



Sentencing Council: Drug Offences Guideline consultation

Key points from consultation with members of Revolving Doors Agency's National Service User forum

13 June 2011

On 13 June 2011, seven members of Revolving Doors Agency's National Service User Forum met with the Sentencing Council in order to give their views on the proposed sentencing guidelines for drug offences. These are the key points made by Forum members in this discussion.

Permitting premises to be used

Hijack: Participants spoke of experiences of their property being taken over by aggressive dealers and users who they were unable to make leave. This led to both increased drug use by the victim and the eventual loss of tenancy. This experience is not unusual. Vulnerable drug users and people (often women) whose partners are drug users are particularly at risk from this experience.

While we welcome the inclusion of „involvement due to pressure, intimidation or coercion“ and „offender“ s vulnerability exploited“ in factors reducing seriousness, we recommend that „involvement through hijack of property“ or similar be added to „factors indicating lower culpability“ .

Possession offences

First offences: First offences should be given a conditional discharge.

Signposting: The court should play a role in signposting offenders to where they can get help.

Removal of distinction in amounts in possession offences: Participants strongly supported the proposal to remove the distinction between different amounts for possession. This was because people with a higher tolerance may carry a larger amount than occasional users, and because the amount carried would depend on the time of day.

Fines: Fines were felt not to be a strong source of deterrent. For those on benefits they can push people further in to debt and do not help address the reasons for offending.

Implementing them is expensive for the courts and benefit agencies. For those who are not working, fines should be replaced by conditional discharges and low level community orders.

Medicinal purposes: Where it is proven that the offenders is using drugs for medicinal purposes, they should receive a less severe sentence.

Possession in prison: Several points were made which suggested a need to amend the separate and severe category of possession in prison:

- Participants spoke of experiences of respectable-looking prisoners being forced to carry drugs in prison as they are less likely to be suspected or caught
- Prisoners tend to stay away from cannabis due to easy detection of use. This leads them to using harder drugs.
- There was a general consensus that being given extra time in prison would not deter offenders. It would simply create an extra market by having prisoners in custody for longer.
- It was felt that a more effective punishment would be the removal of privileges, although there was awareness that this is an internal response.

Supply offences

Social supply: Participants agreed with current practice that offenders are not generally sentenced to custody for social supply offences. However there was concern that the new guidelines may result in the up-tariffing in situations where offenders make a small profit to cover their costs when supplying to associates. We recommend that the description of subordinate role is amended from “absence of any financial gain, for example joint purchase for no profit” to “none or very little financial gain, for example joint purchase for minimal profit”.

Drug mules: Participants strongly supported the reduction in starting point for sentencing of drug mules from 10 to 6 years” custodial sentence.

Range in sentences: Participants were concerned that each sub-category of offence included a small range of sentences, meaning there is little scope for reducing sentence according to mitigating circumstances. The Sentencing Council advised that there was nothing to stop judges going outside this range. We recommend that this flexibility is emphasised in the guidelines.

Supply to a prisoner: Participants spoke of personal experience of being pressurised to bring drugs in to prisons when visiting a partner. They felt that in most cases where people bring drugs in to prison they have been pressured. They felt these offenders should be looked at more leniently.

Production/cultivation

Participants were concerned that illegal immigrants are often forced to work in cultivation operations, and recommended that they should not be sentenced to custody.