

Sentencing Council

MEETING OF THE SENTENCING COUNCIL

20 MAY 2016

MINUTES

Members present: Colman Treacy (Chairman)
Michael Caplan
Mark Castle
Julian Goose
Martin Graham
Jill Gramann
Heather Hallett
Tim Holroyde
Julian Roberts
Alison Saunders
Kate Thirlwall
Richard Williams

Apologies: Sarah Munro

Representatives: Stephen Muers for the Ministry of Justice (Director,
Criminal Justice Policy)
Sophie Marlow for the Lord Chief Justice (Legal
Advisor to the Lord Chief Justice, Criminal Justice
Team)
Chief Constable Simon Byrne

Members of Office in
Attendance Claire Fielder (Head of Office)
Lisa Frost
Vicky Hunt
Mandy Banks
Ruth Pope
Sarah Poppleton

1. WELCOME AND APOLOGIES FOR ABSENCE

- 1.1 Apologies were received as set out above.

2. MINUTES OF LAST MEETING

- 2.1. The minutes from the meeting of 15 April 2016 were agreed.

3. MATTERS ARISING

- 3.1 The Chairman welcomed Chief Constable Simon Byrne, who had been nominated by the Chair of the National Police Chiefs' Council to attend meetings on an interim basis pending the appointment of a policing representative.
- 3.2 This was the final Council meeting for Michael Caplan, who was stepping down in June upon the expiry of his term of appointment. The Chairman thanked him for his enormous contributions to the Council.
- 3.3 The Chairman thanked Ceri Hopewell, whose period covering the role of the Lord Chief Justice's legal adviser had come to an end, and welcomed back Sophie Marlow.

4. DISCUSSION ON IMPOSITION OF COMMUNITY AND CUSTODIAL SENTENCES – PRESENTED BY LISA FROST, OFFICE OF THE SENTENCING COUNCIL

- 4.1 The Council held its second consideration of responses to the consultation on the imposition of community and custodial sentences guideline. The focus for the meeting was on the community sentences section of the guideline. The Council agreed a number of revisions and clarifications to the content of this section of the guideline. It was due to sign off the guideline at the meeting in June.

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

- 5.1 The Council reviewed and agreed a draft guideline for breach of community order, including agreement to penalty levels for breaches. It would consider guidelines for breaches of post sentence supervision orders and failing to surrender to bail at the meeting in June.

6. DISCUSSION ON KNIVES AND OFFENSIVE WEAPONS – PRESENTED BY VICKY HUNT, OFFICE OF THE SENTENCING COUNCIL

- 6.1 The Council considered the knives and offensive weapons guidelines and agreed the step 1 and step 2 factors relating to culpability, harm, aggravating and mitigating factors. They also considered and approved the wording relating to mandatory minimum sentences. The guidelines would be brought back to the Council in June when Council members would be asked to consider the sentencing levels.

7. DISCUSSION ON THE RELATIONSHIP BETWEEN THE COUNCIL, COURT OF APPEAL AND PARLIAMENT – PRESENTED BY COLMAN TREACY, CHAIRMAN OF THE SENTENCING COUNCIL

- 7.1 The Council discussed the respective roles of sentencing guidelines, judgments of the Court of Appeal and Parliament and the relationship between them. It concluded that its relationship with Parliament was clear: the Council could not ignore Parliament's will and was bound by the legislation it passed, whether this related to maximum penalties, minimum sentences or the types of disposal available. It could issue guidelines within the parameters of the legislation.
- 7.2 The relationship with the Court of Appeal was perhaps more nuanced: although the Council had a statutory duty to have regard to sentences imposed by the courts and would always have regard to decisions of the Court of Appeal Criminal Division, guidelines may develop or even depart from established principles in certain circumstances, such as where better evidence is available.

8. DISCUSSION ON DOMESTIC ABUSE – PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL

- 8.1 The Council held its first discussion on revisions to the SGC Overarching Principles: Domestic Violence Definitive Guideline. The Council agreed to produce a new overarching principles guideline on domestic abuse and confirmed that it should be non offence-specific.
- 8.2 The Council considered an early draft of a revised guideline and agreed that the draft should be streamlined and shortened. The Council noted that this work was being conducted in parallel with work to develop a new 'Interpersonal Offences' guideline.

9. DISCUSSION ON INTERPERSONAL OFFENCES – PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL

- 9.1 The Council held its first discussion on a new 'Interpersonal Offences' guideline. The Council considered the scope of this work, and agreed that it would include guidelines on the offences of stalking, harassment,

disclosing private images and coercive and controlling behaviour in intimate or family relationships.

- 9.2 The Council decided to examine further data in relation to the offences of threats to kill and forced marriage, in order to decide whether to include these offences within the guideline.

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

- 10.1 The Council considered the approach that could be taken to a guideline for sentencing gross negligence manslaughter cases. It was agreed that categorisation of the culpability in such cases was difficult. Consideration would be given to developing a guideline to cover all involuntary manslaughter offences (unlawful act and gross negligence) to be discussed at the next Council meeting.

11. FEEDBACK FROM MAGISTRATES’ COURTS SCOPING STUDY – PRESENTED BY SARAH POPPLETON, OFFICE OF THE SENTENCING COUNCIL

- 11.1 The Council considered a report setting out findings from research on data sources in the magistrates’ courts and agreed that the analysis and research team should continue to explore online and digital options for future data collection exercises in the magistrates’ courts.