

## MEETING OF THE SCOTTISH SENTENCING COUNCIL

5 MARCH 2018, PARLIAMENT HOUSE EDINBURGH

### 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)  
Gillian Thomson, Justice of the Peace (judicial member)  
David Harvie, Crown Agent for Scotland (prosecutor member)  
Stephen O'Rourke QC (advocate member)  
John Scott QC (solicitor member)  
Professor Neil Hutton (lay member)
- Attendees:** Edward McHugh, Lord President's Private Office
- 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)  
Valerie MacGregor (Communications Officer)  
Irene Permaul (Policy Officer)  
Michael Wilson (Administrative Officer)
- Apologies:** Deputy Chief Constable Iain Livingstone (lay member)  
Sue Moody (lay member)  
Will Smith, Former Ph.D. intern

## 1. PROCEEDINGS

### *Item 1.1: Introduction and welcome*

1. The Chair opened the meeting and noted that apologies had been received from Deputy Chief Constable Iain Livingstone and Sue Moody. Apologies were also received from Will Smith.
2. The Council congratulated Sheriff Andrew McIntyre on his appointment as a sheriff in the sherrifdom of North Strathclyde and thanked him for his work with the Council and the Communications Committee. Sheriff McIntyre's tenure on the Council ended at the time of his appointment as Sheriff but he will continue to assist with Council

work until his successor is appointed. A recruitment exercise to appointment a summary sheriff member is currently underway.

3. Graham Ackerman was due to be leaving the Council secretariat following Ondine Tennent's return from maternity leave. However, Graham will remain in post to cover Ondine's second maternity leave, due to start in summer 2018.

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

4. Minutes of the Council meeting of 11 December 2017 were provided at **Paper 1.2A**. A note of a confidential discussion held at that meeting was provided in **Paper 1.2B**.
5. The Council agreed the minutes and note, subject to some minor suggested changes (provided in **Paper 1.2C**).
6. The Council noted the progress of actions provided at **Paper 1.2D**.

*Item 1.3: Private papers*

7. The Council agreed not to publish the following papers: 1.2B-D, 3.1, 3.1A-D, 3.2, 3.2A-D, 5.1, 5.2 A-D.

## **2. COMMUNICATIONS AND ENGAGEMENT**

*Item 2.1: Communications Committee update [Oral]*

8. Sheriff McFadyen provided an update on the work of the Communications Committee.
9. The Committee has recently considered how best to handle various types of request received from members of the public. A proposed approach covering certain areas has been passed to the Research Committee for comment and will then be considered by Council. The Committee has also established an internal policy to deal with complex queries on social media – in particular, that in appropriate cases it may

be helpful to direct individuals to the contact page on the website to enable them to raise any relevant matters with the Council.

10. The Committee has considered website analytics, as requested by the Council at its last meeting. Spikes are in line with announcements around Council activity, such as the public consultation or when the 'mythbuster' was launched. New content for the website is currently under development, including graphics and teaching resources.
11. Speakers have been confirmed for the Sexual Offences conference which is being held in Edinburgh on 22 June 2018.

### **3. SENTENCING GUIDELINES**

*Item 3.1: Item 3.1 Principles and purposes – final guideline and impact assessment [Papers 3.1, 3.1A-D]*

12. **Paper 3.1** set out various changes made to the Principles and Purposes of Sentencing guideline and impact assessment following consultation and the Council's January workshop.
13. The Council agreed the suggested changes to both documents. It agreed that the finalised guideline should be submitted to the High Court for consideration, though it was noted that the process for doing so has not yet been finalised. Once a process is in place, members will be notified and advised of any further documentation which is required to accompany the guideline.

#### **ACTION POINTS**

- AP1:** *Secretariat to arrange a meeting with the Lord Justice General and relevant officials to finalise a process for submitting guidelines to the High Court.*
- AP2:** *In the event that further information is required for submission to the High Court, members will be asked to approve this by correspondence.*

*Item 3.2: Sentencing Process guideline and judicial consultation [Papers 3.2, 3.2A-D]*

14. The Council suggested amendments to the draft Sentencing Process guideline and accompanying documents. Some of these amendments were of a substantive nature, including ensuring that the process laid out in the guideline is consistent with court practice, and will therefore require further consideration by the Sentencing Process Committee and Council.
15. The Council agreed, however, that it might also be appropriate to explore some of these issues during engagement with the judiciary.

