

MEETING OF THE SENTENCING COUNCIL

17 NOVEMBER 2017

MINUTES

Members present: Colman Treacy (Chairman)
Mark Castle
Rosina Cottage
Rebecca Crane
Julian Goose
Martin Graham
Jill Gramann
Tim Holroyde
Maura McGowan
Sarah Munro
Julian Roberts
Alison Saunders

Apologies: Heather Hallett

Representatives: Sophie Marlow for the Lord Chief Justice (Legal Adviser to the Lord Chief Justice, Criminal Justice Team)
Claire Fielder for the Lord Chancellor (Deputy Director, Bail, Sentencing and Release Policy)

Members of Office in Attendance Steve Wade (Head of Office)
Mandy Banks
Vicky Hunt
Lisa Frost
Ruth Pope
Phil Hodgson

1. MINUTES OF LAST MEETING

- 1.1. The minutes from the meeting of 20 October 2017 were agreed.

2. MATTERS ARISING

- 2.1 The Council noted that its Annual Report had been laid before Parliament and published on the Sentencing Council website.

3. UPDATE ON THE SENTENCING CODE – PRESENTED BY LAW COMMISSION

- 3.1 Professor David Ormerod, Lyndon Harris and Sebastian Walker from the Law Commission updated the Council on the proposed Sentencing Code Bill and the ongoing consultation. The Council expressed its continuing support for the project.

4. DISCUSSION ON DOMESTIC ABUSE – PRESENTED BY MANDY BANKS, OFFICE OF THE SENTENCING COUNCIL

- 4.1 At this meeting the Council considered issues raised during the consultation, principally around the proposed mitigating factors. The Council carefully considered some concerns that were raised during the consultation regarding the wording of these factors, and agreed to make some changes. The Council also considered issues raised regarding Victim Personal Statements, the use of technology to perpetrate abuse, restraining orders and the victim's influence on sentencing. Changes agreed during the first discussion on the agenda were made and then brought back to the Council to review during the second discussion.
- 4.2 At the end of the discussion the Council signed the guideline off for publication. As the guideline was now agreed, the Council discussed whether to consider publishing ahead of the planned timetable. It was agreed that the timetable for forthcoming publications would be considered by officials, to see if it would be possible to bring the date of publication forward.

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

- 5.1 The Council considered the proposed treatment of culpability and harm at step one and mitigating factors at step two for use where there is no offence specific guideline. The Council discussed further information relating to each factor for inclusion in the guideline and agreed some amendments.

6. DISCUSSION ON PUBLIC ORDER – PRESENTED BY LISA FROST, OFFICE OF THE SENTENCING COUNCIL

- 6.1 The Council considered two proposed approaches to sentencing racially or religiously aggravated s4, s4A and s5 Public Order Act offences. It was agreed that the option of including separate sentence tables should be developed for the aggravated s4 and s4A offences, and the uplift approach used for the aggravated s5 offence, as used in other guidelines for racially aggravated offences. This will enable sentences properly to reflect the aggravation present, and for sentence levels to be proportionate and relative to sentences for the basic offences.

7. UPDATE ON COMMUNICATIONS – PRESENTED BY PHIL HODGSON, OFFICE OF THE SENTENCING COUNCIL

- 7.1 The Council approved the recommended process to assure the accuracy and consistency of the translated Welsh-language sentencing guidelines, with the proviso that the Council must make the final decision should any contentious issues arise. The Council also agreed wording for a notice to be published alongside the translated guidelines advising on the relative status of the versions.

8. DISCUSSION ON MODERN SLAVERY – PRESENTED BY VICKY HUNT, OFFICE OF THE SENTENCING COUNCIL

- 8.1 The Council discussed and agreed the wording to be added to the existing Sexual Offences Act (SOA) guideline for trafficking people for sexual exploitation to explain that the offence under the SOA has now been repealed by the Modern Slavery Act but that the guideline may be useful when sentencing cases of human trafficking for sexual exploitation under the Modern Slavery Act. Where the sentencer does rely on this guideline, however, an adjustment may need to be made to reflect the fact that the offence under the Modern Slavery Act has a higher statutory maximum sentence.
- 8.2 The Council also discussed how this amendment could be best publicised to ensure that sentencers and practitioners are aware.