

# Annual Report

Sentencing Guidelines Council and  
Sentencing Advisory Panel





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# Foreword Chairman of the Sentencing Guidelines Council

This year the Council said goodbye to Lord Phillips of Worth Matravers, both as Chairman of the Sentencing Guidelines Council and Lord Chief Justice of England and Wales. His contribution to the work of the Council has been enormous and all of the definitive guidelines issued this year are a direct product of his chairmanship. The Council wishes him well in his new role as Senior Law Lord, and from October 2009, President of the Supreme Court of the United Kingdom.

There were two other notable changes in membership during the year. First, the Council lost the benefit of the many years of experience of Lord Justice Latham when he retired as Vice President of the Court of Appeal Criminal Division. Sir David has now been appointed Chairman of the Parole Board, one of the most challenging and important posts in the criminal justice system. Secondly, Sir Ken Macdonald, who as Director of Public Prosecutions (DPP) brought to the Council extensive experience and insight, completed his term of office and returned to legal practice. We thank them both for their contributions to the work of the Council.

New members have been appointed to fill the gaps left by the outgoing Chairman and members. The Council was delighted to welcome Lord Justice Thomas (Vice President of the Queen's Bench Division) and Lord Justice Hughes (Vice President of the Court

of Appeal Criminal Division), who have already been assigned as lead members for two of the Council's current projects, and Keir Starmer, who succeeded Sir Ken Macdonald as DPP. I am also very pleased that Malathy Sitaram J.P. and Anthony Edwards have agreed to an extension of their membership for a further 12 months.

Under Lord Phillips' chairmanship the Council issued the new *Magistrates' Courts Sentencing Guidelines* which are the most extensive guidelines produced by the Council. The guidelines cover most of the offences regularly coming before a magistrates' court which require decisions on allocation or sentencing. I echo Lord Phillips in his thanks to the Sentencing Advisory Panel and the members of its advisory group for their work on this guideline. We continue to be very grateful for the assistance and advice of the Panel.

During 2008-09 the Council also issued definitive guidelines on theft and burglary from a building other than a dwelling, breach of an anti-social behaviour order and causing death by driving. Most recently, the Council has issued for consultation a draft guideline on sentencing for statutory fraud offences.

It is developments from outside the Council which are likely to have the most impact on its work in the coming year. Parliament is currently considering the Coroners and Justice

Bill which, if enacted, would abolish the Council and the Panel and establish a new Sentencing Council for England and Wales. In addition to the preparation of guidelines on sentencing and allocation it is currently proposed that the new Council would have significant extra responsibilities for monitoring the operation and effect of sentencing guidelines and assessing the impact on correctional resources of policy and legislative proposals, changes in sentencing practice as well as factors which do not relate directly to sentencing practice.

I have said elsewhere that, before legislative decisions about criminal justice and sentencing policy are made, the consequences in terms of financial cost and other pressures on the system should be assessed and the results made available for public consideration. Given the current financial climate, and the conflicting demands on public funds, my views about the desirability of such a practice have strengthened. Moreover, if this practice had applied when, for example, the provisions for imprisonment for public protection in the Criminal Justice Act 2003 were under consideration, the potentially alarming consequences of under-resourcing may have been avoided. When a new Sentencing Council is responsible for examining the resource implications of statutory provisions, it must be adequately staffed and funded for this purpose. We must face the reality that as currently resourced, the Council simply could

not support all the proposed new functions.

Kevin McCormac has continued to lead the secretariat of both the Council and the Panel with his customary enthusiasm. His wise counsel and profound knowledge of the issues which the Council and the Panel address remains invaluable. Joanne Savage has been as diligent as always in her support of the work of the Council and the individual members responsible for particular projects. They are not, of course, alone and without the full support of the entire team this year would not have been the success it was.

Lord Judge  
Chairman, Sentencing Guidelines Council

# Foreword Chairman of the Sentencing Advisory Panel

This report marks the end of the tenth year of the Panel's work. Once again, it has been a productive year, with 3 consultation papers issued and 3 advices to the Council completed. Some of the topics we have discussed have been particularly demanding: overarching principles of sentencing, for example, because of the wide range of subjects considered - from aggravating and mitigating factors to the special circumstances of vulnerable women offenders, from previous convictions to mentally disordered offenders; corporate manslaughter, because of its novel and unusual features, with the fundamental issue being the calculation of fines for organisations of different sizes and structures fulfilling different purposes; and drug offences, because of their diverse nature and technical complexity. It is a tribute to the Panel's members, many of whom have agreed to stay beyond the term of their original appointments, that good progress has been made on these and other difficult issues. It is a considerable achievement that, by the end of 2009, the Panel will have proposed guidelines covering not only the main aspects of magistrates' court sentencing (in the *Magistrates' Court Sentencing Guidelines*) but also the majority of offences sentenced in the Crown Court.

One hallmark of the Panel's approach to its work is its close links to the public and to public opinion. The Panel has always included members from outside the criminal justice system – there are three at present

- and they make a significant contribution to its work. As well as being sent to regular consultees and other interested individuals and organisations, the Panel's consultation papers are routinely published on the website and an accompanying press notice circulated to the wider media is designed to generate public interest in our work; over the years, there have been many helpful responses from a wide range of people. In addition, the Panel has supplemented its consultation process on several occasions by commissioning public opinion research on key issues, to gauge (for example) public attitudes to different forms of burglary in a dwelling, to rape between acquaintances as compared with rape by a stranger, to the relative seriousness of theft from a shop as compared with other dishonesty offences, to different offences of causing death by driving, and (most recently) to issues of general principle such as the relevance of previous convictions to sentencing.

