

MEETING OF THE SCOTTISH SENTENCING COUNCIL
18 MARCH 2022
SCOTSMAN HOTEL, EDINBURGH
MINUTES

Members present: Lady Dorrian, the Lord Justice Clerk (Chair)
Lord Matthews (judicial member)
Sheriff Principal Craig Turnbull (judicial member)
Sheriff Iain Fleming (judicial member)
Lindsey Miller (prosecutor member)
Krista Johnston (solicitor member)
Deputy Chief Constable Will Kerr (constable member)
Lesley Weber (lay member – victims expert)
Dr Hannah Graham (lay member) (from item 2.1)

Attendees: Aaron Pollock
Jay Christopherson (item 2.3 only)

Secretariat: David Dickson (secretary)
Andrew Bell (principal research officer)
David Ross (senior policy officer)
Dr Nicole Vidal (researcher)

Apologies: Susan Fallone JP (judicial member)

1. PROCEEDINGS

Item 1.1: Introduction and welcome

1. The Chair welcomed members to the meeting and noted that apologies had been received from Susan Fallone.
2. The Chair informed members that Aaron Pollock, a law student who has been mentored by David Dickson, was attending the meeting as an observer.
3. The Chair informed members that Jay Christopherson, a producer with Speakeasy, would join the meeting for item 2.3 to give a presentation on videos being developed to raise awareness of the sentencing young people guideline. It was agreed that item 2.3

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]

4. The Council agreed the minutes from the previous meeting as provided at **paper 1.2**.

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

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

Item 1.4: Private papers [Oral update]

6. The Council agreed not to publish the following papers: 1.3, 2.1, 2.1A, 2.1B, 2.1C, 2.2, 2.3, 3.2, 5.1, 6.1B, 6.1C.

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

7. The Chair noted that it was expected that recruitment for the new summary sheriff and advocate members would begin shortly.
8. The Chair informed members that Lindsey Miller and the secretariat had discussed which committees she might be appointed to.

ACTION POINT

- **AP1 Secretariat to finalise arrangements for the appointment of Lindsey Miller to Council committees.**

Item 1.6: Update on staffing [Oral update]

9. David Dickson informed members that the secretariat has held successful recruitment exercises, and hoped shortly to be in a position to confirm the appointment of two new principal policy officers and a communications officer.
10. Further recruitment exercises to bring the secretariat to its full complement would commence shortly.

2. SENTENCING GUIDELINES

Item 2.1: Death by driving – draft guideline and consultation materials [Papers 2.1 and 2.1A-C]

11. **Paper 2.1** provided the Council with:

- a revised draft death by driving guideline (**paper 2.1A**);
- a revised public consultation document (**paper 2.1B**); and
- a revised draft impact assessment (**paper 2.1C**).

12. The Council, having discussed the issues raised in **paper 2.1**, agreed on a number of amendments to the draft guideline and public consultation document, and approved the draft impact assessment subject to consultation with justice partners.

ACTION POINTS

- **AP2** *Secretariat to revise the draft death by driving guideline and public consultation document and issue the revised versions to the Council for consideration and clearance by correspondence.*
- **AP3** *Secretariat to consult justice partners on the draft death by driving impact assessment and issue this to Council for consideration and clearance by correspondence if any substantive changes are made.*

Item 2.2: Sexual offences – project scoping [Oral update with reference to paper 2.2]

13. David Dickson introduced **paper 2.2**, which was a draft project initiation document (PID) for the guideline on rape offences. He noted that this had been developed under the aegis of the Sexual Offences Committee. At its last meeting on 18 January, the committee had agreed to recommend to the Council that the scope of the guideline should be extended to include the common law offence of rape, but no other common law offences.

14. The Council:

- agreed that the scope of the rape guideline should include the common law offence of rape but no other common law offences; and
- approved the PID for the rape guideline.

ACTION POINT

- **AP4** **Secretariat to finalise the project initiation document on the rape guideline.**

Item 2.3: Sentencing young people – communications update [Paper 2.3]

15. It was agreed that this item would be discussed after item 8 on the agenda.

Item 2.4: Guideline committees update [Oral update]

16. Sheriff Principal Turnbull gave an update on the work of the Sentencing Process Committee. He noted that the committee had not met since the last Council meeting and in accordance with its terms of reference would be wound up on 22 March, six months after the sentencing process guideline took effect.

17. Sheriff Principal Turnbull also gave an update on the work of the Sentencing Young People Committee. He noted that:

- The committee has not met since the last Council meeting and in accordance with its terms of reference would be wound up on 26 July, six months after the sentencing young people guideline took effect.
- While the committee did not have further meetings scheduled before then, it would continue to consider various matters relating to communications activity aimed at raising awareness of the guideline, which would be discussed under item 2.3.

18. DCC Kerr gave an update on the work of the Death by Driving Committee. He noted that:

- The committee last met on 31 January and its decisions on that date were reflected in the papers considered at the Council's workshop on 25 February.
- There are currently no plans for the committee to meet again prior to commencement of the public and statutory consultations on the guideline.

