusion largely on the basis of the perceived distinction it makes between ‘closed’ and ‘open’ markets in terms of the seriousness of impact. They explained that open markets tend to be open air, street-based drug markets in areas of social exclusion, often involving violence, as opposed to closed markets which are hidden and sophisticated with delivery style dealers switching delivery points and actively avoiding violence in order to avoid detection. They argued that the inclusion of this factor would subject those who operate in ‘open markets’ to harsher sentences than those who operate in ‘closed markets’ with a potentially disproportionate impact on BME groups living in areas of social exclusion. However, this concern is not borne out in the draft guideline given the inclusion at step 2 of aggravating factors relevant to closed markets, namely ‘attempts to conceal or dispose of evidence’ and the ‘sophisticated nature of concealment’. ‘Established evidence of community impact’ will therefore be included in the definitive guideline, following the approach adopted in the assault definitive guideline.

The Council of District Judges suggested that an additional aggravating factor of ‘supply to a person under the age of 18’ should be included

in the definitive guideline. The rationale for this is the corruption or introduction of non-drug users to drugs. The Council agrees and the definitive guideline will include 'targeting of any premises intended to locate vulnerable individuals or supply to such individuals and/or supply to those under 18' as an aggravating factor at step 2.

The professional consultation paper made reference to the availability of a drug rehabilitation requirement (DRR) as part of a community order and included 'determination of steps having been taken to address addiction or offending behaviour' as a mitigating factor at step 2. However, specific wording in the draft guideline inviting the sentencer to consider whether a DRR may be an alternative to a short or moderate custodial sentence was not included. Several criminal justice organisations, whilst welcoming the inclusion of the mitigating factor, appealed for a stronger and clearer statement in the guideline that, where offenders demonstrate to the court a willingness to engage with drug treatment programmes, this will be a key determinant for sentencing.

Whilst there is not yet consistent availability of drug rehabilitation programmes across England and Wales the Council agrees there is still merit in guiding sentencers to their use where such programmes are available and likely to be successful in treating offenders who offend to feed their addictions. The following wording will be included above step 2 for each of the guidelines:

"Where the defendant is dependent on or has a propensity to misuse drugs and there is sufficient prospect of success, a community order with a drug rehabilitation requirement under section 209 of the Criminal Justice Act 2003 can be a proper alternative to a short or moderate length custodial sentence."

As the list of aggravating and mitigating factors at step 2 is non-exhaustive, it does not preclude sentencers from considering other factors relevant to the case before them. Following the responses received we are satisfied that the main examples are included.

Q11 Do you think that there are any other factors that should be taken into account at these two steps?

The majority of respondents (57 per cent) felt that steps 1 and 2 were about right. Some respondents took the opportunity to reiterate comments outlined in the previous question regarding the addition or removal of some step 2 factors, others suggested further step 2 factors and a few made general comments regarding the importance of the diversion of vulnerable offenders from the criminal justice system.

In terms of the factors at step 2, some respondents felt that the supply offence, like the possession offence, should be aggravated where it has been committed on licensed premises. Some respondents also felt the exploitation of others should be included as a serious aggravating factor. The Council agrees that this is particularly serious and has included this at step 1 as a characteristic of an offender in a significant role. Some judges felt that the physical consequences of supply, such as overdose, should be listed as an aggravating factor. Others suggested additional mitigating factors including religious beliefs and greater mitigation for family members who offend through naivety or pressure. Both vulnerability and involvement due to pressure are listed as mitigating factors at step 2 and this is also reflected in the characteristics listed at step 1 indicating role.

Q12 Do you agree with the proposed offence ranges, category ranges and starting points for all of the offences in the draft guideline?

generally do not know the quantity of drug they are carrying. However, the view of the Council is that the harm caused by the importing of drugs is unchanged whether the importer is aware of the quantity or not. The motivation and knowledge of the offender is taken into account in assessing the culpability of the offender at step 1.

Some respondents to the public consultation took the opportunity to make arguments for the legalisation/re-classification of cannabis which is not a matter for the Sentencing Council.

Other responses to the draft guideline ranges and starting points were generally positive. Of those written responses 74 per cent broadly agreed with those set across the full range of offences. This consultation process also included further research carried out by the Council into current sentencing practice which provided more robust data than was previously available in this area. The Council considered this more detailed information and decided to further amend some starting points and ranges to better reflect current practice. The Council followed the same rationale in the definitive guideline as that set out in the consultation paper, namely to maintain current sentencing practice except for the most serious production/cultivation offences, where sentences have been increased and for drug ‘mules’ where sentences have been reduced to reflect those offenders’ low culpability.