The Panel has always taken more interest in the reasons given for holding a particular point of view than in the mere fact that a certain group (whether members of the public, judges, or magistrates) favours a given approach, but there is no doubt that these different ways of engaging with the public have exerted an influence on the proposals we have made. This 'public' dimension in the production of sentencing guidelines is something which, we believe, should be preserved and not lost.

The fact that the Panel is a part-time body means that it relies heavily on its secretariat for support. We are fortunate to have an excellent secretariat, and our work owes much to the enthusiasm and expertise of our secretary, Lesley Dix, and also to Kevin McCormac, Nita Bhupal, Alice Ripley, and other members of the secretariat who have contributed to our work. We are grateful to them all.

Professor Andrew Ashworth  
Chairman, Sentencing Advisory Panel

# Section 1 The year in brief: work programme

This fifth working year has been a particularly industrious and productive one for the Council and Panel. The body of guidelines in use in the criminal courts, primarily in relation to the sentencing of adult offenders, is now substantial and, by the end of 2009/10, guidelines will exist for the majority of regularly sentenced offences.

The Council and Panel have continued to work through the work programme agreed in June 2007. The mix of projects has been particularly diverse including specific offences and matters of general principle containing issues of considerable legal and practical complexity.

Issues under consideration have ranged from the new offence of corporate manslaughter through the commonly occurring offences arising from dishonesty and illegal drug use to general principles underpinning the sentencing of both adults and youths. In relation to youths, the aim is to develop a coherent set of principles relevant to the sentencing of young people in the context of the changes to the sentencing framework contained in the Criminal Justice and Immigration Act 2008.

The most significant achievement this year was the publication and successful implementation of the *Magistrates' Court Sentencing Guidelines* (MCSG). This comprehensive document provides, in a single source, guidelines and material relevant to allocation and sentencing in magistrates'

courts and to sentencing in cases heard in the Crown Court on appeal. This will be updated as needed to incorporate new published guidelines and in response to legislative change; two updates were issued in 2008.

A further achievement has been the completion of a major research project examining public attitudes relevant to the Panel's review of the approach to assessing the seriousness of offences committed by adult offenders. The findings from this research have greatly assisted the Panel and are likely to be of wider interest.

The relationship between the Council and the Court of Appeal (Criminal Division) in relation to sentencing guidance is illustrated by the Court's decisions in *Povey* [2008] EWCA Crim 1261 and *Saw* [2009] EWCA Crim 1. In *Povey*, the Court addressed some of the problems involved in knife crime and in *Saw*, guidance was given on sentencing for domestic burglary. In order to ensure consistency of approach, the Council published a note on its website which explained the impact of each of the judgments on the relevant guideline.

Throughout the year, the Council and the Panel have been aware of the possible establishment of a new sentencing guidelines body. The decision on this is a matter for Parliament but the Council and Panel have kept the legislative developments under review in organising their own programmes.

## Section 2 Performance and achievements

### (1) Summary of key achievements and current work

Key achievements are:

Project	Milestone
Magistrates' Court Sentencing Guidelines (MCSG)	Guidelines published 12 May 2008
Breach of an Anti-Social Behaviour Order	Consultation guideline and advice of the Panel published 23 May 2008
Overarching Principles of Sentencing	Panel consultation paper published 8 July 2008
Dangerous Offenders – guide for sentencers and practitioners	Revised version of the Compendium supplement (incorporating legislative changes made by the Criminal Justice and Immigration Act 2008) published July 2008
Update 4: Guideline Judgments Case Compendium	The Compendium continues to provide a valuable resource for both the judiciary and practitioners. A fourth update was published in July 2008
Causing Death by Driving	Guideline published 15 July 2008
MCSG Update 1	Incorporating the causing death by driving guidelines, published 15 July 2008
Theft and Burglary of a building other than a dwelling	Guideline published 9 December 2008
Breach of an Anti-Social Behaviour Order	Guideline published 9 December 2008
Principles of Sentencing for Youths	Panel consultation paper published 18 December 2008
MCSG Update 2	Incorporating the theft, burglary of a building other than a dwelling and breach of an anti-social behaviour order guidelines, published 9 December 2008

The Study of Sentencing and Its Outcomes	Report of the pilot study (co-owned with the Ministry of Justice) published 10 February 2009
Sentencing Fraud – Statutory offences	Consultation guideline and advice of the Panel published 25 February 2009
Drug offences	Panel consultation paper published 22 April 2009

## Guideline development process

The Panel and the Council go through a number of stages to produce a guideline.

The consultation stages are particularly important, and the Panel and Council draw heavily on the expertise of those who respond. The Panel is particularly conscious of the demands that have been made this year; not only has the number of consultations been high but some have been very lengthy and have covered highly complex issues. The Panel continues to benefit greatly from those responses, each of which is considered by every member.

Where appropriate, consultation through formal documents is supplemented by research or by detailed discussion with those with experience or knowledge directly relevant to the issues. During this year, this has included research into public opinion on principles of sentencing and direct consultation with a wide variety of bodies regarding the approach to sentencing for corporate manslaughter; the Council and the Panel would like to express their appreciation for the considerable time and thought that has so generously been given.

The Council consults directly with Ministers and the Justice Select Committee; the Council has appreciated greatly the consideration that has been given to consultation guidelines and the extent to which responses have been received within the timescales provided.

