

MEETING OF THE SCOTTISH SENTENCING COUNCIL

3 DECEMBER 2021

RISK MANAGEMENT AUTHORITY, PAISLEY

MINUTES

Members present: Lady Dorrian, the Lord Justice Clerk (Chair)
Lord Matthews (judicial member)
Sheriff Principal Turnbull (judicial member)
Sheriff Iain Fleming (judicial member)
Susan Fallone JP (judicial member)
Lindsey Miller (prosecutor member)
Krista Johnston (solicitor member), *by videoconference*
Lesley Weber (lay member – victims expert)

Secretariat: Ondine Tennant (secretary), *by videoconference*
David Dickson (principal legal officer)
Andrew Bell (principal research officer)
David Ross (senior policy officer)
Richard Smith (business manager)
Nicole Vidal (researcher)

1. PROCEEDINGS

Item 1.1: Introduction and welcome

1. The Chair opened the meeting and noted that apologies had been received from DCC Will Kerr and Hannah Graham.
2. The Chair welcomed Lindsey Miller to her first meeting as the prosecutor member of the Council.

Item 1.2: Previous meeting minutes [Paper 1.2]

3. The Council approved **paper 1.2**, the minutes of the meeting of 08 October 2021.

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

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

Item 1.4: Private papers [Oral update]

5. The Council agreed not to publish the following papers: 1.3, 3.2, 3.3, 4.2, 4.3, 5.1, 6.1, 6.1B, 6.2, 6.2A, 6.2B, 6.3B and 6.3C.

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

6. The Chair advised members that it is understood that recruitment of the new summary sheriff and advocate members of the Council is due to begin shortly.
7. In respect of committees the Chair noted that:
 - Sue Moody and John Scott have been reappointed as advisors to the Sentencing Young People Committee until 26 July 2022.
 - Sheriff Matt Jackson has been appointed as an advisor to the Sentencing Young People Committee until 26 July 2022 and has agreed to be appointed as an advisor to the Sexual Offences Committee. This is subject to the committee's approval, the Chair having already approved the appointment.
 - Sheriff Paul Brown has been appointed as an advisor to the Domestic Abuse Committee for a period of two years effective from 15 November 2021.
 - The secretariat will discuss with Lindsey Miller which committees she might be appointed to.

ACTION POINT

AP1: Secretariat to contact Lindsey Miller to discuss which committees she might be appointed to.

2. SENTENCING GUIDELINES

Item 2.1: Guideline committees update [Oral update]

8. Sheriff Principal Turnbull provided an update on the work of the Sentencing Process Committee. In particular, he noted that:
 - Lord Turnbull's and Sheriff McFadyen's tenures as advisors to the committee expired in November.
 - The secretariat is drafting proposals for a webinar which will explore the guideline's provisions and its operation.

ACTION POINT

AP2: Secretariat to arrange draft proposals for a webinar on the sentencing process guideline.

9. Sheriff Principal Turnbull provided an update on the work of the Sentencing Young People Committee. In particular, he noted that:
 - Progress is being made on arranging a webinar on the guideline for a date in January.
 - A procurement exercise is about to get underway to enable the commissioning of a series of short animated videos on the guideline's key themes.
 - An article on the guideline by committee advisor John Scott QC was published in The Times on 24 November. A blog about the guideline, also by John, was published on the Venture Trust's website on 25 November.
10. Sheriff Principal Turnbull also advised members that he had delivered a talk about the guideline at a Judicial Institute course on children and young people on 30 November.

ACTION POINTS

AP3: Secretariat to finalise arrangements for a webinar on the sentencing young people guideline.

AP4: Secretariat to commission animated videos on the sentencing young people guideline.

11. Lord Matthews provided an update on the work of the Death by Driving Committee. In particular, he noted that:
 - Judicial views on a draft of the guideline are presently being sought, with a deadline of 12 December 2021 for contributions.
 - A final dataset has been received from the Scottish Courts and Tribunals Service's Management Information and Analysis Team and the secretariat is preparing a skeleton impact assessment on that basis.
 - With this data now received, work has begun on preparing to publish information on sentences for death by driving offences.
 - A literature review of issues in comparative sentencing has been commissioned.
 - It is hoped that a visit to the Sentencing Council for England and Wales will take place in the New Year, to include discussion of both Councils' respective driving offence guidelines and cross-border issues in sentencing.

