



JUDICIARY OF
ENGLAND AND WALES

**The President of the Queen's Bench Division
Sir Brian Leveson**

**The Parmoor Lecture
Achieving consistency in sentencing
Thursday 24 October 2013**

Introduction

May I start by thanking you for the invitation to give this, the fifth annual lecture held in memory of Milo Cripps, the fourth Lord Parmoor, a colourful character who clearly lived a wonderfully varied life. While at Oxford and whether to celebrate his birthday or the age of his car, he is said to have filled its radiator with champagne, leaving the University not knowing what he wanted to do. He went on to become a banker, a bookseller dealing in antiquarian books and, most famously a large botanical collection, a traveller and, most important, a staunch supporter of the work of the Howard League for Penal Reform.

I am delighted to be able to use this opportunity to speak to you about the work of the Sentencing Council of which I have been Chairman since late 2009, which was prior to its legislative birth in April 2010. The Sentencing Council is an independent, non-departmental public body of the Ministry of Justice and replaced

the Sentencing Guidelines Council and the Sentencing Advisory Panel: its primary role is to issue guidelines for both magistrates and the Crown Court on sentencing. The Coroners and Justice Act 2009 provides that these guidelines must be followed unless it is in the interests of justice not to do so. We also have statutory responsibilities in relation to research and public confidence and we have taken this remit to launch wide ranging publicity around the process of sentencing.

Sentencing Guidelines – the history

Sentencing guidelines are not new; sentencing decisions of the Court of Appeal gave guidance to judges and, from the 1980s, it became increasingly common for the Court to provide generic advice beyond the limits of the particular case or cases then being decided. The Crime and Disorder Act 1998 created the Sentencing Advisory Panel to provide research advice to the Court of Appeal and the Criminal Justice Act 2003 created the Sentencing Guidelines Council which provided guidelines to which the court had to have regard. Following the explosion in the prison population and the report of Lord Carter of Coles and a report of a committee chaired by Lord Justice Gage, the Sentencing Council with more wide ranging responsibilities amalgamating both earlier bodies.

Sentencing Council

Since it came into being on 6 April 2010, the aims of the Council have been to:

- promote a clear, fair and consistent approach to sentencing – primarily by issuing sentencing guidelines;
- produce analysis and research on sentencing; and,
- work to improve public confidence in sentencing.

Recognising that it would require rather more time than the Lord Chief Justice could spare, he is no longer the Chairman (as he was of the Sentencing Guidelines Council) but rather the President. I have served as the Chairman since the inception of the Council in April 2010 although I was responsible for setting it up following the passage of the legislation in autumn 2009.

As for its membership, the judges are in the majority. There are 8 out of a total membership of the Council of 14 – 2 from the Court of Appeal, 2 High Court judges, 2 circuit judges, a district judge and a magistrate. I believe the balance is correct with representation from across the judicial spectrum allowing for diversity of judicial view points. Judges are the professional sentencers, used to balancing the dictates of the legislation, the guidelines and judgments of the Court of Appeal and fitting that mix into the facts of the case: they have had a professional lifetime, whether as solicitors, barristers, or judges part time and full time, in doing the job. They are in the best position to know what will help judges and magistrates, making use of the expertise available, whether any possible changes to the format would assist the process.

But the six non-judicial members play an equal role on the Council and there is no question of them being over-ridden. They are each

'heavy hitters' in their own fields. They include the Director of Public Prosecutions; the Chief Constable of Surrey Police Force; the Chief Executive of Victim Support; a Professor of Criminology at Oxford University; a former Chief Executive of the Greater Manchester Probation Trust; and a defence solicitor with direct and recent experience of advising clients in police stations and before court on likely sentencing. It is this breadth of view point that has enhanced the work of the Sentencing Council as it has developed its guidelines and let me make it clear that they challenge the judges at the Council vigorously and to real effect: there is no undue deference and, for the avoidance of doubt, we have never proceeded otherwise than by consensus.

