

# Communications plan

## - guilty pleas consultation

### SECTION 1: Context

This plan sets out the communications strategy and plan for the launch of the consultation on the Sentencing Council's draft guilty plea guideline.

The subject areas covered are:

- the principles on which the reduction for a guilty plea should be based;
- the levels of reduction that should be available;
- the stage in the court process that the different levels of reduction should apply;
- any exceptions to the reductions available at various stages;
- the regime that should apply in the case of murder; and
- the clarity and accessibility of the guideline.

In 2013 the Council resumed work it had paused in 2011 on a guideline covering reductions for guilty pleas to replace the guideline issued in 2007 by the Sentencing Guidelines Council (SGC). A draft guideline was developed with the aim of encouraging offenders to admit their guilt as early as possible. Work was again paused on this guideline in March 2014 while the impact of various initiatives in the criminal justice system was assessed, and resumed again in December 2014.

The Council had drawn on research undertaken in 2011 on attitudes to guilty plea reductions and further research in 2013 amongst sentencers on how the SGC guideline was working in practice. In March 2014, the Council carried out further research with sentencers to test the clarity of the proposed guideline which has informed the development of this consultation.

Public launches of other Sentencing Council consultations and guidelines have taken place over the last five years and experience has shown that, with careful media planning, the majority of coverage can be positive/neutral and reasonably accurate even where there are opposing views or sensitive subject matter.

The consultation will be launched in February and be open for three months. Following the consultation period, the definitive guideline will be prepared and published in October 2016 and the guideline would come into force in all courts in England and Wales in January 2017.

More broadly, this strategy should be read in the context of the objectives of the Sentencing Council (which are in line with the functions set out in the Coroners and Justice Act 2009).

The guilty plea guideline will operate in the context of the wider criminal justice system. The development of the Transforming Summary Justice (TSJ) programme, Early Guilty Plea (EGP) and Better Case Management (BCM) initiatives and the recommendations in PQBD's *Review of Efficiency in Criminal Proceedings* which have been incorporated into the Criminal Procedure Rules, place a requirement on all parties to engage early, make the right decisions, identify the issues for the court to resolve and provide sufficient material to facilitate that process.

In terms of what we already know about practice in this area, we know that there is a high degree of flexibility within the system which means that sentencers are using their discretion to determine the size of reduction a defendant might get at various stages but this can lead to a lack of consistency and a lack of clarity for both defence and prosecution on the issue.

## **SECTION 2: Vision and aim**

By producing a more concise guideline with a clear decision making process, the Council aims to improve clarity and consistency in the application of guilty plea reductions.

The **ultimate communications outcomes** desired are:

- the key audiences understand the aims and remit of the consultation and responds constructively and are supportive of the aims of the draft guideline;
- the government is supportive of this consultation and responds constructively;
- academics proactively engage in this consultation, understand the aims and remit and respond constructively; and

- that when the definitive guideline is introduced, it is well received and complied with.

The **key aims** of our communications are therefore to:

- facilitate constructive responses;
- build relationships with stakeholders;
- prepare the way for the best possible reception of the guidelines themselves; and
- raise awareness and understanding of the sentencing process.

We will measure success by looking at the numbers of responses and their relevance, the number and tone of articles published and the level of third party endorsement we receive. In the longer term we will be looking at the overall reception of the definitive guideline and compliance.

## SECTION 3: Strategic options

**SWOT analysis:** using a tool such as the SWOT analysis tool, will help us identify the best strategic options. The items identified under the left hand column ('helpful') feed into the strategic options in this section. The items identified under the right hand column ('harmful') feed into the risks at section 8.

