

Sentencing Council meeting:
Paper number:

28 January 2022
SC(22)JAN03 – Priorities for the next 12 months

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1 ISSUE

1.1 To agree the Council's immediate priorities for upcoming guidelines over the next few months.

2 RECOMMENDATION

2.1 That the Council agrees to the ordering of priorities as outlined below.

3 CONSIDERATION

Background information

3.1 The Council published its most recent business plan on 19 May 2021 (Annex A). Due to the combination of issues arising from the Covid-19 situation and our (then) ongoing deliberations to finalise our 5-year strategy, the business plan covered two years: 2019/20 (retrospectively) and 2020/21. Ordinarily each year's business plan includes a rolling 3-year work plan that is then updated annually. Given at the time of publication of our most recent plan, the Council was still settling its priorities for the next five years it only included a workplan covering the period April 2020 – Mar 2022. This was so as not to overcommit ourselves in advance of finalising our longer-term priorities.

3.2 As the Council will be aware, we have had a number of changes in staffing over the last few months. With Lauren's arrival the Analysis and Research team is now at full strength as she fills Charlotte's old role, while Charlotte covers Amber's role during her maternity leave (however, we anticipate another staff change by early April which is likely to leave another vacancy in the team for at least a short period). On the policy side of the office, although Zeinab's arrival to cover Vicky's maternity leave meant we were very briefly at full strength we have since lost Lisa and now advertising to fill her role: this will likely not be filled until April.

3.3 In addition to our usual work schedule of producing and revising guidelines we of course now have a wider range of work across the office to take forward our strategic objectives for 2021-26, which will require input and resource from across the office.

3.4 Today's discussion is to make decisions on what the ordering of guidelines should be in terms of priorities for the policy team to pick up as they become available. Those decisions will then feed into this year's business plan which is due to come to Council to be considered at our March meeting for publication in April. This will be the first business plan under our new 5-year strategy and will revert to our usual practice of including a rolling plan for the next 3 years.

Discussion

3.5 In terms of sentencing guidelines our current activity is as follows:

- Motoring Offences (minus some guidelines that the Council agreed to remove in order to be able to consult as soon as possible on the most serious offences that have been out of date for some time) – currently at the drafting stage;
- revision of Terrorism – consultation now closed but yet to commence post-consultation work;
- Underage Sale of Knives – currently at the drafting stage
- Minor Amendments (the first of what will be an annual update of minor or consequential amendments to guidelines) – currently being revised post-consultation;
- revision of Sex Offences – currently being revised post-consultation;
- Perverting the Course of Justice – currently at the drafting stage;
- revision of Burglary – currently being revised post-consultation;
- revision of Totality – currently at the drafting stage; and
- Animal Cruelty – currently at the drafting stage.

3.6 All the above guidelines have previously been identified by the Council as priorities and significant work has been put into all of them. There are no compelling reasons to cease or pause work on any of them and the rationale for each remains strong. We propose to continue with each of these (absent any compelling reason that may arise to give us reason to reconsider) through to their completion.

Question 1: Do you agree we should continue as is with the guidelines above?

3.7 You will note that, taking into account the work in progress above, there are relatively few remaining guidelines listed in the current business plan at Annex A, that are not either in progress or already completed. Those yet to be started are:

- Immigration Offences;
- the remaining Motoring Offences; and
- Cybercrime.

3.8 Of these, both Immigration offences and the remaining Motoring offences (Motoring 2) have been at the top of our work plan for some time. Each would have been taken forward already (Immigration offences alongside Modern Slavery offences, the motoring offences as part of the main guideline) were they not to have been disconnected from other guidelines and paused. For each, when Council made the decision to pause it was on the basis that they would be picked up again as soon as time allowed. Immigration offences have been listed for some time as our next guidelines in business plans. The one potential reason to pause on Immigration was that previously Government was planning to legislate in this space but that legislation is nearly complete with Royal Assent expected in March, with high profile changes to the criminal law and raised maximum penalties. We therefore propose that these two guidelines are to be picked up when policy resource becomes free.

Question 2: Do you agree we should pick up Immigration and Motoring (2) as our next two guidelines?

3.9 Cybercrime is in a slightly different position. Despite it being on our work programme for some time, and currently listed in our business plan, no work of any real substance has been committed this far and we have not had any representations from others to pick it up for some years now. When Council considered the potential scope for such a guideline previously, once those 'cyber offences' that are already covered by other guidelines are excluded (e.g. digital fraud, online public order offences, sexual offending committed via digital medium) the offences not yet covered are probably limited to computer hacking offences. We therefore propose keeping it on our list but, unless we receive further representations as to why it is a priority, or become aware of a more pressing reason to start work, we propose parking it for the moment until some of the guidelines listed below are picked up.

3.10 In addition to the work above (that is either ongoing or had otherwise already been identified as a priority) other possible guideline work that has arisen since last year includes:

- any revisions that may be necessary as a result of recently announced changes to increase magistrates' sentencing powers from 6 months' custody to 12 months' custody.

- any other revisions consequent to the various provisions of the Police, Crime, Sentencing and Courts (PCSC) Bill not covered specifically below;
- revisions to Child Cruelty guidelines resulting from changes under the PCSC Bill to increase statutory maxima;
- revisions/ additions to the Intimidatory guidelines resulting from changes under the Domestic Abuse Act 2021 to create a new offence of threats to disclose private photographs and films with intent to cause distress, which commenced in June 21, and to create a new offence of non-fatal strangulation or suffocation, which is to be commenced spring 2022;

possible revisions/additions to the Bladed articles/offensive weapons guidelines resulting from provisions in the Offensive Weapons Act 2019 due to be commenced spring 2022 (we are also currently in the middle of an evaluation of this guideline which may also necessitate changes);

- Creation of a guideline covering the new offence of pet abduction.