Why is all this important? The Council's aims in drafting sentencing guidelines include not only promoting a consistent approach to sentencing, but, as I have said, we also endeavour to improve the public's understanding of the process involved in sentencing offenders and the likely outcomes. In other words, we want to demystify sentencing and get the public to understand what we are doing in their name and why.

In order to ensure that we have a wide range of academic views, the Council is supported by two advisers with a lifetime experience in the field together with a small multi-disciplinary team of civil servants: they make up the Office of the Sentencing Council. This team has a number of specialists in the form of policy advisers, lawyers, an economist, social researchers, statisticians and a communications team. I am immensely proud to say that the talent, commitment and enthusiasm of the team was recognised,

not just by me but publicly, when they won the Guardian Public Service Award for evidenced based policy last year for the Definitive Drugs Guideline. When presenting the award the Observer's Andrew Rawnsley said of this work "*The combination of methods employed from analytical tools, to staff efforts, and the overall complexity of their approach, is deeply impressive. It is thorough, unique and highly innovative.*"

How judges are to use a guideline and when to depart from one

The Coroners and Justice Act 2009 provides a different starting point for the proper consideration of the guidelines to that prescribed by the Criminal Justice Act 2003. Before the 2003 Act, Court of Appeal guidelines were intended to lead judges towards consistent sentencing. Under the 2003 Act, judges were required to "have regard to" the guidelines. The 2009 Act now states that judges "must follow" the guidelines, except when it is in the interests of justice not to do so: I frequently put it that the guidelines define a common approach to sentencing, leaving the eventual outcome to the discretion of the judge based on the facts and circumstances of the case before him/her. Judges are also obliged to give reasons when departing from the guideline.

Guidelines – work to date

The Council has already developed and promulgated five sets of definitive guidelines – for assault, burglary, drugs, allocation, totality and TICs and dangerous dogs offences. We started with assault because the old guideline was much criticised and we

needed a comparatively compact offence group to develop a new approach. We dealt with burglary and drugs because the Sentencing Advisory Panel had issued advice in relation to these offences and we wanted to use it while it remained up to date.

Following consultation, definitive guidelines on sexual offences are due to be published at the end of the year following upon work which has taken us over two years and has been the most difficult piece of work we have undertaken. We will also be publishing a guideline on environmental offences early next year. The Council has very recently finished a consultation on sentencing both individuals and corporate offenders convicted of fraud, bribery and money laundering offences also with a view to publishing a definitive guideline in the spring of next year although it will be foreshadowed in relation to corporate offenders somewhat earlier. Work on theft and health and safety offences is also underway. We welcome suggestions and requests for guidelines from outside organisations and sentencers and have received a number of requests on a variety of topics such as level crossings, feed and food offences and farriery to name but a few.

How a guideline is created

If I may, I would like to outline the process of creating a guideline as there should be no secrets about that. Firstly, the Council identifies its priorities and agrees a work program. The work program might be based on which offence lacks a clear guideline or because we have been required by statute to look at a particular area, guilty pleas is an example of this. The current work on fraud, bribery and money laundering offences is an example of the

Council amending the work program because the Lord Chancellor made a request for us to produce guidelines for sentencing corporate offenders to support its legislation on deferred prosecution agreements intended to follow the US model.

The Council also considers whether a guideline is necessary because the offence is high in volume or where it considers the current guideline needs to be revised.

The next stage is to undertake research, whether this be legal, analytical or through engagement with interested groups and the public, to create an initial draft guideline. I will return a little later to the valuable work of the Council's research team. The Council really values the input of organisations such as the Howard League who can bring their experience to bear in the early stages of development. The sexual offences guideline we are currently finalising is a good example of us seeking assistance from experts in the field as we worked closely with Rape Crisis and organisations supporting victims of trafficking. The research often takes the form of interviews and/or focus groups with victims and members of the public to ascertain their views on appropriate harm and culpability factors and the levels of sentencing they consider appropriate. We have also increasingly relied upon interviews with judges to ascertain the effect of a guideline proposal on sentencing practice. One Crown Court Judge who was interviewed in the early development stages of the sex offences guideline and then again during the consultation period commented:

“I knew what I’ve said [to you] in the past and a number of things I’ve said to you were there in the guidelines in the discussion element and I thought, ‘they’re listening’ and it was clear the groups you had spoken to.”