	<i>Helpful</i>	<i>Harmful</i>
<i>Internal</i>	<b>STRENGTH</b> <ul style="list-style-type: none"> <li>- There is a genuine lack of clarity and this guideline provides a much needed structure to this area</li> <li>- We have research and data to support our proposal</li> </ul>	<b>WEAKNESS</b> <ul style="list-style-type: none"> <li>- Our research is only a best guess – we have no idea what will happen in reality</li> <li>- Our resource assessment predicts that this proposal could increase the prison population by 4,500</li> <li>- Our proposals could result in fewer guilty pleas and thus more cases going to trial</li> </ul>
<i>External</i>	<b>OPPORTUNITY</b> <ul style="list-style-type: none"> <li>- There is a general direction of travel in the justice system towards greater efficiency and this proposal contributes to that (courts, CPS, police)</li> <li>- There are very real benefits for victims in that a guilty plea at the earliest opportunity will mean they are relieved of the stress involved in a court case and that they have been publicly believed</li> <li>- Clearer guidelines, consistently applied would improve public confidence</li> </ul>	<b>THREAT</b> <ul style="list-style-type: none"> <li>- Defence will portray this proposal as less likely to encourage guilty pleas</li> <li>- Judges will be unhappy about having less discretion to give a full third off</li> <li>- Success of the guideline depends on factors outside our control (the various IT projects and CPS/police delivering IDPC, LAA successfully awarding contracts etc)</li> <li>- A change of culture is required for guideline to succeed – this will take time</li> </ul>

Within existing budgetary constraints, our strategic options are fairly limited. We are obliged by statute to consult and our guidelines must be followed so there is no option to do no communications.

**No proactive media**: we have an option to undertake no proactive media work and just publish the consultation documents getting them out to the primary audiences and making them available via online channels. The advantages of this are that we would not be opening ourselves to criticism and individual Council members would not have to undertake media interviews. Staff would be freed up to focus on stakeholders.

The risk however is that the media could publish stories unchallenged and in lieu of anyone from the Council being interviewed, could interview anyone else to talk about this topic. Having made ourselves available to the media on previous occasions and being fairly well known by many in the media now, no proactive media is not a good option – journalists could be very quick to conclude that we had something to hide and we would be on the back foot from the outset.

**Proactive media**: as with previous launches, we could undertake a proactive media launch, issuing a press notice, carrying out media briefings and offering Council spokespeople for media interviews. The advantage of this approach is that it allows the Council a greater degree of control over the story allowing us to steer the narrative used in the media, away from sensationalist headlines and towards more measured and factually correct coverage. It also provides us with an opportunity to communicate positively about sentencing more widely. It is a particularly strong approach when combined with third party endorsements from key bodies within the primary audiences and NGOs. We will also aim to use scenarios in our briefings and online to enable us to tell a story rather than rely on technical language.

**Other proactive activity**: as with previous launches, materials will be made available online including a means to respond to the consultation online. Council members could speak at events and staff members could engage with stakeholders to build support for our approach. We should also aim to utilise as many other channels of communication as possible including social media channels to keep interested parties informed of developments.

There is almost no budget available for producing any materials – leaflets and other materials could be considered if a significant number of consultation events were to be carried out. Other relevant materials which are available include the Sentencing Explained leaflet and the Sentencing: How it Works leaflet and DVD which includes a section as follows:

*“[An offender] might have shown they are genuinely sorry, or come clean and admitted that they committed the crime and pleaded guilty. The earlier an offender admits their guilt the better as it will save victims and witnesses the stress of going through a trial as well as saving court costs and time. If an offender admits to a crime, it usually means they get a lower sentence – up to a third off – when they admit it at the earliest opportunity. The later the guilty plea, the smaller the reduction, which, when you think about it, is a good way of getting offenders to admit their guilt sooner rather than later.”*

The favoured option is to carry out proactive media and other proactive activity in the build-up to and throughout the consultation period.

- Particular attention will be given to holding events particularly with the defence community and undertaking any other face to face speaking engagements for spokespeople.
- Key media outlets will be offered off-the-record briefings in the run up to launch.
- Particular attention will be given to identifying third parties who may endorse our work amongst the key audiences and NGO sectors. We will identify our desired ‘partners’ at an early stage and involve them to ensure positive comments in the media.
- We will be proactive with our social media, engaging audiences over a period of time rather than relying on simple ‘announcements’.
- We will also consider our own pieces to camera – a Council member announcing the launch and what it will do, what it stands for, what it means and doesn’t mean. We can be reactive with this format too – we could very quickly release a short clip saying specifically, “*this guideline does not mean ...*” and directly address any misrepresentations in the media.

