

MEETING OF THE SENTENCING COUNCIL

23 OCTOBER 2020

MINUTES

Members present:

Tim Holroyde (Chairman)
Rosina Cottage
Rebecca Crane
Rosa Dean
Nick Ephgrave
Michael Fanning
Diana Fawcett
Adrian Fulford
Jo King
Juliet May
Maura McGowan
Alpa Parmar
Beverley Thompson

Apologies:

Max Hill

Representatives:

Hanna van den Berg for the Lord Chief Justice
(Legal and Policy Advisor to the Head of Criminal
Justice)
Phil Douglas for the Lord Chancellor (Head of
Custodial Sentencing Policy)
Naomi Ryan for the DPP

Members of Office in
attendance:

Steve Wade
Mandy Banks
Lisa Frost
Vicky Hunt
Ollie Simpson

1. MINUTES OF LAST MEETING

- 1.1 The minutes from the meeting of 25 September 2020 were agreed.

2. MATTERS ARISING

- 2.1 The Chairman welcomed Jo King and Juliet May to their first Council meeting following their recent appointments to the Sentencing Council.

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

- 3.1 The Council considered a draft revised domestic burglary guideline, and also looked at the amendments that had been made to the non-domestic burglary guideline since the last meeting. The Council was broadly content with the approach taken with the domestic burglary guideline, and asked for a small number of changes to be made to wording before the next discussion. At the next discussion the Council will also consider a new draft aggravated burglary guideline. It is anticipated that a consultation on the revised guidelines will be held in spring 2021.

4. DISCUSSION ON ASSAULT – PRESENTED BY LISA FROST, OFFICE OF THE SENTENCING COUNCIL

- 4.1 The Council considered the impact on the publication of the revised guideline, of the Government announcement to proceed with legislation to double the statutory maximum sentence for assaults on emergency workers. It was agreed that the publication of the remaining guidelines should not await any additional work required to revise the guidelines for offences which may be subject to legislative amendments.
- 4.2 The Council agreed that should it become necessary, the emergency workers and resist arrest guidelines should be detached from the remaining guidelines which will proceed to publication as planned, to avoid any further delay in addressing evaluation findings.

5. DISCUSSION ON SEXUAL OFFENCES– PRESENTED BY OLLIE SIMPSON, OFFICE OF THE SENTENCING COUNCIL

- 5.1 The Council considered that the approach of creating full new guidelines for section 10 and section 14 was over-complicated, and that a narrative form of guideline, setting out the approach in *Privett*, would be more appropriate.
- 5.2 Council members were against the proposition of harm levels necessarily going down into different categories because no sexual activity had taken place (noting the significant reductions which would apply under that approach in the *Privett* cases). The narrative could make the point from *Privett* that this could result in a more severe sentence than in some cases where sexual activity had taken place. Guidance may also be needed to assist sentencers in cases where s13

(offences committed by children) was the offending facilitated/ arranged.

- 5.3 The differences between section 14 and section 10 offending were discussed, but it was agreed that the *Privett* approach could nonetheless work in different circumstances: the degree of reduction for a lack of a real child/sexual activity could be achieved by a sliding scale from a starting point based on the harm intended. It was noted that this was the direction of travel for case law now, with the recent *Woolner* case.
- 5.4 A working group would look at the drafting of those narrative guidelines, and could also start to consider the new guideline for s15A (sexual communications with a child).

6. DISCUSSION ON DRUGS – PRESENTED BY VICKY HUNT, OFFICE OF THE SENTENCING COUNCIL

- 6.1 The Council discussed the findings from the statistical research produced last year, which showed disparities in the sentencing of some drug offences based upon an offenders gender and/ or race. In light of those findings the Council considered proposals for changes to the draft guidelines with the aim of ensuring that the guidelines do not contribute to any disparities. The Council also agreed that a working group would be set up to consider the detail of any further changes.