The guidelines have adopted a new step-by-step approach which the Council believes is easier for judges and magistrates to apply, and, very importantly, easier for the public, including victims and witnesses, to follow. Each guideline includes individually tailored processes for each different type of offence, meaning that they are all self-contained and comprehensive and contained in two or three pages – with no need to refer back and forth to other parts of the guideline or indeed other documents altogether. I hope you agree that this is sensible; it was, in fact, quite a departure from the then existing Crown Court sentencing guidelines.

The Council has returned to first principles of sentencing and opted to focus attention on the two key determinants of seriousness as defined in statute¹ by the Criminal Justice Act 2003, namely harm and culpability. Weighting these two determinants equally in order to reach a specific category of offence within the guidelines represents a different approach from previous guidelines which focussed more on scenarios which judges found restrictive and resulted in offences being effectively shoe-horned into the scenario most closely resembling the case in hand. The Council’s approach allows for a clear structure which can be broadly replicated for all offences. I emphasise, we are not wedded to an exact and limiting structure – some guidelines will require

¹ s.143(1) Criminal Justice Act 2003

slightly different structures, but the principles will remain the same which is important in encouraging a consistent approach.

The structure of a guideline

I will use the assault guideline to illustrate the model of Council guidelines. This approach has been tried across a number of offence types and is now understood and supported by the overwhelming majority of the many whom we have consulted. It consists of a series of steps; for the purposes of this speech, I will summarise only: please go onto the website and read the guideline in detail.

The first step is to determine the offence category. The three are, first, greater harm and greater culpability; second, greater harm and lesser culpability or lesser harm and greater culpability and, third, lesser harm and lesser culpability. At this stage, the court stage does not consider the defendant's previous convictions nor whether he has pleaded guilty or been convicted after trial. The assessment of harm and culpability at step one is based solely on the principal identified factual elements of the offence. Any factors not listed here can be considered at the next step; in that way we avoid double counting features of the offence.

The factors indicating greater harm are three in number. First, injury which is serious in the context of the range of injuries that can be presented for this offence. Injury which is serious in the context of the offence – it is not sufficient for the victim to have an injury which meets the criteria of the offence; it must be serious in

the context of the range of injuries which can occur for that offence; this can include psychological harm. Second, the fact that the victim is particularly vulnerable because of personal circumstances. It will be for the sentencer to assess when a victim comes within this description. An example would be vulnerability to attack because of age, whether extreme youth or being elderly and infirm. A victim of domestic violence could fall into this category if, for example, they had been isolated from family and friends by the offender. Third, sustained or repeated assault on the same victim.

What might constitute lesser harm? Injury which is less serious in the context of the offence – again, this will involve an assessment by the sentencer as to where on the scale of injuries for an offence a particular injury falls.

Turning to culpability, factors indicating higher culpability include statutory aggravating factors such as motivation or hostility based on sexual orientation or disability although, for s. 20 and 47 of the Offences against the Person Act 1861 and common assault not racial or religious motivation because s. 29 of the Crime and Disorder Act 1998 specifically creates an aggravated form of the offence.

Other factors indicating higher culpability are a significant degree of premeditation with the sentencer assessing where on the gradient of premeditation the facts of a particular case lie. Also, the use of a weapon or weapon equivalent; intention to commit more serious harm than actually resulted from offence; deliberately

causing more harm than necessary for the commission of the offence; deliberate targeting of a vulnerable victim; leading role in a group or gang; offence motivated by, or demonstrating, hostility based on the victim's age, sex, gender identity (or presumed gender identity).

Factors indicating lower culpability are lack of premeditation, again as assessed by the sentencer; subordinate role in a group or gang; greater degree of provocation than normally expected; mental disorder or learning disability, where linked to the commission of the offence; excessive self defence

What does the court do where there may be no factors present indicating either higher or lower culpability? The Council believes that information will be available in most if not all cases that will lead the sentencer to conclude there is evidence of either higher or lower culpability, with the discretion ultimately left to the court, bearing in mind, I repeat, that step 2 factors should not be considered in making this decision to avoid any potential for double counting.

