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**MEETING OF THE SENTENCING COUNCIL  
26 NOVEMBER 2010  
MINUTES**

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<u>Members present:</u>	Brian Leveson (Chairman) Anne Arnold John Crawforth Tim Godwin Anthony Hughes Katharine Rainsford Julian Roberts Colman Treacy
<u>Apologies:</u>	Siobhan Egan Henry Globe Gillian Guy Alistair McCreath Anne Rafferty Keir Starmer
<u>Advisors present:</u>	Paul Cavadino
<u>Observers present:</u>	Helen Edwards, Director General, Justice Policy Ministry of Justice Christina Pride – Private Secretary to Lord Chief Justice Clare Wade – Law Commission
<u>Members of Office in Attendance:</u>	Rosalind Campion Isabel Sutcliffe Alison Naftalin Trevor Steeples Laura Smith Nigel Patrick Robin Linacre Michelle Crotty Emma Marshall Karen Moreton Nick Mann Katharina Walsh Huw Margetts Ebere Ezete

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## **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 22 October 2010 were agreed.

## **3. ACTION LOG**

- 3.1. The actions from the October meeting had been completed.

## **4. DISCUSSION OF DRAFT DRUGS GUIDELINE INTRODUCED BY NIGEL PATRICK**

- 4.1. The Chairman expressed his thanks to the leads, Keir Starmer and Anne Rafferty, for the work they had undertaken to date on this area.
- 4.2. There was a discussion in relation to the structure of the draft guideline and in particular the fact that there were three different forms of the guideline in the current draft. It was explained that the harm and culpability concepts used for the assault guideline would continue to be used for each of the drugs guidelines albeit not in an identical format. It was agreed that each of the drafts worked for the particular offence to which it related particularly because they retained the two step assessment of seriousness.
- 4.3. There was a discussion as to offender roles as set out by the SAP and it was noted that these had been well received by the majority of respondents to the SAP consultation. It was agreed that these roles should be used with examples of each type of offender that they applied to.
- 4.4. There was a discussion about the number of levels relating to quantity that should be included and it was agreed that four levels were sufficient. It was noted that quantity alone was not a significantly reliable indicator of the gravity of the offence – the role of the offender in the context of the particular offence is the driver but the quantity also has to be considered.
- 4.5. The sentencing ranges in the draft guideline did not currently overlap but it was agreed that because of the multi-dimensional aspects of drug offending, they should allow for a more nuanced approach to offenders as the harm informs the culpability due to the scale of the operation. This approach should be highlighted and explained in the consultation document.
- 4.6. It was agreed that the importation and supply guideline should share similar upper ranges.
- 4.7. In relation to drugs mules, there was a discussion about sentencing levels for these types of offenders. It was agreed that the OSC would provide a comparator of international sentencing for those offenders for the December Council meeting.

- 4.8. Further work would be undertaken by the OSC on the draft guideline which will be re-presented to December's meeting.

**ACTION: OSC to provide comparator of international sentencing for drug mules.**

**ACTION: OSC to produce a further draft of guideline for December Sentencing Council meeting.**

## **5. UPDATE ON CROWN COURT SENTENCING SURVEY BY TREVOR STEEPLES**

- 5.1. It was noted that the Crown Court Sentencing Survey was, so far, going well and that there was a good response rate. It was noted that some judges had commented that the survey was a helpful aide memoire when sentencing.

## **6. PRESENTATION BY IPSOS MORI**

- 6.1. There was a presentation of the interim findings of the guilty plea research – the exercise has yet to be concluded and a final report will be available in the New Year. The presentation noted that there was mixed understanding by the public about the existence and operation of discounts for guilty pleas. The importance of considering the language used to describe the discount when communicating on the topic with the public was noted - to ensure that a clear explanation is given.
- 6.2. It was agreed by Council that the type of case studies being used for the research should be widened as the work progressed to include high volume offences, such as theft.

**ACTION: Final findings of IPSOS MORI research to be provided to Council in early in 2011.**

## **7. DISCUSSION OF DRAFT BURGLARY GUIDELINE INTRODUCED BY ISABEL SUTCLIFFE**

- 7.1. The Chairman expressed his thanks to the leads, Colman Treacy and Gillian Guy, for the work they had undertaken to date on this area.
- 7.2. This guideline had been brought before Council as the SAP had issued a draft guideline on domestic burglary in March 2010 and it was one of the high volume offences. Council were aware of the Court of Appeal judgement in Saw which provides a measured response to the burglary offences which it covers but it does not deal with all scenarios.
- 7.3. It was agreed that the draft guideline should cover the offences of domestic and non-domestic burglary and that further consideration would be given to whether aggravated burglary should be included. There might also be a need to cross refer burglary to section 18/20 offences in the assault guideline as the offence could be committed by those who are violent but not stealing. If

so, those guidelines would also need to include an aggravating factor of forced entry/trespass.

- 7.4. The aim of the burglary guideline is to have a consistent and proportionate approach to the offences involved and use the steer provided by the Court of Appeal in Saw to do this.
- 7.5. It was agreed that step one of the decision making process should reflect the central elements of the offence and that these should be clearly distinguished from the aggravating and mitigating factors in step two.
- 7.6. The consultation on this guideline should seek views as to whether the commission of an offence of burglary at night made the offence more serious.
- 7.7. In relation to the inclusion of guidance about minimum terms, it could be useful to include case examples in the consultation paper.

**ACTION: OSC to progress work on burglary guideline and produce a further draft for December Sentencing Council meeting.**

## **8. PRESENTATION ON REOFFENDING STATISTICS BY PAUL CAVADINO**

- 8.1. There was a presentation to Council about the MoJ reoffending statistics.
- 8.2. It was agreed that the statistics should be considered as a source of evidence when finalising the assault guideline and developing new guidelines.