

**MEETING OF THE SENTENCING COUNCIL
28 January 2011
MINUTES**

<u>Members present:</u>	Brian Leveson (Chairman) Anne Arnold John Crawford Siobhan Egan Henry Globe Gillian Guy Anthony Hughes Alistair McCreath Anne Rafferty Katharine Rainsford Julian Roberts Keir Starmer Colman Treacy
<u>Apologies:</u>	Tim Godwin
<u>Advisors present:</u>	Paul Cavadino Paul Wiles
<u>Non-members present:</u>	Helen Edwards, Director General, Justice Policy Group Ministry of Justice
<u>Observers:</u>	Christina Pride – Private Secretary to Lord Chief Justice <u>Swedish delegation:</u> Mr Fredrik Wersäll, President of Svea Court of Appeal and Chairman of the Criminal Sanctions Inquiry, Mr Lars Wallinder, Secretary of the Inquiry Linda Palmenas, Secretary of the Inquiry Mrs Eva Thunegard, Chief Prosecutor at the Norrort Prosecution Offices
<u>Members of Office in Attendance:</u>	Rosalind Campion Isabel Sutcliffe Alison Naftalin Laura Smith Nigel Patrick Robin Linacre Michelle Crotty Emma Marshall Katharina Walsh Ebere Ezete

1. WELCOME AND APOLOGIES FOR ABSENCE

- 1.1. Apologies were received as set out above. The Chairman welcomed Mr Fredrik Wersall and his colleagues from the Swedish judiciary who were observing the first hour of the council meeting as part of an information gathering exercise on behalf of the Swedish government.

2. MINUTES OF LAST MEETING

- 2.1. Minutes from the meeting of the 17 December 2010 were agreed.

3. ACTION LOG

- 3.1. All actions from the previous minutes had been concluded. It was noted that a burglary paper had been circulated in advance of a full Council discussion of it in March 2011 and that members were asked to provide comments on the paper and draft guideline to the Office, to help guide the preparation of that paper.

4. PRESENTATION OF DRUGS RESEARCH INTERIM FINDINGS BY THE INSTITUTE OF CRIMINAL POLICY RESEARCH

- 4.1. The presentation dealt with the preliminary findings of the first 13 focus groups. Meetings had been held with 2 additional focus groups but the results from those had not yet been analysed.
- 4.2. These were preliminary findings and no final conclusions could be drawn until the full results had been assessed. These would be discussed in the March meeting.

5. DISCUSSION OF RESPONSE TO ASSAULT CONSULTATION INTRODUCED BY NIGEL PATRICK

- 5.1. It was noted that there had been a high response rate to the consultation and that the three methods used (professional, public and online questionnaire) had worked well. Approximately one quarter of the responses were received in response to the public version, with the highest number completed online.
- 5.2. Following discussion with the Judicial Studies Board and others it had been agreed there would be a three month implementation period for this guideline, as it was the first to use the amended decision-making process and training of the judiciary would be required. It is, therefore, anticipated that the guideline will come into force in mid-June 2011.
- 5.3. An update to the Magistrates' Court Sentencing Guidelines (MCSG) would be required. It was noted that hard copies would need to be sent to magistrates who maintained their own copies of the MCSG. This is because, unlike the full time judiciary, magistrates are not based in one court centre and need to carry their copies with them when they are sitting. As volunteers, many magistrates have expressed concern about materials sent

electronically which then need to be printed at their personal cost. Magistrates' court legal advisors would also need to receive hard copies, not least because they will be involved with the Judicial Studies Board in delivering the training about the guideline to magistrates. Crown Court judges would receive hard copies of the guideline and it was noted that it was particularly important to ensure that it was widely circulated to Recorders.

- 5.4. The Council noted that a comprehensive communications plan was being developed by the Office to publicise the definitive guideline with legal practitioners.
- 5.5. There was discussion as to specific issues which had arisen in the consultation responses and a number of amendments were agreed to the draft guideline as a result.
- 5.6. These changes would be made prior to the March meeting with a view to publication of the definitive guideline, the consultation response and resource assessment by the middle of March.
- 5.7. It was agreed that the final resource and equalities impact assessments would be prepared in light of the amendments agreed today for review by March Council.

