

MEETING OF THE SCOTTISH SENTENCING COUNCIL
10 JUNE 2022
PARLIAMENT HOUSE, EDINBURGH
DRAFT 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: Lord Matthews (Chair)
Sheriff Principal Craig Turnbull (judicial member)
Sheriff Iain Fleming (judicial member)
Susan Fallone (judicial member)
Dr Hannah Graham (lay member)

Attendees: Louise Arrol (prospective advocate member)
Karen Berry (Scottish Environment Protection Agency) – item 3.4 only
Colin Hershaw (Scottish Environment Protection Agency) – item 3.4 only

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: Lady Dorrian, the Lord Justice Clerk (Chair)
Lindsey Miller (prosecutor member)
Krista Johnston (solicitor member)
Deputy Chief Constable Will Kerr (constable member)

1. PROCEEDINGS

Item 1.1: Introduction and welcome

1. Lord Matthews opened the meeting as Chair in the absence of the Lord Justice Clerk as per paragraph 3.6 of the standing orders.

2. The Chair noted that apologies had been received from the Lord Justice Clerk, Lindsey Miller, Krista Johnston, and DCC Will Kerr. This meant that only five members were present. As the quorum is seven members, of whom at least three must be non-judicial members, the meeting was inquorate.
3. 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, at the discretion of the Lord Justice Clerk as Chair of the Council, either (a) be put to the next Council meeting for a decision; or (b) be put to the Council using the procedure for consideration by correspondence.

ACTION POINT

AP1 ***Secretariat, after consultation with the Chair, 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.***

4. The Chair welcomed Louise Arrol to the meeting and informed members that Louise was expected to be confirmed as the Council's new advocate member in the near future.
5. The Chair also welcomed Valerie MacGregor and Caroline Bellingier and noted that they had been appointed as the Council's new principal policy officer (engagement) and communications manager respectively.
6. The Chair informed members that Karen Berry and Colin Hershaw of the Scottish Environment Protection Agency (SEPA) would join the meeting for item 3.4 to give a presentation on SEPA's work. It was agreed that item 3.4 would be held back until after item 8 to allow the presentation to take place after the other business had concluded.

Item 1.2: Previous meeting [Paper 1.2]

7. Minutes of the Council meeting of 18 March 2022 were provided at **paper 1.2**. It was noted that a minor amendment to the minutes was required as the draft minutes previously circulated had not included item 6.3 on decisions by correspondence. The members present agreed to recommend that the Council should make the amendment and approve the minutes as amended.

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

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

Item 1.4: Private papers [Oral update]

9. The members present agreed to recommend that the Council should not publish the following papers: 1.3, 3.2, 3.3, 5.1, 6.1, 6.1A, 6.2B, 6.2C, 6.3.

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

10. The Chair informed members that:

- Lesley Weber had tendered her resignation as the victims expert member of the Council in March. The victims expert is recruited and appointed by the Scottish Ministers, and it was expected that the recruitment process for Lesley's replacement would begin in due course.

Note of thanks: the members present recorded their thanks to Lesley Weber for her contribution to the work of the Council.

- As was mentioned under item 1.1, it was expected that Louise Arrol's appointment to the Council would be confirmed shortly.
- It was understood that the appointment process for a summary sheriff member is well advanced.

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

- Lindsey Miller had been appointed to the Domestic Abuse Committee by the unanimous agreement of the Council via a decision by correspondence.
- Lesley Weber's resignation from the Council meant that she was no longer a member of the Communications, Sexual Offences, and Domestic Abuse Committees.

Item 1.6: Update on staffing [Oral update]

12. David Dickson informed members that:

- As was mentioned under item 1.1, Valerie MacGregor and Caroline Bellinger had joined the secretariat.

- Recruitment is underway for a temporary principal legal officer to take David's place while he is acting secretary during Ondine Tennant's maternity leave.
- It was hoped that recruitment would get underway shortly for a new senior policy officer to replace David Ross, who had assumed the role of principal policy officer (corporate), and for a new research officer.

