

MEETING OF THE SENTENCING COUNCIL

18 MAY 2018

MINUTES

Members present:

Colman Treacy (Chairman)
Rob Butler
Mark Castle
Rosina Cottage
Rebecca Crane
Rosa Dean
Martin Graham
Heather Hallett
Tim Holroyde
Maura McGowan
Sarah Munro
Alpa Parmar

Apologies:

Alison Saunders
Julian Goose

Representatives:

Neil Moore, Legal Advisor to DPP for the CPS
Sophie Marlow for the Lord Chief Justice (Legal and Policy Adviser to Sir Brian Leveson, Head of Criminal Justice)
Phil Douglas for the Lord Chancellor (Director, Offender and Youth Justice Policy)

Members of Office in Attendance:

Steve Wade (Head of Office)
Mandy Banks
Eleanor Nicholls
Ruth Pope
Caroline Nauth-Misir

1. MINUTES OF LAST MEETING

- 1.1. The minutes from the meeting of 13 April 2018 were agreed.

2. MATTERS ARISING

- 2.1 The Chairman noted that this was Martin Graham's last meeting. The Chairman thanked him for his efforts over the last 3 years and, in particular, for his work on the Breach guideline, which was particularly helpful.

3. DISCUSSION ON CHILD CRUELTY – PRESENTED BY ELEANOR NICHOLLS, OFFICE OF THE SENTENCING COUNCIL

- 3.1 This was the last substantive consideration of the Child Cruelty guidelines, which will now be signed off at the June meeting. The Council considered several aspects of the "Failure to Protect a Girl from the Risk of FGM" guideline, including the assessment of harm, sentence levels, and aggravating and mitigating factors.
- 3.2 The Council decided to retain the approach to assessing harm which was set out in the guideline for consultation but made some changes to the wording of harm factors to take into account responses to consultation and to ensure consistency with the other offences in this guideline.
- 3.3 The Council also made some small changes to sentence levels and to aggravating and mitigating factors. These changes were, again, aimed at ensuring consistency across the guidelines where possible.
- 3.4 The Council also discussed some changes to the wording of factors relating to 'good character' in the "Cruelty to a Child" and "Causing or Allowing" guidelines and made some small changes, including incorporating some explanatory wording used in other guidelines.
- 3.5 Lastly, the Council discussed the wording of the new Step Five and made some changes to ensure it clearly applies to all cases, both those where the court is considering whether to impose custody, and those where the court is deciding on the appropriate length of a custodial sentence.

4. DISCUSSION ON ASSAULT – PRESENTED BY STEVE WADE AND CAROLINE NAUTH-MISIR, OFFICE OF THE SENTENCING COUNCIL

- 4.1 The Council considered the scope of the proposed revision of the Assault Guideline and the approach to be taken. It was agreed to include 'Attempt Murder' within the scope, alongside all of the offences contained within the existing guideline. A number of suggestions for additional offences were also suggested for consideration by the policy team.

4.2 The Council also noted the additional analytical resource required and agreed it was necessary in order to inform fully the work to revise the guideline.

5. DISCUSSION ON MENTAL HEALTH – PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL

5.1 The Council discussed the proposed scope and structure of the guideline and the timings for the work. The Council agreed that the guideline would have a narrative format. The Council also agreed the broad scope of the guideline to cover factual information of use to courts, guidance on how to assess the culpability of the offender, and guidance on the impact of different disposals on offenders with particular conditions.

5.2 The indicative timetable for the work was discussed and it was agreed that the timetable was likely to need to increase and that it would be important to give the project the time it needed.

5.3 The Council also noted other work on mental health within the broader criminal justice system, which might have implications for the guideline.

6. DISCUSSION ON EXPLANATIONS FOR FACTORS IN GUIDELINES – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL

6.1 The Council discussed the approach to a guideline that would provide explanations for factors in offence specific guidelines. It was agreed that the explanations should be based on those developed for the 'General' guideline which is being consulted on from June 2018.

6.2 It was agreed that the explanations, alongside the 'General' guideline should be both a practical aid for sentencers and contribute to greater clarity and transparency in sentencing for the public.

7. DISCUSSION ON BUSINESS PLAN – PRESENTED BY STEVE WADE, OFFICE OF THE SENTENCING COUNCIL

7.1 The Council considered and agreed the Business Plan for FY 2018-19, subject to final fact-checking and proofreading. The Council agreed to move revision of its Drugs Guideline up the schedule in the light of recent changes in offending in this area.

7.2 The Council also agreed in principle to bring in standard 'in force' dates for future definitive guidelines and tasked the Office to build this into their future plans.

8. DISCUSSION ON MANSLAUGHTER – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL

8.1 The Council reviewed all four guidelines and agreed minor amendments to factors to aid clarity and consistency.

- 8.2 The Council considered sentencing data and observed the trend towards higher sentences for these offences over time. The Council agreed to retain the sentence levels that had been consulted on, which were in line with current sentencing practice in most cases.
- 8.3 The definitive guidelines were signed off for publication in the summer.