<b>STEP 1</b>	<b>STEP 2</b>	<b>STEP 3</b>	<b>STEP 4</b>	<b>STEP 5</b>	<b>STEP 6</b>
Work priorities are identified/ reviewed	The Panel researches topics and prepares consultation papers	The Panel consults regular consultees and the wider public	The Panel considers responses and submits advice to the Council	The Council considers the advice and develops a draft guideline - both papers published	The Council considers responses and issues definitive guidelines

The guideline development process needed to be applied flexibly in relation to the project on sentencing attempted murder. This offence was originally included in a wider consultation covering a variety of offences of violence. An approach to sentencing attempted murder, which differed from that proposed by the Panel, was consulted upon by the Council alongside those other offences in June 2007. The responses to that consultation, which had been sought from a wider range of consultees than usual, caused the Council to determine that further consideration was required and that alternative approaches should be explored; consequently, attempted murder was extracted from the wider project to be taken forward separately.

Significant further work, including a detailed review of cases of attempted murder considered by the Court of Appeal, contributed to finalisation of the definitive guideline to be published in due course.

Detailed below are other projects that have been worked on during the period of this report but which have yet to be concluded. It is expected that the majority of these will be finalised by the end of 2009.

### **Sentencing for Fraud – Statutory Offences**

#### **Status – Consultation guideline published February 2009**

This is a further stage in the wider project to develop guidelines for offences of theft and dishonesty. Boundaries overlap between old offences under various statutes and new offences introduced by the Fraud Act 2006, and a coherent approach to sentencing is required for this group of dishonesty offences. The Panel submitted its advice to the Council in October 2008, basing its proposals on the type of fraudulent behaviour rather than on the particular offence of which a person is convicted. The consultation guideline incorporates that approach, and although frauds committed against public and private sector organisations are presented in separate guidelines, the starting points and sentencing ranges are the same to encourage a consistent approach. The Council expects to publish a definitive guideline in the summer.

### **Corporate Manslaughter and Health and Safety offences resulting in death**

#### **Status - Panel advice agreed, consultation guideline being prepared**

The Panel submitted its advice to the Council in October 2008. The Corporate Manslaughter and Corporate Homicide Act 2007 complements existing health and safety offences, for which organisations may still be prosecuted as an alternative to, or in addition to, the offence of corporate manslaughter. The Council aims to publish a draft guideline in the summer.

### **Overarching Principles of Sentencing**

#### **Status – Panel consultation paper published July 2008, advice to the Council being prepared**

This project reviews the Council's definitive guidelines *Overarching Principles: Seriousness and New Sentences: Criminal Justice Act 2003*. It also considers a range of other issues related to the assessment of offence seriousness and the application of the sentencing framework for adult offenders, with a view to providing an up to date and enhanced set of general sentencing principles. The Panel's full public consultation was supplemented by independent research examining public attitudes to key principles of sentencing (see below). The Panel aims to submit advice to the Council in the autumn.

### **Principles of Sentencing for Youths**

**Status – Panel consultation paper published December 2008, advice to the Council being prepared**

The approach to sentencing young offenders is different from that for adults. The comprehensive consultation paper examined the historical development of the youth justice system for England and Wales, the ethos behind it and the key principles that underpin the framework for sentencing offenders aged 10 to 17. The threshold for custody and use of incarceration for young people are issues of particular significance. The definitive guideline will be published to support the introduction of changes to the sentencing framework and the introduction of the youth rehabilitation order later this year.

### **Sentencing for Drug Offences**

**Status – Panel consultation paper published April 2009**

The consultation paper considered sentencing for a range of drug offences, including importation and exportation, production, supply or offering to supply, possession and possession with intent to supply. Existing guidance was reviewed and the paper examined the various characteristics of these offences that might influence the assessment of offence seriousness. Particular consideration was given to the role played by an individual offender and the quantity of drugs involved. Issues relating to the interplay between sentencing and the confiscation of assets and the particular circumstances of ‘drug couriers’ were also incorporated. Advice is likely to be tendered to the Council in the autumn.

### **Burglary in a dwelling**

**Status – Panel preparing consultation paper**

The Panel is consulting on sentencing for the high-volume offence of burglary in a dwelling which will complement the recently published definitive guidelines on *Theft and Burglary of a building other than a dwelling*. The Panel previously published advice on sentencing for *domestic burglary* in 2002, leading to the Court of Appeal’s guideline judgment in *McInerney and Keating*; this judgment was recently reviewed and clarified by the Court in the case of *Saw*. The Panel aims to submit its advice to the Council in autumn 2009.

### **Handling Stolen Goods**

**Status – Panel researching and collecting information**

The Panel published advice on sentencing for handling stolen goods in 2001. This led to the guideline judgment in *Webbe [2002]* upon which the guideline in the Magistrates’ Court Sentencing Guidelines is based. A particular feature of this offence is that it is commonly ancillary or secondary to a primary offence, which may vary greatly in terms of seriousness. Matters to be explored include sentencing patterns for handling stolen goods in the context of a downward trend in the number of offenders being sentenced for this offence. It is not expected that this project will be commenced during the current work programme.

## (2) Research and analysis

### A study of sentencing and its outcomes

The Council and the Ministry of Justice jointly commissioned the University of Cambridge to undertake research into sentencing and its outcomes. It was intended that the research would inform the development of sentencing guidelines by providing detailed information about the factors that influence sentence; examine the effectiveness and cost effectiveness of sentences; and provide a baseline of information prior to the reforms of the CJA 2003 to enable any changes to be properly measured in the future.