3.11 Taking these in order, the changes relating to magistrates' sentencing powers should require relatively little work. Most either way guidelines already refer to 'the statutory maximum' as opposed to 'six months' imprisonment' and Ruth has already made some minimal amendments to a few guidelines that did not have the more general wording. There will be some other textual amendments to a few specific guidelines that will be required but it does not appear at present that the change to 12 months requires anything more substantial by way of amendment to guidelines. We therefore intend to take forward any necessary changes as soon as possible but are confident the resource requirements (on Ruth's side) will not be great and can be fitted in alongside the more substantial work that is ongoing.

3.12 There are a number of more detailed changes that may be required to guidelines relating to changes to the PCSC Bill, some of which may require minor changes to Imposition. We are also currently evaluating the Imposition Guideline which may itself result in the guideline requiring amendment and much of the work we are doing on effectiveness as part of the 5-year plan may also raise the possibility of amending Imposition. All of these potential changes are likely to require a little more drafting and at least some changes that are more than technical in nature (as opposed merely to updating wording). Again, we intend to take forward any such changes as a priority but our provisional view is that this year's Miscellaneous Amendments consultation is the best vehicle to achieve this. We propose that Ruth continues to maintain a watch on the Bill and brings a paper for discussion once this has been finalised and we are clearer of what changes are required. Again, we do not see this as

requiring significant resource and will be picked up in the now usual annual process of miscellaneous amendments.

Question 3: Do you agree that we should take forward consequential amendments arising from the PCSC Bill and the changes to magistrates' sentencing powers as soon as practicable?

3.13 Both the change to the statutory maxima for serious offences under the Child Cruelty guidelines, as well as the two new offences introduced as a result of the Domestic Abuse Act 2021, seem to us to be significant changes to areas that require a response sooner rather than later. The child cruelty changes are a significant change to offences in an existing guideline and we believe there is merit in amending those guidelines as a priority. This would be a self-contained discrete project. Although the non-fatal strangulation and threats to disclose offences are new, they again cut across existing offences for which there are guidelines and we feel there is merit in drafting new guidelines for these as a priority. However, given they are new, we propose that we hold off starting work until we have an opportunity to see how many of the new offences are brought, and what their essential features are, before fully committing and starting work. With that proviso, we propose that the two new offences are dealt with together as one small project.

Question 4: Do you agree that we should take forward two separate projects to deal with the changes to the Child Cruelty statutory maxima and the new Domestic Abuse legislation offences as the next two priority projects (the DA offences once sufficient cases have been brought)?

3.14 There are also a number of changes that may require changes to the scope of the current work on Under-age Sale of Knives and our Bladed Articles guidelines. There are changes to legislation in the Offensive Weapons Act 2019 due to be commenced in the next few months that will bring in measures to strengthen the law on the sale and delivery of knives to under 18s and delivery to residential premises. There is an argument for including these in the current underage sale of knives project **and Ruth will discuss this in a paper to the Council in March**. There are also new offences relating to the sale, delivery and possession of corrosive substances which could be added to the current suite of guidelines relating to bladed articles and offensive weapons as well as other provisions that may require minor changes to the existing guidelines. One option would be to make any small changes required by legislation as part of the miscellaneous amendments in 2022/23 and to await more detail on the volume and nature of cases for new offences before embarking on new guidelines. In addition, Emma's team is currently taking forward the evaluation of the Bladed Articles and

Offensive weapons guidelines and we should have the results of that by the summer; further argument that we hold fire for now on anything other than immediately necessary changes.

Question 5: Do you agree that we should take forward any immediately necessary amendments as part of the next miscellaneous amendments consultation and pause on more substantive work until we have the result of the evaluation and more detail on the volume and nature of any cases for the new legislation?

3.15 Finally in this category we have the new pet abduction offence. This is a novel offence and at present it is impossible to predict the range or volume of cases that may come to the courts under this offence or what the most salient features will be. We feel to rush to produce a guideline would be precipitous and that we are better off waiting to see how the offence beds in, what cases come to the courts, and how they are dealt with before embarking on a guideline. We therefore propose putting this on the longer list to be considered in due course.

Question 6: Do you agree that we should pause any work on a pet abduction guideline for now?

3.16 Finally, there are a number of guidelines that we have kept on our 'long list' of potential guidelines to be picked up once our current workplan is complete. These are:

- Vehicle Excise and Registration Act offences;
- Blackmail;
- Kidnap and False Imprisonment;
- Wildlife offences;
- Fire Regulation offences;
- Landlord offences and offences relating to houses of multiple occupation;
- Data Protection Offences;
- Female Genital Mutilation;
- Child Abduction;
- Offences against vulnerable adults;
- Sentencing of Young Adults;
- Prisoner Offences;
- Sentencing of (much) older adults;
- Sentencing of Women

3.17 This is quite a mixed assortment of offences/ issues! A number of these offences are ones that we have captured as they were raised as part of the 'Vision' consultation or which we have skirted around for various reasons over the last few years: female offenders/ a fuller guideline on young adults etc. Our 5-year strategy proposes to revisit the need for some of these guidelines as a result of other work we are doing or research undertaken (for example, an evaluation of the Expanded Evaluations which has not yet started) and so there is a rationale for leaving these here for the moment. Others are here either because others may have raised them in the past (fire regulation offences), but we have had no recent strong representations or evidence that a guideline is needed; others because we thought there may be pressure to pick them up as a result of other guidelines (FGM offences for example) but that pressure, or any strong evidence of a need, has not yet materialised. Most of these therefore seem safe to leave on this 'long list'. However the first three items on the list are ones that we feel merit moving up to be on our current priorities list (albeit at the back end). Vehicle Excise and Registration Act offences are relatively minor and rarely prosecuted but are still current and are the very final offences for which there is an SGC guideline. We therefore do need to pick them up at some point for completeness. Blackmail and offences of Kidnap and False Imprisonment are serious offences with not insignificant numbers and are offences for which the Council has previously felt there would be some merit in producing a guideline. The scope of kidnap and false imprisonment could also potentially be broadened to include Child Abduction if it was felt to be appropriate.