## **SECTION 4: Audiences and messages**

**Messages:** We will finalise key messages around the contents of the guideline once it has been signed off. However, we already know that it will be important to use the

right terminology in all communications on this subject. For example, we would want to use 'guilty plea' and 'late guilty plea' not 'early guilty plea', 'reduction' not 'discount', 'incentivise' not 'reward' and so forth.

We would also use generic consultation messages to emphasise that we are a listening organisation, that a consultation provides an opportunity to have your say, and that we are independent from the MOJ.

**Audiences:** We would ensure that messages addressed the key issues identified for each target audience. In due course methods and channels to circulate these messages will be identified.

<b>Audience</b>	<b>Issues</b>	<b>Messages</b>
<b>Defence</b>	Will not like this guideline as defendants will lose the opportunity for the maximum discount at an earlier stage. It will discourage defendants from holding out until the last minute in order to weigh up the strength of the evidence against them.	<ul style="list-style-type: none"> <li>- This guideline will lead to a fairer, more structured and more consistent approach to determining reductions given for guilty pleas – defendants will have a much clearer structure giving greater certainty to those involved.</li> <li>- For those offenders who are facing overwhelming evidence, the new guidelines set out that they will receive the full third reduction if they plead at the first opportunity. Judges therefore have a clearer set of criteria in this scenario than currently.</li> </ul>
<b>Prosecution</b>	Culture change is already underway with Transforming Summary Justice and Better Case Management	This guideline is in line with other changes already underway and will build on those, requiring the CPS to have a fuller and more complete set of evidence ready earlier.
<b>Judiciary</b>	Will not like this guideline as it gives them less discretion, particularly in cases where there is overwhelming evidence against the defendant – currently a judge might not give the full third off whereas the new guideline guarantees a third off as long as the plea is entered at the first opportunity.	<ul style="list-style-type: none"> <li>- This guideline will lead to a fairer, more structured and more consistent approach to determining reductions given for guilty pleas – judges will have a much clearer structure giving greater certainty to those involved.</li> <li>- For those offenders who are facing overwhelming evidence, the new guidelines set out that they will receive the full third reduction if they plead at the first opportunity. Judges therefore have a clearer set of criteria in this scenario than currently.</li> </ul>
<b>Law enforcement</b>	Culture change is already underway with Transforming Summary Justice and Better Case Management.	This guideline is in line with other changes already underway and will build on those, requiring the police to have a fuller and more complete set of evidence ready earlier.
<b>NGO's</b>	<ul style="list-style-type: none"> <li>- Bodies such as the Prison Reform Trust will be against anything that might result in more people going to prison.</li> </ul>	<ul style="list-style-type: none"> <li>- This guideline will lead to a fairer, more structured and more consistent approach to determining reductions given for guilty</li> </ul>

	<ul style="list-style-type: none"> <li>- Victims groups are generally expected to be supportive but may take issue with the full discount being given even in cases where there is overwhelming evidence.</li> </ul>	<ul style="list-style-type: none"> <li>pleas –victims and witnesses will have a much clearer structure giving greater certainty to those involved.</li> <li>- An admission of guilt reduces the impact of the crime on victims and witnesses and saves them from having to go through the trauma of attending court and giving evidence. A guilty plea publicly tells a victim that they have been believed.</li> </ul>
<b>Government</b>	Will not welcome initiatives with a likely impact on resources, namely prison places.	This guideline will lead to a fairer, more structured and more consistent approach to determining reductions given for guilty pleas – judges, defendants and victims and witnesses will have a much clearer structure giving greater certainty to those involved.
<b>The general public</b>	Many are unaware of reductions being available for guilty pleas and the fact that someone could get a third off their sentence may compound already entrenched views that sentencing is not tough enough.	<ul style="list-style-type: none"> <li>- An admission of guilt reduces the impact of the crime on victims and witnesses and saves them from having to go through the trauma of attending court and giving evidence. A guilty plea publicly tells a victim that they have been believed.</li> <li>- This guideline will lead to a fairer, more structured and more consistent approach to determining reductions given for guilty pleas – judges, defendants and victims and witnesses will have a much clearer structure giving greater certainty to those involved.</li> </ul>

**Brand:** All communications on this consultation will use the existing Sentencing Council brand. Printed documents and online content will follow the format of previous consultations.

