

MEETING OF THE SCOTTISH SENTENCING COUNCIL

11 DECEMBER 2017, DUNDEE SHERIFF COURT

MINUTES

- Members present:** Lady Dorrian QC, the Lord Justice Clerk (Chair)
Lord Turnbull (judicial member)
Sheriff McFadyen (judicial member)
Gillian Thomson, Justice of the Peace (judicial member)
Summary Sheriff Andrew McIntyre (judicial member)
David Harvie, Crown Agent for Scotland (prosecutor member)
Stephen O'Rourke QC (advocate member)
John Scott QC (solicitor member)
Sue Moody (lay member)
Professor Neil Hutton (lay member)
- Attendees:** Will Smith, PhD intern
- Secretariat:** Graham Ackerman (Secretary to the Scottish Sentencing Council)
Ondine Tennant (observing, on phased return from maternity leave)
David Dickson (Principal Legal Officer)
Andrew Bell (Principal Research Officer)
Irene Permaul (Policy Officer)
Valerie MacGregor (Communications Officer)
Michael Wilson (Administrative Officer)
- Apologies:** Sheriff Principal Abercrombie QC (judicial member)
Deputy Chief Constable Iain Livingstone (lay 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 Abercrombie QC and Deputy Chief Constable Iain Livingstone.
2. The Chair welcomed Summary Sheriff Andrew McIntyre to his first Council meeting, as well as Principal Legal Officer David Dickson and PhD Intern Will Smith, and welcomed back Ondine Tennant, who will resume her duties as Secretary to the Council in February.

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

3. Minutes of the 22 September Council meeting were agreed as provided at **Paper 1.2A**.
4. The Council noted the progress of actions from the previous meeting as provided at **Paper 1.2B**. In particular, the Chair provided an update on three action points from the last meeting.
 - Action point 1 was for the secretariat and Communications Committee to develop a “mythbuster” for the Council website, addressing common sentencing misconceptions. This has now been completed and will be published shortly.
 - Action point 6 was for the secretariat to develop a suitable update to reflect the revised timetable for guideline development. An article will be published on the website before the end of the year, noting that the Council is now considering topics for its second business plan and outlining the timetable changes from the first business plan as a consequence of the Council’s evidence based approach to, and extensive consultation during, the preparation of guidelines. Letters in similar terms will be sent to the Council’s statutory consultees (the Scottish Ministers, the Lord Justice General, and the Lord Advocate).
 - Action point 11 was to make any required drafting changes to the description of the Council’s policy role, which was agreed at the last meeting. These have now been made and the document will be published on the Council website in due course.

Item 1.3: Private papers

5. The Council agreed not to publish the following papers: 1.2B, 3.1, 5.1, 5.1A, 5.1B, 5.2, 5.3 A-D

2. COMMUNICATIONS AND ENGAGEMENT

Item 2.1: Communications Committee update [Oral]

6. Sheriff McFadyen provided an update on the work of the Communications Committee. He noted that a 'mythbuster' resource for the website had been approved and invited members to submit any views on how this could be developed further in due course. There are also two further case studies for the website under development.
7. The Committee has created a sentencing component for the Law Society of Scotland's Street Justice programme, and has also agreed to create an information section for Police Scotland's intranet.
8. The Council Secretariat has promoted the Council's work at both the National Modern Studies conference and to journalism students at Glasgow Clyde College, directing people to the Council's website and available resources and discussing the role of the Council generally.
9. Members expressed interest in whether the promotional activity discussed has increased the use of the Council's website; the Secretariat will provide an update on this in due course.
10. Potential speakers and delegates are currently being identified for the conference on sexual offences in June 2018. Members were invited to suggest suitable names and organisations as speakers or attendees.

ACTION POINTS

- ***AP1: Members to provide any suggestions of speakers or attendees for the sexual offences conference to the secretariat.***
- ***AP2: Secretariat to check website analytics to assess the impact of promotional activity***

3. SENTENCING GUIDELINES

Item 3.1: Death by Driving Offences – proposed changes to maximum penalties [Paper 3.1]

11. **Paper 3.1** noted that the UK Government has announced its intention to raise the maximum penalties for death by driving offences, following a public consultation earlier in the year.
12. Members agreed that the proposed changes should not significantly affect the development of a guideline and that work should therefore continue, with ongoing monitoring of any legislative proposals.

