

MEETING OF THE SENTENCING COUNCIL

16 JUNE 2023

MINUTES

Members present:

Bill Davis (Chairman)
Rosa Dean
Simon Drew
Diana Fawcett
Elaine Freer
Tim Holroyde
Jo King
Stephen Leake
Juliet May
Rob Nixon
Beverley Thompson
Mark Wall
Richard Wright

Apologies:

Max Hill

Representatives:

Claire Fielder for the Lord Chancellor (Director,
Youth Justice and Offender Policy)
Elena East for the Lord Chief Justice (Deputy to
the Head of the Criminal Justice Team for the
President of the King's Bench Division)
Lynette Woodrow for the Director of Public
Prosecutions

Observers:

Tom Guest – Crown Prosecution Service

Members of Office in
attendance:

Steve Wade
Ruth Pope
Jessie Stanbrook
Vicky Hunt
Phil Hodgson

1. MINUTES OF LAST MEETING

- 1.1 The minutes from the meeting of 12 May 2023 were agreed.

2. MATTERS ARISING

- 2.1 The Chairman welcomed Rob Nixon to his first meeting since his interim appointment as the police representative.
- 2.2 The Chairman also welcomed Simon Drew to his first meeting since his recent appointment as the Circuit Judge member of the Council.

3. DISCUSSION ON IMPOSITION – PRESENTED BY JESSIE STANBROOK, OFFICE OF THE SENTENCING COUNCIL

- 3.1 The Council looked at a first full draft of the updated Imposition guideline, and discussed some outstanding questions and issues pertaining to sections covering deferred sentences, pre-sentence reports, young adult and female offenders and the community order requirements list.
- 3.2 The Council agreed the proposed text for these sections with some amendments. For the pre-sentence report section, the Council discussed whether different information is necessary for magistrates' courts and the Crown Court, but concluded that the information in the draft guideline is applicable to both.
- 3.3 The Council also considered the draft of the updated guideline as a whole including its relative length, and agreed to proceed to consultation with a draft guideline longer than the current guideline, to ensure important information was not omitted. After requested amendments have been made, the draft guideline will be brought back to the Council in September for approval before consultation.

4. DISCUSSION ON IMMIGRATION – PRESENTED BY VICKY HUNT, OFFICE OF THE SENTENCING COUNCIL

- 4.1 The Council considered and agreed the second draft of a guideline on facilitation, covering offences under both section 25 and section 25A of the Immigration Act 1971. The Council specifically focussed on the changes to step 1 which had been made since the last meeting. In addition the sentence levels were discussed and agreed.
- 4.2 The Council also considered a first draft of a guideline for the offence of possession of false identity documents with improper intention (section 4 of the Identity Documents Act 2010). Some amendments were discussed to steps 1 and 2.

5. DISCUSSION ON ANNUAL REPORT – PRESENTED BY PHIL HODGSON, OFFICE OF THE SENTENCING COUNCIL

5.1 The Council discussed the content of the Sentencing Council Annual Report 2022/23. Subject to amendments agreed at the meeting and the inclusion of new photographs, the Council approved the report for submission to the Lord Chancellor.

6. DISCUSSION ON PROPOSED CHANGES TO SCHEDULE 21 – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL

6.1 At the request of the Lord Chancellor, the Council discussed a draft Statutory Instrument that would amend Schedule 21 to the Sentencing Code which governs sentencing for murder. The Council was not convinced of the need for the proposed new statutory aggravating and mitigating factors and had concerns that the proposed new aggravating factor relating to the use of violence significantly greater than that which is necessary to cause death, could cause evidential difficulties with the potential for delay.

6.2 The Council agreed that the Chairman would write to the Lord Chancellor setting out the Council's view.

7. DISCUSSION ON MISCELLANEOUS AMENDMENTS – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL

7.1 The Council considered a proposal to amend the expanded explanation for previous convictions to ensure that it was compatible with statutory language and agreed that this change could be made without consultation.

7.2 The Council agreed to make changes to the titles or sub headings of some guidelines to align them with statutory language. The Council also agreed to make some minor changes to the explanatory materials to the magistrates' courts guidelines on victim personal statements to bring it into line with recent changes to Criminal Practice Directions.

7.3 Following a discussion on the way foreseeable harm should be treated in assault guidelines, the Council agreed that this should be looked at in more detail and, if changes were proposed, should be subject to a separate consultation.

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

8.1 The Council discussed comments received on the working of the fraud guideline. The Justice Committee had made a recommendation in its report 'Fraud and the Justice System' that the fraud guidelines should be amended to give greater consideration to the emotional and psychological harms caused by fraud. Separately, the Council's attention had been drawn to the difficulty of applying the guideline to cases where there was no pecuniary loss.

8.2 The Council considered some relatively minor changes to the guideline which could be included in the miscellaneous amendments consultation, but also wanted to explore whether more fundamental changes were justified.

9. DISCUSSION ON GUIDELINE PRIORITIES – PRESENTED BY STEVE WADE, OFFICE OF THE SENTENCING COUNCIL

9.1 The Council considered options for the next guidelines to be developed and agreed them in principle for inclusion in the next revision of the Business Plan.