

MEETING OF THE SENTENCING COUNCIL

17 DECEMBER 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>Representatives:</u>	Elena Morecroft for the Lord Chief Justice (Legal and Policy Advisor to the Head of Criminal Justice) Claire Fielder for the Lord Chancellor (Director, Youth Justice and Offender Policy)
<u>Observers:</u>	Eliot Porritt, Metropolitan Police Lynette Woodrow, Crown Prosecution Service
<u>Members of Office in attendance:</u>	Steve Wade Mandy Banks Lisa Frost Ruth Pope Ollie Simpson

1. MINUTES OF LAST MEETING

- 1.1 The minutes from the meeting of 19 November 2021 were agreed.

2. MATTERS ARISING

- 2.1 The Chairman welcomed Zeinab Shaikh a new member of the team who has joined as a senior policy officer.

3. DISCUSSION ON BURGLARY – PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL

- 3.1 The Council considered consultation responses relating to harm factors across the three guidelines. The Council agreed to a number of amendments to factors in response to suggestions by respondents. The Council also looked at responses regarding proposed sentence levels for non-domestic burglary, and agreed to some small changes at the lower end of the sentencing table.
- 3.2 Next month the Council will look at sentence levels for the other two burglary offences, and aggravating and mitigating factors across all three guidelines.

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

- 4.1 The Council considered the responses to the consultation. The Council agreed to amend and expand the wording relating to the court's powers on breach of a sexual harm prevention order in accordance with suggestions from consultees. A small addition to the wording relating to confiscation was also agreed.
- 4.2 The Council discussed the responses in relation to changes to the Domestic abuse guideline and agreed wording to clarify the scope of that guideline.

5. DISCUSSION ON MOTORING – PRESENTED BY LISA FROST, OFFICE OF THE SENTENCING COUNCIL

- 5.1 The Council finalised draft culpability factors for careless driving offences, agreeing an additional factor at medium culpability for driving a vehicle where visibility or controls are obstructed.
- 5.2 The Council discussed issues related to the development of enhanced guidance for drug driving offences. The Council considered a range of information which highlighted the lack of evidence available to provide for development of drug driving guidelines which specify the level of

drug at which a driver's impairment worsens. The Council also noted evidential issues which would cause the operation of a guideline specifying drug levels to be problematic.

- 5.3 The Council agreed to monitor the development of work being undertaken by the Department of Transport in respect of drug driving to identify if further evidence becomes available in the future. In the interim it was agreed that a previously developed guideline for the section 5A offence of driving or being in charge with specified drug above specified limit should be included in the consultation for motoring offences.
- 5.4 Finally, the Council agreed the approach to assessing culpability for careless driving when under the influence of drink or drugs. The approach to assessing the seriousness of drugs and alcohol in this offence was agreed, and it was decided that any deliberate failure to provide a specimen for analysis should be assessed at the highest level of culpability.

6. DISCUSSION ON ANIMAL CRUELTY – PRESENTED BY OLLIE SIMPSON, OFFICE OF THE SENTENCING COUNCIL

- 6.1 The Council discussed amendments to be made to the existing magistrates' sentencing guideline for failure to provide for the welfare of an animal (section 9 of the Animal Welfare Act 2006), consequential to amendments made to the guideline for other animal cruelty offences (ss4-8 of the 2006 Act).

7. DISCUSSION ON UNDERAGE SALE OF KNIVES – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL

- 7.1 The Council discussed culpability and harm factors and it was decided to seek clarification from police and trading standards on the issue of the sale of multiple knives by online retailers before these factors were agreed.
- 7.2 Sentence levels for organisations were discussed. The Council agreed that these should be proportionate to those for other offences of similar gravity and generally would be higher than sentences currently being passed.