

## MEETING OF THE SENTENCING COUNCIL

11 APRIL 2014

### MINUTES

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Members present:

Colman Treacy (Chairman)  
Michael Caplan  
John Crawford  
William Davis  
Heather Hallett  
Katharine Rainsford  
Julian Roberts  
Alison Saunders  
Richard Williams

Apologies:

Henry Globe  
Javed Khan  
Sarah Munro  
Lynne Owens  
John Saunders

Advisers present:

Paul Wiles

Representatives:

Stephen Muers for the Ministry of Justice (Director,  
Sentencing and Rehabilitation)

Sophie Marlow for the Lord Chief Justice (Legal  
Advisor to the Lord Chief Justice, Criminal Justice  
Team)

Members of Office in  
Attendance

Michelle Crotty (Head of Office)  
Mandy Banks  
Mary Jones  
Robin Linacre  
Lissa Matthews  
Victoria Obudulu  
Ruth Pope  
Trevor Steeples

## **1. WELCOME AND APOLOGIES FOR ABSENCE**

- 1.1 Apologies were received as set out above.
- 1.2 The Chairman welcomed District Judge Richard Williams to his first meeting of the Sentencing Council following his recent appointment.
- 1.3 The Chairman welcomed Professor David Ormerod who would be observing the meeting as well as presenting the Law Commission's proposal for a single sentencing procedure code later in the meeting.

## **2. MINUTES OF LAST MEETING**

- 2.1. The minutes from the meeting of 7 March 2014 were agreed.

## **3. MATTERS ARISING**

- 3.1 The Council received an update on the successful launch of the theft consultation and a breakdown of media coverage received.
- 3.2 The Council then discussed priorities for forthcoming work and agreed that it would welcome an increased focus on its confidence work.

## **4. PRESENTATION ON THE LAW COMMISSION 12<sup>TH</sup> PROGRAMME PROPOSAL -- BY PROFESSOR ORMEROD, CRIMINAL LAW COMMISSIONER, LAW COMMISSION**

- 4.1 Professor Ormerod explained the Law Commission's proposal for a sentencing procedure code. He described how the proposed codification would deal with the mechanism from conviction to sentence and beyond, but would not change the penalty that would be imposed in any given case. The Council welcomed the opportunity to be kept informed of the Law Commission's work in this area.

## **5. DISCUSSION ON ROBBERY – PRESENTED BY LISSA MATTHEWS, OFFICE OF THE SENTENCING COUNCIL**

- 5.1 The Council discussed the approach to assessing vulnerability at step one. It was agreed it is essential to consider the vulnerability of the victim in both the consideration of culpability and of harm.
- 5.2 A discussion was then had on how specific to be when describing the type of weapon used and whether to differentiate between threat of a weapon being produced and a weapon being produced. These will be key issues to seek views on during the consultation.

- 5.3 Step two aggravating and mitigating factors were discussed and agreed. Offence specific factors, particularly for domestic robbery, are to be aligned with those in the definitive aggravated burglary guideline.
- 5.4 An initial consideration of current sentencing practice was undertaken with reference to CCSS data and analysis of Crown Court transcripts. Sentence levels will be presented for agreement at the May Council meeting.

**6. DISCUSSION ON ASSAULT GUIDELINE EVALUATION – PRESENTED BY ROBIN LINACRE, OFFICE OF THE SENTENCING COUNCIL**

- 6.1 Robin provided an update on ongoing work to evaluate the effects of the Sentencing Council's 2011 Assault Definitive Guideline.
- 6.2 The work shows that in most cases, sentencing outcomes are consistent with those which were anticipated by the resource assessment. However, there are also some areas where sentencing outcomes have differed from those which were expected.
- 6.3 The Council agreed that the work is very important, and discussed how it could be further improved. It was felt that focus should now turn to understanding why sentencing changed in the way that it did

**7. DISCUSSION ON HEALTH AND SAFETY – PRESENTED BY MARY JONES, OFFICE OF THE SENTENCING COUNCIL**

- 7.1 Paul Wiles notified the Council of a conflict of interest in relation to the discussion on health and safety and took no part in the discussion.
- 7.2 The Council discussed the work that had been undertaken to determine the appropriate scope of the guideline for organisations. The Council agreed to consult on a version of the guideline for organisations that applied to breaches of duties under s.2 and s.3 HSWA and of health and safety regulations, and to seek views in the consultation on whether this approach was appropriate.
- 7.3 The Council considered an analysis of current sentencing practice for health and safety offences committed by organisations and the appropriate approach to producing starting points and ranges for the guideline.
- 7.4 The Council agreed that certain options should be developed for further discussion at their next meeting. The Council also considered the scope and drafting of step three of the guideline and agreed that the drafting options should be explored outside of the meeting with Council members and experts.

**8. DISCUSSION ON FRAUD OFFENCES GUIDELINE – PRESENTED BY LISSA MATTHEWS, OFFICE OF THE SENTENCING COUNCIL**

- 8.1 This was the final consideration of the fraud, bribery and money laundering guideline.
- 8.2 Step one and step two factors had been agreed during previous Council meetings. The focus of the discussion was therefore on amendments to sentence levels following the consultation.
- 8.3 Considerable work had been undertaken to align the levels across the guidelines where appropriate and to ensure proportionality where different maxima apply. The definitive guideline and response paper are due to be published early in the summer.

**9. DISCUSSION ON WORK PROGRAMME – PRESENTED BY MICHELLE CROTTY, OFFICE OF THE SENTENCING COUNCIL**

- 9.1 The Council discussed the challenges that it had encountered in achieving its 2013/14 work programme, particularly caused by the pace of its workload.
- 9.2 The Council noted that the work plan could never be fixed in stone because the Council's responsive nature means that it alters the work plan to adapt to changing priorities as evidenced by it bringing forward its work on fraud offences to respond to the introduction of deferred prosecution agreements.
- 9.3 The Council agreed revisions to the work plan into 2017.