

**ANALYSIS AND RESEARCH SUBGROUP MEETING
26 JANUARY 2023
MINUTES**

Members present: Bill Davis
Rebecca Crane
Elaine Freer
Jo King
Mark Wall

Members of Office
in attendance: Charlotte Davidson
Amber Isaac
Alice Luck-Scotcher
Nic Mackenzie
Lauren Maher
Emma Marshall
Harriet Miles
Sharmi Nath
Caroline Kidd

1. WORK UPDATES

Social Research team

1.1 Nic Mackenzie updated the subgroup on the current work of the team, including the recent publications of externally commissioned research: evidence on the effectiveness of sentencing (September 2022), Public confidence in sentencing and the criminal justice system (December 2022) and the report on Equality and diversity in the work of the Sentencing Council which was published in January of this year. The Behavioural Insights Team (BIT) have been commissioned to conduct research on user testing of digital guidelines.

1.2 On internal work, the subgroup was updated on recent road testing exercises which had been completed: to support the Perverting the course of justice and witness intimidation guideline, as well as the Motoring guideline. A bespoke data collection exercise has also recently been launched in all magistrates' courts and locations of the Crown Court. The survey will run until the end of June. Work is underway on a review of expanded explanations, an evaluation of the Breach guideline, as well as exploring how externally facing outputs that we produce can be made more accessible for users.

1.3 Nic Mackenzie added the team has begun to explore the possibilities of conducting research on lived experience, an issue raised in the equality and diversity report and also mentioned at the recent sentencing seminar.

Statistics team

1.4 Amber Isaac updated the subgroup on current work in the team regarding guideline development: work is underway on producing statistics for the draft guideline for Immigration offences and the definitive guideline for Motoring offences. Evaluations are underway on the guidelines for Bladed articles and offensive weapons and Intimidatory offences, and we are close to signing off the evaluation of the Imposition guideline.

1.5 We have started work on publishing the dataset from our bespoke data collection for robbery offences, as we did with theft from a shop or stall and drug offences. We are also currently working with the Ministry of Justice (MoJ) to prepare for upcoming changes in the Court Proceedings Database (CPD) that we draw on for our work, along with changes to the coding language we use. In addition, the team is working on a review of our official statistics and exploring ways in which we can improve the accessibility of our documents.

1.6 On staffing, Amber Isaac confirmed that Charlotte Davidson's contract has been extended until the end of March 2024; Charlotte will be leading on the team's data strategy.

2. RISK REGISTER AND TERMS OF REFERENCE FOR THE SUBGROUP

2.1 Emma Marshall talked the subgroup through changes to the risk register. Changes have been made and it now encompasses some broader risks that are applicable to all office/ corporate work. Discussion focussed on the controls, actions, and risk ratings.

2.2 There are now two main risks to consider from an analytical perspective. The first risk amalgamates several previously listed risks and covers the risk that guidelines are not informed by evidence and that the impact to guidelines is unknown. The team are currently pursuing the possibility of collecting data via the Common Platform in the future. We have made an application to add a link to the platform that will allow us to have a pop-up shown to sentencers that would take them to a landing page where they then complete and submit sentencing information that we can use for analysis. We hope this will be possible this financial year, but this is not confirmed and there are potential budgeting issues. We also have road testing exercises and evaluations built into our workplan. Subgroup members were content with this risk.

2.3 The second risk concerns data protection breaches. The impact of such breaches could potentially be high, but many actions have already been taken to minimise this risk and bring it down to an overall 'low' rating. Actions include staff training, putting in place a data retention policy, and updating our privacy policy. The contracts we use for commissioned research are clear on data protection expectations and where relevant, we have data sharing agreements in place. Council members will shortly be sent a reminder of their obligations in this area. Subgroup members were content with this risk, although Jo King asked that we consider including security markings on Council papers and include how to handle papers as part of the reminder that will be sent out to Council members.

2.4 Emma Marshall also outlined the key parts of the subgroup's terms of reference for the benefit of new members. The subgroup was content with these.

Action: Emma Marshall to explore the best way to add protective markings onto documents and to include issues relating to the handling of papers in the forthcoming Council data protection/data security reminder.

3. UPDATE ON THE DATA COLLECTION

3.1 Harriet Miles updated the group on the latest data collection that is currently underway in all magistrates' courts and all locations of the Crown Court, and that covers 13 specific offences. This was launched on 9 January and will be running for six months until the end of June.

3.2 The data collection has been publicised on the judicial intranet and in Magistrates' Matters. A point of contact has been secured within each court or local justice area and we have worked with contacts in MoJ and HMCTS to provide additional avenues through which to access the collection in order to ensure a successful collection. We would also like to thank Bill Davis for putting his name to the note that was sent out to try and raise engagement with the survey at its launch.

3.3 The data collection is online only. In addition to general questions in relation to the stepped guideline process and the factors taken into account when deciding on individual sentences, some forms are also collecting data on specific areas of interest, such as whether it was committed in a domestic context. The data collection will provide information to help evaluate guidelines and will also help produce data to feed into work to address some of the University of Hertfordshire's recommendations in the equality and diversity research.

3.4 As of this week we have received around 1,200 forms, with a good spread across all offences. We will be monitoring response rates throughout to ascertain if there are any individual courts that may benefit from increased support, and we have been monitoring our email inbox for any feedback. We are grateful to Rebecca Crane and Jo King for their feedback so far on the forms and we will be making some amendments to the form imminently in response to their helpful points.

