



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12

#### SENTENCING

#### CHAPTER 1

##### GENERAL PROVISIONS ABOUT SENTENCING

##### *Sentencing and allocation guidelines*

#### **167 The Sentencing Guidelines Council**

- (1) There shall be a Sentencing Guidelines Council (in this Chapter referred to as the Council) consisting of—
  - (a) the Lord Chief Justice, who is to be chairman of the Council,
  - (b) seven members (in this section and section 168 referred to as “judicial members”) appointed by the Lord Chancellor after consultation with the Secretary of State and the Lord Chief Justice, and
  - (c) four members (in this section and section 168 referred to as “non-judicial members”) appointed by the Secretary of State after consultation with the Lord Chancellor and the Lord Chief Justice.
- (2) A person is eligible to be appointed as a judicial member if he is—
  - (a) a Lord Justice of Appeal,
  - (b) a judge of the High Court,
  - (c) a Circuit judge,
  - (d) a District Judge (Magistrates' Courts), or
  - (e) a lay justice.
- (3) The judicial members must include a Circuit judge, a District Judge (Magistrates' Courts) and a lay justice.

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- (4) A person is eligible for appointment as a non-judicial member if he appears to the Secretary of State to have experience in one or more of the following areas—
  - (a) policing,
  - (b) criminal prosecution,
  - (c) criminal defence, and
  - (d) the promotion of the welfare of victims of crime.
- (5) The persons eligible for appointment as a non-judicial member by virtue of experience of criminal prosecution include the Director of Public Prosecutions.
- (6) The non-judicial members must include at least one person appearing to the Secretary of State to have experience in each area.
- (7) The Lord Chief Justice must appoint one of the judicial members or non-judicial members to be deputy chairman of the Council.
- (8) In relation to any meeting of the Council from which the Lord Chief Justice is to be absent, he may nominate any person eligible for appointment as a judicial member to act as a member on his behalf at the meeting.
- (9) The Secretary of State may appoint a person appearing to him to have experience of sentencing policy and the administration of sentences to attend and speak at any meeting of the Council.
- (10) In this section and section 168 “lay justice” means a justice of the peace who is not a District Judge (Magistrates' Courts).

### **168 Sentencing Guidelines Council: supplementary provisions**

- (1) In relation to the Council, the Lord Chancellor may by order make provision—
  - (a) as to the term of office, resignation and re-appointment of judicial members and non-judicial members,
  - (b) enabling the appropriate Minister to remove a judicial member or non-judicial member from office on grounds of incapacity or misbehaviour, and
  - (c) as to the proceedings of the Council.
- (2) In subsection (1)(b) “the appropriate Minister” means—
  - (a) in relation to a judicial member, the Lord Chancellor, and
  - (b) in relation to a non-judicial member, the Secretary of State.
- (3) The validity of anything done by the Council is not affected by any vacancy among its members, by any defect in the appointment of a member or by any failure to comply with section 167(3), (6) or (7).
- (4) The Lord Chancellor may pay—
  - (a) to any judicial member who is appointed by virtue of being a lay justice, such remuneration or expenses as he may determine, and
  - (b) to any other judicial member or the Lord Chief Justice, such expenses as he may determine.
- (5) The Secretary of State may pay to any non-judicial member such remuneration or expenses as he may determine.

## **169 The Sentencing Advisory Panel**

- (1) There shall continue to be a Sentencing Advisory Panel (in this Chapter referred to as “the Panel”) constituted by the Lord Chancellor after consultation with the Secretary of State and the Lord Chief Justice.
- (2) The Lord Chancellor must, after consultation with the Secretary of State and the Lord Chief Justice, appoint one of the members of the Panel to be its chairman.
- (3) The Lord Chancellor may pay to any member of the Panel such remuneration or expenses as he may determine.

