

MEETING OF THE SCOTTISH SENTENCING COUNCIL
06 JUNE 2025
GLASGOW SHERIFF COURT
DRAFT MINUTES

NOTE: this meeting was inquorate from item 3.4. 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 Beckett, the Lord Justice Clerk (Chair)
Lord Matthews (judicial member)
Sheriff Iain Fleming (judicial member)
Lindsey Miller (prosecutor member)
Victoria Young (advocate member) – *until item 2.1*
Joanne McMillan (solicitor member)
DCC Bex Smith (constable member) – *by videoconference until item 3.4*
Lynn Burns (victims expert member)

Attendees: Sheriff Amel Elfallah (advisor to the Council)
Cat Dalrymple (Director of Justice, Scottish Government) – *by videoconference until item 2.1*
Graham Ackerman (Head of Community Justice Unit, Scottish Government) - *until item 2.1*
Sheriff David Mackie (Commissioner, the Scottish Sentencing and Penal Policy Commission) – *until item 2.1*
Nicola Wisdahl (Scottish Sentencing and Penal Policy Commission secretariat) – *until item 2.1*
Heather Simpson (SCTS - Head of Strategy & Governance, Judicial Office for Scotland)

Secretariat: Ondine Tennant (director)
David Dickson (principal legal officer)
Dr Nicole Vidal (principal research officer)
Valerie MacGregor (principal policy officer - engagement)
David Ross (principal policy officer - corporate) - *by video conference*

Jane Rice (senior policy officer)
Lynda Tahri (communications manager)
Nick Bibby (communications manager)
Hannah Downey (interim senior research officer)
Richard Smith (business manager)
Clarke Spence (assistant business manager)

Apologies: Lord Colbeck (judicial member)
Dr Jay Gormley (lay member)

1. PROCEEDINGS

Item 1.1: Introduction and welcome

1. The Chair opened the meeting and noted that apologies had been received from Lord Colbeck and Dr Jay Gormley.
2. The Chair welcomed Cat Dalrymple and Graham Ackerman of the Scottish Government, and retired Sheriff David Mackie, Commissioner, and Nicola Wisdahl, secretariat, of the Sentencing and Penal Policy Commission, to the meeting.
3. The Chair welcomed Clarke Spence to his first meeting since his appointment as the Council's temporary assistant business manager, and Heather Simpson, Head of Strategy and Governance within the Judicial Office for Scotland.

Item 1.2: Previous meeting minutes [Paper 1.2]

4. The Council approved the draft minutes of the previous meeting of 21 March 2025 provided at **paper 1.2** subject to an amendment at paragraph 17 in order that the Female Offenders' Court be referred to accurately.

ACTION POINT

AP1. Secretariat to amend the draft minutes of the 21 March 2025 Council meeting as agreed.

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**. It was agreed that the outstanding action point from the 09 June 2023 should now be regarded as complete.

Item 1.4: Private papers [Oral update]

6. The Council agreed not to publish the following papers: 1.3, 1.5, 3.1, 3.1A, 3.1B, 3.2, 3.2A, 3.2B, 3.3, 3.3A, 4.1, 4.1A, 4.2, 4.3, 4.4, 5.2, 5.4, 5.4A, 6.1, 6.2, 6.2A, 7.1, 7.1A, 7.2B, and 7.2C.

Item 1.5: Update on Council and committee membership [Paper 1.5]

7. The Council:

- noted the update on Council and committee membership provided at **paper 1.5**; and,
- confirmed the appointment of Lynn Burns to the Domestic Abuse Committee, effective from 06 June 2025.

2. BUSINESS PLANNING

Item 2.1: Update from the Scottish Government and Scottish Sentencing and Penal Policy Commission [Oral update]

8. Cat Dalrymple and Graham Ackerman provided an update on the Council's funding for Financial Year 2025/26, the Scottish Government's legislative programme, the prison population, and other policy developments of interest to the Council. The Council noted in particular the potential implications of any developments in relation to further implementation of the Domestic Abuse (Scotland) Act 2021 and the Scottish Government's consideration of the creation of an offence of non-fatal strangulation, upon the timetable for the Council's domestic abuse guideline.

ACTION POINT

AP2. Secretariat to seek updates from Scottish Government and COPFS in relation to any developments with potential to have implications for the draft domestic abuse guideline.

9. Sheriff David Mackie and Nicola Wisdahl provided an update on the Scottish Sentencing and Penal Policy Commission's work to date, noting in particular that the Commission was giving consideration to the responses to its call for evidence and that it was giving consideration to the next stage of its evidence-gathering.
10. The Council considered and discussed the issues raised. The Chair thanked the Government and Commission representatives for their contributions, and invited them to leave the meeting.

3. SENTENCING GUIDELINES

Item 3.1: Rape guidelines [Oral update with reference to papers 3.1 and 3.1A-B]

11. Lord Matthews provided an update on the development of the draft rape guidelines, with reference to **papers 3.1 and 3.1A-B**.
12. The Council considered the papers and, with one exception, agreed the proposed amendments to the draft rape guidelines. Two further suggested areas for attention had been raised since the papers issued and the Council agreed to consider revised drafts addressing these matters.

ACTION POINT

AP3. Secretariat to amend the draft rape sentencing guidelines as discussed.

Item 3.2: Draft report on the rape guidelines consultation [Papers 3.2 and 3.2A-B]

13. Lord Matthews provided an update on the draft report on the rape guidelines consultation, with reference to **papers 3.2 and 3.2A-B**.
14. The Council noted the update and that a further draft report would be circulated reflecting suggestions made during the discussion and to ensure alignment with the additional amendments instructed under item 3.1.