2. SENTENCING GUIDELINES

Item 2.1: Guideline committees update [Oral update]

13. The Chair gave an update on the work of the Sexual Offences and Death by Driving Committees.
14. In respect of the Sexual Offences Committee, he noted that the Committee's meeting on 24 May was postponed as the secretariat had not progressed some of the action points from the last meeting as much as it would have liked due to pressure of business elsewhere. It was hoped to reschedule the meeting soon.

ACTION POINT

AP2 ***Secretariat to identify a suitable date for the Committee's next meeting.***

15. In respect of the Death by Driving Committee, the Chair noted that:
 - The Committee had not met since the last Council meeting.
 - Engagement with justice partners on the draft death by driving impact assessment is ongoing.
 - Once that had concluded, formal consultation on the draft death by driving guideline would take place with the Scottish Ministers and the Lord Advocate, as required by statute. This would be followed by a full public consultation.
 - The secretariat was working on plans for engagement activity to raise awareness of the consultation at the appropriate time.

ACTION POINTS

AP3 ***Secretariat to conclude engagement with justice partners on the draft death by driving impact assessment and thereafter arrange for formal consultation with the Scottish Ministers and Lord Advocate on the draft death by driving guideline.***

AP4 ***Secretariat to finalise arrangements for a full public consultation on the draft death by driving guideline.***

16. Sheriff Principal Turnbull gave an update on the work of the Sentencing Young People, Discounting, and Domestic Abuse Committees.

17. In respect of the Sentencing Young People Committee, he noted that:

- The Committee had not met since the last Council meeting. In accordance with its terms of reference it would be wound-up on 26 July, six months after the sentencing young people guideline took effect.
- A second webinar on the guideline took place on 27 April. Like the first event in January, this was also co-hosted by CYCJ and featured the same guest speakers – Dr Suzanne O'Rourke, retired sheriff David Mackie, and Kirsty Giles of the Scottish Violence Reduction Unit. Although it was not as well-attended as the first event (152 people attended compared to 404 in January), it involved the premiere of the animated videos on the guideline's three key themes, and appeared to be a success.
- The animated videos were published on the Council's website and YouTube channel on 06 May. The feedback the secretariat has received about them to date has been universally positive.
- Various national and local media outlets published articles about the launch of the videos, including 'The Herald', 'The Scotsman' and STV.
- The secretariat had also engaged with educational bodies to raise awareness of the videos and encourage their use in schools:
 - A link to the videos was published in Education Scotland's online newsletter 'Scotland Learns' on 26 May.
 - The Modern Studies Association shared the videos on its Facebook and Twitter pages.

- The Scottish Council of Independent Schools would be publishing information about the videos in its latest monthly bulletin.
 - The secretariat is continuing to engage with these and other educational bodies. Among other things, it hopes to give a presentation about the guideline at the Modern Studies Association Annual Conference in November, and will report to the Communications Committee regarding future engagement activities.
 - The Sheriff Principal and Krista Johnston gave presentations on the sentencing process and sentencing young people guidelines to the Scottish Young Lawyers' Association at a webinar on 19 May.
 - The Committee's final activity would be a workshop at the National Youth Justice Conference on 16 June to seek feedback on the impact of the guideline and how it has been operating in practice. This would be chaired by David Harvie, the Council's former prosecutor member and an advisor to the Committee. Krista Johnston and the Council's former victims expert member, Sue Moody, would also take part.
18. In respect of the Discounting Committee, Sheriff Principal Turnbull noted that the Committee held its first meeting on 11 May 2022 and elected him as its chair. The Committee's next meeting would be held once Dr Nicole Vidal had commenced research with sentencers, which would begin once she had completed her research on domestic abuse.
19. In respect of the Domestic Abuse Committee, Sheriff Principal Turnbull noted that:
- The Committee held its first meeting on 04 May 2022 and elected him as its chair.
 - It had considered an update from Dr Nicole Vidal on the work she is currently undertaking on domestic abuse cases, including judicial interviews.
 - Due to Lesley Weber's resignation from the Council, a further member was likely to be appointed once the Council's new summary sheriff and advocate members are in post.
 - The next meeting would take place during the summer.

ACTION POINT

AP5 Secretariat to identify and fix a suitable date for the next meeting of the Domestic Abuse Committee.