Question 7: Do you agree that these three offences should be moved up to the end of the current priorities list?

3.18 Below is a final version of the proposed priority list categorised as either (1) – immediate next guidelines high priority (2) – medium priority and (3) – lower priority. Depending on decisions as we have gone through this paper, the proposed ordering is:

- Motoring '2' – 1
- Immigration – 1
- Amends resulting from magistrates' sentencing powers – 1 (within Ruth's work schedule)
- PCSC wider changes arising – 1 (next Misc. Amends consultation)
- Possible PCSC minor changes to Imposition – 1 (possibly next Misc. Amends consultation)
- New Domestic Abuse Act offences – 2

- Child Cruelty statutory max changes – 2
- Bladed articles and other dangerous weapons - 2 (necessary changes only by way of next Misc. Amends consultation)
- Vehicle Excise and Registration Act Offences – 3
- Kidnap and False Imprisonment (possibly including child abduction) – 3
- Blackmail – 3
- Cybercrime (hacking) – 3

Question 8: Do you agree that this is the correct list of priorities and the correct ordering of those priorities?

4 RISKS AND ISSUES

4.1 It should be noted that this paper has just been to agree the list and ordering of priorities. Timing for when each guideline is picked up will depend on when policy and analytical resource becomes available and will need to be balanced against the other 'non-guideline' elements to our 5-year plan. In addition, our ongoing evaluations of existing guidelines could throw up additional work that may require revision of guidelines not currently on our existing plans. Our business plan (due for discussion in March) will set out the fuller range of work we are undertaking and the indicative timings for the guidelines listed above.

4.2 As ever, the work programme is dependent on us continuing to have the same level of resources currently assigned to us and there not being any other changes or requests that might affect the ordering of priorities above. Currently we expect our budget to remain at least at current levels for the next FY.

4.3 However, in any event, our business plan always makes clear that the published work programme is subject to change depending on new priorities arising. Were anything significant to materialise, we would come back to the Council to seek a decision on whether to amend the work programme.

Sentencing Council

Business Plan **Financial years 2020/21 and** **2021/22**

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Sentencing Council

Chairman's introduction



I am pleased to present the Sentencing Council's eighth business plan, setting out the Council's aims for the financial years 2020/21 and 2021/22.

This past year has clearly been an unusual one and the Council, like every other organisation, has had to change its plans and adapt its ways of working as a result of the pandemic. 2020 saw the milestone of the 10th anniversary of the Sentencing Council, and we have spent time reflecting on the achievements of the Council's first decade and considering our objectives and challenges for the years ahead. We extended our consultation on the Council's future direction 'What Next for the Sentencing Council?' to account for the pandemic. The future priorities set out here are therefore provisional until the Council has finalised a response to that consultation. This also accounts for the business plan covering two years of the Council's activities, with our future objectives subject to decisions which may emerge from the findings of the consultation on the Council's vision.

Regardless of the change in circumstances, it is important to record the work that the Council continues to do to produce new guidelines, revise existing ones and assess the impact of guidelines on sentencing. In 2020/21 the Council has published two new definitive guidelines: an overarching guideline for use when sentencing offenders with mental disorders, developmental disorders, or neurological impairments; and offence specific guidelines for firearms offences. We have also published major revisions to existing guidelines, including amendments to the sentencing guidelines used by the magistrates' courts, which came into effect in October 2020, and changes to the sentencing guidelines for drug offences, which are due to come into force in April 2021.

Consultation is a vital aspect of the Council's work, and one which we take very seriously. For guidelines to succeed they must be informed by the knowledge and expertise of those people who have legal or practical experience in the area we are examining, and by the views of those with an interest in our work or in the operation of the wider criminal justice system. We are always grateful to the people and

organisations who give their valuable time to contribute to our consultations, and who help us to make improvements before publishing definitive guidelines.

In 2020/21 consultations have taken place on proposed revisions to the assault and attempted murder sentencing guidelines, and on new guidelines for unauthorised use of a trade mark and for offences under the Modern Slavery Act 2015. We continue to work on these guidelines and revisions with the aim of finalising and publishing them during the first half of the financial year 2021/22. We also plan in 2021/22 to launch consultations on the following:

- revisions to the 2012 burglary guidelines,
- revisions to the 2014 sexual offences guidelines (following a request from the Court of Appeal) alongside a new guideline for sexual communication with a child;
- a new guideline for firearms importation offences;
- new and revised guidelines for immigration offences; and
- revisions to the 2018 terrorism offence guidelines and the 2008 Sentencing Guidelines Council guidelines on motoring offences (see below).

In addition to publishing guidelines, the Council is required to monitor and evaluate their operation and effect. In 2020/21, we have published our evaluation of the dangerous dogs sentencing guideline, as well as evaluations of two overarching guidelines: *Reduction in Sentence for a Guilty Plea* and *Sentencing Children and Young People*.

2020/21 has seen the release of data on the factors taken into account when sentencing offences of theft from a shop or stall, the first publication of magistrates' courts data since the Council moved to conducting bespoke data collections in courts. We are currently running a further data collection in magistrates' courts to collect information to feed into the evaluation of three assault guidelines and two criminal damage guidelines. This will run until early May 2021.

