

MANSLAUGHTER BY REASON OF PROVOCATION

THE PANEL'S ADVICE TO THE SENTENCING GUIDELINES COUNCIL

FOREWORD BY THE CHAIRMAN

The Panel has produced as the fourth Advice to the Sentencing Guidelines Council, sentencing guidelines for the offence of manslaughter that is committed by reason of provocation. This has been a complex and challenging topic.

In presenting its Advice the Panel has taken the view that the approach to sentencing for murder and manslaughter, which are offences of a distinctly different character, should be approached on a different basis.

The Panel has concluded that the starting point for sentencing for manslaughter by reason of provocation will always be a custodial sentence, with non-custodial sentences being reserved only for cases involving exceptional mitigating factors. The Panel has also taken the view that the fact that a killing takes place in a domestic context should be irrelevant for sentencing purposes.

The view of the Panel is that long-term taunting of the offender may be a significant factor when considering the cumulative effect of provocation but that actual or anticipated violence should generally be regarded as a more serious form of provocation than verbal abuse or infidelity, unless the latter amounts to psychological bullying. In particular, the Panel considers that infidelity, of itself, should not be regarded as amounting to a high level of provocation.

The Panel believes that a defendant's level of culpability should be considered to be lower if his or her actions were motivated by fear or anguish, rather than by anger, frustration or a desire for revenge. However, the Panel does not think that culpability should automatically be considered to be high where there was delay between the provocation and the killing. Where a weapon is used, the main factor to be considered is how and when that weapon came to hand.

The Panel has produced sentencing ranges defined by the degree of provocation (low, medium and high), with starting points based on the length of time (short or prolonged) over which the provocation took place. The intention is that courts should move from the starting points by reference to the aggravating and mitigating factors identified in the Advice.

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Chairman of the Sentencing Advisory Panel

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The Panel's Advice to the Sentencing Guidelines Council

Introduction

1. The Sentencing Advisory Panel proposes to the Sentencing Guidelines Council that guidelines should be issued on the topic of manslaughter by reason of provocation. The Panel received a reference from the Home Secretary under section 81(3) of the Crime and Disorder Act 1998 to consider the issue of sentencing where provocation is argued in cases of homicide, and, in particular, domestic violence homicides. For the purpose of describing "domestic violence", the Home Secretary adopted the CPS (Crown Prosecution Service) definition.¹ In the consultation paper on domestic violence, 'Safety and Justice', issued in June 2003, the Government states² that there is concern, "that current sentencing in cases of manslaughter by reason of provocation in domestic violence homicides does not adequately reflect the seriousness of the cases and the loss of life, and that the tariff is out of line with levels of sentencing in other cases of homicide³ and serious violence".
2. The Panel has consulted on its provisional proposals and the details of the consultation process, including a list of those who responded, are set out in Annex B. Unlike previous consultation papers, we received a low level of responses; this may be due to the fact that, a few months earlier, the Law Commission had issued a consultation paper on partial defences to murder, a separate but related issue.
3. The Government asked the Law Commission to review the operation of defences in homicide cases with particular reference to cases of domestic violence. The Law Commission published a consultation paper⁴ considering partial defences to murder that result in a conviction for manslaughter if successfully pleaded. The final report, including the Law Commission's recommendations, was published on its website on 6 August 2004.⁵ Key recommendations relating to provocation include:
 - Unlawful homicide that would otherwise be murder should instead be manslaughter if the defendant acted in response to:
 - a) gross provocation (meaning words or conduct or a combination of words and conduct which caused the defendant to have a justifiable sense of being seriously wronged), or

¹ "Any criminal offence arising out of physical, sexual, psychological, emotional or financial abuse by one person against a current or former partner in a close relationship, or against a current or former family member."

² Paragraph 65, page 37

³ Some comparative sentencing statistics for homicide are set out in Annex A to this Advice

⁴ On October 31, 2003; Partial Defences to Murder, Consultation Paper No 173, available at www.lawcom.gov.uk

⁵ www.lawcom.gov.uk

- b) fear of serious violence towards the defendant or another, or
- c) a combination of (a) and (b), and

a person of the defendant's age and of ordinary temperament, i.e. ordinary tolerance and self-restraint, in the circumstances of the defendant might have reacted in the same or similar way.

- In deciding the above, the court should take into account the defendant's age and all the circumstances of the defendant other than matters the only relevance of which to the defendant's conduct is that they bear simply on his or her general capacity for self-control.
- The partial defence should not apply where:
 - a) the provocation was incited by the defendant for the purpose of providing an excuse to use violence, or
 - b) the defendant acted in considered desire for revenge.
- A person should not be treated as having acted in considered desire for revenge if he or she acted in fear of serious violence, merely because he or she was also angry towards the deceased for the conduct which engendered that fear.
- The partial defence should not apply to a defendant who kills or takes part in the killing of another person under duress of threats by a third person (*this is pending a wider review of the law of murder*).
- A judge should not be required to leave the defence to the jury unless there is evidence on which a reasonable jury, properly directed, could conclude that it might apply.

Research

4. Since cases of manslaughter vary probably more widely than offences of any other kind, the Panel was keen to identify elements that should influence sentencing where provocation causes a charge of murder to result in a conviction for manslaughter.⁶
5. In its consultation paper, the Panel looked at offences committed in both domestic and non-domestic circumstances and considered how the features of both the provocation and the act of retaliation vary in these types of case. The Panel conducted a review of 50 reported Court of Appeal sentence appeals covering the period from January 1990 to July 2004. Of the reported cases reviewed, 29 could be classed as 'non-domestic' and 21 as 'domestic' using the CPS definition.

