

Sentencing Council

Council meeting: 14 June 2019
Paper number/name: SC(19)JUN05 - A “vision” for the Council
from April 2020
Lead official: Emma Marshall

ISSUE

1.1 Progress and next steps on a future “vision” for the Council beyond its 10-year anniversary.

RECOMMENDATION

1.2 That the Council notes the latest progress and agrees the next steps.

CONSIDERATION

1.3 At the July 2018 meeting, the Council agreed that it should mark its 10-year anniversary in April 2020 and that one aspect of that would be to convene a one-day event to which we would invite a range of people including academics, other government departments, external organisations, legal professionals, and high-profile commentators and influencers with an interest in sentencing.

3.2 It was agreed that at the event the Council would summarise, showcase and celebrate some of its achievements in its first 10 years of operation, but that it would also provide an opportunity to seek ideas to help shape the development of the Council’s priorities and vision for the following 10 years.

3.3 A review of the Council’s role and remit is timely: in respect of its work to develop guidelines, since 2010 it has issued guidelines on all the major and high-volume offences and is likely to have achieved the Council’s stated aim to have issued guidelines on all the main triable either-way offences by 2020. It has also converted the main SGC guidelines to a Council model and has now evaluated a number of them. On this basis, it

will increasingly be looking to develop guidelines on either lower-volume or less-serious offences or niche offences where there may have been calls from specific interest groups for a guideline (e.g. level crossings, some regulatory offences).

3.4 There have also been a number of academic articles/editorials and social media communications commenting on, and at times critiquing, the Council's approach (most notably from Professor Nicola Padfield, Professor Andrew Ashworth, Rob Allen from Transform Justice, and the Howard League for Penal Reform¹). These have questioned whether the Council's strong focus on guideline development is at the expense of some of its other statutory duties and whether the Council has settled on an appropriate interpretation of its duties. Some have also argued for a body that would have an overarching remit to look more broadly at sentencing issues and provide a reliable source of evidence-based information on sentencing-related and other relevant matters.

3.5 In addition, the Council's own independent review (conducted by Professor Sir Anthony Bottoms and published in April 2018) itself highlighted areas that the Council should consider for the future, the MoJ has recently published a Tailored Review of the Council, and the Justice Select Committee in their March 2019 response to the inquiry into the prison population to 2022 suggested that they may initiate an inquiry into the role of the Council in the future². Therefore opening up a debate on the Council's future approach will not only assist in identifying key areas that Council may wish to focus on, it will demonstrate transparency and responsiveness, promote further collaborative working with stakeholders (particularly academics) and will assist in strengthening the Council's legitimacy.

Progress and next steps

3.6 A small working group has been put together in the Office to think through potential approaches to developing a future vision for the Council. We have also been developing proposals for analytical work to support the summary/showcasing of the Council's achievements at the event in April (these proposals have been the subject of separate communications with the Council to seek its approval on these ideas).

¹ For example, Padfield, N. (2016), *Guidelines galore*; Crim.L.R., 2016, 301-302, Editorial; Ashworth, A. and Padfield, N. (2015), *Five years of the Sentencing Council*, Crim.L.R., 2015, 657-658, Editorial; Ashworth, A. and Padfield, N. (2018), *Reviewing the Sentencing Council*, Crim.L.R., 2018, 8, 609-611; Editorial; Allen, R. (2016) *The Sentencing Council for England and Wales: brake or accelerator on the use of prison?*, Transform Justice.

² House of Commons Justice Committee (2019): *Prison population 2022: planning for the future*.

3.7 We have also discussed initial thoughts on progressing this work the Governance Group and as a result, plan to convene meetings with individual Council members to discuss their views on the future direction of the Council and what issues may need to be taken into account.

3.8 If possible, we plan to arrange these meetings for June and July with a view to disseminating initial ideas to the Council collectively later in the Summer. We will then work further on these ideas in order to produce a draft document that the Council is happy to use as the basis of discussions at the anniversary event; if it is not possible to publish these draft ideas in advance of the event, we will launch them on the day and provide further time after the event for people to more formally respond to them.

Question 1: Is the Council happy for us to arrange individual meetings to discuss the Council's future vision, with a view to progressing this work more fully over the summer period?

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