ACTION POINTS

AP5: *Secretariat to prepare a skeleton impact assessment on the draft Death by driving guideline.*

AP6: *Secretariat to publish information on sentences for death by driving offences once the necessary preparations have been made.*

12. Lord Matthews provided an update on the work of the Sexual Offences Committee. In particular, he noted that:

- Data-gathering and case analysis exercises in relation to sexual offences have been conducted by the Council's secretariat.
- A literature review of the sentencing of offences relating to indecent images of children has been commissioned.
- No tenders were received for the project seeking the views of survivors of rape and sexual assault. It has been reissued with a longer timeframe for completion, and it is hoped bids will be forthcoming.
- Engagement with stakeholders will begin shortly.
- A representative of the Risk Management Authority is due to attend the next meeting of the committee in January.
- The committee oversaw a response to a request from the Scottish Parliament's Citizen Participation and Public Petitions Committee for an update on the progress of work in developing sentencing guidelines on sexual offences. The response was submitted on 22 October and has been published on the Scottish Parliament's website.

13. There was some discussion about the work being undertaken by the RMA in relation to internet offending and whether this may have implications for the development of the indecent images guideline. The committee was asked to consider the matter further.

ACTION POINT

AP7: *Sexual offences committee to consider whether the research into internet offending being carried out by the RMA may impact on the development of the indecent images guideline.*

14. Sheriff Fleming provided an update on the work of the Discounting Committee. In particular, he noted that:

- The committee will hold its first meeting in the New Year.
- A freedom of information request was received in November concerning the sentence discounting guideline, indicating that there is a degree of interest in how the Council will address this topic.

ACTION POINT

AP8: Secretariat to canvass dates for the first meeting of the Discounting Committee.

15. Sheriff Principal Turnbull provided an update on the work of the Domestic Abuse Committee. In particular, he noted that:
- The committee will hold its first meeting in the New Year.
 - As already noted, the committee agreed to appoint Sheriff Paul Brown as an advisor.
 - The committee has also overseen a response to a letter from the Scottish Parliament's Citizen Participation and Public Petitions Committee, which invited the Council's views on a petition calling for "*the Scottish Parliament to urge the Scottish Government to create an Unborn Victims of Violence Act, creating a specific offence that enables courts to hand down longer sentences for perpetrators of domestic violence which causes miscarriage*".
16. Dr Nicole Vidal provided the Council with an update on her research on the sentencing of domestic abuse offences.

ACTION POINT

AP9: Secretariat to canvass dates for the first meeting of the Domestic Abuse Committee.

3. COMMUNICATIONS AND ENGAGEMENT

Item 3.1: Communications Committee update [Oral update]

17. Lesley Weber provided an update on the work of the Communications Committee. In particular, she noted that:
- The committee last met on 24 November. Due to the current vacancies on the Council, it was agreed to delay the election of a Chair until new members are appointed to the Council and committees.
 - The committee will continue to be involved in further awareness raising activity in advance of the sentencing young people guideline coming into effect, including a series of videos and a webinar.
 - The committee is of the view that awareness about the Council's status as an independent body could be incorporated into general awareness raising, such as the provision of briefing to relevant individuals and organisations.
 - A schedule of blogs has been agreed.

- Communications activity is expected to centre on awareness raising of the coming into effect of the sentencing young people guideline on 26 January.
- It is understood that the England and Wales Council has a subcommittee which deals with issues of public confidence and communication, and the communications committee would be keen to directly engage with it in due course.
- As at mid-November:
 - The Council's Twitter account had 421 new followers during the year, taking the total to over 2300.
 - There have been over 66,000 visitors to the website, compared to 54,000 at the same stage last year.
 - Since the YouTube channel was launched at the start of August 2019, the videos have been viewed over 9,000 times, up from 2,500 in August.

