

MEETING OF THE SCOTTISH SENTENCING COUNCIL

12 DECEMBER 2016, AIRDRIE SHERIFF COURT

MINUTES

Members present: Lady Dorrian QC, the Lord Justice Clerk (Chair)
Lord Turnbull (judicial member)
Sheriff Principal Abercrombie QC (judicial member)
Sheriff McFadyen (judicial member)
Summary Sheriff Allan Findlay (judicial member)
Gillian Thomson, Justice of the Peace (judicial member)
David Harvie, Crown Agent for Scotland (prosecutor member) (until end of Item 3.1)
Stephen O'Rourke (advocate member)
John Scott QC (solicitor member)
Deputy Chief Constable Iain Livingstone (lay member)
Sue Moody (lay member) (from Item 2.1)
Professor Neil Hutton (lay member)

Attendees: None

Secretariat: Ondine Tennant (Secretary to the Scottish Sentencing Council)
Andrew Bell (Principal Research Officer)
Andrew Ruxton (Principal Legal Officer) (via Skype)
Eileen Grant (Principal Legal Officer)
Carmen Murray (Policy Officer)
Valerie MacGregor (Communications Officer)
Michael Wilson (Administrative Officer)

Apologies: None

1. PROCEEDINGS

Item 1.1: Introduction and welcome

1. The Chair welcomed members to the meeting and welcomed DCC Iain Livingstone, who had recently been appointed as the Council's constable member, to his first meeting.

2. The Chair thanked Sheriff Principal Abercrombie for arranging the Council's visit to Airdrie Sheriff Court and Coatbridge JP Court during the morning. Members had observed a variety of business and found the visit very beneficial.
3. The Chair noted that this would be Ondine Tennant's final meeting before taking maternity leave. Recruitment for a temporary replacement was underway and members would be notified of the appointment in due course.

Item 1.2: Previous meeting [Papers 1.2A and 1.2B]

4. The Council agreed the minutes from the previous meeting as provided at **Paper 1.2A**.
5. The Council noted the progress of actions arising from the previous meeting as provided at **Paper 1.2B**.

Item 1.3: Private papers

6. The Council agreed not to publish the following papers: 1.2B, 2.3, 3.1, 3.1A-D, 3.2A-C, 3.3, 3.3A-B, 4.1B-C and 5.1A-C.

Item 1.4: Standing Orders [Paper 1.4]

7. **Paper 1.4** proposed updates to the Council's [standing orders](#) in relation to the establishment of committees and with regards to publishing agendas in advance of meetings. The Council agreed to the proposed updates.

ACTION POINTS

- **AP1** ***Secretariat to publish the amended standing orders and arrange for advance publication of Council meeting agendas.***

2. COMMUNICATIONS AND ENGAGEMENT

Item 2.1: Communications Committee [Oral]

Item 2.2: Stakeholder event: Sentencing Young People [Oral]

8. **Sheriff McFadyen**, who had been elected Chair of the Communications Committee at its first meeting, provided an update on the Committee's work, including:
 - case studies for publication on the website;
 - an overview of further new website content;

- media training for a second tranche of Council members arranged for 06 March; and,
- plans for the development of a range of videos explaining sentencing to a range of audiences were also discussed. It was expected that these could be delivered at a cost of approximately £25,000, with the Council's overall budget able to tolerate some further expenditure if required. This was met with the Council's approval.

Note of thanks: The Council recorded its thanks to the Communications Committee and the Secretariat, in particular Val MacGregor, for the work carried out to date.

9. **Sheriff McFadyen** also discussed the proposed stakeholder event on "Sentencing Young People", set to take place on Friday 28 April. It was thought that it would be helpful to have a specialist in attendance to provide input on the distinction between youth and adulthood (such as a neuroscientist). It might also be helpful to invite people who, as young people, have experienced the criminal justice system first hand and DCC Livingstone would provide suggestions for potential invitees in this regard. Members were asked to pass further suggestions on format and potential invitees to the Secretariat.

