

**MEETING OF THE SENTENCING COUNCIL
13 May 2011
MINUTES**

Members present:

Brian Leveson (Chairman)
Siobhain Egan
Henry Globe
Gillian Guy
Anthony Hughes
Alistair McCreath
Anne Rafferty
Katharine Rainsford
Julian Roberts
Keir Starmer
Colman Treacy

Apologies:

Anne Arnold
Tim Godwin
John Crawforth

Advisors present:

Paul Cavadino
Paul Wiles

Non-members present:

Helen Judge, Director Sentencing & Rehabilitation,
Ministry of Justice

Observers:

Christina Pride – Private Secretary to Lord Chief
Justice
Nick Poyntz – Sentencing Policy and Penalties Unit,
Ministry of Justice

Members of Office in
Attendance:

Rosalind Campion
Isabel Sutcliffe
Trevor Steeples
Alison Naftalin
Emma Marshall
Laura Smith
Nick Mann
Nigel Patrick
Michelle Crotty

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 8 April 2011 were agreed.

3. ACTION LOG

- 3.1. It was confirmed that the burglary guideline had been published on 12 May and that a discussion on offences taken into consideration (TICs) would take place at today's meeting.

4. UPDATE ON BURGLARY LAUNCH INTRODUCED BY LAURA SMITH

- 4.1. The Council noted the extensive press and broadcast coverage of the guideline. The Chairman extended his particular thanks to Council members Katharine Rainsford and Gillian Guy for the volume and quality of interviews they had undertaken.
- 4.2. As a result of the national and regional media coverage, visits to the Council's website trebled on 12 May and responses to the online questionnaire had already surpassed responses to previous consultations.
- 4.3. Council also expressed its thanks to the Chairman for the extensive media work he had undertaken in launching the guideline and to the communications team for all their hard work.

5. INITIAL DISCUSSION OF SCOPE OF DRAFT SEXUAL OFFENCES GUIDELINE INTRODUCED BY ISABEL SUTCLIFFE

- 5.1. It was agreed that the existing SGC definitive guideline issued in 2007 should be reviewed. Concerns had been expressed by a number of sentencers about the current guidelines focus on the contact between body parts to identify the appropriate category particularly in non-consensual and ostensible consent cases. Consideration will need to be given to the way in which the type and nature of the activities involved are described, especially where a course of conduct is involved.
- 5.2. It was agreed that work would commence by considering whether it was possible to align groups of offences where the culpability and harm were likely to be similar. Work should commence on rape as the central offence.
- 5.3. It was noted that whilst the guideline was to be used primarily by sentencers, it was also important for the guideline to be expressed clearly so that victims and the general public could understand sentencing for each offence and the proportionality of sentences across the range of offences.

- 5.4. The Council agreed that the review would need to carefully consider internet offending. This had developed rapidly since the previous guideline was issued and would need to be addressed.
- 5.5. It was suggested that it would be useful to provide generic guidance for sentencers dealing with offences under the Sexual Offences Act 1956 and particularly setting out the maximum sentences for offences under that Act.
- 5.6. It was noted that the SGC definitive guideline had a separate section dealing with 6 offences where the maximum sentence was lower where the offender is under 18. It was agreed that the initial drafting should consider only adult offenders and a decision as to young offenders could be made once this work had concluded.

**ACTION: FURTHER PAPER ON A SEXUAL OFFENCES
GUIDELINE TO BE BROUGHT BACK TO JUNE MEETING**

**6. DISCUSSION OF OFFENCES TAKEN INTO CONSIDERATION
INTRODUCED BY ISABEL SUTCLIFFE**

- 6.1 There was a discussion of the Sentencing Advisory Panel's Advice on TICs and it was agreed that TICs should generally increase sentence. It was important to distinguish the guideline from the reasons that police decided to charge offences as TICs which are outside Council's remit.

**ACTION: A FINAL DRAFT OF GUIDELINE TO BE
PRESENTED TO JULY COUNCIL FOR APPROVAL**

**7. DISCUSSION OF RELEASE FRAMEWORK INTRODUCED BY ALISON
NAFTALIN**

- 7.1 A table of the release provisions under various acts had been prepared. Whilst the effect of release provisions are not taken into account by sentencers when deciding the appropriate sentence, it was agreed that such a document would be useful for sentencers for reference purposes.
- 7.2 It was agreed that the Judicial College should be contacted to discuss how best to disseminate information to the judiciary.

**ACTION: OSC TO PROVIDE TABLE TO ALISTAIR
MCREATH WHO WILL LIAISE WITH THE JUDICIAL
COLLEGE AS TO HOW BEST TO DISSEMINATE TO
JUDGES**

8. DISCUSSION ON ALLOCATION INTRODUCED BY NIGEL PATRICK

- 8.1. It was agreed that the Council should progress work on an allocation guideline.
- 8.2. It was noted that such a guideline should give clearer directions to magistrates when deciding when to accept jurisdiction but it was also noted

that there were a number of other factors influencing where defendants were ultimately sentenced which were outside the remit of the Council.

ACTION: DRAFT GUIDELINE ON ALLOCATION TO BE CONSIDERED BY COUNCIL AT JUNE MEETING

9. PRESENTATION ON REQUESTS FOR DEVELOPMENT OF FURTHER GUIDELINES INTRODUCED BY NIGEL PATRICK

- 9.1 The Council indicated that scoping work should be undertaken on a guideline for environmental offences and health and safety offences in response to requests from the Magistrates' Association, the Welsh Assembly Government and the National Fly-Tipping Prevention Group. Work should also be undertaken in relation to corporate fines and a review of the assessment of fines in the MCSG.
- 9.2 Requests had been received from the Magistrates' Association and the League against Cruel Sports for a guideline dealing with dangerous dogs offences. It was agreed that a draft guideline should be prepared.
- 9.3 The Council would also draft a guideline for Data Protection offences and give consideration as to whether this should include other related areas eg offences under the Regulation of Investigatory Powers Act 2000.

ACTION: DRAFT ALLOCATION GUIDELINE TO BE PREPARED FOR CONSIDERATION BY COUNCIL AT JUNE MEETING

10. ANALYTICAL UPDATE PRESENTED BY TREVOR STEEPLES AND EMMA MARSHALL

- 10.1 It was confirmed that the analytical team had received the first six months data from the Crown Court Sentencing Survey (CCSS). The Council were pleased to note that the overall response rate was 70%. The data was in the process of being analysed and the results would be published in the autumn.

11. DISCUSSION ON SC WORK PROGRAMME INTRODUCED BY ISABEL SUTCLIFFE

- 11.1 Council approved its work programme for 2011/2012 prior to being sent to the MoJ and placed on the website.
- 11.2 For 2010/11, the annual report would be published in the autumn due to the timing of the analysis of the data from the CCSS. In future years, it is anticipated that the annual report will be published in early summer.