⁶ That is, where the elements sufficient to prove murder have been proved but the conviction is for manslaughter as a result of the provocation

Sentence range	Non-domestic	Domestic
Up to 3 years imprisonment	3	5
over 3 years and up to 5 years imprisonment	11	9
over 5 years and up to 7 years imprisonment	6	5
over 7 years and up to 10 years imprisonment	7	1***
Over 10 years imprisonment	2**	0
TOTAL	29	21*

* one case (from 1993) resulted in a non-custodial sentence

** highest sentence imposed 12 years

*** highest sentence imposed 9 years

6. Although based on a very small number of cases, the review shows a tendency for domestic cases to receive a lower sentence than non-domestic cases.
7. There is a perception that, in relation to killings in a domestic context, male defendants are more likely to be found guilty of manslaughter by provocation and female defendants are more likely to be convicted of murder. Research conducted by Professor R.D. Mackay⁷ appears to disprove this theory. The research examined 71 Crown Court cases where provocation was raised, 60 involving male defendants and 11 involving female defendants. There was a tendency for male offenders' pleas of provocation to be less successful than those tendered by female offenders. The research also revealed that the females convicted of manslaughter received relatively less severe sentences, with two examples of community sentence disposals, whereas none of the males convicted of manslaughter was given a community sentence. Although this study is small, it appears that, in the domestic context, the courts are more likely to be sympathetic to a plea of manslaughter by reason of provocation by a female defendant.
8. In examining the appropriate sentencing range, the Panel also drew attention to the provisions in the Criminal Justice Act 2003⁸ concerning the applicable minimum terms following conviction for murder. The issue is discussed in detail later in this advice.

The current law

9. Both murder and manslaughter are common law offences under English law, and there is no complete statutory definition of either. 'Provocation' is one of the partial defences by which an offence that would otherwise be murder may be reduced to manslaughter. The others are diminished responsibility and complicity in a suicide pact.

⁷ The Provocation Plea in Operation – An Empirical Study (unpublished but included within the Law Commission's final report, see footnote 5)

⁸ Sections 269-271 and Schedule 21, applying to murders for which sentence is passed on or after 18 December 2003

10. Diminished responsibility is a statutory defence⁹ and available where, at the time of the offence, the defendant suffered from an abnormality of mind which substantially impaired his mental responsibility for his actions. Provocation is a common law defence modified by statute. The two defences are distinct but are not infrequently considered in conjunction by juries in cases with domestic connotations.
11. Before the issue of provocation can be considered, the Crown must have proved beyond reasonable doubt that all the elements of murder were present, including the necessary intent (i.e. the defendant must have intended either to kill the victim or to cause grievous bodily harm).
12. Having established intent, the court must then consider section 3 of the Homicide Act 1957, which provides:
- “Where on a charge of murder there is evidence on which the jury can find that the person charged was provoked (whether by things done or by things said or by both together) to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury; and in determining that question the jury shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man”.
13. This section was designed to transfer the decision-making power in provocation cases from judge to jury. It abolished the so-called categories of sufficient provocation (there was, for example, formerly a rule that words alone could never amount to provocation), and it ensured that, in every case where there is evidence of provoked loss of self-control, the final decision on whether the killing should be reduced to manslaughter is left with the jury. The Court of Appeal has very recently confirmed that a mere speculative possibility that the victim might have provoked a defendant is not sufficient for provocation to be left to the jury.¹⁰
14. Applying section 3, the court has two key questions to address. The first is the ‘subjective question’ of whether the defendant was in fact provoked to lose self-control. The second is the ‘objective question’ of whether the provocation was “enough to make a reasonable man do as he did.”
15. When considering the ‘subjective question’, there is long-standing authority for the proposition that the evidence must show a “sudden and temporary loss of self-control”,¹¹ and evidence of planned retaliation has been held inconsistent with the provocation defence.¹² This authority was questioned in the final report of the Law Commission which stated :

“The term loss of self-control is itself ambiguous because it could denote either a failure to exercise self-control or an inability to exercise self-control. To ask whether a person could have exercised self-control is to pose an impossible moral question.”¹³

⁹ Introduced by the Homicide Act 1957, section 2. In its report the Law Commission recommended that there should be no change.

¹⁰ *R v Miao*, [2003] EWCA Crim 3486 affirming *R v Acott* [1997] 1 WLR 306

¹¹ *R v Duffy* [1949] All E.R. 932, per Devlin J

¹² *R v Ibrams* (1982) 74 Cr App R 154

¹³ ‘Partial Defences to Murder’, Law Commission No.290, August 2004, page 36 para. 3.28

There are also other more recent decisions confirming that the lapse of some time between the provocation and the retaliation does not necessarily bar the defence, so long as the killing is still uncontrolled.¹⁴ It is clear that the defence of provocation is available where there has been a lengthy course of “cumulative” provocation, so long as there was an event that triggered the fatal retaliation.

16. The “objective question” (whether the provocation was enough to make a reasonable man do as the offender did), must be left to the jury, but until recently the position was that the judge could direct the jury to take account of any characteristics of the defendant at which the provocation was directed (e.g. a physical characteristic, or religious affiliation) but not take account of any mental abnormality such as depression or schizophrenia.¹⁵ This distinction, between characteristics at which the provocation was directed (which *could* be taken into account), and other personal characteristics that might affect a person’s level of self-control (which, except for the age of the accused, *could not* be taken into account) was increasingly challenged during the 1990s.
17. One of the major changes arising from the landmark decision of *R v (Morgan) Smith*¹⁶ was that the jury should be instructed to take account of the defendant’s whole personality when applying the test in section 3. Although the objective test has not completely disappeared, juries can now take account of all matters (including the defendant’s mental condition and any abnormality) when deciding whether the provocation was enough to make a reasonable person lose self-control and kill.
18. The inevitable result is that the defence of provocation is now wider than it was; and that, since the judge cannot instruct the jury to ignore the defendant’s mental condition or abnormality, there is a considerable overlap with the defence of diminished responsibility.¹⁷ Types of provocation that are featured in decided cases include taunting, verbal bullying and total undermining of a person, as well as physical violence. Insofar as a wider range of cases now falls within manslaughter by reason of provocation, the sentencing decision becomes more difficult.
19. In reviewing manslaughter sentencing decisions the Panel found that the partial defences of provocation and diminished responsibility are not exclusive. They are sometimes run alongside each other,¹⁸ a practice which has been noted and discussed by academic writers¹⁹ and also by the House of Lords in *R v (Morgan) Smith*.
20. The sentencing approach in cases where a defence of diminished responsibility has been successful has been reasonably clear following the decision in *Chambers*.²⁰ In such cases, the sentencing judge should have sight of a psychiatric report; if the psychiatric evidence is clear and there are no contrary indications, the judge should impose a hospital order. If such an order is not

¹⁴ *R v Pearson* [1992] Crim L.R. 193, *R v Ahluwalia* (1993) 96 Cr App R 133

¹⁵ The leading case was *DPP v Camplin* [1978] A.C. 705

¹⁶ [2001] 1 A.C. 146

¹⁷ In its report, the Law Commission recommended that there should be no change to the defence of diminished responsibility.

