

Sentencing Council

Sentencing Council meeting:
Paper number:
Lead official:

23 October 2015
SC(15)OCT 09 – Work Plan and
Business Plan
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1 ISSUE

- 1.1 At the mid year point, this is an opportunity for the Council to review progress against its current work plan; consider amendments to the work plan and consider the risks to delivery.

2 RECOMMENDATION

- 2.1 That the Council:
- Notes progress against the work plan and confirms that it remains content with current priorities;
 - Approves the update to the Business Plan 2015-16 for publication on the website (at pages 8-9);
 - Notes the risks and agrees with the proposed approach.

3 CONSIDERATION

Progress over past 6 months

- 3.1 Excellent progress has been made over the past six months:
- The **theft** definitive guideline was published on 6 October. In a minor change to the published plan, it will come into force on 1 February 2016, to allow sufficient time for training.
 - The **health & safety, corporate manslaughter and food** offences definitive guidelines will be published as planned on 3 November 2015; again coming into force on 1 February 2016, to allow time for training.
 - Following the consultation in the summer, the **allocation** definitive guideline will be published on 26 November (one month later than originally planned, and subject to sign off today) and will now come into force on 1 March 2016, in order to allow sufficient time for training.

- The **robbery** definitive guideline remains on track to be published in January 2016. We are working to a provisional date of 26 January.
- Following the consultation at the start of the year, work on the **dangerous dog** definitive guideline is on track, although launch has been postponed by one month to March 2016, as a result of the decision to launch the guilty plea consultation in February.
- The **guilty plea guideline** consultation is now expected to start in February, subject to decisions today and in November: a delay to the timetable published in April, but in line with decisions taken in May.
- The digital version of the **Magistrates' Courts Sentencing Guidelines** was launched on 10 September.
- This week, the Council is due to publish its **annual report**, and its first evaluation of one of its own guidelines, **assault**. This is later than scheduled in light of a decision to undertake additional analysis.
- An external contract to scope out **data collection in the magistrates' court**, and in support of the Council's new analytical strategy, has been let and work is underway. An external contract to undertake **evaluations of the drugs and theft guidelines** has also been let; data collection is due to start on 16 November.

3.2 In summary, the Council is on track to publish five definitive guidelines during the financial year 2015-16, as well as holding three consultations (dogs, allocation and guilty plea), implementing major digital reform and publishing its first evaluation of one of its guidelines. By any measure, this makes it the Council's most productive and successful year.

Forward look: plans for second half of 2015/16 and beyond

3.3 The work plan remains busy and challenging for the rest of the year and beyond. Progress and changes to the original plans are as follows:

- The Council decided to postpone the consultation on the **breach of order** guideline. Subject to separate discussions today on the overall approach, this has been moved from the published date of December 2015 to July 2016, with publication of the definitive guideline by June 2017.
- Consultation on the **youth offences** guideline and overarching principles was due to start in January 2016. However, in light of other pressures on our publication timetable, and in particular to allow a reasonable time between

launching guilty plea and youth (likely to be two of our largest and highest profile consultations for some time), we intend to postpone the consultation slightly, from January to April. We anticipate that publication of the definitive guideline will be in February 2017.

- Revision of the **Magistrates' Courts Sentencing Guidelines (MCSG)** is underway. Today the Council is considering a proposal to consult from around June 2016.
- As planned, the **assault** guideline will return to the Council in November 2015 and we intend to consult from around July 2016.
- The **knife/ offensive weapon** guideline will be considered for the first time in December, as planned, with consultation scheduled for September 2016.
- The Council is due to consider **public order** for the first time in January 2016 and to consult from October; again this remains in line with the published timetable.
- We hope to bring the **manslaughter** guideline to the Council in April 2016, with the consultation still scheduled for February 2017. The timetable for manslaughter is contingent on that for assault, and in light of the number of consultations currently scheduled for 16/17, is fairly likely to be postponed.
- **Motoring** offences causing death or injury remain at the end of the list, pending the outcome of a Government review. There is no progress on this, so the timetable remains provisional, pencilled in to come to the Council in October 2016.

Longer term work plan

i) Revising SGC guidelines

3.4 In April 2015 the Council agreed that its priority was to replace SGC guidelines, to bring them all up to date. Corporate identity was an important but not overriding factor. In order of priority, it suggested:

- Attempt murder;
- Overarching Principles - Assault on Children and Cruelty to a Child; and
- Overarching Principles on Domestic Violence.