## **170 Guidelines relating to sentencing and allocation**

- (1) In this Chapter—
  - (a) “sentencing guidelines” means guidelines relating to the sentencing of offenders, which may be general in nature or limited to a particular category of offence or offender, and
  - (b) “allocation guidelines” means guidelines relating to decisions by a magistrates' court under section 19 of the Magistrates' Courts Act 1980 (c. 43) as to whether an offence is more suitable for summary trial or trial on indictment.
- (2) The Secretary of State may at any time propose to the Council—
  - (a) that sentencing guidelines be framed or revised by the Council—
    - (i) in respect of offences or offenders of a particular category, or
    - (ii) in respect of a particular matter affecting sentencing, or
  - (b) that allocation guidelines be framed or revised by the Council.
- (3) The Council may from time to time consider whether to frame sentencing guidelines or allocation guidelines and, if it receives—
  - (a) a proposal under section 171(2) from the Panel, or
  - (b) a proposal under subsection (2) from the Secretary of State,must consider whether to do so.
- (4) Where sentencing guidelines or allocation guidelines have been issued by the Council as definitive guidelines, the Council must from time to time (and, in particular, if it receives a proposal under section 171(2) from the Panel or under subsection (2) from the Secretary of State) consider whether to revise them.
- (5) Where the Council decides to frame or revise sentencing guidelines, the matters to which the Council must have regard include—
  - (a) the need to promote consistency in sentencing,
  - (b) the sentences imposed by courts in England and Wales for offences to which the guidelines relate,
  - (c) the cost of different sentences and their relative effectiveness in preventing re-offending,
  - (d) the need to promote public confidence in the criminal justice system, and
  - (e) the views communicated to the Council, in accordance with section 171(3)(b), by the Panel.
- (6) Where the Council decides to frame or revise allocation guidelines, the matters to which the Council must have regard include—

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- (a) the need to promote consistency in decisions under section 19 of the Magistrates' Courts Act 1980 (c. 43), and
  - (b) the views communicated to the Council, in accordance with section 171(3)(b), by the Panel.
- (7) Sentencing guidelines in respect of an offence or category of offences must include criteria for determining the seriousness of the offence or offences, including (where appropriate) criteria for determining the weight to be given to any previous convictions of offenders.
- (8) Where the Council has prepared or revised any sentencing guidelines or allocation guidelines, it must—
- (a) publish them as draft guidelines, and
  - (b) consult about the draft guidelines—
    - (i) the Secretary of State,
    - (ii) such persons as the Lord Chancellor, after consultation with the Secretary of State, may direct, and
    - (iii) such other persons as the Council considers appropriate.
- (9) The Council may, after making any amendment of the draft guidelines which it considers appropriate, issue the guidelines as definitive guidelines.

#### **171 Functions of Sentencing Advisory Panel in relation to guidelines**

- (1) Where the Council decides to frame or revise any sentencing guidelines or allocation guidelines, otherwise than in response to a proposal from the Panel under subsection (2), the Council must notify the Panel.
- (2) The Panel may at any time propose to the Council—
- (a) that sentencing guidelines be framed or revised by the Council—
    - (i) in respect of offences or offenders of a particular category, or
    - (ii) in respect of a particular matter affecting sentencing, or
  - (b) that allocation guidelines be framed or revised by the Council.
- (3) Where the Panel receives a notification under subsection (1) or makes a proposal under subsection (2), the Panel must—
- (a) obtain and consider the views on the matters in issue of such persons or bodies as may be determined, after consultation with the Secretary of State and the Lord Chancellor, by the Council, and
  - (b) formulate its own views on those matters and communicate them to the Council.
- (4) Paragraph (a) of subsection (3) does not apply where the Council notifies the Panel of the Council's view that the urgency of the case makes it impracticable for the Panel to comply with that paragraph.

#### **172 Duty of court to have regard to sentencing guidelines**

- (1) Every court must—
- (a) in sentencing an offender, have regard to any guidelines which are relevant to the offender's case, and

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- (b) in exercising any other function relating to the sentencing of offenders, have regard to any guidelines which are relevant to the exercise of the function.
- (2) In subsection (1) “guidelines” means sentencing guidelines issued by the Council under section 170(9) as definitive guidelines, as revised by subsequent guidelines so issued.

### **173 Annual report by Council**

- (1) The Council must as soon as practicable after the end of each financial year make to the Ministers a report on the exercise of the Council’s functions during the year.
- (2) If section 167 comes into force after the beginning of a financial year, the first report may relate to a period beginning with the day on which that section comes into force and ending with the end of the next financial year.
- (3) The Ministers must lay a copy of the report before each House of Parliament.
- (4) The Council must publish the report once the copy has been so laid.
- (5) In this section—
  - “financial year” means a period of 12 months ending with 31st March;
  - “the Ministers” means the Secretary of State and the Lord Chancellor.