¹⁸ In 11 of the 50 cases referred to in paragraph 5 above

¹⁹ R D Mackay, Pleading Provocation & Diminished Responsibility Together [1988] Crim L.R. 411 and R D Mackay & B J

Mitchell, Provoking Diminished Responsibility: Two Pleas Merging Into One? [2003] Crim L.R. 745

²⁰ (1983) 5 Cr App R (S) 190

recommended or is not appropriate, and the offender constitutes a danger to the public for an unpredictable period of time, a life sentence may be appropriate. In cases where there is no proper basis for a hospital order to be made, and the offender's responsibility for the offence is not minimal, a determinate sentence of imprisonment should be passed. The length of that sentence will depend on the degree of the offender's responsibility for his actions and the period of time, if any, for which he will continue to represent a risk to the public. If the offender's responsibility for his actions was so greatly impaired that his responsibility was minimal, and there is no danger of repetition of the violence, then a non-custodial sentence will be open to the judge.

Establishing the Basis for Sentencing

21. The process of establishing the factual basis for sentencing is not always straightforward given the fact that the deliberations of a jury are private and decisions do not have to be explained. The verdict of the jury does not always assist in giving clarity to the basis on which the offender is convicted. It is possible, and indeed common, in cases committed in a 'domestic' context for the accused to run a number of lines of defence, which could result in a conviction for manslaughter on an indictment for murder. The jury may or may not be asked to express its decision in terms of specifying the basis for its verdict. Even if provocation is clearly the basis, the *extent* to which the accused's account of events was accepted is not always clear. The quandary faced by the sentencing judge was considered in *R v Byrne*²¹ where the Court of Appeal said that it was for the judge to decide the proper factual basis upon which sentence should be passed and to explain how the decision was arrived at. This must involve an assessment by the judge of how culpable a defendant is for the death without the benefit of knowing the specific findings of the jury.

22. In *Attorney General's Reference (Nos. 74-76 of 2002) (Suratan & others)*,²² the Court of Appeal set out a number of assumptions that a judge must make in favour of an offender found not guilty of murder but guilty of manslaughter by reason of provocation. The assumptions are required in order to be faithful to the verdict:

- ◇ first, that the offender had, at the time of the killing, lost his self-control; mere loss of temper or jealous rage is not sufficient
- ◇ second, that the offender was caused to lose his self-control by things said or done, normally by the person whom he has killed
- ◇ third, that the offender's loss of control was reasonable in all the circumstances, even bearing in mind that people are expected to exercise reasonable control over their emotions and that, as society advances, it ought to call for a higher measure of self-control
- ◇ fourth, that the circumstances were such as to make the loss of self-control sufficiently excusable to reduce the gravity of the offence from murder to manslaughter.

²¹ [2003] 1 Cr App R (S) 338

²² [2003] 1 Cr App R (S) 42

23. These assumptions, it was said, should be applied equally in all cases whether conviction follows a trial or whether the Crown has accepted a plea of guilty to manslaughter by reason of provocation. The Crown Prosecution Service Guidance issued in December 2003 advises that guilty pleas to manslaughter by provocation should only be accepted in exceptional circumstances, such as those where the defence rely on some special characteristic of the defendant which reduced his self control, as in *(Morgan) Smith*. In a number of the appeal cases reviewed by the Panel, the conviction for manslaughter came after a trial on a charge of murder where the defendant had previously indicated a willingness to plead guilty to manslaughter on the basis of provocation, but that offer had not been accepted by the prosecution. In *R v Bertram*²³ the Court of Appeal stated that where a defendant charged with murder offers to plead guilty to manslaughter, and is eventually convicted of manslaughter, he should be given some credit for his early offer to plead guilty to that offence.²⁴

Sentencing Levels for Manslaughter under Provocation

24. The Court of Appeal in *Suratan* stressed the difficult balancing exercise in sentencing in manslaughter cases. The problem for judges is to weigh the fact that a person has been killed (very high harm) against the fact that the jury has accepted provocation (lower culpability). A review of appellate authorities in manslaughter cases reveals that some sentencing ranges have been established, though no formal sentencing guidelines exist. In *Attorney General's Reference (No.33 of 1996) (Latham)*²⁵ it was said "Even when a particular type of manslaughter is isolated from the rest it has to be recognised that it covers a wide field, and, if justice is to be done, sentencers must not be put in straitjackets, but for the reasons identified in this judgment it seems to us that where an offender deliberately goes out with a knife, carrying it as a weapon, and uses it to cause death, even if there is provocation, he should expect to receive on conviction in a contested case a sentence in the region of 10 to 12 years."

25. For cases with a 'domestic' context, Lord Justice Mantell in *Suratan*²⁶ stated that "Even if it would ever be sensible to attempt to lay down guidelines in this notoriously difficult area, we quite agree that it would be inappropriate for the Court [of Appeal] as presently constituted to do so or for any Court to do so without the Sentencing Advisory Panel having first been involved." In that particular case the court did not disagree with the proposition that in cases of manslaughter committed after provocation arising out of possessiveness, jealousy or unfaithfulness, the ordinary sentencing range lies between 5 and 7 years imprisonment.

26. Sentencing ranges (after a trial) to the extent that they exist may be summarised as follows:

²³ [2004] 1 Cr App R (S) 27

²⁴ See also the Sentencing Advisory Panel's advice "Reduction in Sentence for a Guilty Plea", paragraph 30, published 20 September 2004

²⁵ [1997] 2 Cr App R (S) 10

²⁶ *Attorney General's Reference (Nos. 74-76 of 2002)* [2003] 1 Cr App R (S) 42

Sentencing Range	Case Features
12 years	Firearm carried and used after provocation ²⁷
10-12 years	Knife carried and used, or great brutality ²⁸
7 years	Moderate provocation and sudden retaliation ²⁹
5 years	A high degree of provocation, sudden retaliation, strong mitigation ³⁰
3 years or less	The highest degree of provocation including violent attack, even terror, evoking extreme passion ³¹

27. The Court of Appeal has made the point on a number of occasions that non-custodial sentences are not appropriate for the offence of manslaughter unless the circumstances are exceptional.³² In *R v Gardner*,³³ the Court did vary a custodial sentence to a probation order on the ground that the defendant had been suffering, as a result of the deceased's violent treatment of her, from a cumulative state of exhaustion, hopelessness, helplessness and depression at the time of the offence. The Court also reached the view that the appellant had in some measure expiated the guilt that she would feel for the rest of her life by serving the equivalent of 18 months' imprisonment. There was only one example of a non-custodial sentence among the reported cases reviewed by the Panel (see paragraph 5 above), where provocation was the basis of conviction. The statistics available also suggest that the incidence of such sentences for manslaughter is generally low.³⁴

28. Although the majority of those who responded to the Panel's consultation expressed the opinion that there are no circumstances in which a non-custodial sentence can be justified, others did identify circumstances that could apply - particularly, for example, where there had been a high level of provocation over a long period, coupled with the defence of another and/or perhaps some mental disturbance. Combinations of particularly compelling mitigating factors may reduce the sentence (see paragraph 63).