3. COMMUNICATIONS AND ENGAGEMENT

Item 3.1: Communications Committee update [Oral update]

20. Hannah Graham gave an update on the work of the Communications Committee. In particular, she noted that:

- The chair position is vacant pending appointment of new Council members.
- There had not been a Communications Committee meeting since the last Council meeting, however, with Valerie MacGregor joining the Council as principal policy officer (engagement) and Caroline Bellinger as the Council's new communications manager, the Committee was hoping to convene shortly.
- With a full communications and engagement team in place, the Committee would have the capacity to be more proactive in undertaking further media and engagement activities.

21. Hannah also provided a communications report:

- From 18 March 2022 (the last Council meeting) to 6 June 2022 there were more than 16,400 visitors and 39,400 page views on the Scottish Sentencing Council website.
- The top five most visited pages in the period were:
 - About sentencing/prison sentences
 - About sentencing/sentences and appeals
 - Jargon buster
 - About sentencing/community payback orders
 - About sentencing/what the law says
- The Council's Twitter account gained 70 new followers from 1 March 2022 to 31 May 2022, bringing the total count to 2,508.
- In the same period, the Council issued 22 tweets, which have been collectively retweeted 136 times, liked 202 times and viewed 59,900 times, or an average of 799 views per day.
- The Council was mentioned in 103 articles from April 2021 to February 2022. This is up from 28 in the same period the year before – a 268% increase in coverage.

- The animated videos detailing the key themes of the sentencing young people guideline previously mentioned under item 2.1 have collectively been viewed 910 times. On Twitter, there were 10 tweets on 6 May promoting the videos, which together received 73 retweets, 107 likes, 96 clicks through to links on the Council's website and YouTube channel, and more than 25,950 views. On the Council website, there have been 733 views on the page hosting the videos, while the associated news story has received 385 views.
- The secretariat would be assessing the impact and effectiveness of the videos and would provide an update to the Committee about this at its next meeting.
- The Council recently published three blogs on its website:
 - 'Sentencing offenders with mental health issues' by Professor Julian Roberts and Dr Jonathan Bild of the Sentencing Academy;
 - 'The Potential and Pitfalls of Comparative Sentencing Research' by Professor Cyrus Tata from the Centre for Law, Crime and Justice at the University of Strathclyde's Law School; and
 - 'Forfar Problem-solving Court' by Sheriff Jillian Martin Brown.
- A blog on the 'Caledonian System', a programme run by Community Justice Scotland that addresses domestic abuse, has been written by Gill McKinna, Head of the Caledonian National Team and would be published shortly.

ACTION POINT

AP6 Secretariat to identify and fix a suitable date for the next meeting of the Communications Committee.

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

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

- The Council's community sentences stakeholder event which took place online on 31 March 2022. An interim report about this event was provided under item 3.3.
- 'Sentencing young people – where next?' webinar co-hosted by the Council and CYCJ, 27 April 2022 - an update on this event was provided under item 2.1.

- Community Justice Scotland policy forum - National Strategy for Community Justice: Revision Consultation, 11 May (online) - David Dickson, David Ross, and Valerie MacGregor attended this online policy forum which discussed the consultation on the revised iteration of Scottish Government's National Strategy for Community Justice.
- 'Spotlight on Scottish sentencing guidelines', a Council webinar co-hosted with the Scottish Young Lawyers' Association, 20 May 2022 – as was noted under item 2.1, Sheriff Principal Turnbull and Krista Johnston gave presentations on, respectively, the sentencing process and sentencing young people guideline at this event.
- Annual 'Roger Hood' Lecture: Forty Years On: Taking Stock of the Sentencing Guidelines Movement, Oxford University Faculty of Law, 9 June 2022 (online) – Andrew Bell, Valerie MacGregor and David Ross attended this lecture, which was delivered by Professor Julian Roberts, Executive Director of the Sentencing Academy, and a co-author of, among other things, two recent pieces of research commissioned by the Council – the mental health and sentencing literature review and the report on the challenges of comparative sentencing.