3.5 Consideration had been given to incorporating both Overarching Principles in the assault guideline. When it considers assault in November, the Council will be invited to consider a recommendation that they are better treated as two separate projects. The New Sentences: Criminal Justice Act 2003 guideline, which was lower on the priority list, is (subject to a decision today) likely to be

replaced with the introduction of guidance on the imposition and approach to breaches of suspended sentence orders and community orders. The Council did not identify amendment of the Overarching Principles: Seriousness guideline as a priority, but this is referred to in many other guidelines and should remain on the list.

ii) Monitoring, evaluation and possible revision of SC guidelines

3.6 The Council also agreed an approach to monitoring and evaluation of SC guidelines, and agreed that on the basis of the monitoring evidence it would decide first, whether a full evaluation was required; and second, whether on the basis of such an evaluation, revision of a guideline was required.

3.7 A scoping study to explore what data is held in the magistrates' courts that could support the Sentencing Council's monitoring and evaluation work has been commissioned and will be published early in 16/17.

3.8 The status of the monitoring and evaluation of SC guidelines is as follows:

- The outcomes of initial analysis on **burglary** offences are being considered, along with the need to conduct further work to support this evaluation.
- An external evaluation of **theft** and **drugs** offences has also been commissioned; data collection will start in November 2015, with a second phase in 16/17.
- Monitoring to support the **environmental offences** guideline was extended by six months until the end of December 2015, after which analysis will take place. Similar monitoring to support the health and safety, food hygiene and corporate manslaughter guideline will commence in February 2016.

iii) New guidelines

3.9 The Council identified a number of priorities for new offence-specific guidelines in April 2015 :

- **Cyber offences**: hacking, online stalking, revenge porn; and
- **Terrorism offences**, subject to the case volume.

3.10 The MCSG working group has identified revenge porn amongst the offences it considers to be high priorities for new guidelines, which probably fall outside the scope of the project to revise the MCSG. These are being considered separately at today's meeting and depending on those decisions, may also

need to be factored in to the longer term work plan. Other elements of the “cyber offences” may be picked up in the MCSG project.

3.11 The Council will continue to receive ad hoc requests for new guidelines or for guidelines to be amended, which it will need to consider. Arson/ criminal damage remains a longer-term priority.

3.12 In summary, on the basis of earlier Council decisions, the work plan for consultations and definitive guidelines into 2018/19 is as follows:

	2015/16	2016/17	2017/18	2018/19
Consultations	Dogs	Youth	Manslaughter	Attempt murder
	Allocation	Breach	Motoring	<i>Burglary*</i>
	Guilty Pleas	Assault	OP: Child Cruelty	<i>Drugs*</i>
		Knives	OP: DV	Terrorism
		Public Order	Revenge porn/ cyber	<i>Environment*</i>
Definitive	MCSG digital & explan material	Guilty Pleas	Assault	Motoring
	Theft	Youths	Breach	OP: Child Cruelty
	Health and Safety	MCSG offence specific	Knife offences	OP: DV
	Allocation		Public Order	Revenge porn/ cyber
	Robbery		Manslaughter	<i>Environment*</i>
	Dogs			

* Depending on outcome of monitoring and evaluation, which will inform the decision whether or not to revise the guideline.

4. RISKS

4.1 The work plan is based on a number of assumptions, which are very likely to require amendment over the coming year:

- Relatively stable financial resources (up to 10% budget reduction);
- Relatively stable staff numbers, and no extended vacancies;
- No fundamental reform of the sentencing regime and/ or the structure of the criminal courts.

- 4.2 The scale of the financial challenge facing our sponsor department cannot be overstated. We are already planning to be able to accommodate an in-year budget reduction of up to 10% without any further negative impact on the work plan.
- 4.3 The plans from April 2016 will need to remain under review as further details of the MOJ's spending review settlement emerge, and will almost certainly require substantial revision. Rather than speculatively adjusting the work plan at this stage, it is proposed that we wait until the scale of the budget cut for next year and subsequent years, as well as details of any staff reductions and/ or voluntary early departure schemes, become clearer.
- 4.4 However, at this stage it is possible to identify a number of possible ways of approaching a substantial reduction in the Council's budget. The most appropriate options would depend on the size and pace of budget cuts and the mix of staff resources:
- Slow down the pace of guideline production;
 - Postpone indefinitely the work to revise existing SC guidelines, unless evaluation demonstrates very significant problems which are having a serious impact on prison, probation or youth offending resources;
 - Raise the threshold for agreeing to requests for new guidelines, revising the Council's rationale;
 - Re-launch, rather than revise, the old SGC Overarching Principles, or leave them in force and unamended.
- 4.5 The more immediate risk to the work plan is a restriction on filling vacancies imposed by the MOJ, which in a small team comprised of a mix of specialists, creates particular challenges, as there are obvious limitations on our ability to move resources around to accommodate departures. While we have plans in place to ensure that the imminent departure of a statistician does not affect publications between now and the end of March, for which work is fairly well advanced, it is likely that a prolonged vacancy will result in delays to all of our planned guideline evaluations, and potentially have knock on effects on our ability to meet the current timetable for consultations and publications of definitive guidelines from April onwards.