Bearing in mind the loss of life caused by manslaughter by reason of provocation, the Panel takes the view that the starting point for sentencing should be a custodial sentence. Only in a very small number of cases involving exceptional mitigating factors should a judge consider that a non-custodial sentence is justified.

²⁷ *R v Pittendrigh* [1996] 1 Cr App R (S) 65

²⁸ *R v Latham* [1997] 2 Cr App R (S) 10

²⁹ *R v Brereton* (1993) 14 Cr App R (S) 719, *R v Light* (1995) 16 Cr App R (S) 824

³⁰ *R v Peddie* (1990) 12 Cr App R (S) 176

³¹ *R v Gardner* (1993) 14 Cr App R (S) 364 and similarly in *R v Grainger* [1997] 1 Cr App R (S) 369

³² *R v Turner* [2002] 1 Cr App R (S) 50

³³ See footnote 29

³⁴ In 2002/03, from the statistics currently available, of 127 offenders convicted of manslaughter and sentenced, 6 received a sentence of probation/supervision: Crime in England and Wales 2002/2003: Supplementary Volume 1: Homicide and Gun Crime, Home Office (January 2004)

The Panel is of the view that the same general sentencing principles should apply in all cases of manslaughter by reason of provocation whether or not the killing takes place in a domestic context.

Factors Influencing Sentence

29. The Panel has identified a number of elements which, it would suggest, must be considered and balanced by the sentencer. Some of these are common to all types of manslaughter by reason of provocation; others have a particular relevance in cases of manslaughter in a domestic context.

The nature, degree and duration of the provocation

30. Those who responded to our consultation paper generally supported the Panel's view that an assessment of the *degree* of the provocation as shown by its nature and duration is the critical factor in the sentencing decision. The provocation does not itself have to be a wrongful act³⁵ but where it involves gross and extreme conduct on the part of the victim, for example in some instances of domestic violence, it is viewed as being a more significant mitigating factor than conduct which, although significant, is not as extreme. Reflecting this distinction between types of provocation, Court of Appeal decisions have identified degrees of provocation through the use of descriptions such as 'great or intense', 'moderate' or 'little or low' to indicate the weight attached to the provocation in individual cases. These terms apply whatever the nature of the provocation and directly impact on the sentencing range into which a case will fall.

31. Other factors that may be taken into account in assessing the degree of provocation experienced by the offender include whether:

- the victim presented a threat not only to the offender, but also to children in his or her care (as in many cases of domestic violence),
- the offender's previous experiences of abuse and/or domestic violence by people other than and including the victim, and
- any mental condition which may affect the offender's perception of what amounts to provocation.

32. The Panel's review of sentence appeals highlighted a number of cases in which the provocation was related to the actual or perceived infidelity of a party to the relationship. The circumstances ranged from situations where discovery of infidelity preceded an immediate violent response resulting in death,³⁶ to those where the person killed boasted of infidelity, disparaging the sexual performance of the offender or taunted the offender as to his/her inadequacies,³⁷ which eventually provoked the fatal response.

³⁵ *R v Doughty* (1986) 83 Cr App R 319

³⁶ *R v Light* (1995) 16 Cr App R (S) 824, in which a 7 year sentence of imprisonment was upheld

³⁷ *R v Mellentin* (1985) 7 Cr App R (S) 9 in which 5 years imprisonment was reduced to 4

33. The discovery of a partner in the act of infidelity or subjection over a period of time to disparaging comments and constant reminders of the victim's infidelity, has been accepted by the courts as a high level of provocation. However, those who responded to our consultation were divided over this issue: some who felt that infidelity could amount to a high level of provocation put forward additional factors such as severe taunting, or the fact that the defendant was an extremely insecure person, as justification for their position; others who believed that infidelity, whilst morally reprehensible, is not in itself a criminal act, took the view that it would be perverse for a defendant to be able to claim that infidelity was of the highest level of provocation and sufficient to justify the taking of a life.

The Panel accepts that long-term taunting may be significant when assessing the cumulative effect on the defendant of the victim's behaviour, but is of the opinion that infidelity, of itself, does not amount to a high level of provocation.

34. Whether the provocation was suffered over a *long or short period* is also important to the assessment of gravity. It has been accepted for some years that the impact of provocative behaviour on a defendant can build up over a period of time. The Court of Appeal has indicated that, when sentencing, consideration should not be limited to the acts of provocation that occurred immediately before the victim was killed.³⁸ This is particularly so in domestic cases, where 'cumulative' provocation eventually becomes intolerable, the latest incident seeming all the worse because of what went before.

35. In *Attorney General's Reference (No.24 of 2003) (Faulkner)*³⁹ the defendant (of low IQ) suffered *prolonged* taunting from his wife as to his illiteracy and impotency. During an argument, he stabbed her (and his son) and then wounded himself with a knife purchased during a break in the argument to harm himself rather than others. Sentences of three and a half years for each offence to be served concurrently were imposed, the sentencing judge referring to the defendant as having been worn down over months and eventually broken by the cruel taunting of his wife and being forbidden from seeing his children. The Court of Appeal accepted that the sentences were lenient but not unduly so, saying that the general sentencing range would have been five to seven years for the offences, but that there must always be exceptions to that general range.

36. By way of contrast, in *R v Byrne*⁴⁰ a single incident of verbal abuse between the defendant and victim who were friends (there was evidence that the victim called the defendant a 'wanker' and that he was smirking and goading the defendant) caused the defendant to lose his temper and strike the victim to the head and neck with a pool cue. In upholding the sentence of 8 years imprisonment, the Court of Appeal indicated that the sentence was not manifestly excessive, as the provocation was moderate and followed by sudden retaliation.

