

# Judicial Communications Office

Embargoed until 00.01 on Thursday 1 July 2010

## **LORD CHIEF JUSTICE PUBLISHES JUDICIAL REPORT ON SENTENCING GUIDANCE**

The Lord Chief Justice, Sir Declan Morgan, today published a report which identifies ways to enhance consistency in sentencing and which he believes should increase public confidence in that often difficult task.

Announcing the publication he said:

“The judiciary have been looking at the process by which guidance is available to help judges at all tiers when sentencing offenders. Our aim is to increase consistency in sentencing as far as that is possible, while recognising that the facts in cases can vary enormously for the same charge. We also want the public and media to be able to access the guidance so that they can see the range of sentences available to judges.”

Since taking up office the Lord Chief Justice has had meetings with a range of individuals and groups. It is clear to him from these contacts that sentencing is an area that causes much interest and, on occasion, concern among the public and their representatives, whether elected or in voluntary and community groups. He wants the judiciary to play their role in developing sentencing practice while recognising the role of the Minister of Justice and the Assembly in developing sentencing policy whether in terms of the statutory sentencing framework or other initiatives.

# Judicial Communications Office

In the Autumn of 2009 the Lord Chief Justice convened a Working Group of judges from across the criminal courts in Northern Ireland to consider how sentencing guidance was currently provided to the judiciary. The purpose was to assess what, if any, improvements could be made to the judicial approach to the task as well as looking at the way in which information was made available to the public.

The report of the Working Group, which is published today, contains a number of recommendations to assist the judiciary and the legal profession in the approach to sentencing in the criminal courts. One of the most far reaching recommendations addresses the way in which guidance is made available. At present, guideline cases can only be produced by the Court of Appeal on offences which come before the Court. Under the new arrangements the judiciary will be able to identify those areas in which guidance is required. These will form a priority list. Judges hearing cases in priority areas in the first instance (at magistrates' courts or Crown Court level) will then be asked to prepare written judgments which can be used as guidance by other courts. The provision of guidance will be backed up by training from the Judicial Studies Board.

The new approach has two significant advantages. First, the judiciary will be able to take a strategic view of those areas in which guidance is required. Second, the preparation of guidance will be more responsive to the need identified by the judiciary and the public.

The Lord Chief Justice will unveil his initial list of priority areas in September and will invite views from the public and representative groups on other areas which might be included in the list. Sentencing guidance will then be produced in the listed areas when the next relevant case comes before a court. Judgments will be published on the Judicial Studies Board website ([www.jsbni.com](http://www.jsbni.com)) to improve the breadth and availability of guidance.

# Judicial Communications Office

The Lord Chief Justice has accepted the recommendations of the working group in their entirety. He said:

“I anticipate that these proposals will make a significant contribution to the work of the judiciary in the difficult and sensitive area of sentencing. I hope that they will also aid the public’s access to and understanding of the sentencing process. I think that this is a measured and proportionate approach in the circumstances of Northern Ireland. I know that the Minister, as he consults on possible statutory options for guidance on sentencing, recognises the value of this package of measures.”

The proposals will be implemented over the coming months.

# Judicial Communications Office

## NOTES TO EDITORS

The full report will be published on the Northern Ireland Courts and Tribunals Service website ([www.courtsni.gov.uk](http://www.courtsni.gov.uk)). An embargoed copy is being supplied to editors with this press release.

The judicial Working Group was chaired by Lord Justice Girvan. The membership was:

- Mr Justice Hart
- Judge Burgess, Recorder of Belfast
- Presiding District Judge (Magistrates' Courts) Bagnall

Its terms of reference were to:

- Explore if there are ways of enhancing consistency in sentencing;
- Review the adequacy of existing arrangements relating to the reporting, collation and distribution of sentencing decisions and guideline cases;
- Consider the practicability and appropriateness of enhancing the pool of information and statistical information relevant to the determination of appropriate sentences;
- Consider whether there is scope for improving research facilities to assist sentencing judges;
- Consider whether an advisory panel could usefully and properly provide advice on sentencing and if so in what respect and subject to what limitations; and
- Make recommendations accordingly.

