

MEETING OF THE SENTENCING COUNCIL

28 JANUARY 2022

MINUTES

Members present:

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

Representatives:

Hanna van den Berg for the Lord Chief Justice
(Legal and Policy Advisor to the Head of Criminal
Justice)
Claire Fielder for the Lord Chancellor (Director,
Youth Justice and Offender Policy)

Observers:

Francesca Anderson, Criminal Appeal Office

Members of Office in
attendance:

Steve Wade
Mandy Banks
Ruth Pope
Ollie Simpson

1. MINUTES OF LAST MEETING

- 1.1 The minutes from the meeting of 17 December 2021 were agreed.

2. MATTERS ARISING

- 2.1 The Chairman welcomed Nikita Grabher-Mayer who will be joining the social research team as an intern for a period of three months.

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

- 3.1 The Council considered aggravating and mitigating factors across the three guidelines, with particular focus on the 'weapon carried when entering premises' factor in aggravated burglary. The Council agreed that this factor and the accompanying explanatory text should be reworded.
- 3.2 The Council considered consultation responses regarding sentence levels across the three offences. As a result of this discussion, some minor amendments to the lower part of the sentencing table on non-domestic burglary were agreed. On balance, after carefully considering the responses and sentencing data, the Council decided not to make any changes to the draft sentence levels for aggravated and domestic burglary.
- 3.3 The Council agreed to add some wording on the minimum term provisions for those aggravated burglary offences committed in a dwelling.

4. DISCUSSION ON GUIDELINE PRIORITIES – PRESENTED BY STEVE WADE, OFFICE OF THE SENTENCING COUNCIL

- 4.1 The Council considered the order in which guideline projects should be commenced as resources become available. It was agreed that the remaining motoring offences (aggravated vehicle taking without consent) should be picked up as soon as time allows and that the development of guidelines for immigration offences should also be a priority.
- 4.2 The Council noted that there were a number of issues to consider as a consequence of forthcoming legislative changes. It was agreed to work on consequential amendments to existing guidelines arising from the Police, Crime and Sentencing Bill and the increase in magistrates' sentencing powers as soon as practicable.

- 5. DISCUSSION ON MISCELLANEOUS GUIDELINE AMENDMENTS – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL**
- 5.1 The Council reviewed the changes to existing guidelines considered at the December meeting and agreed that these should be made on or soon after 1 April 2022. The response to consultation document setting out the changes would be published at least 14 days before that date to give notice to guideline users of the changes.
- 6. DISCUSSION ON TOTALITY – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL**
- 6.1 The Council discussed whether revisions to the Totality guideline should be confined to making adjustments and clarifications within the current approach (as previously agreed) or whether more radical changes should be considered.
- 6.2 The Council noted that the available evidence on multiple offences was limited (for example the data does not distinguish between concurrent and consecutive sentences) and decided to go ahead as planned to make improvements to the guideline without changing the approach.
- 6.3 The Council reaffirmed its long-term analytical plan to consider undertaking an analysis of multiple offences potentially using data from the Common Platform after which a further review of the guideline could be considered.
- 6.4 It was agreed to consider the details of the limited revision at the next two Council meetings with a view to consulting on changes in the summer.
- 7. DISCUSSION ON PERVERTING THE COURSE OF JUSTICE – PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL**
- 7.1 The Council considered draft guidelines for perverting the course of justice and witness intimidation offences for the final time ahead of consultation on the proposals in the spring. The aggravating and mitigating factors were agreed and the guidelines were approved for consultation.
- 7.2 The Council also considered and agreed a draft resource assessment to accompany the draft guidelines at consultation.
- 8. DISCUSSION ON SEXUAL OFFENCES – PRESENTED BY OLLIE SIMPSON, OFFICE OF THE SENTENCING COUNCIL**
- 8.1 The Council signed off revisions to the sex offences guidelines following consultation in 2021, including in relation to situations where there is no real child victim and a new guideline for sexual

communication with a child. The changes will be published in May, with the amendments to existing guidelines coming into force 14 days later, and the new guideline for sexual communication with a child coming into force in July.

- 8.2 The Council also discussed the recent case of Limon which had implications for sentencing guidance for historical sexual offences where the offender was under 18 at the time of the offending and agreed further related revisions to the Council's guidance on historical sexual offences.