37. The Panel expressed the view in its consultation that, in general, a violent response to provocation is more understandable where it results from violence (or anticipated violence) from the victim, rather than to abusive behaviour, infidelity or offensive words. In cases involving actual or anticipated violence, the

³⁸ *R v Murray* [2002] 2 Cr App R (S) 5

³⁹ [2003] EWCA Crim 2451

⁴⁰ [2003] 1 Cr App R (S) 338

culpability of the offender would therefore be less than in cases involving verbal provocation. The majority of those who responded to the consultation supported this view. However, some pointed out that the use of taunting or offensive words over a long period of time could amount to psychological bullying, which should be viewed as more than a low level of provocation.

38. When assessing the degree of the provocation, the sentencer must consider the point of principle i.e. whether the provocation was sufficient to provoke a *reasonable man*. In addition, the court must consider whether, in the individual circumstances of the case, the actions of the victim would have had a particularly marked effect on *the offender*. For example, taunting or defamatory words used by a victim may have a particular significance for an individual offender in all the circumstances of a given case. The Court of Appeal has also acknowledged that those who are young⁴¹ or have a low IQ⁴² have a reduced capacity to deal with provocation.

Actual (or anticipated) violence from the victim will generally be regarded as being of a higher degree of provocation than provocation arising from abuse, infidelity or offensive words unless that amounts to psychological bullying.

Where the defendant's actions were motivated by fear or desperation, rather than by anger, frustration, resentment or a desire for revenge, the Panel takes the view that the defendant's culpability will be lower.

39. The *context of the relationship* between the defendant and the victim must be borne in mind when assessing the nature and degree of the provocation offered by the victim before the crime and the length of time over which the provocation existed. In cases where the parties were still in a relationship at the time of the killing, it will be necessary to examine the balance of power between one party and another and to consider other family members who may have been drawn into, or been victims of, the provocative behaviour and acted to protect another. In *R v Murray*,⁴³ following years of violence and abuse to both himself and his mother the young defendant took an iron bar from the victim (his stepfather) and attacked and killed him with it. In reducing the custodial sentence from five years detention to an eighteen-month detention and training order, the Court of Appeal said that the original sentencer had not had sufficient regard to the long period of abuse and the cumulative provocation experienced by the defendant.
40. Where killings occur in a domestic context there is the possibility of the events being witnessed by other members of the family, particularly children, who may suffer emotional trauma and lasting psychological damage. The loss of control suffered by offenders may make them oblivious to the presence of others and impact upon their ability to contain the incident to an area where it will not be observed. There are some extreme cases where a child has sought to intervene to protect another person and has become a victim.⁴⁴

⁴¹ *R v Scott* 20 October 2000 (though the meaning of 'young' was not stated)

⁴² *R v Atland* [2003] EWCA Crim 474

⁴³ [2001] 2 Cr App R (S) 5

⁴⁴ Attorney General's Reference (No. 24 of 2003) [2003] EWCA Crim 2451 see para. 35

The Panel takes the view that the offence should be regarded as aggravated where it is committed in the presence of a child or children or other vulnerable family member, whether or not the offence takes place in a domestic setting.

The extent and timing of the retaliation

41. As established in *Suratan*, it is implicit in the verdict of manslaughter by reason of provocation that the killing was the result of a loss of self-control because of things said and/or done. It is the intensity, extent and nature of that loss of control that must be assessed in the context of the provocation that preceded it.⁴⁵
42. The case of *R v Charlton*⁴⁶ involved an obsessive, jealous, controlling partner, killed by the defendant whilst he was restrained. Following threats of sexual and violent abuse against herself and her daughter, the defendant, in an effort to calm the deceased down, agreed to have sex with him. She put handcuffs on the victim and blindfolded and gagged him; this was part of the sexual activity which they had regularly undertaken. While the deceased was in this vulnerable state, the defendant inflicted several blows with an axe normally used in sexual activity. The original sentence of five years imprisonment was reduced to three and a half on appeal, the Court taking into account the terrifying threats made by a man determined to dominate and control the defendant's life. The threats which created fear for the safety of herself and more significantly, her daughter, caused the defendant to lose control and resulted in the ferocious attack. In *R v Brooks*,⁴⁷ when reducing a custodial sentence from 7 years to 5, the Court of Appeal balanced prolonged, substantial provocation (in the form of sexual grooming and abuse of an offender from childhood) against a ferocious assault with weapons and subsequent dismembering of the victim's body.
43. The *circumstances of the killing* itself will be relevant to the defendant's culpability, and hence to the appropriate sentence. In general, the defendant's violent response to provocation is likely to be less culpable the shorter the time-gap between the provocation (or the last provocation) and the killing. This may be evidenced by the use of a weapon that happened to be available, rather than by one that was carried for that purpose in advance or prepared for use. In many instances an incident is triggered by a confrontation or argument, and death results. In other cases an initial argument might flare then cool before re-igniting, such as in *Attorney General's Reference (No.24 of 2003) (Faulkner)* (see paragraph 35 above).
44. Conversely, it is not necessarily the case that greater culpability will generally be found where there has been a significant lapse of time between the provocation (or the last provocation) and the killing. This may be associated with the defendant pre-arming him or herself with a weapon, or with clear planning of the crime (such as the use of poison). Choosing or taking advantage of favourable circumstances for carrying out the killing (such as where the victim was not on guard, or was asleep, or was insensible through alcohol or drugs) may well be an aggravating factor. However, the circumstances of the disempowered or weaker party must be appreciated and considered in the light of the duration and

⁴⁵[2003] 1 Cr App R (S) 42

⁴⁶[2003] EWCA Crim 415

⁴⁷[2003] EWCA Crim 2291

extent of the provocation endured. Where the provocation is cumulative, and particularly in those circumstances where a partner is found to have suffered domestic violence over a significant period of time, the required loss of self-control may not be sudden as some sufferers experience a slow-burn reaction and appear calm.⁴⁸

45. It is in this respect that commentators⁴⁹ have highlighted the apparent gender bias of the provocation defence, which favours men who kill in anger rather than women who kill out of fear. This was a view held by several of those who responded to the consultation paper and who felt that the admissibility of words alone as provocation was more readily accepted in cases where men claimed their female partners 'nagged' them.

Although there will usually be less culpability when the retaliation to provocation is sudden, it is not always the case that greater culpability will be found where there has been a significant lapse of time between the provocation and the killing. It is for the sentencer to consider the impact on a defendant of provocative behaviour that has built up over a period of time.