Once the court has decided on where the facts fit within the harm and culpability factors it then moves on to identify which one of the three category ranges applies to the offence. Each category has a range of sentences and starting point.

Once the starting point has been identified the sentencer then moves on to consider any additional factual elements providing the context of the offence and any factors relating to the offender

which may result in the sentence moving up or down from the starting point. The guideline sets out the most relevant aggravating and mitigating factors for each offence. Unlike the step 1 factors, this is not an exhaustive list and other factors which are relevant to the offence can be taken into account here.

In addition to the statutory aggravating factors of previous convictions and an offence being committed on bail, the list of factors increasing seriousness includes location and timing of the offence – as discussed above, this could aggravate an offence committed in a domestic violence context – or offences committed at night in public areas. Another aggravating factor is failure to comply with current court orders – limited to current court orders in order to avoid double counting for previous convictions and offences taken into consideration – these are included as an aggravating factor as their general effect is to increase the overall sentence.

Factors reducing seriousness include the fact that the incident was isolated, remorse and previous good character. Also included are determination and/or demonstration of steps taken to address addiction or offending behaviour. This factor will not apply where the offender simply says they are ‘going to’ deal with their addiction/offending behaviour but only where there is evidence that they are actually undertaking steps to deal with these issues. The list also includes age and/or lack of maturity where it affects the responsibility of the offender and the fact that the offender is the sole or primary carer for dependent relatives.

Having considered all these factors the court will need to decide whether it should increase the sentence from the starting point because of the number and type of any aggravating factors and the effect of any mitigating factors which might permit a decrease.

When we think about sentence levels we are not using this as shorthand for custody. The Council believes that community orders are a proper alternative to custody. They are not a 'soft' option and we flag this as a reminder within the guidelines.

I can deal with the remaining steps comparatively briefly. Step Three concerns reduction in sentence for assistance afforded to the prosecution and is a reference to SOCPA arrangements in the Crown Court and other rules of law or practice by which an offender may receive a discounted sentence because of assistance given or offered.

Step Four deals with reductions for a guilty plea. Under the Criminal Justice Act 2003, in determining what sentence to pass on an offender who has pleaded guilty the court should take into account the stage at which, and the circumstances in which it was tendered to the court. The level of the reduction will be gauged on a recommended sliding scale ranging from one third (where the guilty plea was entered at the first reasonable opportunity in relation to the offence for which sentence is being imposed), reducing to one quarter (where a trial date has been set) and to one tenth (for a guilty plea entered at the 'door of the court' or after the trial has begun). The Council will be consulting on guidance for guilty pleas mid way through next year.

Step Five concerns dangerousness and is governed by statute. As you will doubtless be aware, with effect from December 2012, imprisonment for public protection has been abolished so this step needs revision to take account of the new provisions on dangerousness; it raises an interesting question about the extent to which we must revisit the guidelines as the government enacts more and more sentencing ideas.

Step Six deals with totality where the sentencer is dealing with more than one offence and is required to ensure that the final (total) sentence reflects the offender's overall criminality. The Council issued a guideline on Allocation, offences taken into consideration and totality which came into force on 11 June 2012.

Step Seven deals with compensation and ancillary orders. The court must consider making a compensation order in any case where personal injury, loss or damage has resulted from the offence and court must give reasons if it decides not to order compensation.

Step Eight requires the court to explain how it has reached the sentence it has and Step Nine deals with consideration of remand time.

I commend the guidelines to anyone who has not looked at them. We believe that it is possible for anyone, however unversed in the law, to understand how judges go about the task of sentencing in these cases and that the guidelines provide a useful tool for

criminal justice professionals not only to advise clients, victims or concerned members of the public but to allow all to understand how the process works.

Consultation

Let me go back to the preparation of a guideline. Once the Council has agreed a draft, a consultation paper is produced alongside a resource assessment setting out the likely effect of guidelines on resources required for provision of prison places, probation and youth justice services.