Before undertaking the research, a pilot was conducted to assess the feasibility of conducting the study. The pilot demonstrated that while the practicalities of identifying records, collecting data and managing procedures could be successfully undertaken, there were a number of issues that arose which would mean that the original objectives of the research could not be met. Specifically that:

- Data on aggravating and mitigating factors was absent to a degree which would impact significantly on any conclusions that could be drawn.
- The types of sentenced offences varied considerably by court and area making it difficult to identify a truly representative sample for the offences of interest.
- The destruction of court files for 2004 and some of 2005 in accordance with standard record keeping policy made the establishment of a true baseline study difficult.

For these reasons, the Council and the Ministry of Justice took the decision to end any further work on this study. On 10 February 2009, the full pilot report and an accompanying statement were published. They can be found at: [www.sentencing-guidelines.gov.uk/research/index.html](http://www.sentencing-guidelines.gov.uk/research/index.html)

The Council continues to investigate alternative methods for obtaining relevant information on sentencing to help inform the development and monitoring of its guidelines.

## Public attitudes to principles of sentencing

In September 2008, the Panel commissioned the Institute of Criminal Policy Research and GfK NOP to conduct research on public attitudes to principles of sentencing. The research comprised a survey of a representative sample of 1,023 adults across England and Wales and eight focus groups with participants representing a number of different backgrounds by age, gender, class, ethnicity and geographical spread.

The research aimed to examine public attitudes to a number of key sentencing principles which were discussed in the Panel's consultation paper: 'Overarching Principles of Sentencing'. In particular, the research examined attitudes towards:

- the purposes of sentencing;
- the characteristics of an offence/offender that should generally result in a community order or custodial sentence;
- the relative weight that is attached to individual factors relating to the offence and

offender and whether the public weigh up the influence of aggravating and mitigating factors when selecting an appropriate sentence;

- the extent to which the cost of a custodial sentence or community order should be taken into account when sentencing;
- the overall ranking of offences by attitudes towards their seriousness

The research provided some useful findings for the Panel to consider alongside the responses received to the consultation paper. A full report containing the findings can be found at: [www.sentencing-guidelines.gov.uk/research/index.html](http://www.sentencing-guidelines.gov.uk/research/index.html)

### (3) Communications

Communicating to a wide range of audiences continues to be an important focus of the work of the Council and Panel. For each Council and Panel publication, every effort is taken to provide press releases that are factually informative as to the nature of the document, the issues under consideration and the purpose of the publication, which varies according to the stage reached - it may be to attract responses from as wide a range of stakeholders, practitioners and interested parties as possible, or to inform people that a definitive guideline has been issued and comes into effect on a particular date. The secretariat is responsive to the media and interested parties, seeking to facilitate reports that are accurate and well informed.

Throughout the year there has been a significant level of interest in publications from the media and interested parties.

A notable example was the extensive coverage in print and broadcast media of the definitive guideline on Causing Death by Driving. Lead Council member Chief Constable Peter Neyroud gave interviews on the day of publication to a number of news organisations, including BBC Radio 4's Today programme.

In addition, there is continuing interest in the work of the Council from overseas jurisdictions. During the year, academic, judicial and practitioner visitors were welcomed from Europe, America, Japan and South Korea and discussions took place briefing them on the development of guidelines in England and Wales.

The Council is always seeking to design publications in a way that is most practical for judges and magistrates. This was a particular issue with the first revision for four years of the Magistrates' Court Sentencing Guidelines, which would require magistrates to use guidelines presented in a new format. In order to ensure the guidelines would be easy to navigate and apply, a range of styles was tested on a group of magistrates, District Judges (Magistrates' Courts), Justices' Clerks and Legal Advisers. The resulting guidelines were clearly colour-coded and presented in a folder to allow for easy updating. Each pack includes a laminated pull out card setting out the sentencing process.

The new guidelines were widely publicised to ensure that everyone affected was aware of their introduction; activities included providing articles for a number of specialist magazines including an article by Panel Chairman Andrew Ashworth in *Magistrate magazine*.

The *Guideline Judgments Case Compendium* is a valuable resource for judges and magistrates, and for practitioners, providing summaries of important decisions from the Court of Appeal. *The Dangerous Offenders: Guide for sentencers and practitioners* supplement to the compendium has proved to be a popular, practical guide to a complicated area of law. A timely revised version of the guide was published in July 2008, incorporating changes made by the Criminal Justice and Immigration Act 2008 to the considerations for public protection sentences.

comes into one of the categories which are exempt under the Act. During the period covered by this report, 6 requests under the Act were received, all were dealt with within the specified time limit.

In 2007 the Council and Panel agreed to exhibit at the Annual Bar Conference in order to communicate their work directly to barristers. The initiative was judged to be a success and the secretariat returned for a second successful exhibition at the 2008 Conference in London in November.

## Freedom of information

The Freedom of Information Act 2000 requires every public authority to adopt and maintain a publication scheme detailing the types of information it makes routinely available to the public. The Council and the Panel each have a publication scheme which has been approved by the Information Commissioner; these are available on our website, and on request to enquirers. Both schemes are being updated to ensure that the correct Crown Copyright classification is assigned to the various documents we produce.

