

## **UNDULY LENIENT SENTENCE APPEALS – INSTRUCTIONS AND TEMPLATE FOR PROSECUTION COUNSEL**

Counsel will know that there is a mandatory time limit of 28 days in which to apply for a reference. If counsel takes the view that the sentence should be appealed he/she must contact the CPS unit manager as a matter of urgency to discuss the matter and agree time scales.

Counsel will need to draft an advice in the format set out hereunder and ensure that the following issues are carefully considered.

The following headings set out issues to be considered:

### **1. SENTENCE (In the event of a guilty plea)**

- Any relevant discussion as to plea or sentence with judge in chambers or open court with particular attention paid to the stance taken by the prosecution.
- Any relevant discussion with the defence as to how the facts were to be opened.
- Any basis of plea.
- The history of the case, particularly the date of and the stage at which the plea or pleas were entered – if an offender pleaded guilty it is important to know if on an earlier occasion the offender had pleaded not guilty to the same count.
- Any comments made by judge during course of opening or mitigation relevant to sentence.
- Full note of the sentencing remarks, including any ancillary orders.

### **2. FACTS**

- How the case was opened.
- Whether the counts on the indictment were expressed and accepted to be specimens.

#### **(in the event of a conviction following trial)**

- How the case was opened to the jury.
- Whether the offender gave evidence & called other evidence (if so what was its nature e.g. witnesses as to fact or character evidence).
- Whether the evidence left to the jury differed to the evidence in the witness statements.
- Whether the judge expressed any views relevant to sentence in the course of the trial or the summing up.

### **3. AGGRAVATING FEATURES**

### **4. SUMMARY OF THE MITIGATION & MITIGATING FEATURES**

### **5. ANTECEDENTS**

- Offender's date of birth.
- Summary of any text, victim personal statement, personal letter from the offender, character evidence/references, pre-sentence report, psychiatric or medical report or other documents relevant to sentence.
- Any convictions.

## **6. SENTENCING RANGE**

- Any sentencing authorities to which reference was made.

## **7. MISCELLANEOUS**

- Evidence, submissions & findings during any Newton hearings (and a full note thereof).

## **8. CONCLUSION**

- The reasons why it is considered that the sentence is unduly lenient and the range of sentence which it is suggested should have been applied.

In all cases:

- Detail of any other offences & offenders dealt with on the same occasion and sentence.
- Name of Crown Court & sentencing judge.
- Details of trial/plea counsel's chambers address & telephone number, mobile telephone & email address.

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