The Council is also furthering its work in the area of equality and diversity. In the past year we have included information in both the new firearms offences guidelines and the revised drug offences guidelines highlighting disparities in sentencing outcomes in these areas. We are now in the process of commissioning a research project to examine the potential for our guidelines to cause disparities in sentencing. This will include a review of the language used, the structure of guidelines, and whether any aspects of the way in which we develop guidelines could have any implications for equalities and disparity in sentencing. The review will also consider how the Council may best engage with underrepresented groups to increase awareness and understanding of sentencing guidelines. This is work of vital importance in helping to maintain confidence in the criminal justice system and I look forward to seeing the results of this review in due course.

In addition, we aim to publish a number of other items of research in the year 2021/22. These include the research already conducted on judicial attitudes to sentencing guidelines, consistency in sentencing and on the changes in sentencing severity and requirements for prison places associated with the Sentencing Council's guidelines. We are also currently undertaking a small piece of exploratory work on

the Council's Totality guideline to consider whether we need to revisit this. As always, each consultation on new guidelines or revisions of existing ones will be accompanied by a draft resource assessment.

The purpose of publishing our business plan is to make sure that everyone who has an interest in our work is kept informed of developments. The Council's priorities can, and do, change throughout the year and from one year to the next. We have a statutory duty to consider requests from the Lord Chancellor and the Court of Appeal to review the sentencing of particular offences. We may also need to consider amending our work plan if we are required to undertake work on new or particularly complex areas of sentencing.

For example, the Police, Crime, Sentencing and Courts Bill is currently before Parliament, arising in part from the Government's 2020 White Paper 'A Smarter Approach to Sentencing'. This legislation may well require alterations to a wide range of existing guidelines, including those for causing death by driving. We also anticipate the enactment of the Counter-Terrorism and Sentencing Bill, which will require changes to existing guidelines. We therefore plan to consult on revisions to the existing guidelines on terrorism offences and motoring offences during the year 2021/22. These and other such changes may have an impact on our budget and resources, and work may have to be either brought forward or pushed back to accommodate new requests.

Since April last year, the Council has seen a number of changes of personnel. In June 2020 Mr Justice Julian Goose concluded his term of appointment. I would like to take this opportunity to thank Julian for his valuable contribution to the work of the Council over 6 years.

In 2020 we have seen the appointment of Assistant Commissioner Nick Ephgrave as the Police representative on the Council; Mrs Justice Juliet May from the High Court; and Mrs Jo King JP as a representative from the magistrates' courts. We welcome them all warmly to the Council.

I would also like to pay tribute to the staff of the Office of the Sentencing Council. They are the Council's most valuable resource and I am very proud of the high quality of the work which they produce, even in exceptional times such as the present. We operate within a limited budget and it is testament to the staff's ability and dedication that the Council continues to have the success that it does.

A handwritten signature in black ink, appearing to read "Tim Hinchey", enclosed in a thin black rectangular border.

April 2021

Background and membership

The Sentencing Council is an independent, non-departmental public body (NDPB) of the Ministry of Justice (MoJ). It was set up by Part 4 of the Coroners and Justice Act 2009 (“the Act”) to promote greater transparency and consistency in sentencing, whilst maintaining the independence of the judiciary. Its primary role is to issue guidelines, which the courts must follow unless it is in the interests of justice not to do so. The Council generally meets 10 times a year, although an extraordinary meeting was held in February 2021; minutes are published on its website.

Appointments to the Council

The Lord Chief Justice, the Right Honourable Lord Burnett of Maldon is President of the Council. In this role he oversees Council business and appoints judicial members.

The Lord Chancellor and Secretary of State for Justice appoints non-judicial members.

All appointments are for a period of three years, with the possibility of extending up to a maximum of 10 years. Membership of the Council as of 1 March 2021 is as follows:

Members

The Council comprises eight judicial and six non-judicial members.

Chair: The Right Honourable Lord Justice Holroyde

Tim Holroyde was appointed as a High Court Judge in January 2009 and was a Presiding Judge on the Northern Circuit from 2012 to 2015. In October 2017 he was appointed a Lord Justice of Appeal. He was appointed to the Sentencing Council on 6 April 2015 and appointed as Chairman on 1 August 2018.

Vice-Chair: The Right Honourable Lord Justice Fulford

Adrian Fulford was appointed to the Court of Appeal in 2013 and was appointed Vice President of the Court of Appeal Criminal Division on 20 October 2019. He was appointed to the Sentencing Council with effect from the same date.

Rosina Cottage QC

Rosina Cottage has been a barrister since 1988, practising in criminal law, and is a tenant at Red Lion Chambers. She was appointed Queen’s Counsel in 2011 and appointed a Crown Court Recorder in 2012. She was appointed to the Sentencing Council on 18 July 2016.

The Honourable Mrs Justice McGowan DBE

Maura McGowan was called to the Bar by the Middle Temple in 1980 and took Silk in 2001. She was appointed an Assistant Recorder in 1997 and a Recorder in 2000. She was appointed as a High Court Judge in 2014. She was appointed to the Sentencing Council on 2 January 2017.

Her Honour Judge Rebecca Crane

Rebecca Crane was appointed as a Deputy District Judge (Magistrates’ Courts) and Crown Court Recorder in 2009, a District Judge (Magistrates’ Courts) in 2011 and was then appointed as a Crown Court Judge in 2019. She was appointed to the Sentencing Council on 1 April 2017.

Her Honour Judge Rosa Dean

Rosa Dean was called to the Bar in 1993. She was appointed as a District Judge (Magistrates' Courts) in 2006, a Recorder in 2009 and a Circuit Judge in 2011. She was appointed to the Sentencing Council on 6 April 2018.

Dr Alpa Parmar

Alpa Parmar is a departmental lecturer in criminology, in the Faculty of Law at the University of Oxford. She was appointed to the Sentencing Council on the 6 April 2018.