The Act obliges public bodies to make available to members of the public, on request, any other information held by them on particular topics, unless such information

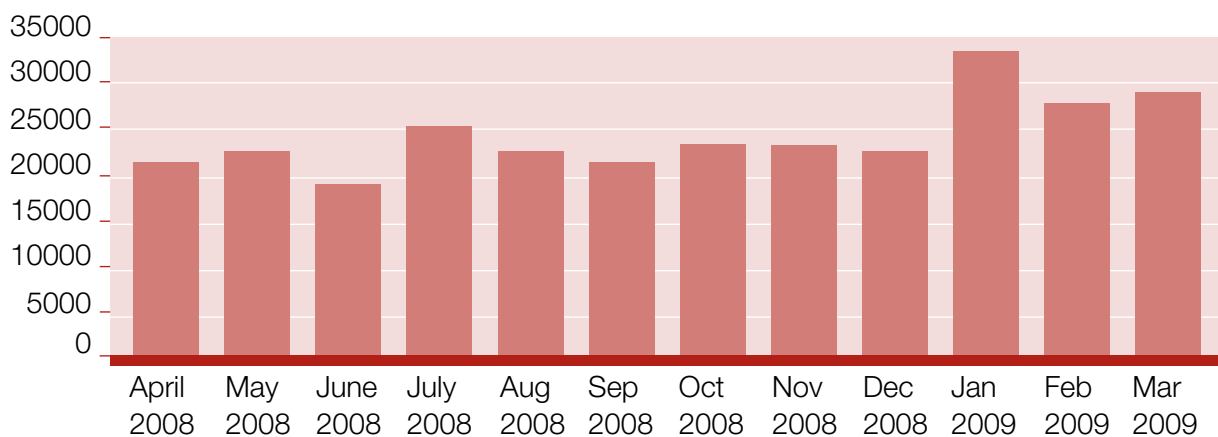
## The sentencing guidelines website

The website – [www.sentencing-guidelines.gov.uk](http://www.sentencing-guidelines.gov.uk) - is an important channel of communication and use continues to increase. It contains a range of information, including all documents published by the Council and Panel and their current and future work schedules. Membership details of the Council and Panel have been refreshed following a number of changes (detailed in Section 3 below), and new photographs have been uploaded. All communication material developed by the secretariat includes details of the website in order to direct interested individuals and organisations to the most up-to-date source of information.

Some improvements have been carried out during the year to aid navigation

around the website and to facilitate better accessibility of key documents. Links are provided to take users directly to documents, including papers relevant to items on the work programme, and all definitive guidelines have been bookmarked enabling direct access to the part of the guideline required. Whereas individual guidelines are revised and re-published as appropriate, the *Magistrates' Court Sentencing Guidelines* will be updated as needed; where this occurs, a new version of the MCSG will be published on the website.

Overall use of the website has continued to increase during the period of this report, from an average of 15,629 visits per month in 2007 to 2008, to 24,327 per month in 2008 to 2009. The diagram below provides an overall picture of the number of visits to the website in the period covered by this report.



## Section 3 Membership details of the Council and Panel

### Sentencing Guidelines Council

#### Chairman

**Lord Phillips** – to October 2008

**Lord Judge** – from October 2008

#### Deputy Chairman

**Sir Igor Judge** – to October 2008

**Sir John Thomas** – from October 2008

#### Members

**Peter Beaumont**

**Anthony Edwards**

**Sir Anthony Hughes** – from January 2009

**Sir David Latham** – to January 2009

**Sir Ken Macdonald** – to October 2008

**Michael Mettyear**

**Peter Neyroud**

**Sir Christopher Pitchford**

**Teresa Reynolds**

**Malathy Sitaram**

**Keir Starmer** – from October 2008

**Tim Workman**

#### Observers

**Andrew Ashworth**

**Christine Stewart** – to January 2009

**Helen Edwards** – from April 2009

The past twelve months has seen a number of changes to the membership of the Council. Following the appointment of Lord Phillips as Senior Law Lord, Sir Igor Judge was appointed to be Lord Chief Justice of England and Wales from 1 October 2008 and consequently became the third Chairman of the Council. He appointed Sir John Thomas to replace him as a senior judicial member and deputy chairman of the Council.

In November 2008, Sir Ken Macdonald completed his term of office as Director of Public Prosecutions and his successor, Keir Starmer, was invited to join the Council. The retirement of Sir David Latham in January 2009 led to the appointment of Sir Anthony Hughes (who succeeded Sir David as Vice-President of the Court of Appeal (Criminal Division)), so maintaining the close working links between the Council and the Court. In January 2009, Christine Stewart, the Lord Chancellor's nominated observer, retired from the civil service. Helen Edwards, Director General, Criminal Justice Group was subsequently appointed in that role.

In March 2009, Anthony Edwards and Malathy Sitaram were re-appointed for a further year. Both were originally appointed following competition and have made valuable contributions to the Council, particularly as lead members in relation to the development of guidelines respectively for breach of an anti-social behaviour order and for theft and burglary of a building other than a dwelling.

## Sentencing Advisory Panel

### **Chairman**

***Andrew Ashworth***

### **Deputy Chairman**

***Howard Riddle***

### **Members**

***Anthony Ansell***

***Philip Clegg – to June 2008***

***John Crawford***

***Amritlal Devani***

***Anne Fuller***

***Frances Heidensohn***

***David Mallen***

***Michael Morgan***

***John Staples***

***Joanna Wallace – to April 2008***

***Joan Webster***

***Christopher Woolley***

seminars. The Chairman also contributed to the work of others, giving evidence to the Justice Select Committee as part of its enquiry following publication of the report of the Sentencing Commission Working Group, and attending a session convened by the Fawcett Society in relation to women offenders.

Registers of interests of members of the Council and Panel for the period covered by this report can be found at Annex A and Annex B respectively.

The Panel lost two members during the course of the year who have not been replaced. Professional and career changes which impacted on their ability to continue as members caused Philip Clegg and Joanna Wallace to retire from the Panel.