ACTION POINTS

- **AP2** *Communications Committee to take forward arrangements for commissioning a website video*
- **AP3** *Communications Committee to take forward preparations for a stakeholder event on "Sentencing Young People", on 28 April, with final arrangements subject to the Chair's approval*
- **AP4** *DCC Livingstone to provide suggestions for invitees who have experienced first-hand the criminal justice system as young people*
- **AP5** *Members to pass on any further suggestions for the event to the Secretariat*

Item 2.3: Recent Stakeholder engagement [Oral with reference to Paper 2.3]

10. **Paper 2.3**, an update on engagement with various stakeholders to date, was noted. Discussion focussed on the event proposed by Families Outside. It was thought that the event could be mutually beneficial but that the opportunities it presented could be

maximised if other relevant organisations were involved. A provisional date of 06 March (to follow the scheduled Council meeting that morning) was agreed.

11. There was some discussion as to what degree and type of engagement with interest groups or persons with commercial interests by members was most appropriate. It was noted that dialogue, especially with those with specialist expertise and experience, is useful in informing the Council's work. It was highlighted that, in terms of the standing orders, where a member wishes to undertake promotional activity in their official capacity without the Council's prior agreement the Chair's approval must be sought through the Secretariat. The Secretariat noted that it was on hand to offer advice and support to any members approached to undertake such activity.

ACTION POINTS

- **AP6** ***Secretariat to liaise with Families Outside on a proposed event, provisionally to take place on 06 March***

3. GUIDELINES

Item 3.1: Principles and Purposes Guideline [Papers 3.1 and 3.1A-D]

Item 4.1: Research Committee Update [Papers 4.1 and 4.1A]

12. **Paper 3.1** introduced: a Draft Guideline on the Principles and Purposes of Sentencing [**Paper 3.1A**], a literature review on this topic prepared by Stephen O'Rourke [**Paper 3.1C**], a draft judicial discussion paper [**Paper 3.1D**] and an updated timeline for the Guideline (at the Annex). **Paper 3.1** also advised on the Secretariat's actions and advice on each of the decisions made at the workshop on 05 October (for which a draft note of discussion was provided at **Paper 3.1B**).

13. **Part of Item 4.1 was brought forward. Professor Neil Hutton**, who had been elected Chair of the Research Committee at its first meeting, provided an update from the Committee on the commissioning of a literature review on the principles and purposes of sentencing. The Committee's recommendation to Council was that the review, helpfully prepared by Stephen O'Rourke [**Paper 3.1C**] would suffice (subject to some further additions) as a supplementary paper when consulting the judiciary on the Draft Guideline, as well as for the subsequent public consultation. The Council agreed this approach. Andrew Bell would liaise with Professor Neil Hutton and Stephen O'Rourke to update **Paper 3.1C** accordingly.

14. Members discussed in detail the proposed Draft Guideline [**Paper 3.1A**] and agreed some amendments. While most of the substance of the draft was agreed, the Secretariat would be able to receive further suggestions for improvements to wording if received in early course.
15. The draft judicial discussion paper [**Paper 3.1D**], subject to some necessary updates in light of amendments made to the Draft Guideline, was approved. The document was commended as setting out the issues and consideration given by the Council to date clearly and succinctly. Some further information was sought on how responses would be treated, particularly with regard to freedom of information legislation, and the Secretariat was asked to clarify the position prior to the paper issuing.
16. The timeline at the Annex to **Paper 3.1** was noted. The proposed 10 week period for judicial consultation was agreed. An updated Draft Guideline, literature review and judicial discussion paper would be circulated to members for approval as soon as possible to allow for issuing to the judiciary in January.

ACTION POINTS

- **AP7** ***Secretariat to update the Draft Guideline at Paper 3.1A in line with agreed amendments***
- **AP8** ***Andrew Bell to liaise with Prof. Hutton and Stephen O'Rourke to update the literature review at Paper 3.1C for the purposes of judicial, and public, consultation***
- **AP9** ***Members to provide any further suggestions for improvement to the wording of the Draft Guideline, in the early course***
- **AP10** ***Secretariat to update the draft judicial discussion paper at Paper 3.1D in light of amendments to the Draft Guideline, and the amendment agreed relating to anonymity of responses***
- **AP11** ***Secretariat to clarify the position on how judicial responses would be treated, particularly with regard to freedom of information legislation, prior to the discussion paper being issued***
- **AP12** ***Secretariat to circulate to members for approval, as soon as possible, an updated: Draft Guideline, judicial discussion paper and literature review***
- **AP13** ***Secretariat to take forward arrangements for the judicial consultation to launch in January 2017***

