
**MEETING OF THE SENTENCING COUNCIL
4 MARCH 2011
MINUTES**

<u>Members present:</u>	Brian Leveson (Chairman) Colman Treacy Anne Arnold Katharine Rainsford Julian Roberts Anne Rafferty John Crawforth Henry Globe Alistair McCreath Keir Starmer Siobhain Egan Tim Godwin (from 1100)
<u>Apologies:</u>	Anthony Hughes Gillian Guy
<u>Advisors present:</u>	Paul Cavadino Paul Wiles
<u>Non-members present:</u>	Helen Edwards, Director General, Justice Policy Ministry of Justice
<u>Observers:</u>	Christina Pride – Private Secretary to Lord Chief Justice
<u>Members of Office in Attendance:</u>	Rosalind Campion Isabel Sutcliffe Alison Naftalin Trevor Steeples Laura Smith Jo Mundie Robin Linacre Michelle Crotty Nick Mann Katharina Walsh

1. WELCOME AND APOLOGIES FOR ABSENCE

- 1.1. Apologies were received as set out above.

2. MINUTES OF LAST MEETING

- 2.1. Minutes from the meeting of the 28 January were agreed.

3. ACTION LOG

- 3.1. An update was provided on the Crown Court Sentencing Survey as the response rates had risen once again after a slight dip over the Christmas period. Further discussions would take place regarding the proposal for regional judicial advocates.
- 3.2. The amendments proposed by Council had been made to the Green Paper response and the final version was signed off by the Chairman and submitted on 1 March 2011.
- 3.3. All other actions on the log were closed.

4. DISCUSSION OF DRAFT BURGLARY GUIDELINE INTRODUCED BY ISABEL SUTCLIFFE

- 4.1. The Council was presented with the updated draft guideline reflecting the changes agreed by the Council in December and in the subsequent correspondence paper in January.
- 4.2. The changes that had been made to the factors within the guideline were agreed. The Council agreed to remove any factors from step 2 which could result in double-counting of factors at step 1. The approach that would be consulted on in the draft guideline relating to previous convictions was also discussed.
- 4.3. A discussion was had about including a reference as to whether the community threshold had been passed when sentencing category 2 and 3 offences and whether references to requirements should be made.
- 4.4. It was agreed that guidance should be provided in individual offence-specific guidelines on community orders and what is meant by their being high, medium or low. It was agreed that this guidance should draw upon the MCSG, and that in addition where fine bands were used these should also be defined.
- 4.5. It was also agreed to amend the guideline so that sentences of under a year are described in number of weeks both in this guideline and others (including the guideline on assault, to be discussed later).
- 4.6. It was agreed that a building other than a dwelling should be referred to as 'non-domestic burglary' for the purposes of the guideline.

- 4.7. The Council agreed the structure for the consultation document and agreed that aggravated burglary should be included within the scope of the consultation.

ACTION: AMENDMENTS TO BE MADE TO THE DRAFT GUIDELINE AND PRESENTED TO COUNCIL.

PROFESSIONAL CONSULTATION DOCUMENT TO BE CIRCULATED TO ALL COUNCIL MEMBERS IN W/C 28 MARCH

5. DISCUSSION ON DRUGS GUIDELINE AND RESOURCE ASSESSMENT INTRODUCED BY KATHARINA WALSH AND MICHELLE CROTTY

- 5.1. The Council discussed a range of matters relating to the draft drugs guideline including: purity; Drug Rehabilitation Requirements and the potential use of drugs to aid diagnosed medical conditions. It agreed that all of these areas should be highlighted in the consultation.
- 5.2. The Council was keen to appropriately reflect current sentencing practice and case law, and final consideration was given to the guidelines with this in mind. The current nature of drugs cases coming through the Courts at all levels was also discussed. The Council agreed that production offences should be regarded as slightly more severe than supply offences and that this should be reflected in the draft for consultation. The Office was asked to give further consideration to this to inform the afternoon's discussion (see point 9).
- 5.3. The Council agreed the structure and content of the professional and public consultations, subject to changes being made to reflect the discussions on the day.

6. DISCUSSION ON ASSAULT GUIDELINE

- 6.1. Helen Edwards gave her apologies at this point and the Chairman noted that this would be her last meeting. The Chairman thanked Helen for her valuable contribution to the meetings over the last year and welcomed Helen Judge who would be attending future meetings on behalf of the Lord Chancellor.
- 6.2. The Council approved the consultation response for publication subject to two minor changes noted in the meeting. It also agreed that the guideline would be published in mid-March, subject to inclusion of the information on defining the terms of community orders and fines proposed in the earlier discussion on burglary and to express sentence lengths of less than a year in number of weeks.

ACTION: GUIDELINE AND CONSULTATION RESPONSE TO BE FINALISED AND DESIGNED FOR PUBLICATION ON 16 MARCH.

7. DISCUSSION ON GUIDELINE WORK PROGRAMME PRESENTED BY ISABEL SUTCLIFFE

- 7.1. It was noted that the budget for the year ahead was expected to be tight however it was yet to be confirmed and discussions were ongoing with the Ministry of Justice.
- 7.2. The Council noted the changes proposed to the work plan developed in July 2010 and agreed the proposed work plan for 2011/12. It was agreed that the Council would want to consider the potential scope of the offences to be included in any guideline on bribery and corporate/financial crime.
- 7.3. It was agreed that consideration would be given as to whether work might be taken forward on harassment and stalking.
- 7.4. The Council agreed that the work on a revision to the guideline on a reduction in sentence for a guilty plea would remain on hold pending the outcome of the Government's Green Paper on sentencing.
- 7.5. The Council also agreed the indicative guideline work plan for 2012/13.

ACTION: REVIEW OF THE POTENTIAL FOR WORK ON HARRASSMENT AND STALKING

8. DISCUSSION ON TOTALITY GUIDELINE

- 8.1. A draft of the guideline was presented to the Council. The draft guideline now started from the position of sentencing for multiple offences (rather than simply when consecutive sentences were passed) as well as defining "just and proportionate". The Council agreed both these changes.
- 8.2. As the guideline was intended as a technical document for sentencing practitioners the Council discussed the merit of producing just one guideline in a style that would be accessible to everyone. It was agreed that although the language of the guideline should be accessible, the focus of the guideline should be sentencers and practitioners. The public consultation should include a public facing version of the guideline.
- 8.3. It was agreed that there was a need to address non custodial sentences in the guideline.
- 8.4. The Council agreed that the draft as presented was the way forward but felt that more work was needed on the presentation of the material. Council members were asked to provide comments on this aspect of the draft guideline to the Office.
- 8.5. The consultation on totality was expected to be done in parallel with a consultation on Offences Taken into Consideration as both were non offence specific matters of particular interest to sentencers and practitioners.

ACTION: WORK ON THE DRAFT TOTALITY GUIDELINE TO BE PROGRESSED.

9. DISCUSSION ON DRUGS GUIDELINE

- 9.1. The Council was presented with two options for the production guideline based on the morning's discussion.
- 9.2. After further discussion the Council felt that the matter required still further consideration. Council members were asked to review the options that had been presented and provide the Office with their comments on the way forward early next week. The guideline lead members together with the Chairman would then finalise the draft guideline for consultation.

ACTION: COUNCIL MEMBERS TO PROVIDE FINAL COMMENTS ON THE DRAFT DRUGS GUIDELINE TO THE OSC.