Their respective contributions from judicial and non criminal justice system perspectives were of great value to the work of the Panel.

Throughout the year, Panel members actively participated in work projects, attending focus groups for its research, meetings and

## Section 4 Secretariat support

### Members of the Sentencing Guidelines Secretariat are:

**Kevin McCormac**

*Head of Secretariat*

**Joanne Savage**

*Secretary to the Council*

**Lesley Dix**

*Secretary to the Panel*

**Nita Bhupal**

*Senior Research Officer*

**Alice Ripley**

*Senior Policy Officer*

**Ebere Ezete**

*Manager, Administrative Support Team*

**Husnara Begum**

*Administrative Support Team*

**Jessica Queenan**

*Administrative Support Team*

**Gareth Sweny**

*Administrative Support Team*

**Linda Paice**

*Administrative Support Team*

In addition, communication advice is provided on a consultancy basis by Sheree Dodd, a specialist in public sector communications.

The past twelve months have been a busy and challenging time for the secretariat, particularly given that staff resources have been depleted. One of the most demanding areas of work for the secretariat this year was the drafting, printing and distribution of the *Magistrates' Court Sentencing Guidelines* (MCSG).

The MCSG has been the Council's largest and most widely distributed publication to date and involved coordinating the delivery of over 35,000 copies of the guideline to more than 680 magistrates' courts, Crown Court centres and combined court centres, in time for the training events, some of which were scheduled to begin in May, very shortly after the online publication. To facilitate this, the secretariat made contact with all the court areas in the country to ascertain training dates and numbers of copies required and also worked closely with the printers and the mailing house to stagger delivery to coincide with those training dates. In addition, copies have been sent to a large number of legal professionals, criminal justice bodies, the judiciary and the probation service. Since the publication of the MCSG, 2 updates have been issued, one before the guideline came into force. The secretariat also commissioned a version of the MCSG in the Welsh language which is now available. Particular thanks are due to HH Judge Eleri Rees and to the Welsh Language Unit of HMCS for their invaluable assistance.

### Work and events

The secretariat supports both the Panel and the Council and brings together officials with substantial direct experience of the work of the courts and those with considerable experience of policy development and delivery.

Projects are not limited to assisting the development of advice and guidelines. The secretariat has had a full programme of work designed to maintain and develop links with other jurisdictions, support judicial training and strengthen communication with stakeholders. Examples illustrating the breadth of this role are set out below:

- Presentations on sentencing guidelines were given to judicial and criminal justice delegates taking part in courses of study in the UK organised by the Royal Institute of Public Administration and Public Administration International. Visiting delegates came from as far as Botswana, Malaysia, Sierra Leone, and Singapore.
- Addressing judicial, stakeholder and practitioner audiences; this has included training events for District Judges (Magistrates' Courts) and South Yorkshire magistrates, the Justices' Clerks Society annual conference, NOMS chief officers, the Solicitors Association of Higher Court Advocates and the London Criminal Court Solicitors' Association annual conference in all of which presentations were made about the key elements of the Magistrates' Court Sentencing Guidelines, the work of the Council and Panel, general sentencing issues and the potential impact of provisions in the Criminal Justice and Immigration Act 2008.
- Meetings with the Chief Probation and Operations Officers for London to discuss projects and initiatives in the London probation area, and with the Criminal Justice Alliance to discuss research currently being undertaken by the Cadbury Barrow Trust.
- Hosting a visit from members of the Scottish Executive to discuss the way in which guidelines are produced in England and Wales in light of the renewed proposals to introduce a Scottish Sentencing Council.
- Attendance at a magistrates' communications meeting organised by the Judicial Communications Office considering how best to manage and co-ordinate communications with magistrates.
- Hosting of a stand at the Annual Bar Conference, which generated a great deal of interest in the work of the Council and the Panel. Members of the secretariat were on hand to answer questions from delegates.
- Attendance at a joint Criminal Justice Group and National Offender Management Service Agency event, the purpose of which was to exchange information on key future projects and to consider strategic challenges in the criminal justice system.
- Representation at a variety of seminars and events relevant to current work projects and sentencing generally, including the Young People and Knife Crime Summit: Tackling Street Weapon Culture through Partnership, organised by Public Policy Exchange, Nacro's annual conference 'Back from the Brink – Turning young people away from crime', and a seminar hosted by TACT entitled 'Care and Crime – Understanding the Links and Addressing the Issues' about the Children Law UK's research project into unnecessary criminalisation of looked after children.

Work to maintain, support and develop the link between guidelines and judicial training has continued to be a priority. Meetings have been held on a regular basis with officials from the Judicial Studies Board (JSB) to strengthen the liaison and members of the secretariat have attended meetings of the Magisterial Committee. Additionally, meetings have been held in relation to current guideline projects for which there are identifiable training needs, such as the guideline for sentencing youths, in order to facilitate the development of training materials for magistrates, District Judges and Legal Advisers.

Members of the secretariat have taken part in a number of training events throughout the year specific to individual guidelines and general or refresher training, including continuation and serious sexual offences seminars for members of the judiciary. Training on the new MCSG continued up to and beyond the implementation date of 4 August 2008, and the secretariat was involved with national and regional events for the training of magistrates, Legal Advisers and District Judges. The Magisterial Committee of the JSB considered the findings of an evaluation survey for the MCSG training programme which provided important feedback in relation to the guidelines.

