

MEETING OF THE SCOTTISH SENTENCING COUNCIL
09 DECEMBER 2022
PARLIAMENT HOUSE, EDINBURGH
MINUTES

NOTE: this meeting was inquorate. The members present agreed to proceed with the meeting, and to make recommendations requiring the approval of the Council, in terms of the Council's standing order 3.12.

Members present: Lady Dorrian, the Lord Justice Clerk (Chair)
Lord Matthews (judicial member)
Summary Sheriff Amel Elfallah (judicial member)
Susan Fallone JP (judicial member)
Lindsey Miller (prosecutor member)
Dr Hannah Graham (lay member)

Secretariat: David Dickson (secretary)
Andrew Bell (principal research officer)
David Ross (principal policy officer - corporate)
Valerie MacGregor (principal policy officer - engagement)
Caroline Bellinger (communications manager)
Richard Smith (business manager)
Dr Nicole Vidal (researcher)

Apologies: Sheriff Principal Craig Turnbull (judicial member)
Sheriff Iain Fleming (judicial member)
Louise Arrol KC (advocate member)

1. PROCEEDINGS

Item 1.1: Introduction and welcome

1. The Chair opened the meeting and noted that apologies had been received from Sheriff Principal Turnbull, Sheriff Fleming, and Louise Arrol. This meant that only six members were present. As the quorum is seven members, of whom at least three must be non-judicial members, the meeting was inquorate.
2. In accordance with paragraph 3.12 of the standing orders, the members present agreed to proceed with the meeting and consider the items on the agenda, noting that the recommendations reached would be put to the Council using the procedure for consideration by correspondence.

ACTION POINT

AP1 **Secretariat to carry out the necessary arrangements for the Council to consider the recommendations reached at today's meeting in terms of paragraph 3.12 of the standing orders.**

Item 1.2: Previous meeting [Paper 1.2]

3. The members present agreed to recommend that the Council should approve **paper 1.2**, the minutes of the meeting of 30 September 2022.

Item 1.3: Progress of actions since last meeting [Paper 1.3]

4. The members present noted the progress of actions provided at **paper 1.3**.

Item 1.4: Private papers [Oral update]

5. The members present agreed to recommend that the Council should not publish the following papers: 1.3, 1.5, 2.1, 2.1A, 2.1B, 2.1C, 2.1D, 2.1E, 3.1, 3.2, 3.2A, 4.2, 4.3, 5.1, 5.1A, 6.1, 6.2, 6.2A, 6.2B, 6.3B, 6.3C and 6.4.

Item 1.5: Update on Council and Committee membership [Oral update]

6. The Chair informed members that DCC Will Kerr had formally resigned from the Council to take up his new post as Chief Constable of Devon and Cornwall Police. It was understood that a potential replacement for DCC Kerr as the Council's constable member had been identified, and that the Scottish Ministers would consult the Lord Justice General on that in due course.
7. Note of thanks: the members present recorded their thanks to DCC Will Kerr for his contribution to its work during his period in office.
8. The Chair also informed members that:
 - A recruitment exercise by the Scottish Government for the new victims expert member was unsuccessful, and that it was understood a new exercise would be carried out in early 2023.
 - It was understood that the appointment process for a new solicitor member will commence in January 2023.

9. In respect of committees, the Chair informed members that:

- Lindsey Miller had been appointed to the Communications Committee.
- Former Council member Sheriff Krista Johnston has been appointed as an advisor to the Communications and Sexual Offences Committees.

Item 1.6: Update on staffing [Oral update]

10. David Dickson informed members that following a recruitment exercise, Julie Duran had been recruited as the new senior policy officer to backfill for David Ross, who has assumed the role of principal policy officer (corporate), and will take up the post in January 2023.

2. SENTENCING GUIDELINES

Item 2.1: Sexual offences – project plan for guideline on indecent images offences, information from RMA, and draft guideline [Papers 2.1 and 2.1A-E]

11. **Paper 2.1:**

- provided the members present with the project plan for the development of a guideline on statutory offences relating to indecent images of children;
- sought the Council's approval of a draft project initiation document for the development of the guideline;
- provided an update on the Risk Management Authority's pilot of a framework for assessing those convicted of offences relating to indecent images of children; and
- provided the members present with sight of a draft guideline.