Several respondents raised the issue of deterrence with some arguing a need for increased deterrent sentencing and others arguing that the evidence suggests that it is the likelihood of detection rather than length of sentence which deters offending. The IDPC commented that, compared to the tariffs for other types of offence, the sentences for supply and cultivation offences are “disproportionate.” Several respondents argued for reduced sentences for some minor possession and supply offences, suggesting greater use of community orders and, in some cases, entire diversion from the criminal justice system. Many welcomed the approach taken with regard to drug ‘mules’ but a minority argued for a further reduction in sentences on the basis that drug ‘mules’

Q13 Are there any ways in which you think victims can and/or should be considered in the proposed draft guideline?

In developing the draft guideline the Council was alert to the fact that victims of drug offences are not necessarily easily identifiable in all cases. Indeed, there may be some difficulty in determining a direct causal link between the offender and the victim, as the victim will often arise much later in the drug trafficking process. For example, where a drug is imported into the country by a drug ‘mule’, it will be unclear to the ‘mule’ who the drug will reach, which means that the causal link between the offender and the victim becomes difficult to establish. The Council also recognised the impact that drug offending can have on the wider community, especially where it is persistent or prevalent. The Council wanted to ascertain whether consultees felt there were any other ways in which victims could be considered in the guideline.

Half the respondents felt that the guideline considered victims sufficiently; most agreed that it is often very difficult to identify victims of drug offences and some felt therefore that there are not any obvious ways in which victims can be routinely considered within any drug offence guidelines. It was suggested that this is an aspect which would have to be considered on the specific facts of a case. Some respondents felt that victim impact statements should be obtained but recognised that this would not always be appropriate and that their use across all offences is generally variable.

In *Assault: Definitive Guideline* the Council decided not to include guidance on victim impact statements as it was considered that the existing guidance in the Consolidated Criminal Practice Direction and the decision of the Court of Appeal in *Perks*⁵ covers the use of these statements in court. The Council believes that, for the same reasons, it is unnecessary to repeat this guidance in the drugs offences guideline. The consultation responses do highlight a wider issue of the inconsistent use of victim impact statements. The Council is of the view that this is an issue that should be looked at in the context of the police and prosecutors, rather than something to be addressed by the sentencing guidelines.

Some respondents felt that community impact statements should be obtained in respect of appropriate offences and welcomed the inclusion of “established evidence of community impact” as an aggravating factor at step 2.

5 [2001] 1 Cr App R (S) 19

Q14 Is there any other way in which equality and diversity should be considered as part of this draft guideline?

The Council published an equality impact assessment to accompany the consultation but did not identify any equality matters.

A total of 71 per cent of respondents felt that there were no equality or diversity matters that needed to be specifically considered. Some commented that wider opportunities for sentencers to consider alternatives to prison at the mid to lower end of culpability would have been welcomed on the basis that imprisonment for women is, in their view, often inappropriate and does little to deter their drug offending. A few respondents highlighted general concerns about the over-representation of BME people in the criminal justice system but acknowledged that the Council could not directly address this issue; however there was a feeling that increasing consistency in sentencing would help.

Q15 Are there any further comments that you wish to make?

This question elicited a wide range of different comments from both professionals and the public. The majority of comments from professionals were positive and welcomed the guidelines. Most respondents took the opportunity to reiterate comments made in response to the preceding consultation questions.

Some respondents raised queries regarding a perceived conflict between the Council's stated aim to ensure that sentencing is proportionate and the practice of deterrent sentencing.

Other respondents pointed to the effectiveness of the drug rehabilitation requirement (DRR) as part of a community order and called for a more prominent reference to its availability in the guideline. The Council agrees and specific mention of the DRR will be included in the definitive guideline at step 2 for each offence.

Conclusion and next steps

The consultation has been an important exercise in gathering informed and considered views from both professionals and the public. It highlighted a number of key issues and gave the Council insight into the main issues arising both for practitioners and for members of the public who have direct experience of the effect of these crimes.

These views will be incorporated into the definitive drug offences guideline which will be published on 24 January 2012 and implemented on 27 February 2012. A full implementation plan is being worked on to ensure that those who will have to use the new guidelines are fully involved and prepared for implementation, including the delivery of training.

The Equality Impact Assessment Initial Screening is available on the Sentencing Council website. No evidence was provided during the consultation period which suggested that the guideline will have any adverse impact on equalities issues warranting a full Equality Impact Assessment. Following the implementation of the definitive guideline, the Council will monitor the impact of the guideline.

Annex A

Consultation Responses

Hard copy responses were received from the following organisations:

Adfam
Advisory Council on the Misuse of Drugs
Association of Chief Police Officers
Berwick-Upon-Tweed Magistrates
Bexley Magistrates
Birmingham Magistrates
Brent Magistrates
Bristol Magistrates Drugs Panel
British Dyslexia Association
Cambridge Magistrates
Cambridgeshire Police
Central and South West Staffordshire Magistrates
Central Kent Magistrates
CLEAR
Council of Circuit Judges
Council of District Judges
County Durham Magistrates
Crime Reduction Initiatives
Criminal Bar Association
Criminal Justice Alliance
Crown Prosecution Service
Croydon Magistrates
Drug Equality Alliance
Drugscope
East Cornwall Magistrates
East Dorset Magistrates
Green Cross
Grimsby and Cleethorpes Magistrates
Gwent Magistrates
Herefordshire Youth Panel
Hibiscus
Howard League for Penal Reform
Hyndburn Magistrates
Independent Scientific Committee on Drugs
International Drug Policy Consortium
Isle of Wight Magistrates
Justices' Clerks' Society
Justice Select Committee
Kidderminster Magistrates
Law Society
London Criminal Courts Solicitors' Association
Loughborough Magistrates
Macclesfield Magistrates
Magistrates' Association
Market Bosworth Magistrates
Medical Marijuana for Tennesseans
Metropolitan Police
Milton Keynes Magistrates
Ministry of Justice (incorporating response from the Home Office and the Attorney General's Office)
National Bench Chairmen's Forum
New Forest Magistrates
North Sefton Magistrates
North Tyneside Magistrates
Northallerton and Richmond Magistrates
Northamptonshire Police
Northern Oxfordshire Magistrates
Northumbria Magistrates
Oxfordshire Magistrates
Peterborough Magistrates Youth Panel
Plymouth District Magistrates
Prison Reform Trust
Probation Association
Probation Chiefs' Association
Reading Magistrates
Release
Responsible Choice
Royal College of General Practitioners
Saint Mary's Social Justice Group
Sandwell Magistrates
Scarborough Magistrates

School of Social Policy, Sociology and Research,
University of Kent
Scunthorpe Magistrates
Selby Magistrates
Serious Organised Crime Agency
Sheffield Magistrates
Shrewsbury and North Shropshire Magistrates
Solihull Magistrates
South East Northumberland Magistrates
South Sefton Magistrates
South Somerset and Mendip Magistrates
South Yorkshire Police
Students for Sensible Drug Policy
Sussex North Magistrates
Swindon Magistrates
Taunton Deane and West Somerset Magistrates
Teesside Magistrates
Towcester Magistrates
Trafford Magistrates
Transform
Transition to Adulthood Alliance
Tynedale Magistrates
UK Cannabis Internet Activist
UK Drug Policy Consortium
West Dorset Magistrates
West London Dedicated Drugs Court
West Midlands Police
York Magistrates
Youth Justice Board

District Judge Somjee, Tower Bridge Magistrates' Court
Judge Stewart QC, Bradford Crown Court
Judge Tonking, Stafford Crown Court
Master Venne, Registrar of Criminal Appeals
Michael Cadman, Chairman, North East Suffolk Magistrates
Leslie Chamberlain, Chair, Youth Bench, Wigan/Leigh
Magistrates
Susan M Charlton, Chairman, Coventry Magistrates
Grizelda J Collier, Chairman, Bradford Youth Panel
Gordon Griffin, Deputy Bench Chairman, North West
Hampshire Magistrates
Judith Hornsby, Chairman, Youth Bench, Hyndburn
Magistrates
Terry Kendall, Chairman, Youth Panel, Barnsley Magistrates
Susan Mitchell, Magistrate
Trish Phillips, Chair, Youth Panel, Norwich Magistrates
Allison J Roberts, Magistrate
Stephen Russell, Magistrate
Richard Sawle, Magistrate
Peter Tyler, Deputy Bench Chairman, Leicester Magistrates
David Williams, Magistrate
Harry Annison, University of Oxford
Professor Andrew Ashworth, University of Oxford
Peter Hungerford Welch, Assistant Dean, City University
London
Ross Coomber, University of Plymouth
Janet Loveless, London Metropolitan University
Graham Mayhew, University of Sussex
Philip Davies MP, Shipley

Responses were also received from the following individuals:

Judge Anthony, Lewes Crown Court
Judge Aubrey, Liverpool Crown Court
Mr Justice Bean, High Court Queen's Bench Division
Judge Blackett, The Judge Advocate General
Judge Brown, Liverpool Crown Court
Judge Clifton, Liverpool Crown Court
Judge Darroch, Norwich Crown Court
Judge Dodgson, Kingston Crown Court
Timothy Fancourt, Recorder
Judge Foster QC, Manchester Minshull Street Crown Court
Mr Justice Fulford, International Criminal Court, High Court
Queen's Bench Division
Lord Justice Gross, Court of Appeal
Judge Hull, Manchester Minshull Street Crown Court
Judge Riddle, Senior District Judge (Chief Magistrate)
Judge Roberts, Liverpool Crown Court
Judge Robinson, Basildon Crown Court
Judge Samuels (retired)

We have not listed the members of the public given the volume of people that responded and the fact that some wished to retain their privacy. However, a breakdown of the total number of responses is below:

On line responses	539
Written responses	146
Total responses	685

Consultation Co-ordinator contact details

If you have any comments about the way this consultation was conducted you should contact the Sentencing Council Consultation Co-ordinator at: consultation@sentencingcouncil.gsi.gov.uk

Alternatively you may wish to write to:
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