The Council consults widely with its statutory consultees (the Lord Chancellor, Justice Select Committee, any other persons the Lord Chancellor or Council deem appropriate), criminal justice professionals, including the Howard League, and the wider public over a minimum of 12 weeks. We have been prepared to issue three types of consultation document – for professionals, for the public and also on-line and have been pleased with the number of responses received so far: they have ranged from just over 100 to the environmental consultation to almost 700 for drugs. These responses are received by letter, email and also via the online questionnaire. We have also held a number of face to face consultation events around the country for each of the offence specific guideline consultations. During the recent consultation for the guideline for fraud, bribery and money laundering offences seven events were held that were co-hosted by relevant interested parties. By collaborating in this way we were able to engage with people who wouldn't necessarily ordinarily know about the

Council's work and to benefit from contributions from a wide range of people.

I would like to stress how significant the consultation exercises are to the Council's deliberations. As a result of its proactive media work, consequent high profile reporting of our work and its online questionnaires, the Council's consultations have reached much larger audiences than those of its predecessor bodies, resulting in significantly higher response rates. The consultations provide an invaluable process for improving the Council's proposals and they are genuine consultations – the Council examines all responses very carefully and does take on board suggestions for improvement where they have merit. For example, in relation to sexual offences, we are grateful to the Howard League for its detailed response to that consultation. Whilst we do not agree on everything and indeed strongly disagree with your interpretation that those guidelines reduce the importance of mitigating factors, it is important for the Council to have as wide a range of views on these areas to stimulate our debates and challenge our views.

More than one consultee has commented with appreciation on the fact that we have demonstrably taken views into account and adjusted our thinking in the light of responses to consultation. *The chairman of the Magistrates' Association sentencing sub group recently responded to a discussion on the sexual offences guideline saying "It just goes to show that the Sentencing Council does listen to consultation responses. Not all government departments or organisations can say that!"*

That is a quote. Forgive me if I do not comment on it.

Once the consultation period has ended the Council considers the responses to the consultation and develops a response paper (which will show how we have thought about what people have said to us) and a definitive version of the guideline which usually has an implementation period of 12 weeks.

Ashworth proposals

The guideline I used to illustrate the Council's approach is of course for offences of violence. This would exclude it from the proposal recently made by Professor Andrew Ashworth in his pamphlet written for the Howard League's 'What if?' series which the Howard League submitted as its response to that consultation. Professor Ashworth promulgates the argument that deprivation of liberty, or in other words a custodial sentence, is disproportionate for those convicted of what he terms 'pure property' offences.

As I have already said, the Council is working on producing guidelines for fraud, bribery and money laundering offences and for theft offences. These would fall under Professor Ashworth's definition of 'pure property' offences. Those of you who looked at the consultation on the fraud, bribery and money laundering offences will not have been surprised that the guidelines include custodial options as well as fines and community orders. So, why did we not also recommend only non-custodial options?

I agree entirely that prison should on the whole be reserved for violent and dangerous offenders. There is rarely much to be gained

from locking up a low level fraudster with a myriad of social problems whether they be addictions, mental health issues, illiteracy or domestic abuse. In many of the sentence ranges for fraud the proposal includes non custodial options and there are many circumstances where that would be an entirely proper sentence. But let me return for a moment to the five purposes of sentencing under section 142 of the Criminal Justice Act 2003.

When passing sentence the court must have regard to:

- (a) the punishment of offenders,
- (b) the reduction of crime (including its reduction by deterrence),
- (c) the reform and rehabilitation of offenders,
- (d) the protection of the public, and
- (e) the making of reparation by offenders to persons affected by their offences

While thinking about those purposes in the context of non custodial sentences what strikes me is that community orders and fines are both sentence types that rely on co-operation. When handed down the hope is they will serve as a proportionate punishment and will deter any further offending. It is not right that a judge will impose a custodial sentence on a thief simply because he has stolen a can of beer; it simply does not happen. What the court will do is look at the level of breaches, the previous offending and consider whether the seriousness of breaching orders of the court and the prolific law breaking does, in the context of the case, warrant custody.

