



CBA Response to Sentencing Guidelines Council

Consultation on Breach Offences

9th February 2017

The CBA is grateful to the Sentencing Council for granting an extension to the time for submitting its response to the Consultation Paper.

The CBA makes no comments on Sections 7-12.

In relation to sections 2-6, the CBA is in broad agreement with Professor Padfield, who has kindly shared her response with us. There is no need to repeat the points in her response.

We take the view that the Guidelines are too concerned with punishment for breaches, and have not given sufficient guidance to Courts on how to approach the individual circumstances of offenders.

We think that the Guidelines omit an important consideration, namely that many of the people who breach Community Orders, Suspended Sentence Orders, Post Sentence Supervision Orders and Bail, are people whose lives are chaotic and who are less likely to behave rationally when confronted with unfamiliar instructions. We are concerned that in some cases, inappropriate community orders unintentionally set people up to fail. Therefore, the Court should not move, without guidance, directly from finding that there has been a breach to punishment for the breach. There should be guidance on just what information must be made available to Courts in breach proceedings.

We acknowledge that responsibility for sentencing policy lies with the appellate Courts and ultimately Parliament, but we take the view that the imposition of prison sentences for breaches should be a matter of last resort. We bear in mind that short prison sentences give the authorities little scope for work to rehabilitate offenders, and even set them back. Their value is likely to be limited to purely punitive responses to breaches of community orders.

We would therefore respectfully suggest that the guidance should include advice to investigate in depth the reasons for the breach, including the offender's background circumstances, and it should be made explicit that custody is to be used only as a last resort in cases where there is a proven risk that the offender will cause harm in the community.