

MEETING OF THE SENTENCING COUNCIL

13 APRIL 2018

MINUTES

Members present: Colman Treacy (Chairman)
Rob Butler
Mark Castle
Rosina Cottage
Rebecca Crane
Rosa Dean
Julian Goose
Martin Graham
Heather Hallett
Tim Holroyde
Maura McGowan
Sarah Munro
Alpa Parmar

Apologies: Alison Saunders

Representatives: Chief Constable Olivia Pinkney for the police
Neil Moore, Legal Advisor to DPP for the CPS
Sophie Marlow for the Lord Chief Justice (Legal
and Policy Adviser to Sir Brian Leveson, Head of
Criminal Justice)
Phil Douglas for the Lord Chancellor (Director,
Offender and Youth Justice Policy)

Members of Office in
Attendance: Steve Wade (Head of Office)
Mandy Banks
Eleanor Nicholls
Amber Isaacs
Sarah Poppleton
Ruth Pope
Lisa Frost

1. MINUTES OF LAST MEETING

- 1.1. The minutes from the meeting of 2 March 2018 were agreed.

2. MATTERS ARISING

- 2.1 The Chairman welcomed Rob Butler, Rosa Dean and Alpa Parmar to their first Council meeting since their recent appointments.

3. PRESENTATION ON MENTAL HEALTH – PRESENTED BY DR ADRIAN GROUNDS

- 3.1 Dr Adrian Grounds, a retired senior lecturer at the Institute of Criminology at Cambridge and consultant forensic psychiatrist, addressed the Council on the subject of mental health and sentencing. The Chairman thanked him for an excellent and thought provoking presentation ahead of the Council's consideration of an overarching guideline on Mental Health in May.

4. DISCUSSION ON MANSLAUGHTER – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL

- 4.1 The Council considered the consultation responses to the Manslaughter by Reason of Diminished Responsibility guideline. The Council agreed with respondents that further information should be added to step one to ensure that the impact of a mental disorder on an offender's ability to exercise self-control or engage with medical services should be taken into account when assessing the degree of responsibility retained.
- 4.2 The Council also agreed to add a reference to undiagnosed or untreated mental disorders at step one.
- 4.3 The Council agreed to minor changes to aggravating factors and to qualify the factor relating to the offence being committed under the influence of drugs or alcohol in the context of this offence.
- 4.4 The Council discussed step four, the consideration of mental health disposals, in the light of the recent judgment in R v Edwards [2018] EWCA Crim 595. The Council agreed to amendments to step four to clarify that all sentencing options should be considered and that the importance of a penal element should be taken into account.

5. DISCUSSION ON INTIMIDATORY OFFENCES – PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL

- 5.1 The Council reviewed the guidance for all five offences, Coercive and Controlling Behaviour, Threats to Kill, Harassment, Stalking and Disclosing Private Sexual Images, ahead of planned publication of the definitive guideline in July 2018. The Council confirmed that it was

content with the guidance, subject to a couple of minor amendments to wording.

6. DISCUSSION ON ROBBERY EVALUATION– PRESENTED BY SARAH POPPLETON, OFFICE OF THE SENTENCING COUNCIL

6.1 The Council discussed the initial findings of the Robbery guideline evaluation and agreed to consider a further report when more data is available.

7. DISCUSSION ON BREACH – PRESENTED BY LISA FROST AND AMBER ISAACS, OFFICE OF THE SENTENCING COUNCIL

7.1 The Council considered information relating to the resource assessment for the Breach guideline, specifically in relation to findings from the data collection recently conducted in magistrates' courts to address data not being available for breaches of community orders and suspended sentence orders. This provided an indication of current sentencing practice and allowed a comparison with the penalties recommended in the new guideline, in order to inform the final resource assessment to be published alongside the definitive guideline.

7.2 The Council also discussed work undertaken to raise the profile of the Imposition guideline. It was agreed that publication of the Breach guideline should proceed as planned in May/June 2018 with an in force date of October 2018.

8. DISCUSSION ON CHILD CRUELTY – PRESENTED BY ELEANOR NICHOLLS, OFFICE OF THE SENTENCING COUNCIL

8.1 The Council discussed sentence levels for the Cruelty to a Child and Causing or Allowing offences and had a first consideration of the guideline for the Failure to Protect a Girl from the Risk of FGM offence post-consultation.

8.2 On sentence levels, following analysis of 2016 sentencing data and transcripts, the Council made some changes to starting points and ranges, particularly for offences at the lower end of seriousness to reflect current sentencing practice. Some of these changes also reflected changes to culpability and harm factors made post-consultation.

8.3 On the FGM offence, the Council discussed the approach to culpability, including the scope of the offence and whether any additional culpability factors suggested by consultation respondents should be added.

9. DIGITAL UPDATE – PRESENTED BY PHIL HODGSON, OFFICE OF THE SENTENCING COUNCIL

9.1 The Council was updated on the plans for the digitisation of the sentencing guidelines for use in the Crown Court and the additional information mechanisms for the online seriousness guideline.

10. DISCUSSION ON SERIOUSNESS – PRESENTED BY RUTH POPE, OFFICE OF THE SENTENCING COUNCIL

10.1 The Council agreed to consult on a General guideline to be used where there is no offence-specific guideline. This guideline will be available in a digital format which will allow for expanded explanations to be provided about the factors to assist courts in applying the guideline to a wide range of offences. The Council considered the factors and their explanations and agreed some changes ahead of consultation.

10.2 The Council agreed to consider providing expanded explanations for factors in offence-specific guidelines at future meetings and to consult on these separately.