

Sentencing Council

MEETING OF THE SENTENCING COUNCIL

24 JUNE 2016

MINUTES

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

Apologies: Alison Saunders

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)
Greg McGill for the CPS on behalf of Alison Saunders (Director of Legal Services)
Simon Byrne for the National Police Chiefs' Council
Rosina Cottage QC, incoming Council member

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 20 May 2016 were agreed.

3. MATTERS ARISING

- 3.1. The Chairman welcomed Greg McGill, Director of Legal Services at the CPS who was attending the meeting on behalf the CPS in Alison Saunders' absence.
- 3.2. The Chairman also welcomed Rosina Cottage who was observing the meeting following her recent appointment to the Council.
- 3.3. The Council was updated on the events to support the consultation on the youth guidelines.
- 3.4. The Council recorded its gratitude to Professor Paul Wiles for his support to the Council over many years, who had recently been appointed as the Government's independent biometrics commissioner and had ceased to be an ad hoc adviser to the Council.

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

- 4.1 The findings from a research exercise carried out with defence lawyers was presented to the Council. The Council considered concerns that had been raised both in this research and also in responses to the consultation that an unintended consequence of the draft guilty plea guideline could be an erosion of the presumption of innocence. The Council agreed that some further flexibility should be built in to the guideline to provide safeguards against any potential unfairness in the application of guilty plea reductions.
- 4.2 The Council agreed that detailed consideration would be given to how this could best be incorporated into the guideline at future meetings. It noted that the timetable for the guideline would need to be reviewed.

5. DISCUSSION ON CHILD CRUELTY – PRESENTED BY JO KEATLEY, OFFICE OF THE SENTENCING COUNCIL

- 5.1 The Council reviewed first drafts of the guidelines for cruelty to a child guideline and causing or allowing a child to suffer death or serious

physical harm. Minor amendments were agreed to the proposed culpability, harm, aggravating and mitigating factors. The Council suggested within both guidelines that a greater distinction should be drawn between causing harm to a child and failing to protect a child from such harm; these further revisions will be reviewed in July.

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

- 6.1 Draft guidelines for breach of post sentence supervision and failing to surrender were discussed and the content and sentence levels agreed. The Council agreed not to include a guideline for breach of a conditional discharge within the package of breach guidelines on the grounds that the statutory provisions relating to the breach limited the usefulness of any potential guidance. It was agreed that this will be explained in the consultation document. The Council noted that the full package of breach guidelines was due to be approved at the next meeting, ahead of consultation in the autumn.

7. DISCUSSION ON ENVIRONMENTAL OFFENCES GUIDELINE – PRESENTED BY CAROLINE NAUTH-MISIR, OFFICE OF THE SENTENCING COUNCIL

- 7.1 The Council considered the findings from an initial assessment of the environmental offences definitive guideline. The Council noted that the guideline appeared to be working well and agreed that it did not need to be reviewed at this time, but would continue to be monitored using data from the Ministry of Justice. It would publish the findings in due course.

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

- 8.1 The Council considered the knives and offensive weapon guidelines and discussed the proposed sentencing levels. It suggested some changes which would be tested against Court of Appeal sentencing transcripts and brought back to the Council in July. It also considered some minor changes to step 1 factors relating to culpability and harm. The guidelines would be brought back to the Council in July when it would also consider the youth knife and offensive weapon guideline and sign of the package of guidelines for consultation in October.

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

- 9.1 The Council considered a draft involuntary manslaughter guideline which combined unlawful act and gross negligence manslaughter and agreed some amendments to culpability, aggravating and mitigating

factors. The draft guideline would be tested with judges before consultation.

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

- 10.1 The definitive guideline on imposition of community and custodial sentences was signed off and the resource assessment approved. All changes made based on consultation responses were reviewed and the final content of the guideline agreed. The guideline would be published in October to coincide with the launch of the consultation on the breach of orders guideline.