Following judicial recruitment in the past year (particularly for Recorders and Deputy District Judges (Magistrates' Courts)), the JSB ran a series of induction training seminars for those appointed. The secretariat ensured that all those to be trained received a pack of definitive guidelines and a copy of the *Guideline Judgments Case Compendium*, and these formed an integral part of the materials provided to them in advance of

their training. A member of the secretariat also contributed at the induction seminars through presentations and participation in syndicate work.

## Budget/financial details

### Members' fees and expenses

Those members of the Council and Panel who are not employed on a full time basis in the criminal justice system are entitled to claim fees for attending meetings of the Council or Panel. All members are entitled to claim reimbursement of travelling and subsistence expenses actually and necessarily incurred in the course of business. Those fees and expenses are paid by the Ministry of Justice.

The daily rate of fees payable to members from April 2008 was £223.

The Chairman of the Panel is entitled to claim a daily fee for meetings of the Panel and pro rata for other necessary duties. The daily rate payable from April 2008 was £374.

Total expenditure on fees and expenses (to nearest £100) for Council members in the financial year 2008/2009 was £6,500 and for Panel members the total was £52,200.

### Other expenditure

The secretariat also administers a budget, provided by the Ministry of Justice, to cover expenditure on staff salaries, and on items such as office equipment, stationery, training, research and publications.

## Total expenditure from budget in 2008/2009

Staff salaries	*£541,300
Office expenditure, training and meetings	*£120,000
Research, publications and website	*£502,100
Total expenditure	*£1,163,400

\* to nearest £100

# Annex A

## Sentencing Guidelines Council: Register of Interests

Name	Appointment	Interests to declare
<b>Lord Judge</b>	From 1 October 2008 (in capacity as the Lord Chief Justice)	No personal or business interests to declare
<b>Peter Beaumont</b>	From 5 March 2004 to 4 March 2008. Re-appointed 5 March 2008 to 4 March 2011	No personal or business interests to declare
<b>Anthony Edwards</b>	From 5 March 2004 to 4 March 2009. Re-appointed 5 March 2009 to 4 March 2010	<p>Remunerated employment as senior partner of T.V. Edwards (solicitors) - firm has contracts with the Legal Services Commission and various police service areas for training, criminal and civil legal services</p> <p>Member of:</p> <ul style="list-style-type: none"> <li>• Council of Justice</li> <li>• Law Society</li> <li>• Legal Aid Practitioners Group (LAPG)</li> <li>• Criminal Law Solicitors' Association</li> </ul> <p>Subscriber, Legal Action Group</p> <p>Publications:</p> <ul style="list-style-type: none"> <li>• Paid writer of Criminal Law Update published in the <i>Law Society's Gazette</i></li> <li>• Paid member of the editorial board of <i>Criminal Law Review</i> (a Sweet and Maxwell publication)</li> </ul>

		<ul style="list-style-type: none"> <li>• Paid member of the editorial board of <i>Cordery on Solicitors</i> (Lexis Nexis)</li> <li>• Paid writer for Law Society publications</li> <li>• Author of <i>Advising a Suspect in a Police Station</i> (Sweet &amp; Maxwell)</li> </ul>
<b>Sir Anthony Hughes</b>	From 1 January 2009 (in capacity as the Vice President of the Criminal Division of the Court of Appeal)	No personal or business interests to declare
<b>Sir David Latham</b>	To 1 January 2009 (in capacity as the Vice President of the Criminal Division of the Court of Appeal)	No personal or business interests to declare
<b>Michael Mettyear</b>	From 5 March 2004 to 4 March 2007. Re-appointed 5 March 2007 to 4 March 2010	No personal or business interests to declare
<b>Peter Neyroud</b>	From 5 March 2004 to 4 March 2008. Re-appointed 5 March 2008 to 4 March 2011	Independent member of the Parole Board Review Panel
<b>Sir Christopher Pitchford</b>	From April 2006 (in capacity as Director of Training Criminal Group, Judicial Studies Board)	No personal or business interests to declare
<b>Teresa Reynolds</b>	From 5 March 2004 to 4 March 2007. Re-appointed 5 March 2007 to 4 March 2010	No personal or business interests to declare
<b>Malathy Sitaram</b>	From 5 March 2004 to 4 March 2009. Re-appointed 5 March 2007 to 4 March 2010	No personal or business interests to declare
<b>Keir Starmer</b>	From 10 November 2008 (in capacity as Director of Public Prosecutions)	No personal or business interests to declare
<b>Sir John Thomas</b>	From 10 October 2008 to 9th October 2011	No personal or business interests to declare
<b>Tim Workman</b>	From 5 March 2004 (in capacity as Senior District Judge)	Member of: <ul style="list-style-type: none"> <li>• Law Society</li> <li>• Magistrates' Association</li> </ul>
<b>Andrew Ashworth</b>	Observer in capacity as Chairman of the Sentencing Advisory Panel	See Register of Interests for the Sentencing Advisory Panel

<b>Christine Stewart</b>	To January 2009, Observer appointed by Secretary of State, Director, Law and Sentencing Policy, Ministry of Justice	No personal or business interests to declare
<b>Helen Edwards</b>	From April 2009, Observer appointed by Secretary of State, Director General, Criminal Justice, Ministry of Justice	No personal or business interests to declare