46. The *behaviour of the offender after the killing* can be relevant to sentence. Immediate and genuine remorse may be demonstrated by the summoning of medical assistance, remaining at the scene, and co-operation with the authorities. On the other hand, concealment or attempts to dispose of evidence⁵⁰ or dismemberment of the body⁵¹ may aggravate the offence.

47. The majority of those who responded to our consultation agreed that post-offence behaviour was relevant to the sentence but felt that care should be taken to recognise that in some cases disposal of the body can be motivated not by rational thought but by panic at the realisation of the enormity of the crime committed. It would be harsh, therefore, automatically to treat such actions as aggravating the offence. It should be recognised also that co-operation with the authorities, which could be seen as mitigation, could in some cases be part of a planned deception. It follows that cases must be considered on their individual merits.

The Panel believes that although post-offence behaviour is relevant to the sentence, it will not always be an aggravating factor. When sentencing, the judge should consider the motivation behind the offender's actions.

⁴⁸ See Donald Nicolson & Rohit Sanghvi, 'Battered Women and Provocation: The Implications of *R v Ahluwalia*' [1993] Crim L.R. 728

⁴⁹ *ibid*

⁵⁰ *R v Carter* [2003] 2 Cr App R (S) 524

⁵¹ In *R v Brooks* [2004] 1 Cr App R (S) 53 this was found to be an aggravating factor, but in the earlier case of *R v Frisby* [2002] Cr App R (S) 68 it was not. It is an aggravating factor for the purposes of setting the minimum term to be served for murder as set out in the Criminal Justice Act 2003, schedule 21.

Use of weapons

48. Statistics published⁵² for homicide show that the most common method of killing is with a sharp instrument. In 2002/03, 27% of all victims were killed by this method. The Court of Appeal has on many occasions emphasised that the carrying and use of weapons is an aggravating factor. Courts must consider the type of weapon used and, importantly, whether it was to hand or carried to the scene and who introduced it to the incident.
49. In *Attorney General's Reference (No. 33 of 1996) (Latham)*⁵³ the Court of Appeal took the opportunity to review current sentencing levels in a relatively narrow category of manslaughter offences resulting from the use of a knife which had been carried in a public place with a view to being used as a weapon. The court concluded that 'where an offender deliberately goes out with a knife, carrying it as a weapon, and uses it to cause death, even if there is provocation, he should expect to receive on conviction in a contested case a sentence in the region of 10 to 12 years.'
50. Similarly, in *Attorney General's Reference (No. 2 of 1997) (Hoffman)*⁵⁴ the Court of Appeal, increasing the original sentence of 7 years to 9 years imprisonment, shared the Attorney General's view that the use of a firearm 'may well be more serious – and cannot be less serious – than the use of a knife'.
51. In contrast, in *R v Byrne*,⁵⁵ where a sentence of 8 years imprisonment was imposed, the Court of Appeal indicated that whilst *Latham* sets an upper bracket for sentences of provocation relating to manslaughter, in cases where a weapon was not carried other than for a brief moment and the intention to use it was only formed immediately before its use, a case would fall significantly below that bracket.
52. In cases with a domestic element, there will be circumstances where the use of a weapon is clearly an aggravating factor. In *R v Hussey*,⁵⁶ the offender went to the house where his former co-habitant was living with her new lover and shot the lover with a shotgun. The Court of Appeal upheld the sentence of 8 years, commenting: '[The shotgun] was fired not once but twice. It was then re-loaded and fired again. Such an act as that does not permit us, we think, to reduce the sentence which the judge passed. We believe he gave every consideration to the many mitigating circumstances.' In *R v Gilbey*⁵⁷ a sentence of 7 years was upheld where the offender travelled to his wife's new home after she had left him for another man, and stabbed her to death on the doorstep.
53. In *R v Howell*,⁵⁸ where the Court of Appeal reduced a sentence of 6 years to three and a half years, the offender's use of a gun to kill her violent husband nevertheless appeared to weigh heavily in the 'difficult balancing exercise' which the Court had to perform. In pronouncing its judgment, the Court said:

⁵² Crime in England and Wales 2002/2003: Supplementary Volume 1: Homicide and Gun Crime, Table 1.03, Home Office (January 2004)

⁵³ [1997] 2 Cr App R (S) 10

⁵⁴ [1998] 1 Cr App R (S) 27

⁵⁵ [2003] 1 Cr App R (S) 338

⁵⁶ (1989) 11 Cr App R (S) 460

⁵⁷ (1990) 12 Cr App R (S) 49

⁵⁸ [1998] 1 Cr App R (S) 229

“This was not a case where the defendant went out and bought the gun, or had to go to another part of the house to find the gun; it was there lying at her feet more or less, as a means of protecting herself, and the ammunition was in a cupboard very close by.

On the one hand there is the principle that spouses must not resort to the use of firearms however unhappy their marriage is. On the other hand there is the duty of the court to temper justice with mercy, even if a man has died, when there is a history of provocation and violence of the type that is so clearly shown in this case.”

54. The use or not of a weapon is another factor heavily influenced by the gender of the offender.⁵⁹ Research and case law show that whereas men can and do kill using physical strength alone, women often cannot and thus resort to using a weapon. Some who responded to our consultation believed that although the law should recognise the relative physical advantage that a man has over a woman and so make some limited allowance for the use of weapons by women, sentencing principles should be applied in a gender neutral way. The Panel's view is that use of a weapon should not necessarily move a case into another sentencing bracket when there is a considerable imbalance between the physical strength of the offender and the victim. The issue of key importance is whether the weapon was to hand or carried deliberately to the scene, although the circumstances in which the weapon was brought to the scene will need to be considered carefully.

The Panel's view is that the use of a weapon should not necessarily move a case into another sentencing bracket. In cases of manslaughter by reason of provocation, use of a weapon may reflect the imbalance in strength between the offender and the victim and how that weapon came to hand is likely to be far more important than the use of the weapon itself. It will be an aggravating factor where the weapon is brought to the scene in contemplation of use *before* the loss of self-control (which may occur some time before the fatal incident).