Item 3.2: Draft General Sentencing Process Guidelines [Papers 3.2 and 3.2A-C]

Item 3.3: Guidelines Methodology: styles road testing key findings [Papers 3.3 and 3.3A-B]

17. **Eileen Grant** spoke to **Paper 3.2**, which highlighted the changes made to the Sentencing Process Guideline following discussion at the 05 October workshop and which introduced: **Paper 3.2A** summarising the Secretariat's actions and advice in each of the decisions made at the workshop; an updated draft guideline on the Sentencing Process [**Paper 3.2B**] and the previous version considered by the Council [**Paper 3.2C**]. A workshop to explore the Draft Guideline further was arranged for Wednesday 01 February 2017.
18. **Paper 3.3** summarised the roadtesting of the draft Sentencing Process Guideline to date, including: how the exercises have been conducted, feedback received from the judiciary, and issues identified. **Paper 3.3A** advised of roadtesting participants and **Paper 3.3B** provided the current roadtesting materials.
19. Further roadtesting would be taken forward by the Secretariat to test and explore issues raised, with a new scenario and series of specific questions. Members who wish to take part in the new exercise would contact the Secretariat. The Chair provided the names of sheriffs principal and senators who had agreed to take part in further roadtesting.

ACTION POINTS

- **AP14** *Secretariat to take forward further roadtesting of the draft Sentencing Process Guideline*
- **AP15** *Members who wish to take part in the new roadtesting exercise to contact the Secretariat*

4. RESEARCH AND INFORMATION

Item 4.1: Research Committee Update [Papers 4.1 and 4.1A-D] Continued

20. **Professor Neil Hutton** provided the remainder of the update following the first meeting of the Research Committee (part of which was discussed under Item 3.1), with reference to **Paper 4.1** which summarised the Committee's recommendations, **Papers 4.1B-C** on commissioning research projects (previously considered by the Committee) and **Paper 4.1D**, draft minutes of the Committee's meeting on 24 November.

21. The Committee's recommendation for a research project on public perceptions of youth offending was agreed. The preference was to take this forward through the Scottish Graduate School of Social Sciences Ph.D. internship scheme. However, the Secretariat would explore alternative options in the event of an appropriate candidate not being identified through the scheme. The Committee would provide an update on a research commissioning framework at the March 2017 meeting.

ACTION POINTS

- **AP16** *Secretariat to take forward, in liaison with the Research Committee, arrangements for a research project on public perceptions of youth offending*
- **AP17** *Research Committee to provide an update on a research commissioning framework at March 2017 meeting*

5. REPORTS

Item 5.1: Work Tracker, Work Programme Overview and Policy and Legislation Tracker
[Papers 5.1A-C]

22. The Council noted the work tracker provided at **Paper 5.1A**, the work programme overview provided at **Paper 5.1B** and the policy and legislation tracker provided at **Paper 5.1C**.
23. With regards to the work programme, the Secretariat was asked to consider and revert to the Council on whether there was any scope to extend the proposed standard 12 week consultation period for any consultations scheduled to take place over summer.

ACTION POINTS

- **AP18** *Secretariat to consider and revert on whether there is scope to extend the proposed standard 12 week consultation period for any consultations scheduled to take place over summer*

Item 5.2: Correspondence, FOISA, and Complaints **[Paper 5.2]**

24. The Council noted **Paper 5.2**, a report on the number of FOISA requests, complaints and items of correspondence received.

6. AOB

Item 6.1: Any other business

25. There was no other business raised.

7. FUTURE MEETING DATES

26. The next meeting would be held at Parliament House, on 06 March 2017, with media training and the event proposed by Families Outside provisionally scheduled to take place during the afternoon.

27. Further dates for 2017 were noted as listed on the agenda. The Secretariat would confirm all dates for events and future meetings in due course.

28. Members noted again the dates of 01 February (for a workshop on the draft Sentencing Process Guideline) and 28 April (for an engagement event on sentencing young people).

ACTION POINTS

- **AP19** *Secretariat to confirm further dates for 2017.*

Scottish Sentencing Council Secretariat

December 2016