Contrary to the belief in some quarters, judges do live in the real world and do recognise the constellation of entrenched problems many of these offenders have but where an offender fails to comply with a community order they will return to the courts or where they have been sentenced to numerous community orders and continued to offend then what is the court to do? A prolific offender of any sort should be punished as should an offender who has committed a serious offence; it is the question of what is proportionate where I do not think this pamphlet offers an answer. Putting to one side for a moment any arguments about the relative seriousness of violent offences when compared to property offences, let us consider the purposes of sentencing. Should a habitual thief not be taken out of circulation if only for a short time, not to rehabilitate them which although desirable is not very likely, but to provide some respite for the victims of their offending and therefore meet the objectives to reduce crime and to protect the public? Could it also be that custody in these circumstances proves enough of a deterrent to prevent further offending for some offenders?

Neither do I agree with Professor Ashworth that property offences cannot cause serious harm. The Council commissioned research into the impact of online fraud during the development of the consultation which found *'A wide range of emotional and psychological impacts were reported including panic, anger, fear, stress, anxiety, self-blame and shame. Self-blame was one of the most pervasive effects of fraud which could damage participants' opinion of themselves as capable people who could protect*

themselves from harm. There were participants that reported feeling vulnerable, lonely, violated and depressed and in the most extreme cases suicidal as a result of fraud.’²

Property crime can eviscerate the victim – ask the victims of the offending of Bernard Madoff in the United States or the pensioners and others whose lives were devastated by frauds such as those committed by Peter Clowes of Barlow Clowes fame. Thousands of victims lives have been ruined by fraud, people who had worked all their lives lost everything and that harm must not be underestimated simply because it is not physical. At a different level, consider the elderly and vulnerable defrauded out of their life savings by silver tongued confidence tricksters persuading them of the need for utterly unnecessary roof repairs. Our research into online fraud reported this:

Experts in online fraud argued that the long-term impact on participants’ physical health was often not sufficiently recognised, as they had seen elderly victims become withdrawn, cease eating, become ill and sometimes even die within a year or two of experiencing fraud: “Frauds take apart people’s lives and send people into a downward spiral”

Also as part of that research, members of the public and victims of fraud were interviewed and had this to say:

On the whole participants, including those who were elderly themselves, thought that elderly participants were more vulnerable to the impact of online fraud as they were less likely to

² Kerr, J., Owen, R., McNaughton Nicholls, C. and Button, M. (2013) *Research on Sentencing Online Fraud Offences*, Sentencing Council Research Series 01/13, London: Sentencing Council.

be aware of and know how to identify an online fraud attempt due to less familiarity with the internet. Those in much older age groups who may have dementia or other organic mental illness were felt to be vulnerable to 'falling for a scam' due to a lower level of comprehension. Age was also considered to have an impact on a participant's financial circumstances. Participants who were interviewed that were past retirement age and had lost their life savings felt that their age made them less able to recover financially from the impact of fraud.

In addition to the impact on individual victims the courts cannot overlook the wider impact on society of any crime – in the case of fraud it is estimated that the cost to the economy is £73 billion each year.

Public Confidence

Another of the Council's aims relates to improving public confidence in sentencing. This is perhaps the Council's biggest challenge as it is a matter of changing often firmly held views about the way in which criminal justice operates. It is one thing to draft and publish a piece of work, confident in the belief that the courts and practitioners will duly accept and implement it. It is quite another to alter the understanding and the mindset of the general public through the same piece of work.

The findings of various surveys often report that members of the public believe that sentencing is lenient. This is frequently as a result of low levels of knowledge of the criminal justice system. However, what is clear is that when the public are given details of

criminal cases and are made aware of the process that judges and magistrates follow when sentencing, the public's sentencing decisions are much closer to the sentences actually passed and in some cases are more lenient.

This is particularly well illustrated by the results recorded in the exercise run by the Ministry of Justice called 'You be the Judge'. Prior to becoming involved in the Sentencing Council I had pioneered a community relations exercise introducing You be the Judge at local court events. Now, 'You be the Judge' is an online resource which enables people to hear the facts of a case from both prosecution and defence, and reach their own sentence. The approach of the sentencing judge is then revealed and explained. It is an excellent tool for giving members of the public a real insight into what the Council believes to be the three dimensional nature of sentencing, rather than the often very one dimensional nature made out in the some reporting of crime.