4.6 We will continue to look for ways to improve efficiency and make savings, including using other organisations to support consultation events; streamlining processes; exploring options for lower key consultations; moving away from printing guidelines and other materials (although the move to digital incurs increased costs in the short to medium term, both in terms of development costs and the need to print until the courts are fully digital); and using video or telephone conferencing rather than travelling, wherever possible.

4.7 At the same time, the Council is increasingly viewed as the solution to perceived problems in the criminal justice system, whether in relation to sentencing new offences (e.g. drug driving); complex offences where there is a perception of lenient sentencing (e.g. housing and immigration offences); particular groups (young adults or women); or to fill a perceived evidence gap. Any reduction in resources will have a direct impact on the Council's ability to respond positively to any of these requests.

Question 1: Does the Council have any observations about the current work plan? Are the priorities agreed in April still the right ones?

Question 2: Is the Council content to publish the short update to the Business Plan on the website?

Question 3: Are Council members content with the current approach in light of the risks identified?

Draft update for publication on the website:

The Sentencing Council's Business Plan 2015/16 includes a commitment to review the indicative timeline for preparation and publication of guidelines on a bi-annual basis and to publish updates as appropriate. While there are no major changes to the work plan, the timing of some projects has changed, which may have an impact on stakeholders' planning.

The table [attached/ linked] highlights the changes that have been made to the guideline development and publication timetable.

The implementation dates for three definitive guidelines: theft offences; health and safety, food hygiene and safety and corporate manslaughter offences; and allocation will now come into force on 1 February 2016, in order to allow sufficient time for training and implementation.

The dangerous dogs definitive guideline will be published in March 2016, one month later than originally planned, in order to accommodate the revised timetable for the consultation on the guilty plea guideline, which is now scheduled for February 2016. The consultations on youths and breach of orders have been postponed to the next financial year because of additional work required at the development stage for both guidelines.

In addition to changes to the publication timetable, some changes have been made to the milestones relating to objective 3 of the Business Plan (monitoring and evaluation). Further analysis to support the evaluation of the assault guideline means that this will now be published in October 2015, rather than in the second quarter.

The outcomes of initial analysis on burglary offences are still being considered, and as part of this the Council will consider whether there is a need to conduct further work to support the evaluation. As a result, publication of an evaluation report is postponed.

In addition to the priorities included in the Business Plan, a scoping study to explore what data is held in the magistrates' courts that could support the Sentencing Council's monitoring and evaluation work has been commissioned and will be published early in 2016/17.

An external evaluation of theft and drugs offences has also been commissioned; data collection will start in the third quarter of the current financial year, with a second phase in 16/17. Final reports will therefore not be published until the Council has had an opportunity to analyse the data from both phases.

Monitoring to support the environmental offences guideline has been extended by six months, until the end of December 2015, after which analysis will take place. Similar monitoring to support the health and safety, food hygiene and corporate manslaughter guideline will commence in quarter four of the current financial year.

Sentencing Council Guideline Work Plan – 2015 to 2018: updated October 2015

Guideline	First discussion of guideline by Council	Consultation period	Publish definitive guideline	Definitive guideline in force
Theft	July 2013	April – June 2014	October 2015	February 2016
Health & Safety	October 2013	November 2014 – February 2015	November 2015	February 2016
Robbery	January 2014	October 2014 – January 2015	January 2016	April 2016
Dangerous Dogs	June 2014	March – June 2015	March 2016	July 2016
Allocation	March 2015	June – July 2015	November 2015	March 2015
MCSG explanatory material	January 2014	December 2014 – January 2015	Autumn 2015	Autumn 2015
MCSG offence specific guidelines	March 2015	June – July 2016	September 2016	January 2017
Breach of order	October 2014	July - September 2016	June 2017	September 2017
Guilty pleas	November 2014	February – April 2016	October 2016	January 2017
Youths	October 2014	April - June 2016	February 2017	June 2017
Assault	March 2015	July – October 2016	April 2017	July 2017
Knife/ bladed article possession	December 2015	September – November 2016	July 2017	October 2017
Public order	January 2016	October 2016 – January 2017	October 2017	January 2018

Guideline	First discussion of guideline by Council	Consultation period	Publish definitive guideline	Definitive guideline in force
Manslaughter (including SGC provocation guideline)	April 2016	March – June 2017	January 2018	April 2018
Motoring (death/injury)	October 2016	May – August 2017	April 2018	July 2018