# Annex B

## Sentencing Advisory Panel: Register of Interests

Name	Appointment	Interests to declare
<b>Andrew Ashworth</b>	Appointed 1 July 1999; re-appointed 1 July 2002; re-appointed 1 July 2005; re-appointed 1 July 2008 to 30 June 2009	Member of: <ul style="list-style-type: none"> <li>• Council member, Justice</li> <li>• Centre for Crime and Justice Studies</li> <li>• Magistrates' Association</li> </ul>
<b>Anthony Ansell</b>	Appointed 1 July 2005 to 30 June 2008; re-appointed 1 July 2008 to 30 June 2011	Honorary member of London Criminal Courts Solicitors' Association
<b>Philip Clegg</b>	Appointed 1 July 2005 to 30 June 2008	No personal or business interests to declare
<b>John Crawforth</b>	Appointed 16 May 2007 to 30 June 2008; re-appointed 1 July 2008 to 30 June 2011	Member of: <ul style="list-style-type: none"> <li>• Greater Manchester Probation Board</li> <li>• Greater Manchester Criminal Justice Board</li> <li>• Probation Chiefs' Association – lead member for sentencing/court issues</li> </ul>
<b>Amritlal Devani</b>	Appointed 1 July 2005 to 30 June 2008 extended until 30 June 2009	Member of Employment Tribunal Associate member of General Medical Council Race Relations Adviser/Assessor, Ministry of Justice
<b>Anne Fuller</b>	Appointed 1 July 1999; re-appointed 1 July 2002; re-appointed 1 July 2005; re-appointed 1 July 2008 to 30 June 2009	Vice President, Magistrates' Association Member of: <ul style="list-style-type: none"> <li>• Disciplinary Panel of the Institute of Chartered Accountants</li> <li>• SOVA (Society of Voluntary Associates)</li> </ul>

<b>Frances Heidensohn</b>	Appointed 1 July 1999; re-appointed 1 July 2002; re-appointed 1 July 2005; re-appointed 1 July 2008 to 30 June 2009	Member of Centre for Crime and Justice Studies Lay chair of appointment committees for the NHS and the London Postgraduate Deanery Patron, Griffin Society. Lay member, General Social Care Council Conduct Committee Chair, General Social Care Council Registration Committee Editor, British Journal of Sociology
<b>David Mallen</b>	Appointed 1 July 1999; re-appointed 1 July 2002; re-appointed 1 July 2005; re-appointed 1 July 2008 to 30 June 2009	No personal or business interests to declare
<b>Michael Morgan</b>	Appointed 1 April 2001; re-appointed 1 July 2002; re-appointed 1 July 2005; re-appointed 1 July 2008 to 30 June 2009	Trustee of Compass (Drug Referral Agency)
<b>Howard Riddle</b>	Appointed 2 August 2004; re-appointed 1 July 2005; re-appointed 1 July 2008 to 30 June 2011	Member of: • Law Society • Magistrates' Association • London Criminal Courts' Solicitors Association Contributing editor to Wilkinson's Road Traffic Offences
<b>John Staples</b>	Appointed 14 July 2003; re-appointed 1 July 2005; re-appointed 1 July 2008 to 30 June 2011	Trustee of Compass (Drug Referral Agency) Chair, Circles of Support and Accountability Steering Group, Yorkshire and Humberside
<b>Joanna Wallace</b>	Appointed 1 July 2005 to 30 June 2008; resigned with effect from April 2008	Member of Fawcett Society
<b>Joan Webster</b>	Appointed 1 February 2001; re-appointed 1 July 2002; re-appointed 1 July 2005; re-appointed 1 July 2008 to 30 June 2009	No personal or business interests to declare

**Christopher Woolley**

Appointed 14 July 2003; re-appointed 1 July 2005 to 30 June 2008 extended until 30 June 2009

Congestion Charge Adjudicator, PATAS

Immigration judge

Member of:

- Law Society
- Criminal Justice Board for South Wales
- QC Selection Panel for England and Wales
- Lord Chancellor's advisory committee for the Welsh Language



# Definitive guidelines

The Council has published the following definitive guidelines to the end of March 2009.

<b>Definitive guideline</b>	<b>Published</b>	<b>Effective from</b>	<b>Revised guideline effective from</b>
Overarching Principles: Seriousness	16 December 2004	4 April 2005	
New Sentences: Criminal Justice Act 2003	16 December 2004	4 April 2005	
Reduction in Sentence for a Guilty Plea	16 December 2004	10 January 2005	23 July 2007
Manslaughter by Reason of Provocation	28 November 2005	28 November 2005	
Robbery	25 July 2006	1 August 2006	
Overarching Principles: Domestic Violence	7 December 2006	18 December 2006	
Breach of a Protective Order	7 December 2006	18 December 2006	
Sexual Offences Act 2003	30 April 2007	14 May 2007	
Fail to Surrender to Bail	29 November 2007	10 December 2007	
Assaults and other offences against the person	20 February 2008	3 March 2008	
Overarching Principles: Assaults on children and Cruelty to a child	20 February 2008	3 March 2008	
Magistrates' Court Sentencing Guidelines (MCSG)	12 May 2008	4 August 2008	
Update 1	15 July 2008	4 August 2008	
Update 2	9 December 2008	5 January 2009	
Causing Death by Driving	15 July 2008	4 August 2008	
Theft and Burglary of a building other than a dwelling	9 December 2008	5 January 2009	
Breach of an Anti-Social Behaviour Order	9 December 2008	5 January 2009	

**Copies of this report may be obtained from:**

Sentencing Guidelines Secretariat  
4th Floor  
8–10 Great George Street  
London  
SW1P 3AE

**Telephone:** 020 7084 8130

**Fax:** 020 7084 8114

or from our **website** at [www.sentencing-guidelines.gov.uk](http://www.sentencing-guidelines.gov.uk)