

MEETING OF THE SENTENCING COUNCIL

20 January 2012

MINUTES

<u>Members present:</u>	Brian Leveson (Chairman) Anne Arnold John Crawforth Siobhain Egan Henry Globe Tim Godwin Gillian Guy Anthony Hughes Alistair McCreath Katharine Rainsford Julian Roberts Keir Starmer Colman Treacy
<u>Apologies:</u>	Anne Rafferty
<u>Advisors present:</u>	Paul Cavadino and Paul Wiles
<u>Observers:</u>	Ruth Coffey Christina Pride
<u>Members of Office in Attendance:</u>	Michelle Crotty Trevor Steeples Vanessa Watling Helen Stear Robin Linacre Emma Marshall Bee Ezete

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 16 December 2011 were agreed.

3. MATTERS ARISING

- 3.1. The Chairman expressed his thanks to Katharine Rainsford for undertaking a number of television and radio interviews at short notice to coincide with the implementation of the Burglary guideline.
- 3.2. The Council noted that the Drugs guideline will be launched on 24 January.

4. DISCUSSION ON SEX OFFENCES GUIDELINE – PRESENTED BY VANESSA WATLING

- 4.1. Council considered the group of sexual offences which do not involve a lack of consent (currently referred to as ostensible consent) and in particular how to group similar offences together in one guideline given differing statutory maxima for some offences. It was noted that there was some overlap in the legislation and it was decided that it may be helpful to include a short narrative piece to explain that often similar conduct could fall within a number of different offences.
- 4.2. Council discussed aggravating factors for these offences. It also suggested further work on instances when the relationship was exploitative and involved grooming in its wider sense.
- 4.3. The Council considered the Section 15 offence of grooming and stated that whilst wishing to retain factors around intent, there was the opportunity to update the guideline to take account of the way grooming has changed as a result of technology and to look at the sophistication of the operation.
- 4.4. The Council then discussed historic sex offences and agreed it would be helpful to include a table outlining the historic changes in the legislation, as well as a summary of the judgment in R v Hall.
- 4.5. Council considered what other sexual offences should be included in the guideline and felt that for the guideline to be useful to sentencers, guidelines for all but the very low level offences should be included. This would include the exploitation offences. It was also agreed that the guideline would deal with the offences relevant to offenders under 18 currently set out in the SGC guidelines; other offences relating to youths would be considered when the Council looked at youth guidelines.

ACTION: DRAFT GUIDELINES TO BE REVISED IN THE LIGHT OF THE DISCUSSION AND REVIEWED BY COUNCIL IN FEBRUARY

5. ALLOCATION, TICs and TOTALITY – PRESENTED BY MICHELLE CROTTY

- 5.1. The Council was informed that 83 responses to the consultation for Allocation, Offences Taken into Consideration (TICs) and Totality had been received. The council considered the responses received on allocation and agreed the guideline subject to some minor amendments.

- 5.2. In relation to the draft guideline on TICs, the Council noted that not all defendants have the benefit of legal representation and in the light of this discussed the importance of safeguards to ensure that special care is taken to make sure unrepresented or otherwise vulnerable defendants understand the process.
- 5.3. The Council considered what training would be needed for sentencers on the new guideline. It was agreed that a 3 month implementation period would be required and the Council will consult with the relevant organisations to decide how best to deliver training to sentencers.

ACTION: AMENDED GUIDELINE AND RESPONSE TO CONSULTATION TO BE BROUGHT BACK TO FEBRUARY COUNCIL.

6. DISCUSSION ON ENVIRONMENTAL OFFENCES - PRESENTED BY MICHELLE CROTTY, OFFICE OF THE SENTENCING COUNCIL

- 6.1. The Council discussed which environmental offences might be included in the draft guideline and agreed that offence volume might not be a sufficient test as to whether a guideline is needed in this area.
- 6.2. It was noted that there is currently a civil regime in operation for environmental offences and the Council agreed that it would be useful to have more information on the interface between this civil regime and the criminal sanctions available. It was agreed that an expert in the area would be invited to give a presentation to clarify these issues.

ACTION: OFFICE TO ARRANGE A PRESENTATION ON THE CIVIL REGIME.

7. DISCUSSION ON THE SENTENCING COUNCIL'S WORK PLAN - PRESENTED BY MICHELLE CROTTY, OFFICE OF THE SENTENCING COUNCIL

- 7.1. The Council looked back over the 2010-2013 work plan and noted the good progress that had been made but, also that complexities had impacted on the expected pace of work. It was suggested that in future it would be helpful to produce a rolling 3 year work plan which would be reviewed on an annual basis in order to remain responsive and relevant.
- 7.2. The Council discussed what type of guideline would assist sentencers when dealing with young offenders and agreed that it would be helpful to have a presentation from a Youth Court judge to get their views on what sort of document they might find helpful.

ACTION: OFFICE TO ARRANGE A PRESENTATION FROM A YOUTH COURT JUDGE

- 7.3. The Council discussed the reissue of the Magistrates' Court Sentencing Guidelines (MCSG) and what format these might take. Council noted that the document had been reproduced by a number of outside organisations in different formats and agreed that it would be useful to hear from users which of these new formats they find most useful.

ACTION: OFFICE TO ARRANGE A WORKING GROUP TO CONSIDER FORMAT OF REISSUED MCSG.

- 7.4. The Council noted the importance of keeping the current sentencing guidelines under continual review in the light of any future legislative changes.

ACTION: OFFICE TO PREPARE DRAFT 2012-2013 WORK PLAN FOR CONSIDERATION AT MARCH COUNCIL