Beverley Thompson OBE

Beverley Thompson has spent over 30 years working in the criminal justice sector initially as a probation officer in London. She was Director for Race, Prisons and Resettlement Services at NACRO for 10 years. She was appointed to the Sentencing Council on 15 June 2018.

Max Hill QC

Max Hill is the Director of Public Prosecutions and head of the Crown Prosecution Service. He was appointed to the Sentencing Council on 1 November 2018.

Diana Fawcett

Diana Fawcett is Chief Officer of Victim Support. She joined the charity as Director of Operations in February 2015 and became Chief Officer in January 2018.

Diana was appointed to the Council on 5 April 2019 and has specific responsibility for promoting the welfare of victims of crime.

District Judge (Magistrates' Courts) Michael Fanning

Mike Fanning was appointed as a District Judge in 2012. He works between the magistrates' and youth courts in West Yorkshire and also sits as an extradition judge in London. He was appointed a Recorder of the Crown Court in 2019 and joined the Sentencing Council with effect from 1 September 2019. He is also a prison adjudicator.

Nick Ephgrave

Nick Ephgrave is Assistant Commissioner for Frontline Policing in the Metropolitan Police (Met). He was appointed to that post in March 2020, having previously served as AC for Met Operations and, prior to that, as Chief Constable of Surrey Police. Nick was appointed to the Sentencing Council on 26 May 2020.

Jo King JP

Jo King was appointed to the Sussex Central Bench in 2002. She is currently the lead magistrate on Reform and co-chair of the Magistrates' Engagement Group. She is a member of the Surrey and Sussex Advisory Committee, the South East Region Conduct Committee and Judicial Conduct and Investigations Office disciplinary panels. Jo was appointed to the Sentencing Council on 8 October 2020.

The Honourable Mrs Justice May DBE

Juliet May was called to the Bar by the Inner Temple in 1988, becoming a bencher in 2010. She was appointed a recorder in 2001 and took silk in 2008, being appointed to the Circuit

Bench later the same year. She was appointed to the High Court (Queen's Bench Division) in 2015. From 2016-2020 she was a Presiding Judge on the Western Circuit. Dame Juliet was appointed to the Sentencing Council on 8 October 2020.

Sub-groups

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

Objectives

Statement of Purpose

The Sentencing Council for England and Wales promotes a clear, fair and consistent approach to sentencing through the publication of sentencing guidelines, which provide clear structure and processes for judges and magistrates, and victims, witnesses, offenders and the public.

Objectives

The Council's objectives are informed by its statutory duties under the Act.

We will:

- 1. Prepare sentencing guidelines that meet their stated aims, with particular regard to the likely impact on prison, probation and youth justice services, the impact on victims, the need to promote consistency and public confidence, and the cost of different sentences and their relative effectiveness in preventing reoffending.**

This will be met by:

- developing evidence-based guidelines, fully considering the policy, legal and resource implications;
- publishing consultations which clearly set out the rationale for the approach and likely resource implications;
- taking into account responses and research to make improvements before publication of definitive guidelines; and
- engaging with stakeholders, practitioners, the media and others to explain the implications of guidelines.

- 2. Monitor and evaluate the operation and effect of our guidelines and draw conclusions**

This will be met by:

- putting in place bespoke, targeted evaluations and assessments of the impact and/or implementation of guidelines and collecting the necessary monitoring data; and
- by using evaluation evidence to review and, if necessary, amend guidelines.

- 3. Promote awareness of sentencing and sentencing practice**

This will be met by:

- making effective use of consultation events, proactive engagement of the media, and maximising the Council's digital capability and online presence to promote awareness and to improve and strengthen engagement with stakeholders; and
- by publishing relevant material, in particular evaluations of guidelines and an annual report of the Council's activities.

- 4. Deliver efficiencies, while ensuring that the Council continues to be supported by high-performing and engaged staff**

This will be met by:

- delivering our objectives within the budget we are allocated;

- ensuring that the Office has a motivated and collaborative team who feel valued and engaged, and have the necessary capability and autonomy to deliver clear objectives; and
- working together to identify and implement more efficient ways of working and to ensure value for money.

The activities for 2020/21 and 2021/22 to deliver these objectives are outlined in **Table 1**.

Delivering the Sentencing Council’s objectives

The Council approaches the delivery of its objectives by adopting a guideline development cycle. This is based on the policy cycle set out by HM Treasury in the *Green Book on Appraisal and Evaluation in Central Government (2003)* and allows a culture of continuous improvement to be embedded within the development process.

Following this cycle, there are several key stages within the development of a sentencing guideline:



Making the case for developing/amending the guideline

Annex A outlines the Council’s rationale for prioritising which guidelines to produce (or which existing guidelines to amend), after which options for the actual guideline are considered. This may include conducting research, assessing options for the scope and remit of a guideline, its objectives, or whether there is in fact a need for the guideline. If the guideline has been requested by the Lord Chancellor, Lord Chief Justice, Court of Appeal or a substantial body of interested parties, this would also be given due consideration.

We are considering as part of the work on the future vision for the Council whether these considerations remain the right ones or whether they could usefully be refreshed.

Developing/amending the draft guideline

Once the Council has decided that a new guideline will be produced, or an existing one amended, and has agreed the objectives, work is undertaken to produce a draft guideline that will be issued for consultation. This involves a variety of different activities including consideration of relevant case law and existing sentencing guidelines or guidance; analysis of current sentencing practice; research and analysis to assess any practical, behavioural or resource implications of draft guideline proposals; stakeholder mapping and engagement and analysis of media reports. The guideline proceeds through a number of iterations of drafting in order to ensure that different options are fully considered. A monitoring and evaluation strategy is also drawn up to ensure that the guideline can be assessed and evaluated after implementation.