**ACTION: AMENDMENTS TO BE MADE TO DRAFT GUIDELINE
AND PRESENTED TO COUNCIL ON 4 MARCH 2011**

**FINAL RESOURCE ASSESSMENT AND EQUALITIES IMPACT
ASSESSMENT TO BE PRODUCED FOR MARCH COUNCIL
MEETING.**

**6. DISCUSSION OF GUILTY PLEA RESEARCH INTRODUCED BY IPSOS
MORI**

- 6.1 This presentation provided an update on this research, along with key findings from the remaining fieldwork undertaken at the end of 2010 involving the public and offenders.
- 6.2 Ipsos MORI are now completing the report writing phase which will cover all strands of fieldwork (research with the public, victims and witnesses and offenders); it is anticipated that the full research report will be published in April 2011.

**7. DISCUSSION OF GREEN PAPER RESPONSE INTRODUCED BY ISABEL
SUTCLIFFE**

- 7.1 A draft response had been circulated to Council who agreed that it properly reflected the principles and objectives they had agreed in December 2010 when initially considering how they should respond to the Green Paper.
- 7.2 It was agreed that the response should set out the principle that Council believed Parliament and legislation should set the parameters of sentencing

whilst guidelines should provide the detailed guidance for the application of those parameters. The other principles agreed were that:

- There should be a clear, fair and consistent approach to sentencing;
- The impact of sentencing on victims of offences should be considered;
- Public confidence in sentencing and the broader criminal justice system should be promoted and
- Sentencing should support the delivery of an efficient and effective criminal justice system.

7.3 There was discussion about the current requirements to explain sentences and their effect. It was noted that part of the difficulty of explaining the effect of a sentence was the numerous provisions concerning release provisions. It was agreed that the response should request simplification in this area.

7.4 The amendments that had been agreed should be made to the draft response and the further draft circulated to members for final comment before final sign off by the Chairman in time for submission by the closing date of the 4 March 2011.

ACTION: AMENDMENTS TO BE MADE TO DRAFT RESPONSE, CIRCULATED TO MEMBERS FOR COMMENT AND SIGNED OFF BY THE CHAIRMAN BY 4 MARCH 2011

8. DISCUSSION OF DRUGS GUIDELINE INTRODUCED BY NIGEL PATRICK

8.1. A further draft of the guideline was presented to Council incorporating amendments made as a result of December's discussion.

8.2. The Council noted the treatment of drug purity in current sentencing practise and debated a number of ways of dealing with the issue in the draft guideline. It was agreed to include one option in the draft guideline (no assumption as to purity) and to seek respondents' views on whether other options would be preferable.

8.3. The Council noted the draft ranges for production/cultivation cannabis offences and agreed to revisit these at March Council.

8.4. It was agreed that references to "social supplier" should be removed from the guideline as there were too many possible interpretations of the phrase. The definitions should be further refined to properly reflect this type of offender.

8.5. It was agreed that further work would be carried out on the draft guideline. The draft consultation paper and draft Equalities Impact Assessment would be circulated to members for comments prior to the March meeting.

8.6. Council discussed the consultation process and agreed that the approach adopted for assault of a professional and public consultation document should be maintained for drugs. It was clear that there had been a significant response to the assault public consultation; as the drugs guideline deals with

a number of complex legal and factual issues it will be important to set these out as clearly and simply as possible to encourage input from the public in an area with which they are clearly concerned. A public consultation document is to be produced for the next Council meeting.

ACTION: AMENDMENTS TO BE MADE TO DRAFT GUIDELINE

DRAFT PROFESSIONAL CONSULTATION DOCUMENT TO BE CIRCULATED TO MEMBERS FOR COMMENT IN WEEK COMMENCING 31 JANUARY 2011

PUBLIC CONSULTATION DOCUMENT TO BE DRAFTED FOR MARCH COUNCIL MEETING

DRAFTS OF GUIDELINE, RESOURCE ASSESSMENT AND EQUALITIES IMPACT ASSESSMENT TO BE PRESENTED TO MARCH COUNCIL.