

# Sentencing Council

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## MEETING OF THE SENTENCING COUNCIL

21 JULY 2023

### MINUTES

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Members present:

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

Representatives:

Christina Pride for the Lord Chancellor (Deputy Director, Head of Bail, Sentencing and Release Policy)

Observers:

Karen Taylor - Crown Prosecution Service  
Disha Doshi – Ministry of Justice work experience student

Members of Office in attendance:

Steve Wade  
Mandy Banks  
Lisa Frost  
Vicky Hunt  
Ruth Pope  
Ollie Simpson

## **1. MINUTES OF LAST MEETING**

- 1.1 The minutes from the meeting of 16 June 2023 were agreed.

## **2. MATTERS ARISING**

- 2.1 The Chairman noted the wide coverage in the media of the publication of the motoring offences sentencing guidelines in June which came into force in July. There was also good coverage in criminal justice publications of the launch of the perverting the course of justice and witness intimidation guidelines.

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

- 3.1 The Council agreed to consult on some changes to the Fraud guideline to clarify the importance of victim impact on the assessment of harm and to cater for situations where there was little or no financial harm.
- 3.2 The Council considered the findings from research carried out with judges and magistrates into mitigating factors and the associated expanded explanations. This relates to work the Council is doing on lessening any potential for guidelines to cause or have implications for disparity in sentencing outcomes across demographic groups. It was agreed to consult on changes to some factors and expanded explanations and on the addition of new mitigating factors and explanations.
- 3.3 The Council also confirmed that some minor changes to update or clarify guidelines could be made without consultation and that a list of these changes should be annexed to the consultation document.
- 3.4 The Council signed off the package of amendments to be consulted on from September.

## **4. DISCUSSION ON MOTORING – PRESENTED BY OLLIE SIMPSON, OFFICE OF THE SENTENCING COUNCIL**

- 4.1 The Council discussed further guidance that it could provide to sentencers on driving disqualification, following responses to last year's motoring consultation. The Council considered that an overarching guideline on disqualification would be most useful, as well as other changes to guidelines which could highlight different considerations in imposing a disqualification.

**5. DISCUSSION ON THE DOMESTIC HOMICIDE SENTENCING REVIEW – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL**

- 5.1 The Council noted the recently published Government response to the Domestic Homicide Sentencing Review and considered all of the recommendations in that review relating to sentencing guidelines.
- 5.2 The Council agreed to consult on adding an aggravating factor relating to strangulation, suffocation or asphyxiation to manslaughter guidelines. It was also agreed to consult on amending the current aggravating and mitigating factors relating to a history of abuse to include a reference to controlling or coercive behaviour.
- 5.3 The Council agreed to consult on these matters as part of the miscellaneous amendments consultation and to publish a full response to the recommendations in the review relating to sentencing guidelines in early September.

**6. DISCUSSION ON HARM IN ASSAULT GUIDELINES – PRESENTED BY LISA FROST, OFFICE OF THE SENTENCING COUNCIL**

- 6.1 The Council considered the harm assessment in assault guidelines and agreed that the guidelines for GBH s18 and attempted murder should assess actual harm caused.
- 6.2 The Council agreed that for other assault offences further consideration of whether the assessment should provide for foreseeable harm would be undertaken alongside the development of the non-fatal strangulation guideline, given the potential for overlap between some assault offences.

**7. DISCUSSION ON BLACKMAIL, KIDNAP AND FALSE IMPRISONMENT – PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL**

- 7.1 The Council considered the draft resource assessment and the estimated impact on resources arising from the draft guidelines in their current form.
- 7.2 The Council decided that amendments to a number of factors were required, particularly in the combined guideline for false imprisonment and kidnap.
- 7.3 The Council agreed to consider the amended draft guidelines at a further Council meeting, before consulting on the proposals.
- 7.4 The Council decided to amend the title of the Disclosing private sexual images guideline to 'Disclosing or threatening to disclose private sexual images', but in light of the recent amendments in the Online Safety Bill no further work would take place on the guideline as part of this project.

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

- 8.1 The Council considered and agreed some minor changes to the proposed guideline for the offence of possession of false identity documents without a reasonable excuse (section 6 of the Identity Documents Act 2010).
- 8.2 The Council also discussed whether it was appropriate or useful to make reference to the modern slavery defence (section 45 of the Modern Slavery Act 2015) within certain relevant immigration and identity document guidelines which have a low culpability category 'Involved due to coercion or pressure'.
- 8.3 The Council considered that this may be helpful but it is a wider issue that could be relevant to a wide range of guidelines and so has decided to return to this issue as a standalone matter when time can be found on the workplan.