23. The members present also noted a number of upcoming events set out in **paper 3.2**:

- The International Society for the Reform of Criminal Law (ISRCL) conference 2022.
- The Council's workshop on the impact of the sentencing young people guideline at the National Youth Justice Conference, 16 June, as previously mentioned under item 2.1.
- Research showcase / webinar, date TBC.
- Postponed visit to Sentencing Council for England & Wales in London, date TBC.
- Four Corners Conference, 24 and 25 November.

ACTION POINT

AP7 ***Secretariat to prepare detailed proposals on potential Council participation in the International Society for the Reform of Criminal Law (ISRCL) conference 2022.***

Item 3.3: Interim update on community sentences stakeholder event [Paper 3.3]

24. The members present noted **paper 3.3**, which provided an interim update on the community sentences stakeholder event held on 31 March 2022.

ACTION POINT

AP8 ***Secretariat to draft a full report on the community sentences stakeholder event for consideration by the Council.***

4. RESEARCH AND INFORMATION

Item 4.1: Research Committee update [Oral update]

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

- The Committee has not met since the previous Council meeting.
- While it was not possible to find a suitable date to undertake the research webinar before Easter, work is under way to identify a suitable time during summer.
- Two research reports have recently been published (comparative sentencing and sentencing of offenders with mental health issues, which was published during Mental Health Awareness Week), with four more reports forthcoming (domestic abuse, indecent images of children, assault, and fraud).

ACTION POINT

AP9 ***Secretariat to arrange for the publication of the research reports on domestic abuse, indecent images of children, assault, and fraud.***

Item 4.2: Research projects update [Oral update]

26. Andrew Bell gave an update on the status of ongoing research projects. He noted that the Council has been offered the opportunity to have a piece of research work undertaken free by students at the Open University Open Justice centre. He sought the views of the members present on appropriate topics to be considered.

ACTION POINT

AP10 *Secretariat to progress suggestions on research work to be undertaken by students at the Open University Open Justice centre.*

5. POLICY DEVELOPMENT

Item 5.1: Policy update [Paper 5.1]

27. **Paper 5.1** advised of two open Scottish Government consultations on criminal justice issues (the Children's Care and Justice Bill and improving victims' experiences of the justice system); and sought views on whether and, if so, how, the Council should respond to these consultations.

28. The members present agreed to recommend that the Council:

- should respond to the consultation on the Children's Care and Justice Bill, noting that the secretariat would draft a response for its consideration; and
- should not respond to the consultation on improving victims' experiences as it addresses issues that are outwith its remit.

ACTION POINT

AP11 *Secretariat to prepare a draft response to the Children's Care and Justice Bill for the Council's consideration by correspondence.*

6. POLICY DEVELOPMENT

Item 6.1: Draft Annual Report 2021-22 [Papers 6.1 and 6.1A]

29. **Paper 6.1** introduced the Council's draft annual report for 2021-22. The draft annual report, covering the period 1 April 2021 – 31 March 2022, was provided at **paper 6.1A**. In particular, it was noted that it highlights two key achievements: the finalisation and approval of the sentencing process and sentencing young people guidelines.

30. The members present agreed to recommend that the Council should:

- approve, in principle, the draft annual report provided at paper 6.1A; and
- agree that the report should thereafter be finalised by the secretariat in consultation with the Chair of the Council.

Item 6.2: Standing papers: correspondence, FOISA, and complaints; finance overview; guideline timetable [Papers 6.2A-C]

31. The members present noted the content of the standing papers.

Item 6.3: Decisions by correspondence [Paper 6.3]

32. 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 Domestic Abuse Committee.

7. AOB

33. No other business was raised.

8. FUTURE MEETING DATES

34. The members present noted the dates of the Council's future meetings in 2022:

- Council meeting: 30 September 2022
- Council meeting: 09 December 2022

ALTERATION TO AGENDA *(By agreement this item was held back until after item 8.)*

Item 3.4: Presentation by the Scottish Environmental Protection Agency [Oral update]

35. Karen Berry, SEPA's Legal Senior Manager, and Colin Hershaw, its interim Head of Enforcement, joined the meeting. Colin gave a presentation about SEPA's work with a particular focus on the impact of serious organised crime. The members present considered and discussed the issues raised.