4. RESEARCH AND INFORMATION

Item 4.1: Research Committee update [Oral]

13. Neil Hutton provided an update on recent work carried out by the Research Committee. The committee has agreed to develop a work tracker document to provide an overview of the Council's research work on different guidelines.
14. Will Smith provided an update on his work on environmental and wildlife offences. The Council secretariat has met with the Scottish Environment Protection Agency and specialists at Police Scotland, both of whom are keen to engage with the Council's work and have provided useful insights into current sentencing practice.

Item 4.2: Interim analysis of principles and purposes consultation responses [Oral]

15. Andrew Bell provided a brief overview of the initial analysis of responses to the consultation on the draft principles and purposes of sentencing guideline. Detailed analysis and recommendations for any changes to the guideline will be presented at the Council workshop in January 2018.

Item 4.3: Sexual offences workshops at sheriffdom conferences [Oral]

16. Neil Hutton provided an overview of key themes arising from recent discussion sessions held at sheriffdom conferences in relation to the sentencing of sexual offenders, and these were discussed by members. The sessions have proved very informative and helpful in informing the Council's consideration of this area.

17. Members agreed that it would be useful to explore whether similar sessions can be arranged in those sheriffdoms which could not accommodate a session as part of their 2017 conference. It was also agreed that the possibility of participating in the 2018 sheriffdom conferences should be discussed with Sheriffs Principal reasonably soon.
18. Following the completion of the current discussions relating to sexual offending, a report will be produced for the Council.

ACTION POINTS

- ***AP3: Secretariat to explore whether further discussion sessions relating to sexual offences can be arranged in other sheriffdoms in 2018.***
- ***AP4: Secretariat to explore the possibility of participating in the 2018 sheriffdom conferences.***
- ***AP5: Secretariat to produce a briefing for members to explain registration in relation to sexual offences.***
- ***AP6: Secretariat to produce a report of discussions with sheriffs following the completion of all workshops.***

5. REPORTS

Item 5.1: Review of the Standing Orders [Papers 5.1, 5.1A, 5.1B]

19. David Dickson outlined the proposed changes to the Council's standing orders. These are principally concerned with the formation of new committees and arrangements for decision-making in the absence of the Council chair.
20. The proposed new standing orders were agreed by members; these will be published on the Council website.

Item 5.2: Committee structure and membership [Papers 5.2]

21. The Council noted and agreed the proposed memberships for the four new committees (relating to the sentencing process, death by driving offences,

environmental and wildlife offences, and young people), and the proposed remits and terms of reference, in accordance with the revised standing orders.

ACTION POINTS

AP7: Secretariat to contact members to arrange initial meetings of the new committees.

Item 5.3: Work tracker, Indicative Timetable, Policy and Legislation Tracker and Finance Overview [Paper 5.3 A-D]

22. The Council noted the work tracker and indicative timetable provided at **Papers 5.3A and 5.3B**, the policy and legislation tracker provided at **Paper 5.3C**, and the Finance Overview provided at **Paper 5.3D**.

23. Graham Ackerman provided a brief update on the Council's budget, outlining remaining funds for 2017/18 and noting that discussions in relation to the budget for 2018/19 are now underway. As some research projects initially scheduled for 2017/18 are now likely to continue into the next financial year, it was agreed that further consideration should be given as to whether this may allow other projects to be expedited.

Item 5.4: Correspondence, FOISA and Complaints [Paper 5.4]

24. **Paper 5.4**, a report on the number of FOISA requests, complaints and items of correspondence received, was noted.

6. AOB

Item 7.1 AOB [Oral]

25. One item was discussed by members but was determined to be confidential since it related to an approach by an individual to the secretariat; it is therefore not included in the published minutes under standing order 8.3.

8. Future meetings

26. The next Council meeting will take place on Monday 5 March 2018. The next Council workshop will take place on Monday 22 January 2018.

Scottish Sentencing Council Secretariat

December 2017