

MEETING OF THE SENTENCING COUNCIL

19 JUNE 2020

MINUTES

Members present:

Tim Holroyde (Chairman)
Rosina Cottage
Rebecca Crane
Rosa Dean
Michael Fanning
Diana Fawcett
Adrian Fulford
Julian Goose
Max Hill
Maura McGowan
Alpa Parmar
Beverley Thompson
Nick Ephgrave

Representatives:

Duncan Webster for the Magistrates' Leadership Executive
Hanna van den Berg for the Lord Chief Justice (Legal and Policy Advisor to the Head of Criminal Justice)
Amy Randall, for the Lord Chancellor (Policy, Communications & Analysis Group)

Members of Office in attendance:

Phil Hodgson
Vicky Hunt
Ruth Pope
Ollie Simpson

1. MINUTES OF LAST MEETING

- 1.1 The minutes from the meeting of 15 May 2020 were agreed.

2. MATTERS ARISING

- 2.1 The Chairman officially welcomed Nick Ephgrave following his formal appointment as the policing member of the Council.

3. DISCUSSION ON MODERN SLAVERY – PRESENTED BY OLLIE SIMPSON, OFFICE OF THE SENTENCING COUNCIL

- 3.1 The Council agreed to some changes to the wording above the harm table to clarify that witness evidence may not reflect the harm caused by coercion. Changes to the culpability table were agreed to reflect the broad nature of threats made to victims, and a reference to slavery and trafficking reparation orders was added. With the Modern slavery guideline almost finalised, the Council decided that, on balance, it would be preferable to consult separately on that guideline in the autumn and to continue to develop guidelines for immigration offences for consultation in 2021.
- 3.2 The Council agreed that the identity card offences (sections 4 and 6 of the Identity Documents Act 2010) should cover offending in a non-immigration as well as an immigration context.

4. DISCUSSION ON FIREARMS – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL

- 4.1 The Council considered a revised version of the Possession of a prohibited weapon guideline. It was agreed to include 'drop down boxes' in the online guideline to provide descriptions (taken from the Firearms Act 1968) of the weapons referred to in the 'Culpability - type of weapon' table, to assist sentencers and other users of the guideline.
- 4.2 The Council considered the position of offenders who act as custodians of weapons and decided to include factors relating to being reckless as to the use of the weapon for a criminal purpose at high culpability and for other purposes at medium culpability in the 'Culpability - other' table.
- 4.3 The Council considered the relevant mitigating factors in such cases and noted that these factors are capable of having a significant impact on the final sentence and should be retained at step two.
- 4.4 The Council considered the responses to the Possession without a certificate guideline and agreed some changes to the 'Culpability – other' table to aid clarity and to achieve consistency with the possession of a prohibited weapon guideline.
- 4.5 Some respondents had queried whether matters relating to inadvertent possession or failure to renew a licence were adequately catered for by

the guideline. The Council concluded that the combination of the culpability factors at step one and the relevant mitigating factors at step two would ensure a proportionate sentence without undermining the intention of the strict licencing regime.

5. DISCUSSION ON SEXUAL OFFENCES – PRESENTED BY VICKY HUNT, OFFICE OF THE SENTENCING COUNCIL

5.1 The Council discussed the section 14 Sexual Offences Act 2003 guideline (arranging or facilitating a child sexual offence) in light of the recent Court of Appeal case: R v Privett and others. The Council agreed to put guidance on the digital guideline immediately linking to the judgment to ensure that sentencers apply the guideline correctly.

5.2 The Council also considered that in the longer term a revision of the guideline would be appropriate. In addition a scoping exercise will take place to consider whether further changes to the sexual offences guidelines might be necessary.

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

6.1 The Council was updated on the progress of the Sentencing Bill. It was agreed that minor consequential changes to existing guidelines as a result of the Sentencing Code coming into effect could be made on the Council's website to coincide with it coming into force; more substantive changes reflecting amendments made to the law via the Sentencing (Pre-consolidation Amendments) Act 2020 could be circulated to Council members outside of meetings for approval.

6.2 The Council agreed to refer to the Sentencing Act as “The Sentencing Code” in guidelines, to reflect the central importance of this legislation in sentencing. An explainer on the website could help anyone confused as to which piece of legislation this referred to.

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

7.1 The Council reviewed the Annual Report for 2019/20 and, subject to agreed amendments, approved submission of the report to the Lord Chancellor.

8. DISCUSSION ON THE CONSIDERATION OF COVID-19 MATTERS – PRESENTED BY PHIL HODGSON, OFFICE OF THE SENTENCING COUNCIL

8.1 Members agreed that the Council should publish a statement in response to calls for action in relation to the Covid-19 emergency. Members agreed amendments to the draft statement, “The application of sentencing principles during the Covid-19 emergency” (later circulated for final review) and approved the statement for publication on the Council website.