The Relationship to Sentence Levels in Murder Cases

55. The approach to sentencing for murder has changed in the light of the provisions in the Criminal Justice Act 2003,⁶⁰ which came into effect on 18th December 2003. Prior to this, the *Practice Statement: Minimum Periods (Life Imprisonment)*⁶¹ set two starting points for the minimum term to be served. These were 15/16 years (where culpability was exceptionally high or the victim was particularly vulnerable) and 12 years (where the killing arose from a quarrel or loss of temper between two people known to each other). Potential aggravating factors included the planning of the killing, the use of a firearm, advance preparation, and where the killing was the culmination of cruel and violent behaviour by the offender over a period of time.

⁵⁹ In the sample cases reviewed by the Panel as detailed in paragraph 5, 8 of the 50 cases where a conviction for manslaughter by provocation was returned involved a female offender and in all 8 a knife was used.

⁶⁰ Sections 269-277 and Schedules 21-22

⁶¹ [2003] 1 Cr App R (S) 218. This Practice Statement was issued following the advice of this Panel to the Court of Appeal: see our *Advice to the Court of Appeal – 7, Minimum Terms in Murder Cases*, March 2002

56. The new provisions provide for three starting points:

- ◇ the highest (whole life) applies to cases where the level of seriousness is 'exceptionally high'. An example would be the murder of a child involving abduction or sexual motivation. This will, in our view, rarely include the circumstances similar to those leading to conviction for manslaughter as a result of provocation
- ◇ a starting point of 30 years where the seriousness of the offence is 'particularly high' such as in cases of murder where a firearm is used or involves the killing of more than one person
- ◇ in any other case, the starting point is 15 years. This, in our view, will become the relevant starting point for the minimum term in murder cases involving circumstances of provocation (but which are insufficient to reduce the crime to manslaughter), although that could be reduced in light of significant mitigation.

57. Care must be taken when comparing minimum terms for murder with determinate prison sentences for other crimes, including manslaughter. In a murder case, the *offender must serve the whole of the minimum term before* early release becomes possible, and some murderers will serve longer (some substantially longer) than the minimum term. On the other hand, following the new sentencing provisions in the Criminal Justice Act 2003, where a prison sentence of 12 months or more is imposed, unless designated a 'dangerous offender' by the court, the offender will be entitled to be released after completing half of the sentence in custody. Although there is clearly a very large gap between the current sentencing ranges for manslaughter by provocation and the approximate equivalent for murder without mitigating circumstances, this should not necessarily be a reason for further increasing the sentences for manslaughter. The recent decision in *R v Sullivan*⁶², and resulting amended Practice Direction,⁶³ states that it should not be assumed that Parliament intended to raise to 15 years all minimum terms that would previously have had a lower starting point.⁶⁴

58. The majority of those who responded to our consultation paper believed that the minimum terms for murder provided in the Criminal Justice Act 2003 should not influence the sentencing ranges and starting points for manslaughter following provocation. Given the law relating to the partial defence as it currently stands, those who responded to the consultation felt that flexibility was essential with respect to sentencing for manslaughter and, accordingly, the guidelines should be quite distinct from those for murder. The offences of manslaughter and murder result in the highest level of harm i.e. loss of life, but, whereas in cases of murder culpability is always at the highest level (intent), in cases of manslaughter the level of culpability will vary.

⁶² [2004] EWCA Crim 1762

⁶³ Amendment No 8 to the Consolidated Criminal Practice Direction (Mandatory Life Sentences)

⁶⁴ Manslaughter is a "serious offence" under the provisions of Part 12, Chapter 5 of the 2003 Act. Accordingly a court will need to consider whether the provisions of section 225 are engaged requiring the imposition of a life sentence or a sentence of imprisonment for public protection. Any previous convictions for a "relevant offence" raise a rebuttable presumption that there is a significant risk of serious harm from the defendant: section 229.

59. In its advice to the Council on the New Sentencing Framework as introduced by the Criminal Justice Act 2003,⁶⁵ the Panel recognised that an imbalance between culpability and harm complicates the court's assessment of the seriousness of an offence but nevertheless recommended that the culpability of an offender should be the primary factor in determining seriousness.

The Panel's view is that although both murder and manslaughter result in death, the difference in the level of culpability creates offences of a distinctively different character. Therefore the approach to sentencing in each should start from a different basis.

A SUMMARY OF THE PANEL'S PROPOSALS

- ❑ **Bearing in mind the loss of life caused by manslaughter by reason of provocation, the Panel takes the view that the starting point for sentencing should be a custodial sentence. Only in a very small number of cases involving exceptional mitigating factors should a judge consider that a non-custodial sentence is justified.**
- ❑ **The Panel is of the view that the same general sentencing principles should apply in all cases of manslaughter upon provocation whether or not the killing takes place in a domestic context.**
- ❑ **The Panel accepts that long-term taunting may be significant when assessing the cumulative effect on the defendant of the victim's behaviour, but is of the opinion that infidelity, of itself, does not amount to a high level of provocation.**
- ❑ **Actual (or anticipated) violence from the victim will generally be regarded as being of a higher degree of provocation than provocation arising from abuse, infidelity or offensive words unless that amounts to psychological bullying.**
- ❑ **Where the defendant's actions were motivated by fear or desperation, rather than by anger, frustration, resentment or a desire for revenge, the Panel takes the view that the defendant's culpability will be lower.**
- ❑ **The Panel takes the view that the offence should be regarded as aggravated where it is committed in the presence of a child or children or other vulnerable family member, whether or not the offence takes place in a domestic setting.**
- ❑ **Although there will usually be less culpability when the retaliation to provocation is sudden, it is not always the case that greater culpability will be found where there has been a significant lapse of time between the provocation and the killing. It is for the sentencer to consider the impact on a defendant of provocative behaviour that has built up over a period of time.**

⁶⁵ See our *Advice to the Sentencing Guidelines Council – 3, New Sentences – Criminal Justice Act 2003*, August 2004

- The Panel believes that although post-offence behaviour is relevant to the sentence, it will not always be an aggravating factor. The courts when sentencing, should consider the motivation behind the offender's actions.
- The Panel's view is that the use of a weapon should not necessarily move a case into another sentencing bracket. In cases of manslaughter upon provocation, use of a weapon may reflect the imbalance in strength between the offender and the victim and how that weapon came to hand is likely to be far more important than the use of the weapon itself. It will be an aggravating factor where the weapon is brought to the scene in contemplation of use *before* the loss of self-control (which may occur some time before the fatal incident).
- The Panel's view is that although both murder and manslaughter result in death, the difference in the level of culpability creates offences of a distinctively different character. Therefore the approach to sentencing in each should start from a different basis.