19. Lord Matthews gave an update on the work of the Sexual Offences Committee. He noted that:

- The committee last met on 18 January when, as discussed under item 2.2, it finalised the draft PID for the rape guideline for submission to the Council at today's meeting.
- At that meeting, the committee also heard from a representative of the Risk Management Authority about the RMA's work on internet offending and its potential

implications for the indecent images guideline. The secretariat would provide advice on this to the committee at its next meeting. This was likely to take place in April.

20. Sheriff Fleming gave an update on the work of the Discounting Committee. He noted that the committee was yet to hold its first meeting but a suitable date in May had now been identified.
21. Sheriff Principal Turnbull gave an update on the work of the Domestic Abuse Committee. He noted that this committee was also yet to hold its first meeting but a date in May had now been fixed.

3. COMMUNICATIONS AND ENGAGEMENT

Item 3.1: Communications Committee update [Oral update]

22. Krista Johnston 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.
 - Valerie MacGregor, head of Judicial Communications, attended the last committee meeting to discuss potential media engagement.
 - From 1 December 2021 to 28 February 2022 there were over 19,487 visitors and 47,770 page views on the Council's website.
 - The top five most visited pages in the period were:
 1. About sentencing/ prison sentences
 2. About sentencing/ sentences and appeals
 3. The jargon buster
 4. About sentencing/ community payback orders
 5. About sentencing/ what the law says
 - The Council's Twitter account gained 122 new followers from 1 December 2021 to 28 February 2022.
 - In the same period the Council's 36 tweets were retweeted 185 times, liked 493 times and had over 110,000 impressions.
 - The Council was mentioned in 98 articles in total in 2021. From January to the end of February 2022 the Council has been mentioned in 16 articles.

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

23. The Council noted **paper 3.2**, which provided details of a number of recent and upcoming meetings and events attended by members and staff, including:
- The Chair’s virtual meeting with Lord Justice Holroyde, chair of the Sentencing Council for England and Wales, on 10 January 2022 to discuss areas of a range of issues related to the work of both Councils.
 - An informal briefing session with the Scottish Parliament’s Criminal Justice Committee on 12 January 2022 which was attended by the Chair and Sheriff Principal Turnbull.
 - A talk on the use and purpose of sentencing guidelines which the Chair gave at a recent Judicial Institute sentencing course.

4. RESEARCH AND INFORMATION

Item 4.1: Research Committee update [Oral update]

24. 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.
 - It is considering by correspondence project procurement documents for the 22/23 research plan.
 - It is also is also considering by correspondence a number of literature reviews, in conjunction with guideline committees where appropriate.

Item 4.2: Research projects update [Oral update]

25. Andrew Bell gave an update on the status of ongoing research projects. He noted that:
- The final version of the “Methodological Challenges Of Comparative Sentencing Research” literature review had been received and was in the process of being formatted and cleared for publication.
 - Dr Vidal’s case analysis work on domestic abuse would be available to the Domestic Abuse committee shortly. Dr Vidal would be moving on to judicial engagement on this topic shortly.

ACTION POINT

- **AP5** **Secretariat to arrange for the publication of the “Methodological Challenges Of Comparative Sentencing Research” literature review as soon as is practical.**

5. POLICY DEVELOPMENT

Item 5.1: Policy update [Paper 5.1]

26. The Council noted **paper 5.1**, which gave an update on the following issues:
- The publication of the analysis of responses to the Scottish Government’s consultation on a review of the National Strategy for Community Justice.
 - A consultation on a proposed Member’s Bill to tackle fly-tipping.
 - A computer glitch which affected the case management system used to assess risk levels in relation to prisoner release decisions.
 - A pilot exercise in respect of a redesigned version of the Moving Forward: Making Changes programme, which is intended for those who have committed a sexual offence.

6. POLICY DEVELOPMENT

Item 6.1: Standing papers: correspondence, FOISA, and complaints; finance overview; guideline timetable [Paper 6.1]

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

Item 6.2: Decisions by correspondence [Oral update]

28. It was noted that no decisions by correspondence had been made since the last meeting.

7. AOB

Item 7.1: Any other business

29. No other business was raised.

8. FUTURE MEETING DATES

30. The Council noted the dates of its future meetings and events in 2022:

- Council meeting: 10 June 2022
- Council workshop: 02 September 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 2.3: Sentencing young people – communications update [Paper 2.3]

31. **Paper 2.3** updated the Council on recent and upcoming communications and media activity around the sentencing young people guideline, including the development of animated videos on the guideline's key themes.

32. The Council noted the update and indicated that it would like to apply to hold a workshop on the guideline at this year's National Youth Justice Conference. It was agreed that the application should be considered and cleared by the Sentencing Young People and Communications Committees.

33. Jay Christopherson joined the meeting and gave a presentation on the videos under development. The Council considered early versions of the videos and offered comments on their style and content.

ACTION POINTS

- **AP6** ***Secretariat to liaise with the Sentencing Young People and Communications Committees in relation to a Council application to hold a workshop on the sentencing young people guideline at the National Youth Justice Conference 2022.***
- **AP7** ***Secretariat to liaise with Speakeasy regarding the finalisation of animated videos on the sentencing young people guideline.***

