

Sentencing Academy News

June / July 2022

The Use of Deferred Sentencing in England and Wales: A Review of Law, Guidance and Research

We have recently published a new report exploring the use of deferred sentencing in England and Wales. The Ministry of Justice's 2020 White Paper, *A Smarter Approach to Sentencing*, expressed an intention to encourage greater use of deferred sentencing and our paper reviews the relatively limited evidence about how this power to defer sentencing is currently used in practice. The report is authored by Professor Julian V. Roberts, Dr Elaine Freer and Dr Jonathan Bild and we are very grateful to the Barrow Cadbury Trust for funding this project.

The report is available [here](#).

Mental Disorder, Disability and Sentencing: A Review of Policy, Law and Research

We have also published a new paper by Dr Ailbhe O'Loughlin that examines the issues arising from sentencing offenders with mental disorders, disabilities or impairments. This paper considers the distinct considerations that arise in these cases and explores the alternatives to custody available at sentencing that allow sentencing courts to divert convicted offenders away from punishment in prison and, where appropriate, towards treatment in the mental health system or in the community.

The report is available [here](#).

Other News

Justice Committee Inquiry into 'Public Opinion and Understanding of Sentencing'

The House of Commons Justice Committee has launched an inquiry into public

opinion and understanding of sentencing. It will examine the public's understanding of the current approach to sentencing in England and Wales, investigate how the public access information on sentencing and barriers to improving public awareness on how sentencing works, and will also consider public opinion on sentencing, including the extent to which public opinion should inform sentencing policy and practice. This inquiry follows the publication of our own report in this area earlier this year, *Public Knowledge of Sentencing Practice and Trends* (available [here](#)).

Further details on the inquiry can be found [here](#) and the deadline for submissions has recently been extended to 22 August 2022.

Sentencing Council Round-up

The Sentencing Council has launched two new consultations, one covering the offence of the sale of knives etc to persons under 18 and the other covering the most serious motoring offences. The new motoring offences guideline will replace the existing guideline that was published by the Council's predecessor body, the Sentencing Guidelines Council, in 2008 and will update the format to bring it into line with other Council guidelines. The new motoring offences guideline will take account of Parliament's recent raising of the maximum sentence for the offences of causing death by dangerous driving and causing death by careless driving whilst under the influence of drink or drugs to life imprisonment, and also cover some new offences that have been created since the publication of the previous guideline.

The Sentencing Council has also recently published its annual report for 2021/22 and announced that Lord Justice William Davis has been appointed as the new Chairman of the Sentencing Council, succeeding Lord Justice Holroyde on 1 August 2022.

The consultation for the offence of sale of knives etc to persons under 18 guideline is open until 24 August 2022 and is available [here](#).

The consultation on the new motoring offences guideline is open until 29 September 2022 and is available [here](#).

The Sentencing Council Annual Report 2021/22 is available [here](#) and the announcement of its new Chairman is available [here](#).

'Problem-Solving Courts' Pilots

The Ministry of Justice has announced the pilot of three 'Problem-Solving Courts' as part of its wider Drugs Strategy. The pilots are taking place at Liverpool Crown Court, Teesside Crown Court and Birmingham magistrates' court and will focus on female offenders with complex needs, including substance misuse. Proposed as an alternative to a short custodial sentence, offenders will see the same judge at least once a month, have intense support and supervision from the Probation Service, and have access to additional services tailored to their individual needs.

The announcement of this pilot scheme is available [here](#).

Other Publications

Making Sense of Sentencing: Doing Justice to both Victim and Prisoner

The Independent Commission into the Experience of Victims and Long-Term Prisoners, chaired by The Right Reverend James Jones KBE, has published its final report and has made a number of key recommendations. Finding that the current system serves neither victims or prisoners well, the Independent Commission calls for a 'fundamental reassessment of the policy and practice of sentencing for the most serious of crimes in the form of a wide-ranging national debate'. It specifically recommends: (i) a review by the Law Commission of the sentencing framework for serious offences; (ii) strengthening the role for the Sentencing Council in promoting better public understanding of sentencing to build greater public confidence in sentencing policy; (iii) a Citizens' Assembly on sentencing policy; and (iv) a structured consideration by politicians across all parties, prompted and stimulated by the Justice and Home Affairs Select Committees, to debate the purpose, length, and content of prison sentences.

The report is available [here](#).

Should Media Coverage Affect Sentencing?

An interesting new report by the Sentencing Advisory Council in Victoria considers the role of adverse media coverage as a sentencing factor. Identifying this issue as an *extra-curial punishment* (something that has a detrimental impact on an offender in addition to the effects of the punishment imposed by the court), the report examines the case law primarily from Australian jurisdictions and finds an unsettled picture in relation to whether – and to what extent – adverse media coverage and its accompanying public opprobrium serves as a mitigating factor at sentencing. This inconsistency in approach leads the report to conclude that Australian courts would benefit from further guidance on the issue.

The report is available [here](#).



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