3.5 Rebecca Crane also commented that the 'single most important factor' field on the form is often very difficult to answer and asked for the rationale behind it. Amber Isaac clarified that in past data collections we have been able to pick out patterns within this variable which have informed our understanding of the impact of the guideline, for example in the theft data collection it was found that previous convictions were very prevalent in responses about the single most important factor, which was confirmed to be significant by further analysis. Elaine Freer asked whether there was a risk that including this box would deter people from responding, but it was felt that as this is the last question, and it is not marked as compulsory, the risk of this is likely to be low.

3.6 Jo King raised a concern about the number of compulsory questions in the form and that this might deter respondents from participating. The date fields in the form (e.g. date of commission of offence, date of sentence, date of birth), were raised as being particularly problematic, as these appear early in the form and often sentencers may not have these dates to hand. Charlotte Davidson explained that it is necessary to collect date of birth and date of sentence in order to permit the record to be linked to the Court Proceedings Database (CPD) to obtain other information (e.g. the offender's ethnicity). Unfortunately we do not have data on the number of survey forms which have been abandoned part way through. However, we are currently reviewing which questions are obligatory and whether any can become optional, and

are carefully considering the minimum amount of data required for a single form to be useful. We will therefore make any necessary changes to ensure we can reduce burdens on sentencers.

3.7 Jo King raised the issue of maintaining engagement throughout the duration of the collection and Harriet Miles confirmed that we would be approaching Bill Davis in the future for a message to cascade to thank everyone for their hard work and to encourage them to carry on completing forms. There is also the possibility of sending out a mini 'roundup' document in the future to give examples of concrete ways in which the data collection has benefitted the Council and the guidelines, so that sentencers can see their efforts are worthwhile.

4. ACCESSIBILITY ISSUES

4.1 Alice Luck-Scotcher and Sharmi Nath updated the subgroup on the measures the team is taking to ensure the Office of the Sentencing Council meets its legal obligations regarding accessibility requirements. These legal requirements were introduced in 2018 and are primarily concerned with digital accessibility. It is required that all our publications are fully accessible to the public, which includes ensuring our publications are produced in accessible formats that assistive technologies, such as screen readers, can use.

4.2 The changes that will affect the documents, in particular analytical documents, will include: ensuring alternative accessible formats of documents and spreadsheets are available; no longer using footnotes in documents; and modifying the design of tables to ensure they are more compatible with assistive technology. Some of the stylistic changes have already been implemented, while the re-design of accessible tables is a more involved piece of work that is underway. In the future, we aim to publish our documents in HTML.

4.3 Jo King raised concerns about whether the accessible formats of the documents would still meet the needs of the Council, and asked that before final decisions are made, the Council may be able to review these changes. It was confirmed that we wouldn't necessarily be looking to replace existing formats e.g. Council documents are currently in a PDF format, but instead we are looking to ensure that in addition to these we do have an accessible format readily available. However, if there are changes made, these will be circulated to the Council for information/comment.

Action: When completed, the Office to provide the Council with the accessible forms of documents/spreadsheets for review.

5. UPDATE ON REVIEW OF THE EXPANDED EXPLANATIONS

5.1 Alice Luck-Scotcher gave an overview of work underway to scope out a review of the expanded explanations. The need for this work was included as an action in the Council's strategic objectives and links with recommendations in the recent equality and diversity report. The main research questions for the work were outlined for the group, which include how expanded explanations are interpreted and applied and the potential impact on sentencing outcomes. The research design was also outlined. This will involve two phases of research using interviews with sentencers to look at existing and amended explanations, and then focus groups to look at new expanded explanations. Work is underway to draft discussion guides for the interviews and members of the group were asked for their support with piloting these materials.

5.2 Discussion focused on whether this research will ask sentencers if they are aware of expanded explanations. It was noted that this work will focus on the content, wording and interpretation of the expanded explanations themselves, complementing and building on the current user testing research which is focusing on whether sentencers are aware of them and how they access them. There are also related questions included in the current data collection.

6. UPDATE ON THE OFFICIAL STATISTICS REVIEW

6.1 Amber Isaac and Charlotte Davidson gave a brief overview of a review of the Council's official statistics and other statistical products which is currently being undertaken. When producing statistical outputs, the Statistics team follows the Code of Practice for Statistics, which sets the standards that producers of official statistics should commit to. The Code provides a framework based on three pillars: Trustworthiness, Quality, and Value, and together, these pillars support public confidence in statistics.

6.2 Amber Isaac explained that the Sentencing Council publishes several different types of publications that include statistics, some of which are purely official statistics publications, while some are hybrid (including a mix of statistical and non-statistical analysis and research). Others are not strictly considered to be official statistics at all. Charlotte Davidson explained that where the official statistics label is not appropriate, statistics producers can still commit to voluntary application of the Code of Practice to be open and transparent to their users.

6.3 The team have conducted a review of our publications and we are now looking to write a statement of compliance. This will set out how we as an organisation are going to demonstrate to our users that we are committed to these principles in our work, where it would be practical to do so. For those areas where full compliance is not possible, we will be transparent about the reasons why and ensure our users are fully informed about the intended use of our outputs. This statement will be published on the Council website and will also be accessible from the Office for Statistics Regulation's website page on [voluntary application](#).

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