The Council has held 2 sentencing competitions for aspiring law professionals, to raise awareness of our work and to provide them with an opportunity to take part in the thinking behind the sentencing process.

The Council is being proactive in working with the media and engaging with the public, as it is vital that the public understands what judges do in their name and why. We have increased media coverage of sentencing guidelines through a deliberate strategy to engage with the media, issuing press releases, undertaking briefings with journalists and offering spokespeople for interviews

wherever possible. The media increasingly call our office asking for comments on all manner of emerging sentencing stories and the launch of a guideline often attracts attention on television, radio, print and online.

The Council is also working with a range of victims organisations to increase understanding of sentencing among victims and witnesses. We worked with Victim Support to produce a short animated film to explain the basics of sentencing to victims. The aim is to provide victims and witnesses with a better understanding of the types of sentences which are available to a court and the factors that judges and magistrates take into account when deciding individual sentences. This film is available on our website and the Victim Support website and their volunteers at court will have material to help them explain the film's content. It has been viewed over 6,000 times.

Research and Analysis

The Council has a very real role to play in undertaking research and analysis as it is required not only to report on the resource impact of the guidelines it drafts and issues, but also to monitor their use.

The Council can also be asked by government to assess the impact of policy and legislative proposals when required. That role is particularly interesting; legislation comes at a cost and it is vital that the true cost of proposals is publicly foreshadowed so that Parliament understands that this cost must be met. While the

Legal Aid, Punishment and Sentencing of Offenders Bill was going through parliament, under this provision, the Council was asked to assess the resource impact of increasing the length of a suspended sentence order from 12 months to two years. In order to do this the Council undertook some research with judges to understand how they currently use suspended sentence orders and under what circumstances they might make use of the proposed provisions.

That brings me to the Crown Court Sentencing Survey which started in October 2010 across all Crown Court centres in England and Wales. The survey takes the form of a short form that judges in the Crown Court are asked to complete every time they pass sentence. The form asks for information about the principal offence for which the offender is being sentenced identifying the guideline category, the aggravating and mitigating features, the number of relevant previous convictions, when any plea of guilty was entered and the allowance for that plea and other details. Its purpose is, for the first time, to understand how guidelines are being used and to inform the Council about their effect – whether they are working to achieve a consistent approach to sentencing.

Aggregate level information from the survey has been published to help improve public confidence that judges are sentencing rationally, it has been used to determine departures from the Council assault, drugs and burglary guideline ranges. The Council also continue to use it internally to improve the resource assessments it produces and to help in the development of guidelines.

More recently, the Council have used the survey results to carry out in-depth statistical analysis of the assault guideline. The survey data has been invaluable in quantifying consistency in sentencing. Improving consistency in sentencing is one of the primary goals of producing the guidelines and so being able to produce empirical studies in this area is a big step forward. The results of the analysis suggest that the guideline is being used in the ways anticipated by the Council and indicate that there is an appropriate degree of consistency across Crown Court centres in the way in which the guidelines are being applied. During 2011, the results point to an increase in consistency in sentencing for assault offences; we have had a paper published on these findings in the British Journal of Criminology.

The Council published of its third set of results in May 2013 which looks at the data collected during 2012. Results have also been presented in the Council's three annual reports that are laid before Parliament. Unsurprisingly, the results show that judges sentence rationally in that offenders are more likely to get a custodial sentence and be sentenced for longer the more serious the crime is. Similarly the cases with more aggravating factors also attract longer sentences. The latest bulletin also shows that to date very few sentences for assault, burglary and drugs offences have departed from the Council's guidelines. If any of you are interested in looking at this in more detail, all these documents can be found on the Sentencing Council's website www.sentencingcouncil.org.uk

CLOSE

I hope that I have been able to give you some idea of the Council's aims, achievements and future work in the time I have had. I would like to thank you for your attention and of course I am very happy to answer any questions which you may have.

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