## SECTION 5: Outline of approach

**Timing:** We would envisage a Thursday launch to allow time for briefings earlier in the week. We would envisage a launch in early February 2016 (w/b 8 February?) to fit in with our work plan.

Detailed timings for these activities will be identified in due course.

Medium	Activity
Media	<ul style="list-style-type: none"> <li>- informal off the record briefings with key media</li> <li>- press office to engage with MOJ, No.10 and other press offices</li> <li>- gain third party endorsements from stakeholders for use in the media</li> </ul>
Online	<ul style="list-style-type: none"> <li>- Do an online questionnaire</li> <li>- Make scenarios available and prepare other supporting material</li> <li>- Publicise any events (see below)</li> <li>- Target internal e-bulletins, intranets etc to inform govt partners, agencies and practitioners</li> <li>- Run yes/no web polls or questionnaires on our website if appropriate</li> </ul>
Social media	<ul style="list-style-type: none"> <li>- Tweet regarding meetings or articles of interest in the build up to launch</li> <li>- Record short interviews to camera with spokespeople and link to these from our website outlining what the guideline means (and what it doesn't)</li> <li>- Cross reference our web polls in social media</li> <li>- Encourage key partners and stakeholders to retweet messages</li> </ul>
Events	<ul style="list-style-type: none"> <li>- Run events or take part in events for defence, prosecution and judiciary as well as NGOs and law enforcement agencies</li> <li>- Speeches and presentations at existing events</li> </ul>
Publications	<ul style="list-style-type: none"> <li>- Use scenarios in the consultation document to show respondents how the new guideline would work</li> <li>- Issue one printed consultation document</li> <li>- Target internal publications ie magazines and newsletters to inform govt partners, agencies and practitioners</li> </ul>

## SECTION 6: Risks

### Issues of concern

- Defendants don't plead after the first opportunity as they feel the reduction is not worth it and would prefer to risk a trial meaning the number of cases going to trial increases
- The guideline might be perceived to disadvantage BME groups who are shown to be less likely to plead guilty...?

### Other risks for example:

- unknowable reactions from stakeholders or other audiences; or
- the evolving nature of many of the policy areas.

The table below sets out the risks we have identified as well as the likelihood of them occurring, the impact of them occurring and mitigation plans. The colour scheme signifies high likelihood or impact (red), some likelihood or impact (amber) and low likelihood or impact (green).



Risk	Likelihood	Impact	Mitigation
Resource assessment is questioned ie we don't know what the impact will be	Orange	Red	We are planning to monitor the effects of the guideline and will take action if there is an unacceptable impact (we will need to consider this <b>very</b> carefully)
The coverage focuses on a possible increase to the prison population	Orange	Red	As above
The coverage focuses on possibly fewer guilty pleas and more trials	Orange	Red	The guideline was not designed with the aim of increasing or decreasing the prison population. Any cumulative decrease in the levels of reductions made to sentences (and thereby increase in overall sentence lengths) can be justified by the positive effect that the proposals will have in terms of benefits for victims and witnesses and certainty for defendants; furthermore, the full discount remains available to all offenders should they chose to plead at the first stage.
Leaks to the media prior to launch	Green	Orange	Get stakeholders on side and with a clear understanding of our work. In particular, we would actively want relevant press offices to prepare their own lines on certain aspects of the guideline.

## SECTION 7: Resources

Having established what we are going to do and for whom, this section now sets out the budget and resources required. The 2015/16 budget has currently allocated a minimal amount to cover the limited print run of the consultation document. Materials will be produced in-house by the Design102; online content will be done by us.

We have flow charts and other visual materials as well as scenarios and a Q&A.

Key personnel:

- The head of communications will lead the delivery of this plan with the press officer leading on media work and the communications assistant leading on printed and online materials.
- Other key personnel are: head of office, policy lead and statistical lead.
- Council spokespeople will be selected on the basis of their suitability for the audiences as well as their expertise in the subject matter and experience in the media.

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