12. The members present noted the matters discussed in **paper 2.1** and agreed to recommend that the Council should approve the draft project initiation document for the guideline on indecent images offences.

Item 2.2: Guideline committees update [Oral update]

13. Lord Matthews gave an update on the work of the Death by Driving and Sexual Offences Committees.

14. In respect of the Death by Driving Committee, he noted that:

- The Committee had not met since the last Council meeting.
- A webinar on the draft death by driving guideline took place on 13 October 2022 and that an update on this would be provided under item 3.1.
- The public consultation on the draft guideline closed on 22 November 2022.
- The responses received were currently subject to an independent analysis.
- The analysis was expected to be completed in early 2023 and the Committee would meet to consider its findings in due course.

15. In respect of the Sexual Offences Committee, he noted that:

- The Committee last met on 26 October 2022, when it considered a revised draft rape guideline.
- Current Scottish sentencing practice was under consideration with a view to informing consideration of appropriate sentencing ranges for inclusion the draft guideline.
- Engagement with key stakeholders on the draft guideline is ongoing.
- The Committee had also considered an update on the draft guideline on offences relating to indecent images of children, which had been covered under item 2.1.

16. In respect of the Discounting Committee, the Chair noted that the Committee had not met since the last Council meeting, but it was hoped that a date for a meeting would be fixed soon.

17. In respect of the Domestic Abuse Committee, Summary Sheriff Elfallah noted that:

- The Committee last met on 06 December 2022, when it considered the scope of a guideline on domestic abuse offences.
- The Committee also discussed holding a future stakeholder event to inform the development of a guideline on domestic abuse offences.

3. COMMUNICATIONS AND ENGAGEMENT

Item 3.1: Communications Committee update [Oral update with reference to paper 3.1]

18. Summary Sheriff Elfallah gave an update on the work of the Communications Committee. In particular, she noted that:

- The Committee last met on 25 October 2022 when it had elected her as its chair.
- On 13 October 2022, she had chaired a webinar for practitioners on the draft death by driving guideline. This had been attended by 86 people and had received positive feedback.
- In November, the secretariat had given presentations on the work of the Council at a Modern Studies Association conference for teachers, and separately at an Advanced Higher Modern Studies conference for pupils.
- The Committee was considering proposals to further raise awareness of the Council's work, and promote understanding of sentencing, using a number of different media approaches.
- It was next scheduled to meet on 15 December 2022.

Item 3.2: Updates from recent and upcoming engagement activity [Oral update with reference to papers 3.2 and 3.2A]

19. The members present noted **paper 3.2**, which provided details of a number of recent meetings and events attended by Council members and staff, including:

- The Chair's lecture on the sentencing young people guideline delivered on 11 October at Edinburgh Sheriff Court. This event had been organised by SASO's Edinburgh branch. Lord Matthews and Becky Osborne were also in attendance.
- Two presentations by the Council at the International Society for the Reform of Criminal Law (ISRCL) Conference 2022: a speech by Sheriff Principal Turnbull on neuroscience and the sentencing young people guideline; and a speech by Louise Arrol on victims and sentencing.
- The Four Corners Conference, which had been hosted by the Council in Edinburgh on 24-25 November 2022. This had featured delegates from the sentencing bodies across the United Kingdom and Ireland and had focussed on topics of shared interest in each of the jurisdictions. It was noted that all involved in the conference felt it had been a successful and enjoyable event.

20. The members present also noted a number of upcoming events set out in **paper 3.2**, including Council participation in an event being jointly organised by the Sentencing Academy and the Sentencing Council for England and Wales in January 2023.

ACTION POINT

AP2 ***Secretariat to make arrangements for the Council's participation in the joint Sentencing Academy and Sentencing Council for England and Wales event scheduled for 13 January 2023.***

4. RESEARCH

Item 4.1: Research Committee update [Oral update]

21. Dr Hannah Graham gave an update on the work of the Research Committee. She noted that:

- The Committee last met on 16 November 2022 to discuss research priorities and projects for the 2023-24 financial year.
- It had agreed to recommend a suite of projects to Council, which were detailed in **paper 4.2**.
- The Committee had also considered a draft plan for the monitoring of in-force guidelines, which was set out in **paper 4.3**.

