

## MEETING OF THE SENTENCING COUNCIL

5 MARCH 2021

### MINUTES

---

<u>Members present:</u>	Tim Holroyde (Chairman) Rosina Cottage Rebecca Crane Rosa Dean Nick Ephgrave Michael Fanning Diana Fawcett Adrian Fulford Max Hill Jo King Juliet May Maura McGowan Alpa Parmar Beverley Thompson
<u>Apologies:</u>	None
<u>Representatives:</u>	Elena Morecroft for the Lord Chief Justice (Legal and Policy Advisor to the Head of Criminal Justice) Amy Randall for the Lord Chancellor (Deputy Director – Sentencing Team) Phil Douglas for the Lord Chancellor (Head of Custodial Sentencing Policy)
<u>Observers:</u>	Hannah Von Dadelszen (Crown Prosecution Service) Samantha White (Criminal Appeal Office)
<u>Members of Office in attendance:</u>	Steve Wade Mandy Banks Lisa Frost Emma Marshall Ollie Simpson

## **1. MINUTES OF LAST MEETING**

- 1.1 The minutes from the meeting of 12 February 2021 were agreed.

## **2. MATTERS ARISING**

- 2.1 The Chairman noted that this would be the last Council meeting for Majid Bastan-Hagh who was leaving to take up a role at BEIS. He thanked Majid for his work in the analysis and research team and in particular for setting up the current magistrates' court data collection.
- 2.2 The Chairman drew attention to a report recently published by the Magistrates' Association, 'Maturity in the magistrates' court' relating to the issue of lack of maturity as a mitigating factor. It was noted that one of the recommendations of the report was that training for magistrates should incorporate the Sentencing Council's expanded explanation on lack of maturity.
- 2.3 The Chairman reported that Lisa Frost had given a presentation to probation court staff on the Imposition guideline to help them understand the assessment sentencers have to undertake when considering imposing community and custodial sentences and to ensure PSR proposals align with the guideline.
- 2.4 The Chairman noted that Rosa Dean had given a presentation on the Sentencing offenders with mental disorders, developmental disorders, or neurological impairments guideline to delegates at the Royal College of Psychiatry's Forensic Psychiatry Faculty conference.

## **3. DISCUSSION ON ASSAULT – PRESENTED BY LISA FROST, OFFICE OF THE SENTENCING COUNCIL**

- 3.1 The Council considered consultation responses to the draft guideline for common assault and the related offence of assault on emergency workers.
- 3.2 The Council considered points raised in respect of relativity between sentences for racially and religiously aggravated common assaults and proposed sentences for offences committed against an emergency worker.
- 3.3 It was noted that currently legislation provides for double the statutory maximum sentence for racially and religiously aggravated offences but the Government intends to increase the statutory maximum sentence for assaults on emergency workers to be equivalent to racially and religiously aggravated offences.
- 3.4 This raised the question as to whether the approach for sentencing the offences should differ, as each are aggravated versions of the basic common assault offence, and the aggravation is provided for in the same way by legislation.

- 3.5 The Council considered this point in detail and noted the challenges posed in specifying different approaches to sentencing the offences and potentially appearing to apportion greater weight to one type of aggravation than another when legislation treats them in the same way.
- 3.6 The Council debated the issue extensively and concluded that different approaches would be undesirable. It was agreed that a consistent approach should be taken to aggravated offences in guidelines.
- 3.7 Sentences for the basic offence were also considered, and it was agreed that starting points should be increased in the lower seriousness categories. As well as properly reflecting offence seriousness, this would also provide for a greater uplift in comparable sentences against emergency workers.
- 3.8 The Council also considered responses in respect of culpability and harm factors. A number of revisions to factors were agreed to address issues raised by respondents, including enhanced guidance on factors to consider as part of the harm assessment.

#### **4. DISCUSSION ON SEXUAL OFFENCES – PRESENTED BY OLLIE SIMPSON, OFFICE OF THE SENTENCING COUNCIL**

- 4.1 The Council considered the consultation stage resource assessment for the revisions to the sex offence guidelines, and agreed additional guidance for sentencers on ancillary orders, and some additions to bring mitigating factors into line with those used elsewhere. The draft revisions and the new guidelines for sexual communication with a child were then signed off for consultation.

#### **5. DISCUSSION ON BURGLARY– PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL**

- 5.1 This was the last meeting to discuss the revision of the guideline ahead of consultation in the summer. The Council considered and agreed the recommendations from the working group regarding the guidelines. This included adding some wording in the domestic burglary guideline regarding cases of particular gravity, and a solution to the issue of potential double counting with the 'weapon present on entry' factor.
- 5.2 The draft resource assessment was also presented and discussed, the Council noted its contents, and made some suggestions for minor changes to wording and some additional detail. The guideline was then signed off ahead of the consultation.

**6. DISCUSSION ON WHAT NEXT FOR THE SENTENCING COUNCIL?  
– PRESENTED BY EMMA MARSHALL, OFFICE OF THE  
SENTENCING COUNCIL**

- 6.1 The Council considered consultation responses in relation to analytical work. This included whether there are any technical aspects of the Council's work that could be enhanced, including in the area of data collection, and sources of information to draw upon for resource assessments and evaluations. More in-depth consideration of these areas will be undertaken and then discussed further at a later Council meeting.