Issuing the draft guideline for public consultation

A draft guideline is issued for public consultation, alongside the analysis and research that supported its development and an assessment of its resource implications and any equality impact. The media and stakeholders are briefed about the main issues and the purpose of the consultation, in order to bring it to the attention of a wide audience and encourage responses. The consultation is promoted on social media and events are held with stakeholders to ensure that those with particular interest in the guideline are aware of the consultation and able to provide their input. Consultations are usually open for 12 weeks, to allow those who wish to provide a response the chance to do so.

Revising the draft guideline and implementing the definitive guideline

Further work is undertaken after the consultation to revise the guideline to take account of the responses received; and to review and if necessary test changes to the guideline.

The guideline is published online on the Council's website. Updated data on sentencing practice and a new resource assessment to reflect the final guideline are published at the same time, and a link to the guideline is sent electronically to stakeholders. The media are briefed, and a range of channels, including social media, is used to ensure that the public is informed and that all key parties are aware of and able to access the guideline.

The Council works with the Judicial College to help facilitate training for sentencers on using the guideline. There will generally be an implementation period before the guideline comes into effect to allow for awareness-raising and any training to take place.

Monitoring and assessing the guideline

The Council adopts a targeted, bespoke and proportionate approach to assessing each guideline's impact and implementation. This work involves an assessment of whether the guidelines are having any impact on sentencing outcomes or incurring any implementation issues. This information will be set against the Council's resource assessments for the guideline to examine whether there was likely to have been an impact on correctional resources, as well as the Council's intention for a particular guideline.

We use a range of different methods for evaluations, drawing on analysis of existing data on sentencing trends over time, collection of data from sentencers on the factors that influence their sentencing of different offences, interviews and focus groups, and content analysis of

Crown Court sentencing transcripts; if possible data will be collected “before” the guideline comes into force as well as “after” in order to provide a comparison between the two time periods.

A variety of different methods of data collection and analysis may therefore be utilised, both quantitative and qualitative, as necessary.

Gathering and reviewing evidence

The outcomes of the monitoring and evaluation, along with any stakeholder or media feedback, are then assessed and considered by the Council. Following this assessment, the guideline cycle moves back into the phase of **making the case for developing/amending the guideline**, this time addressing the need to review the guideline and make improvements. If this is found to be necessary, the cycle begins again. The timescale for this process will vary, depending on a number of factors including the extent of monitoring and evaluation and the urgency for taking any action.

Timing and prioritisation

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

Table 1: The main activities to deliver our objectives and planned timescales are as follows:

Work area	Objectives addressed	Key planned deliverables	Target (end of quarter)
SECTION 1: GUIDELINES			
Assault and Attempted Murder	1, 2, 3	Publication of consultation, resource assessment and statistical bulletin	Quarter 1 2020/21
		Publication of revised definitive guideline, consultation response, and resource assessment	Quarter 1 2021/22
Offenders with mental disorders	1, 2, 3	Publication of definitive guideline, consultation response, and resource assessment	Quarter 2 2020/21
Unauthorised use of a trade mark	1, 2, 3	Publication of consultation, resource assessment and statistical bulletin	Quarter 2 2020/21
		Publication of definitive guideline, consultation response, and resource assessment	Quarter 2 2021/22
Dangerous dogs	2, 3	Publication of findings from guideline assessment	Quarter 3 2020/21
Magistrates Courts Sentencing Guidelines	1, 2, 3	Publication of revised guidelines, consultation response and updated resource assessment	Quarter 3 2020/21
Modern Slavery offences	1, 2, 3	Publication of consultation, resource assessment and statistical bulletin	Quarter 3 2020/21
		Publication of definitive guideline, consultation response, and resource assessment	Quarter 2 2021/22
Reduction in Sentence for a Guilty Plea	2, 3	Publication of findings from guideline assessment	Quarter 3 2020/21

Sentencing Children and Young People	2, 3	Publication of findings from guideline assessment	Quarter 3 2020/21
Firearms offences	1, 2, 3	Publication of definitive guideline, consultation response, and resource assessment	Quarter 3 2020/21
Drugs	1, 2, 3	Publication of revised guidelines, consultation response and updated resource assessment	Quarter 4 2020/ 21
Sex offences (revision)	1, 2, 3	Publication of consultation, resource assessment and statistical bulletin	Quarter 1 2021/22
Burglary (revision)		Publication of consultation, resource assessment and statistical bulletin	Quarter 1 2021/22
		Publication of revised guideline, consultation response, and resource assessment	Quarter 4 2021/22
Firearms importation	1, 2, 3	Publication of consultation, resource assessment and statistical bulletin	Quarter 1 2021/22
Breach guideline	2, 3	Publication of findings from guideline assessment	Quarter 4 2021/22
Bladed Articles and offensive weapons	2, 3	Publication of findings from guideline assessment	Quarter 4 2021/22
SECTION 2: CROSS-CUTTING WORK			
Future Vision	1, 2, 3, 4	Development of future strategic direction for Sentencing Council post 2020	Ongoing throughout 2020-21
		Publication of response to future strategic direction consultation: What next for the Sentencing Council?	Quarter 2 2021/22
Digitisation of guidelines	3	Continue to maintain, refine and support online and offline versions of sentencing guidelines for magistrates (MCSG)	Ongoing
	3	Continue to maintain, refine and support online and offline versions of sentencing guidelines for Crown Court Judges	Ongoing