# Judicial Communications Office

The recommendations of the Working Group are:

- The establishment of a judicial oversight group to monitor and consider the provision of guidance for sentencers;
- The publication each year of a list of priority areas in which sentencing guidelines and guidance should be developed during that year;
- The Court of Appeal should state expressly in a judgment whether it is a sentencing guideline;
- Where there is no guideline on a priority area in the Crown Court, the Court of Appeal should seek opportunities to give guidance to sentencers in cases on related areas;
- Judges hearing cases in priority areas in the first instance should prepare written judgments which can be used as guidance by other courts. Preparation of these judgments may be assisted by the parties to the case and by research assistance from the Office of the Lord Chief Justice if required.
- Guideline and guidance judgments should be published on the Judicial Studies Board website;
- The Judicial Studies Board website should be updated and consideration given to modernisation to maximise usability;
- There should be an increase in the use of interactive sentencing workshops by the Judicial Studies Board for sentencers at appropriate tiers to address priority areas;
- Consideration should be given to the suitable use of statistics on social trends in guideline and guidance cases;
- There should be a training event for the judiciary on the new developments and their role in putting them in practice.

# Judicial Communications Office

## **The Sentencing Process in Northern Ireland**

Sentencing decisions in Northern Ireland are made within a framework of sentencing policy which is set by the Assembly. It has the responsibility of providing in legislation the maximum and, in some cases, the minimum sentences appropriate for each offence. Within these boundaries the judiciary decide on the individual sentence in each case. In doing so, the judiciary will pass a sentence which is tailored to the individual facts of the case taking account of the culpability or responsibility of the offender, the effect on the victim, the individual circumstances of the offender and the protection of the public.

A wide and increasing range of factors must be taken into account before any decision on the appropriate sentence in an individual case can be made – these include possible aggravating and mitigating factors, background information on the offender, the impact on the victim, and the growing array of disposals available to sentencers. Often reports are commissioned which need to be considered. This is a complex set of considerations for sentencers. Sentencing in individual court cases must be a matter for the independent judiciary – this is a fundamental principle of the criminal justice system in the UK and Ireland. The objectives of sentencing systems are appropriateness, consistency and transparency. Similar crimes committed in similar circumstances by offenders whose circumstances are similar should attract similar sentences. These proposals aim to enhance these objectives in Northern Ireland.

# Judicial Communications Office

## Sentencing Guidelines Council

The Hillsborough Agreement of 5 February 2010 suggested that a future Minister of Justice should consider the establishment of a sentencing guidelines council. The judicial Working Group considered the sentencing guidelines arrangements in other jurisdictions including England and Wales and Scotland. It differentiated Northern Ireland on the basis that it is a small jurisdiction with legally qualified judges at all tiers. The Group recognises that a decision on a Sentencing Guidelines Council for NI is ultimately a matter for the Assembly. The Minister of Justice has announced that he will be publishing a consultation document on the topic later in the year which will look at what might be added to the current system.

The Working Group concludes that its proposals are flexible, proportionate as to cost and is suited to the circumstances here. The Group considers that it retains the necessary degree of flexibility and embodies the values of consistency and transparency which are at the heart of a good sentencing system.

ENDS

[This report can be viewed at the NI Courts and Tribunals Service website using this link.](#)

If you have any further enquiries about this or other court related matters please contact:

Alison Houston  
Judicial Communications Officer  
Lord Chief Justice's Office  
Royal Courts of Justice  
Chichester Street  
BELFAST  
BT1 3JF  
Telephone: 028 9072 5921  
Fax: 028 9023 6838  
E-mail: [alisonhouston@courtsni.gov.uk](mailto:alisonhouston@courtsni.gov.uk)

# Judicial Communications Office

## Sentencing the guilty

### Issues for the judge to consider