Item 4.2: Research priorities and projects 2023-24 [Paper 4.2]

22. **Paper 4.2** provided details of proposed research projects for 2023-24.

23. The members present agreed to recommend that the Council should agree to the proposed research projects for 2023-24 in the terms set out in **paper 4.2**.

ACTION POINT

AP3 ***Secretariat to take forward the agreed research priorities and projects for 2023-24.***

Item 4.3: Monitoring and review of guidelines [Paper 4.3]

24. Andrew Bell spoke to **paper 4.3**, which sought the Council's comments and approval on a draft plan for the monitoring and evaluation of in-force guidelines. The members present discussed the draft plan and agreed to recommend that the Council should:

- agree the monitoring and review plans as detailed in **paper 4.3**;
- agree in principle to publication of a summary of the agreed plans, delegating responsibility for this to the Research and Communications Committees; and
- agree the oversight structures as discussed in **paper 4.3**, delegating responsibility where appropriate.

ACTION POINT

AP4 ***Secretariat to finalise the draft plans for the monitoring and evaluation of in-force guidelines and arrange for publication of a summary of the plans in conjunction with the Research and Communications Committees.***

5. POLICY DEVELOPMENT

Item 5.1: Policy update [Paper 5.1]

25. The members present noted the contents of **paper 5.1**, which outlined a number of recent policy issues of relevance to the Council's work, including:

- The opening of the Lillias Centre, Glasgow
- House of Commons Justice Committee Report on Fraud and the Justice System
- A consultation by the Sentencing Council for England and Wales on proposed revisions to its Totality guideline
- Publication by the Scottish Government of:
 - i. Scottish Prison Population Statistics 2021-22
 - ii. Criminal justice monitoring data: monthly statistics
- An article in the October issue of Sentencing News by Professor Julian V Roberts, executive director of the Sentencing Academy, entitled 'North of the border:

sentencing guideline developments in Scotland', which examined the work of the Council.

6. GOVERNANCE AND REPORTS

Item 6.1: Review of standing orders [Paper 6.1]

26. **Paper 6.1** provided an update in respect of the annual review of the Council's standing orders. The members present noted that no changes to the standing orders were proposed on this occasion, but that amendments might be required in future in relation to the section on communications, subject to the outcome of proposals currently being considered by the Communications Committee.

Item 6.2: Review of records management plan and other governance documents [Papers 6.2 and 6.2A-B]

27. **Paper 6.2** provided an update in respect of the annual review of the following Council governance documents:

- records management plan and information asset register;
- privacy notice;
- complaints handling procedure;
- expenses scheme for members and policy on expenses for guest speakers; and
- guide to information and publication scheme.

28. The members present:

- agreed to recommend that the Council should agree to change the category 'Correspondence and engagement' in the records management plan and information asset register to 'Communications and engagement';
- noted that the secretariat was liaising with SCTS regarding other potential changes to the records management plan and information asset register; and
- noted that no changes were proposed to the other governance documents at this stage, although the secretariat was still considering whether any update to the

expenses scheme was required.

ACTION POINT

AP5 *Secretariat to update the records management plan and information register and consider further changes in consultation with SCTS, with the revised plan to be published once all agreed changes have been made.*

Item 6.3: Standing papers: correspondence, FOISA, and complaints; finance overview; guideline timetable [Papers 6.3A-C]

29. The members present noted the content of the standing papers and agreed to recommend that the Council should approve the costs of an upgrade to the Council's website.

Item 6.4: Decisions by correspondence [Paper 6.4]

30. The members present noted that one decision had been made by correspondence since the last Council meeting. This was to agree to appoint Lindsey Miller to the Communications Committee.

7. AOB

31. Note of thanks: the members present recorded their thanks to the secretariat for the support it had provided to the Council during 2022.

8. FUTURE MEETING DATES

32. The members present noted the dates scheduled for the Council's meetings in 2023:

- Council workshop: Friday 24 February 2023
- Council meeting: Friday 24 March 2023
- Council meeting: Friday 09 June 2023
- Council workshop: Friday 01 September 2023
- Council meeting: Friday 06 October 2023

- Council meeting: Friday 08 December 2023

Scottish Sentencing Council Secretariat

December 2022