	3	Launch of redeveloped Sentencing Council website	Quarter 3 2020/21
Research on attitudes to guidelines	2	Publication of research report on attitudes to guidelines	Quarter 1 2021/22
Research on consistency in sentencing	2	Publication of research report on consistency in sentencing	Quarter 1 2021/22
Research on cumulative impacts of guidelines on sentencing severity and prison places	2	Publication of research report on cumulative impacts of guidelines	Quarter 1 2021/22
Research on equality and diversity issues related to guidelines	1, 2	Publication of research report on equality and diversity issues related to guidelines	Quarter 4 2021/22
Sentencing Competition	3	Sentencing Competition results announced	Quarter 1 2020/21
Annual Report	3	Publish 2019-20 Annual Report	Quarter 1 2020/21
		Publish 2020-21 Annual Report	Quarter 1 2021/22
Business Plan	3	Publish 2020/21 and 2021/22 version of rolling 2-3 year plan	Quarter 1 2021/22
References received from Lord Chancellor or Court of Appeal under section 124	1, 2, 3	Respond as required	Reactive only
External representation	1, 3	Council members and office staff speak at external events throughout the year targeting the judiciary, criminal justice practitioners, academics and special interest groups.	Ongoing

	3	Promote sentencing guidelines and the Council using all channels, including via proactive and positive engagement with the media, to engage with Government, its Arm's Length Bodies, the Judicial College and organisations with an interest in criminal justice and sentencing.	Ongoing
	3	Promote public confidence in sentencing by tailoring and targeting our external communications, developing relationships with key advocates such as the police service and developing the public-facing content of our website.	Ongoing
	3	Provide assistance to foreign jurisdictions via visits, advice and support work.	Ongoing
SECTION 3: EFFICIENCY AND OUR PEOPLE			
Efficiency	4	<p>Publishing all guidelines and other documents online, with the exception of the annual report.</p> <p>Ensure value for money in the procurement of goods and services, making savings where possible, in particular from printing costs and complying with departmental finance, procurement and contract management rules.</p> <p>Learn from lessons of each project, making improvements to future guidelines as a result; and improving efficiency on the basis of experience of what works.</p>	Ongoing; review quarterly
Capability	4	Enable the Council to operate digitally, through development and support of secure online members' area, digital Council papers and online collaboration tools.	

		<p>Ensure all staff undertake at least five days of targeted learning and development to develop skills, capability and career.</p> <p>Hold lunchtime seminars for staff to share knowledge and expertise about the work of the Council, the criminal justice system and Whitehall/ Government.</p>	
Engagement	4	Implement an action plan arising from the findings of the people survey, based on priorities identified by staff.	

TIMELINE OF PUBLICATIONS AND GUIDELINE EFFECTIVE DATES 2020 to 2022		
April 2020	Assault and attempted murder	Launch of consultation
July 2020	Unauthorised Use of a Trade Mark	Launch of consultation
July 2020	Annual Report and Accounts	Publication of statutory annual report to the Lord Chancellor
July 2020	Offenders with mental disorders	Publication of definitive guideline
October 2020	Magistrates' Courts Sentencing Guidelines	Revised definitive guidelines published and in effect
October 2020	Offenders with mental disorders	Definitive guideline in effect
October 2020	Modern Slavery Offences	Launch of consultation
October 2020	Dangerous Dogs Offences	Publication of evaluation report
November 2020	Reduction in Sentence for a Guilty Plea	Publication of evaluation report
November 2020	Sentencing Children and Young People	Publication of evaluation report
December 2020	Firearms Offences	Publication of definitive guideline
December 2020	Theft from a Shop or Stall	Publication of sentencing data
January 2021	Firearms Offences	Definitive guidelines in effect
January 2021	Drug Offences	Publication of revised definitive guideline
April 2021	Drug Offences	Definitive guideline in effect
April 2021	Sex Offences (revision)	Launch of consultation
May 2021	Assault and attempted murder	Publication of revised definitive guideline
June 2021	Firearms importation	Launch of consultation
June 2021	Burglary (revision)	Launch of consultation
July 2021	Assault and attempted murder	Definitive guideline in effect
July 2022	Annual Report and Accounts	Publication of statutory annual report to the Lord Chancellor
July 2021	Modern Slavery Offences	Publication of definitive guideline
August 2021	Unauthorised Use of a Trade Mark	Publication of definitive guideline
October 2021	Modern Slavery Offences	Definitive guideline in effect
October 2021	Unauthorised Use of a Trade Mark	Definitive guideline in effect
January 2022	Burglary (revision)	Publication of definitive guideline

Resources

Staff headcount (as at 1 April 2021)

Area of activity	FTE ¹
Head of Office and support	2
Policy	3.6
Analysis and research	5.5
Legal	1
Communications	3
Total	15.1

Budget

Summary of budget and resource allocation

	2019/20 (actual) ² £000s	2020/21 (budget) £000s	2021/22 (budget) £000s
Total funding allocation	1,466	1,495	1,745
Staff costs	1,184	1,166	1,172
Non staff costs	162	119	573
Total expenditure	1,347	1,285	1,745

¹ FTE: full-time equivalents

² The total expenditure has been rounded to the nearest £1,000 independently from the constituent parts, therefore summing the parts may not equal the rounded total.