ACTION POINTS

AP10: ***Secretariat to consider approaches to raising awareness of the Council's status as an independent body.***

AP11: ***Secretariat to engage with potential authors as to the drafting and publication of blogs.***

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

18. The Council:

- Noted **paper 3.2**, which provided an update on recent and upcoming meetings and engagement work carried out by the secretariat and members of the Council.
- Noted that it was hoped that a visit to its counterpart body, the Sentencing Council for England and Wales, could be arranged in the New Year.
- Noted that an informal session with members of the Scottish Parliament's Criminal Justice Committee is being planned.

ACTION POINT

AP12: ***Secretariat to consider arrangements for Council members to visit the Sentencing Council for England and Wales in the New Year.***

Item 3.3: Community sentencing discussion event [Oral update, with reference to paper 3.3]

19. **Paper 3.3** sought the Council's agreement, in principle, for the arrangement of a community sentences discussion event to take place in the first quarter of 2022, and made proposals as to the format of the event.
20. The Council noted the proposals and agreed in principle that the event should take place. It was felt that the programme for the event should maximise opportunities for discussion by attendees.

ACTION POINT

AP13: *Secretariat to make arrangements, with the oversight of a small group of volunteer members, for a community sentences discussion event in the first quarter of 2022.*

4. RESEARCH

Item 4.1: Research Committee update [Oral update]

21. Sheriff Fleming provided an update on the work of the Research Committee. In particular, he noted that:
 - Progress was being made on data requests from the SCTS Management Information and Analysis Team.
 - Progress was being made on literature reviews on comparative sentencing, indecent images of children, and domestic abuse.
 - Recommendations on research priorities and projects were detailed in **papers 4.2** and **4.3**.

Item 4.2: 2022/23 and beyond Research priorities [Paper 4.2]

22. The Council noted **paper 4.2** and agreed the proposed research priority areas for 2022-23 and provisional priority areas for 2023-25, subject to the sexual offences committee's consideration of the indecent images guideline.

Item 4.3: 2022/23 Research projects [Paper 4.3]

23. **Paper 4.3** provided details of proposed research projects for 2022-23. The Council discussed and agreed to the proposed research projects for 2022-23.

5. POLICY DEVELOPMENT

Item 5.1: Policy update [Paper 5.1]

24. **Paper 5.1** sought approval of draft responses to two Scottish Government consultations regarding criminal justice statistics:
- the Scottish Crime and Justice Survey, and;
 - the Recorded Crime and Police Activity Statistics consultation.
23. The Council approved the consultation responses and agreed that it was content for the final wording of the Recorded Crime and Police Activity Statistics consultation to be approved by the Chair.
24. **Paper 5.1** also advised the Council of some recent issues in respect of policy development. These were noted.

ACTION POINT

AP14: *Secretariat to submit responses to the Scottish Crime Survey and the Recorded Crime and Police Activity Statistics consultation, subject to the latter response being cleared by the Chair.*

6. GOVERNANCE AND REPORTS

Item 6.1: Review of standing orders [Paper 6.1]

25. **Paper 6.1** advised the Council in respect of the annual review of its standing orders and proposed some amendments. The Council approved the proposed amendments to the standing orders.

ACTION POINT

AP15: *Secretariat to publish the revised standing orders on the website as soon as practicable.*

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

26. **Paper 6.2** updated the Council in respect of the annual review of the following 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.
27. The Council noted that no updates were required to any of the documents mentioned in **paper 6.2**, aside from some minor changes to the guide to information.

ACTION POINT

AP16: *Secretariat to revise the guide to information and publish it thereafter as soon as practicable.*

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

28. The Council noted the content of the standing papers.

Item 6.4: Decisions by correspondence [Oral update]

29. It was noted that no decisions by correspondence have been made since the last meeting.

7. AOB

Item 7.1: AOB

30. The Chair noted that the Annual Report for 2020/21 and Business Plan 2021-24 have both been submitted to the Scottish Ministers, laid in Parliament and published on the Council's website.
31. *Note of thanks: on behalf of the Council, the Chair thanked current and former members for their valuable contribution to the work of the Council during 2021 as well as thanking the secretariat for its work supporting the Council.*

8. FUTURE MEETING DATES

32. The Council noted that:
- The first Council event of 2022 is a workshop which will take place on Friday 25 February.
 - The first Council meeting of 2022 will take place on Friday 18 March.