

MEETING OF THE SENTENCING COUNCIL

18 NOVEMBER 2016

MINUTES

Members present:

Colman Treacy (Chairman)
Simon Byrne
Mark Castle
Rosina Cottage
Julian Goose
Martin Graham
Jill Gramann
Heather Hallett
Tim Holroyde
Sarah Munro
Julian Roberts
Alison Saunders
Kate Thirlwall
Richard Williams

Representatives:

Sophie Marlow for the Lord Chief Justice (Legal Advisor to the Lord Chief Justice, Criminal Justice Team)
Nicola Hewer, Director, Criminal Justice Policy

Members of Office in Attendance

Steve Wade (Head of Office)
Mandy Banks
Lisa Frost
Vicky Hunt
Emma Marshall
Ruth Pope

1. WELCOME AND APOLOGIES FOR ABSENCE

1.1 No apologies were received.

2. MINUTES OF LAST MEETING

2.1. The minutes from the meeting of 21 October 2016 were agreed.

3. MATTERS ARISING

3.1 Julian Roberts reported on seminar he attended in Bahrain to talk to Bahraini judges about the work of the Council and the use of sentencing guidelines.

4. PRESENTATION FROM THE LAW COMMISSION ON THE SENTENCING CODE PROJECT – PRESENTED BY PROFESSOR DAVID ORMEROD AND PAUL HUMPHERSON, LAW COMMISSION

4.1 Professor Ormerod updated the Council on the progress of the Sentencing Code Project and explained the likely process by which the code would be given effect. The Council expressed its continued support for the project.

5. DISCUSSION ON RACIALLY AND RELIGIOUSLY AGGRAVATED CRIME – PRESENTED BY EMMA MARSHALL, OFFICE OF THE SENTENCING COUNCIL

5.1 The Council discussed a short paper outlining analytical work to explore possible approaches to sentencing racially and religiously aggravated offences. It was agreed that a percentage uplift for these offences would not be appropriate and that the approach should be taken on a case-by-case basis. For intimidatory offences, it was agreed that a narrative approach would be adopted, but that further work would be undertaken to provide more guidance for sentencers.

6. DISCUSSION ON INTIMIDATORY OFFENCES – PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL

6.1 The Council discussed draft sentence ranges across the guidelines, and suggested a small number of changes to the proposed ranges which had been prepared for the discussion.

6.2 The Council also further considered the proposal to include wording relating to mental health disposals within the stalking and harassment

guidelines, and asked that a revised form of wording be prepared for consideration at the next meeting. Following on from the earlier discussion on options for the sentencing of racially and religiously aggravated offences, the Council asked for further guidance to be developed on how to uplift sentences to reflect the level of aggravation involved, which would be discussed at the next meeting.

7. DISCUSSION ON PUBLIC ORDER– PRESENTED BY LISA FROST, OFFICE OF THE SENTENCING COUNCIL

- 7.1 The Council considered principles underpinning sentences for the offences of riot and violent disorder, and discussion took place regarding appropriate culpability and harm factors for these offences.

8. DISCUSSION ON MCSG – PRESENTED BY VICKY HUNT, OFFICE OF THE SENTENCING COUNCIL

- 8.1 The Council considered the Magistrates Courts Sentencing Guidelines for the first time since the consultation closed in August. The Council agreed a number of changes to the guidelines as proposed by respondents. The guidelines have now been signed off and will be published at the end of January 2017 with a view to them coming into force in April 2017.

9. DISCUSSION ON MANSLAUGHTER – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL

- 9.1 The Council discussed the involuntary manslaughter guideline and agreed to issue separate guidelines for unlawful act and gross negligence manslaughter. It was also agreed to consult on a model for involuntary manslaughter with four levels of culpability. The loss of control and diminished responsibility guidelines were also considered and amendments made. The Council will discuss sentence levels for manslaughter at its meeting in December.

10. DISCUSSION ON CHILD CRUELTY – PRESENTED BY VICKY HUNT, OFFICE OF THE SENTENCING COUNCIL

- 10.1 The Council considered the failure to prevent FGM guideline for the second time. They agreed to include an additional culpability factor as proposed by one of the key stakeholders. They also approved a new harm model that includes two levels of harm. The Council also considered and approved the sentencing levels for this guideline. The Council will revisit this and the other child cruelty guidelines in January

11. DISCUSSION ON TERRORISM – PRESENTED BY VICKY HUNT, OFFICE OF THE SENTENCING COUNCIL

- 11.1 The Council considered a paper on Terrorism for the first time, and agreed that new guidelines should be produced in this area. They also approved the scope of the project which will include 6 guidelines covering 11 different terrorism offences.