Annex A: Rationale for the prioritisation of guidelines

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

- the discharge of a court's duty under section 73 of the Sentencing Code (reduction in sentences for guilty plea);³ and
- the application of any rule of law as to the totality of sentences.⁴

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

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

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

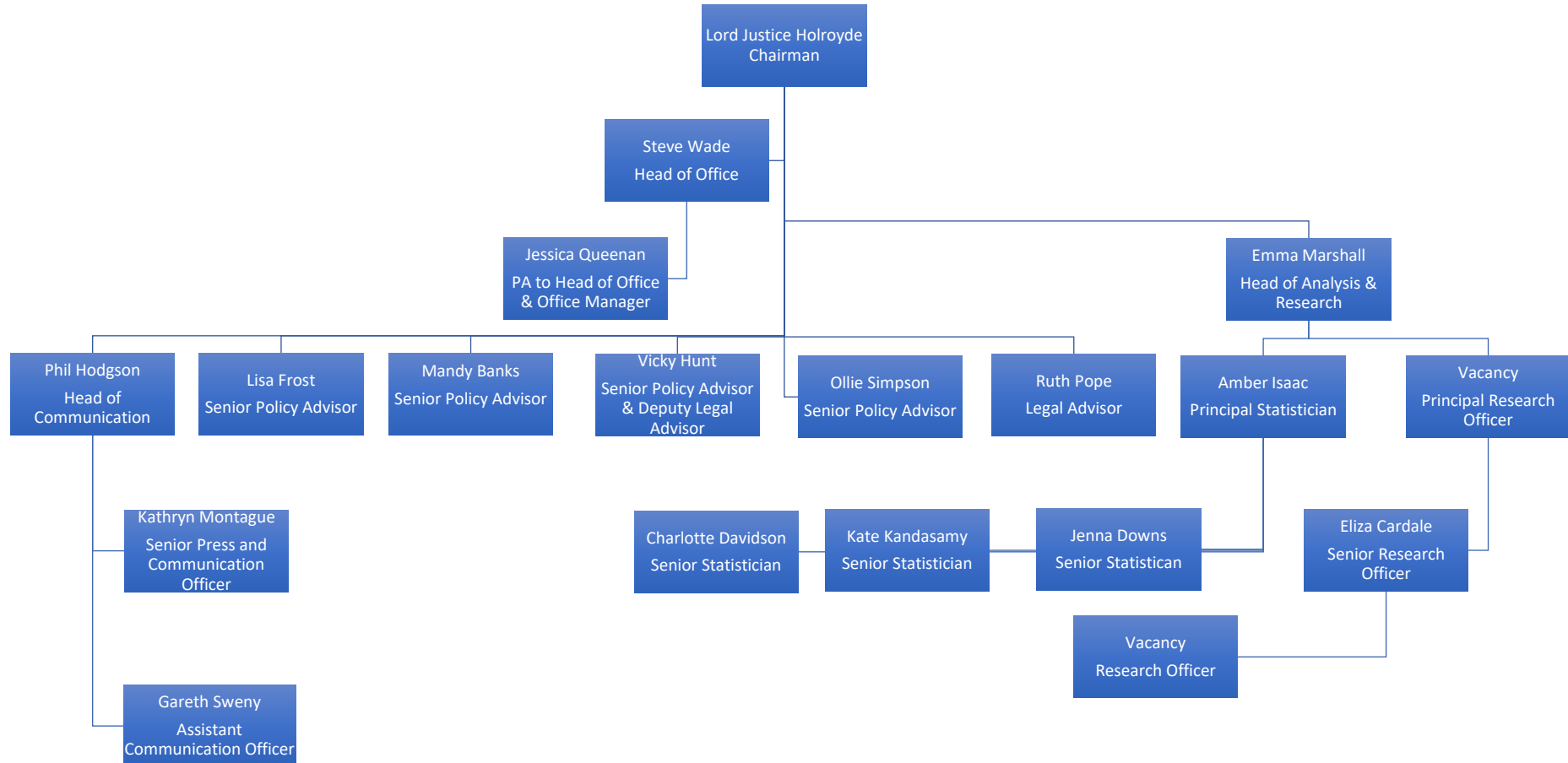
- The Lord Chancellor or the Court of Appeal formally requests the review of sentencing for a particular offence, particular category of offence or particular category of offender and the production of a guideline.
- New legislation requires supporting sentencing guidelines.
- Guidelines issued by the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

³ s.120 (3)(a)

⁴ s.120 (3)(b)

Annex B: The Office of the Sentencing Council as at 1 April 2021

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



Annex C: Sentencing Council Guideline Work Plan – 2020-2022¹ (as at 1 April 2021)

Guideline	Consultation period	Publish definitive guideline	Definitive guideline in force ²
Revision of SC assault and SGC attempted murder guidelines	16 April 2020 – 15 September 2020	May 2021	1 July 2021
Drug Offences: revision of SC guideline	15 January 2020 – 7 May 2020	January 2021	1 April 2021
Firearms importation offence	June 2021 – August 2021	TBC	TBC
What next for the Sentencing Council (Vision)	10 March 2020 – 9 September 2020	September 2021	TBC
Modern Slavery	October 2020 – December 2020	July 2021	1 October 2021
Sexual Offences (partial revision)	April 2021 – June 2021	TBC	TBC
Terrorism: revision of SC guideline ³	22 October 2019 – 3 December 2019	TBC	TBC
Trademark offences	July – October 2020	August 2021	1 October 2021
Burglary: revision of SC guideline	June 2021 to September 2021	January 2022	April 2022
Perverting the course of justice etc ⁴	TBC	TBC	TBC

Guideline	Consultation period	Publish definitive guideline	Definitive guideline in force²
Motoring offences ⁵	TBC	TBC	TBC
Immigration ⁴	TBC	TBC	TBC
Cybercrime ⁴	TBC	TBC	TBC

¹ The dates shown in this work plan are indicative; the Council will be revisiting its priorities and objectives, in particular following the 'Vision' consultation so the timetable for upcoming guidelines may change.

² In most instances we aim to bring definitive guidelines into force quarterly, on 1 January, 1 April, 1 July and 1 October.

³ Timetable dependent on progress of the Counter-Terrorism and Sentencing Bill.

⁴ Dates for these guidelines are dependent on resource availability as other guidelines are completed.

⁵ Timetable dependent on progress of Police, Crime, Sentencing and Courts Bill.

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