SUGGESTED SENTENCING RANGES AND STARTING POINTS

60. The issues described in this paper demonstrate the various factors that influence sentencing for this offence and the scope for many of them to be aggravating in some circumstances and mitigating in others. The key factor that will be relevant in every case is the nature and the duration of the provocation.

The Panel's proposal, supported by many of those who responded to the consultation, is that:

- a) there should be three sentencing ranges defined by the **degree** of provocation - low, substantial and high
- b) within each range, the starting point is based on the **length of time** over which the provocation took place. So, for example, within the range of 9 – 15 years for offenders where the **degree** of provocation is low, the higher starting point of 12 years is based on a degree of provocation that occurred over a **short time**. If that provocation occurred over a longer period of time that would reduce the starting point to 10 years. Similarly if the provocation, although high, took place over a short period, that could be a reason to increase the starting point compared with where a similar degree of provocation occurred over a longer period.
- c) the court will move from the starting point (reached by considering the **degree** of provocation and the **length of time** over which it has taken place) by reference to any aggravating and mitigating factors (see paragraphs 62 & 63 below).

Identifying sentence ranges

61. The process to be followed by a court will be:

- (i) identify the sentencing range by reference to the degree of provocation (see paras. 30 - 33)
- (ii) identify the starting point within the range by reference to the **length of time** over which the provocation took place (see paras. 34 - 38)
- (iii) take into consideration the circumstances of the killing, e.g. the length of time that had lapsed between the provocation and the retaliation (see paras. 41 – 45) and the circumstances in which any weapon was used (see paras. 48 - 54)

Low degree of provocation

<i>Sentencing range 9-15 years</i>	
Principal Features	Starting Point (on conviction after trial)
A low degree of provocation occurring over a short period	12 years
A low degree of provocation, occurring over a prolonged period	10 years

Substantial degree of provocation

<i>Sentencing range 4-9 years</i>	
Principal Features	Starting Point (on conviction after trial)
A substantial degree of provocation, over a short period	8 years
A substantial degree of provocation, over a prolonged period	6 years

High degree of provocation

Sentencing range – if custody is necessary, up to 4 years	
Principal Features	Starting Point (on conviction after trial)
A high degree of provocation, over a short period	3 years
A high degree of provocation, over a prolonged period	2 years

62. The aggravating factors identified by the Panel as being relevant to the offence of manslaughter by provocation, and largely supported by those who responded to the consultation, are:

- ◇ offence committed in the presence of a child/children or other vulnerable family member (see para. 40);

and, subject to what was said in paragraph 47 above,

- ◇ concealment or attempts to dispose of evidence (see para. 46)
- ◇ dismemberment or mutilation of the body (see para. 46)

63. Similarly, possible mitigating factors include:

- ◇ the offender was acting to protect another (see para. 39)
- ◇ spontaneity and lack of premeditation (see para. 43)
- ◇ previous experiences of abuse and/or domestic violence (see para. 31)
- ◇ evidence that the victim presented an ongoing danger to the offender or another (see para. 31)
- ◇ actual (or anticipated) violence from the victim (see para. 37)

ANNEX A

Homicide Sentencing Information

The following statistics are taken from Crime in England and Wales 2002/2003: Supplementary Volume 1: Homicide and Gun Crime published by the Home Office in January 2004.⁶⁶ The table below shows the number of offenders (male and female) convicted of 'section 2' manslaughter (diminished responsibility) and 'other' manslaughter by year and sentence. "Other manslaughter" includes circumstances other than those where a conviction for manslaughter results from provocation following a charge of murder.

	2000/01		2001/02		2002/03	
	M	F	M	F	M	F
Section 2 manslaughter:						
Life imprisonment ⁶⁷	-	-	-	1	-	-
Over 10 yrs imprisonment ⁶⁸	-	-	-	-	-	-
4 – 10 years imprisonment	6	1	1	-	1	-
4 years and under	1	1	2	2	1	-
Suspended sentence	2	-	-	-	-	-
Hosp/Restriction Order	4	-	3	-	1	-
Hospital Order	3	-	5	1	1	-
Probation/Supervision	1	1	-	-	-	1
Other	-	-	-	-	-	-
TOTAL: section 2 manslaughter	17	3	11	4	4	1
Other manslaughter:						
Life imprisonment	8	-	13	1	2	1
Over 10 yrs imprisonment	4	-	11	1	-	-
4 – 10 years imprisonment	103	10	111	12	49	3
4 years and under	94	16	82	10	46	8
Suspended sentence	4	1	5	1	1	1
Hosp/Restriction Order	3	1	5	-	4	2
Hospital Order	5	3	12	2	3	1
Probation/Supervision	2	4	9	5	3	3
Other	2	-	4	-	-	-
TOTAL: other manslaughter	225	35	252	32	108	19

⁶⁶ Home Office Statistical Bulletin 01/04, January 2004. The figures for 2002/3 are for part of that year only and are subject to revision as cases are dealt with by the police and the courts or as further information becomes available.

⁶⁷ Including detention during Her Majesty's Pleasure under Children and Young Persons Act 1933, section 53(1) and detention for life

⁶⁸ Imprisonment includes detention under Children and Young Persons Act 1933, section 53(2) and in a young offender institution

ANNEX B – THE CONSULTATION

In accordance with the duty imposed by section 171(3) of the Criminal Justice Act 2003, the Panel issued a consultation paper on 11 March 2004. The Panel's provisional views on sentencing guidelines for manslaughter by reason of provocation were set out.

Copies of the paper were sent to over 300 individuals and organisations, including the Panel's 28 statutory consultees, Chairmen of Youth Panels and Resident Judges at each Crown Court Centre throughout England and Wales. It was also published on the Panel's website, and in the Justice of the Peace journal.

Responses were received from the following consultees:

Council of Her Majesty's Circuit Judges
Crown Prosecution Service
Justice
Justices' Clerks' Society
Police Federation of England and Wales

The following also responded to the public consultation:

Monica Hill, Bradford Rape Crisis & Sexual Abuse Survivors Service
A N Hobbs, Department of Law, Keele University
Justice for Women
London Criminal Courts Solicitors' Association
Professor Ronald Mackay, De Montford Law School, De Montford University
HH Judge R T Moss
Nicola Padfield, Fitzwilliam College, Cambridge
Refuge
Detective Superintendent Bryan Wilson, Gwent Police