
**MEETING OF THE SENTENCING COUNCIL
22 OCTOBER 2010
MINUTES**

<u>Members present:</u>	Brian Leveson (Chairman) Colman Treacy Anne Arnold Kier Starmer Julian Roberts Alistair McCreath Anne Rafferty Anthony Hughes Katharine Rainsford John Crawforth Gillian Guy Siobhan Egan
<u>Advisors present:</u>	Paul Cavadino Paul Wiles
<u>Non-members present:</u>	Helen Edwards, Director General, Justice Policy Ministry of Justice
<u>External attendees:</u>	Christina Pride – Private Secretary to Lord Chief Justice
<u>Members of Office in Attendance:</u>	Rosalind Campion Alison Naftalin Trevor Steeples Nigel Patrick Robin Linacre Michelle Crotty Emma Marshall Laura Smith Azhar Hasham Katharina Walsh Karen Moreton Huw Margetts Nick Mann

1. WELCOME AND APOLOGIES FOR ABSENCE

- 1.1. Apologies were received from Tim Godwin.

2. MINUTES OF LAST MEETING

- 2.1. Minutes from the meeting of the 24 September 2010 were agreed.
- 2.2. The Chairman noted that the Spending Review had been announced on the 20th October and also noted that the Sentencing Council required its entire policy, legal and analysis staff to undertake its statutory duties.

3. ACTION LOG

- 3.1. The actions from the September meeting had all been completed.

4. DISCUSSION ON ASSAULT CONSULTATION AND COMMUNICATIONS

- 4.1. A report was made to Council on the content and extent of press coverage for the launch of the assault guideline. It was noted that although there was mixed coverage, even where initial headlines were negative the contents of the stories themselves tended to be more balanced. This was the first guideline issued by the Council and there were learning points.
- 4.2. It was important to continue to promote the assault consultation and it was noted that the Chairman had spoken to the Law Society, the Criminal Justice Alliance and the Liverpool Law Society. The Office of the Sentencing Council was also engaging with NGOs who had experience with juvenile offenders and those with mental health problems.
- 4.3. The OSC is due to run three public events to promote the consultation. The first is to be run jointly with NACRO and focuses on offenders and victims with mental health issues. There is to be a future event focusing on victim and witness groups and an event to focus on Magistrates.
- 4.4. The OSC is engaging with existing events organised by other organisations; an example is Tim Godwin speaking at the ACPO conference on the 1st November 2010. Council members were encouraged to participate in this engagement work and liaise with the OSC where they were attending events so that appropriate supporting material could be provided.
- 4.5. Council members commended the approach taken in relation to the launch of the guideline and it was suggested that efforts should be made to engage with current law students who are the lawyers of the future.
- 4.6. It was also noted that there was an opportunity for the Council to engage with existing networks such as victims' panels and the Citizens Advice Bureau networks.
- 4.7. There was a discussion as to whether the Council should establish a Twitter account with the aim of encouraging more members of the public to respond to consultations. There were concerns to ensure that the account would be secure. Subject to that being resolved, it was agreed that an account should be set up and operated for a trial period.

ACTION: OSC TO SEND COUNCIL MEMBERS DETAILS OF FORTHCOMING EVENTS

ACTION: OSC TO TRIAL TWITTER ACCOUNT

5. DISCUSSION OF DRUGS DATA

- 5.1. There was a presentation in relation to sentencing trends for drug offences between 1998 and 2008. The 2009 figures were published on the 21 October 2010 and had not yet been analysed.
- 5.2. It was noted that there were a large number of variables affecting sentencing for drug offences which need to be considered in the development of the guideline. It was also noted that the nature and level of drug offences were particularly affected by proactive policing both in the UK and abroad.

6. DISCUSSION OF DRUGS GUIDELINE

- 6.1. It was agreed that the offences identified in the SAP Advice on Sentencing for Drugs Offences would be taken forward in the draft guideline.
- 6.2. There was a discussion as to how the offences should be arranged with the majority agreeing that the distinction between offences should be based on gravity/seriousness. It was also agreed that one of the most important aggravating features in sentencing drugs offences was the level of the offender within the organisation.
- 6.3. It was agreed that the new guideline would need to be drafted in such a way as to deal with the reclassification of any existing drugs.
- 6.4. It was agreed that Class C drugs should be considered separately in the guideline and not as a subset of Class B drugs.
- 6.5. Concerns were raised that if this guideline was restricted to three categories, the range would be too wide and not give enough guidance to the courts. Set against that was a concern to consolidate the decision making process described in the draft assault guideline which had already received positive responses.
- 6.6. It was agreed that the drugs guideline should follow the culpability and harm model identified in the assault guideline. It was also decided that offences involving fake drugs were a different type of offence and should not be dealt with in this guideline. Consideration should be given when drafting the guideline as to whether to treat use of a placebo as an aggravating/mitigating factor or whether it should be treated as a separate offence.
- 6.7. The guidance in Afonso would need to be considered.
- 6.8. In relation to aggravating factors, there was a discussion about purity. It was agreed that purity was important as an indicator of the level of an offender in the supply chain and was also relevant to harm.

- 6.9 In relation to mitigating factors, it was agreed that willingness to undertake treatment could be considered but it was reliant on positive steps being taken by the offender and at what stage those steps were taken. This was regarded as different to remorse.
- 6.10 The Council agreed that the aims and objectives of this guideline were to make the decision making process simpler and to have a proportionate response to offending.
- 6.11 There was a discussion as to the enormous range of offending encompassed in the offences that would be considered in the guideline. At the top are the career criminals who operate in violent organisations whose aims are enforced by death. These are very serious offenders and require the full weight of the law to be used when sentencing them. At the bottom, there are offences of possession.

ACTION: OSC TO DRAFT DRUGS GUIDELINE FOR NOVEMBER COUNCIL

7. DISCUSSION OF GUILTY PLEAS

- 7.1 It was agreed that the purpose of the guideline was to not put undue pressure on offenders but to incentivise an early guilty plea.
- 7.2 There was a discussion as to whether there should be a point after which the discount was reduced substantially or whether there was a need to keep more incentives for later stages in the process.
- 7.3 It was agreed that the approach to this guideline would be reconsidered at the December Council meeting after amendments to the draft guideline by the OSC.

ACTION: OSC TO PREPARE AMENDED DRAFT GUIDELINE

8. UPDATE ON ANALYSIS

- 8.1. There was a discussion as to how future research work should be undertaken and it was agreed that the decision should be taken by the Analysis & Research sub-group.
- 8.2. It was also agreed that all members of the Council would consider additional ways of encouraging academics and others to carry out research in relation to sentencing and advise the sub-group of those thoughts.
- 8.3. There was feedback in relation to the ongoing Crown Court Sentencing Survey. It was confirmed that the first returns were due in early November when a check would be carried out on any missing data.
- 8.4. It was agreed that the OSC would conduct a round of phone calls to as many courts as possible to establish how the CCSS was operating and the OSC would report the results back to the Chairman and Council.

**ACTION: OSC TO PROVIDE FEEDBACK TO CHAIRMAN
ON THE RESPONSE OF COURTS TO THE FIRST MONTH
OF THE SENTENCING SURVEY**