#### **ACTION POINTS**

- AP3: The Sentencing Process Committee to consider the discussed changes and circulate revised documents to the Council for approval ahead of further engagement with the judiciary.***
- AP4: Secretariat to consider arrangements for Council to discuss further in person if required.***

#### *Item 3.3: Update from guideline committees [Oral]*

16. Sheriff Principal Abercrombie, as chair, provided an update on the work of the Sentencing Young People Committee. He advised that the committee will soon host a round table discussion with a group of experts with a view to informing development of the draft guideline.
17. Stephen O'Rourke QC, as chair of the Environment and Wildlife Committee, noted that a timetable for the development of a guideline was being developed. The committee has also started to analyse the work carried out by Ph.D. intern Will Smith on the various environmental and wildlife offences.
18. David Harvie informed the Council that he had been elected chair of the Death by Driving Committee. The committee was considering a timetable for the development of a draft guideline, had approved work to begin on various areas of research, and was considering some issues with currently available data. He also noted that some questions around the potential scope of the guideline will need to be considered by Council at a future date.

#### **ACTION POINTS**

**AP5: Will Smith's report to be circulated to the Council for information.**

**AP6: Secretariat to provide advice to committee to inform further discussion around the scope of the guideline.**

#### **4. RESEARCH AND INFORMATION**

*Item 4.1: Research Committee update [Oral]*

19. Neil Hutton provided an update on the work of the Research Committee. The committee has not had the opportunity to meet since the December Council meeting; however, it is currently considering the research priority areas for 2018-19, and potential research projects to be carried out in the 2018-19 financial year.

20. Andrew Bell updated the Council on the progress of tendered research projects.

*Item 4.2: Environment and wildlife crime [Oral]*

21. Andrew Bell provided a brief overview on behalf of Will Smith of Will's work on environmental and wildlife offences.

22. The proposed legislative changes to penalties for wildlife offences arising from the Poustie Report, if implemented, will have implications for plans for the guideline. The Scottish Government has not yet indicated when these changes will be taken forward.

#### **5. REPORTS**

*Item 5.1: Development of the Business Plan 2018-2021 [Paper 5.1]*

23. The Council discussed matters for potential inclusion in the next business plan period (2018-21). It noted the statutory timing, content and consultation requirements relating to the development of new business plan; agreed the general structure and approach (which will be similar to that used in the current business plan); and agreed plans for official-level engagement with stakeholders as the draft business plan is developed.

## ACTION POINTS

**AP7: Secretariat to develop a draft Business Plan for consideration at the June Council meeting.**

*Item 5.2: Work Tracker, Indicative Timetable, Policy and Legislation Tracker and Finance Overview [Paper 5.2 A-D]*

24. The Council noted the work tracker and indicative timetable provided at **Papers 5.2A and 5.2B**, the policy and legislation tracker provided at **Paper 5.2C**, and the finance overview provided at **Paper 5.2D**.

*Item 5.3: Correspondence, FOISA and Complaints [Paper 5.4]*

25. **Paper 5.3**, a report on the number of FOISA requests, complaints and items of correspondence received, was noted.

## 6. AOB

*Item 6.1 AOB [Oral]*

26. Members were asked to indicate to the Secretariat if they are interested in attending a visit to the Sentencing Council for England and Wales in April to observe a Council meeting.

27. It was noted that the Council has previously expressed a desire to hold at least one meeting per year, normally the December meeting, outwith Edinburgh. In that context, members were asked to consider what might be an appropriate venue for the December Council meeting, particularly if this could be combined with a visit to a place or organisation which might be of interest to the Council. It was suggested that a visit to Glasgow may be useful; the secretariat will explore this further and revert to the Council with proposals for consideration.

28. Stephen O'Rourke QC briefed the Council on a Scottish Prisons Service event on the 30 January entitled "What does desistance mean for convicted sex offenders in Scotland?" that he and Andrew Bell attended on behalf of the Council. Council

members interested in the conference presentations should contact the secretariat for copies of materials from the day.

## **7. Future meetings**

29. The next Council meeting will take place on Monday 11<sup>th</sup> June 2018. The next Council workshop will take place on Friday 27<sup>th</sup> April 2018.

30. The December 2018 Council meeting will be held in Glasgow.

### **ACTION POINTS**

**AP8: Secretariat to provide options for meetings and visits in the Glasgow area that may be of interest to the Council.**

**Scottish Sentencing Council Secretariat**

**March 2018**