ACTION POINT

AP4. Secretariat to circulate a revised draft consultation report in due course.

Item 3.3: Sexual assault [Papers 3.3 and 3.3A]

15. Lord Matthews provided an update on the proposed scope of the sexual assault guidelines with reference to **paper 3.3**. The Council approved option 1 as outlined in the paper.

ACTION POINT

AP5. Secretariat to consider whether revisions to the Project Initiation Document and project plan are required in order to reflect the agreed scope of the guidelines on sexual assault.

Item 3.4: Guideline committees update [Oral update]

16. Lord Matthews provided an update on the work of the Sexual Offences Committee. He noted that:
 - The Committee last met on 21 May to discuss the draft rape guidelines, and sexual assault guidelines, which had been discussed under items 3.1, 3.2, and 3.3.

17. Lindsey Miller provided an update on the work of the Domestic Abuse Committee. She noted that:

- The Committee has not met since the last Council meeting, however, consideration would be given to the results of judicial engagement on the draft guideline.

18. Sheriff Fleming provided an update on the work of the Sentencing After a Guilty Plea Committee. He noted that:

- The Committee last met on 22 May.

At this point DCC Bex Smith had to leave as previously notified, and the meeting became inquorate.

19. Sheriff Fleming provided an update on work carried out in respect of the Environmental and Wildlife Committee. He noted that the Committee had not been in a position to meet since the last Council meeting but that with the guideline having been suspended for a significant period earlier in the Council's work programme it would be important to now make progress on the project.

4. COMMUNICATIONS AND ENGAGEMENT

Item 4.1: Communications activity update [Oral update with reference to papers 4.1 and 4.1A]

20. Joanne McMillan provided an update on the work of the Communications and Engagement Committee. In particular she noted that:

- The Committee last met on 23 May.
- It was noted that the secretariat was taking forward various improvements to the Council website and that work continued on the next educational video on the sentencing process. Recent parliamentary activity, in the form of Chamber questions, was noted, as was correspondence with the Scottish Parliament's Citizen Participation and Public Petitions Committee.
- The Committee provided an update to the Council's existing social media policy paper to include the reposting of relevant material. The members present agreed to recommend that the Council should approve the proposed update.
- The Committee had discussed the 10-year anniversary plans, options for developing the Council's website, the production of classroom lesson plans, the educational video, and communications and engagement activity in the preceding quarter.

ACTION POINTS

AP6. Secretariat to contact SPICe to discuss engagement with the team.

AP7. Secretariat to publish revised Social Media Policy on Council website.

Item 4.2: Media and digital update [Paper 4.2]

21. The members present noted **paper 4.2** which provided a report on media, social media and other communications coverage relating to the Council.

Item 4.3: 10-year anniversary update [Paper 4.3]

22. Joanne McMillan provided an update on plans for the Council's tenth anniversary. In particular she noted:

- The plans centred on an anniversary conference to be held later in the year, with the precise date to be confirmed as soon as possible.
- Other plans included the possibility of a series of talks to be given by members of the Council, and an essay competition for secondary and undergraduate students. Several members volunteered to take part in the essay competition review stage.
- A potential seminar to be jointly organised with the Judicial Institute for Scotland.

ACTION POINT

AP8. Secretariat to proceed with organising the anniversary events as outlined.

Item 4.4: Recent and upcoming engagement activity [Papers 4.4 and 4.4A]

23. The members present noted **papers 4.4 and 4.4A**, which provided updates on recent and upcoming engagement activity.

5. RESEARCH

Item 5.1: Research Committee update [Oral update]

24. Sheriff Fleming provided an update on the work of the Research Committee. In particular, he noted that the Committee last met on 01 May 2025 and 03 April 2025, with focus primarily being given to arrangements for the second Research Symposium, held on 20 May.

Item 5.2: Research projects update [Paper 5.2]

25. Nicole Vidal introduced **paper 5.2**. In particular she noted that:

- Work is ongoing on research priorities and forecasted projects in accordance with the Council's agreed research priorities and budget.
- Several reports are currently under internal review by the secretariat and are expected to be published once final drafts are made available.

26. The members present noted the update in **paper 5.2**.

Item 5.3 Research Symposium [Oral update]

27. Nicole Vidal provided an update on the Council's second research symposium which was held on 20 May. The symposium brought together academics, key stakeholders, and justice professionals and offered an informative and constructive discussion on sentencing research and the Council's broader interests. Recordings from the day will be made available in due course, and the symposium report will be published at a later date.

28. The members present noted the update.

Item 5.4 Research project proposal [Paper 5.4]

29. Jane Rice presented paper 5.4 which discussed a potential research proposal.

30. The members present noted the proposals, offering some views on the practicability of the proposal as outlined and raising some potential issues with some of the methods suggested. There were also some questions about the utility of the proposal to progressing the Council's work programme given its available resources and more information in that regard was sought.

ACTION POINT

AP9. Secretariat to revise the proposals as discussed, provide further information on how the project might support the Council's work programme, follow up with relevant internal and external stakeholders and revert to the Council as soon as practicable.

6. POLICY DEVELOPMENT

Item 6.1: Policy update [Paper 6.1]

31. The members present noted **paper 6.1**, which outlined a number of recent policy issues of relevance to the Council's work.

Item 6.2: Sentencing and Penal Policy Commission: call for evidence [Paper 6.2 and 6.2A]

32. Ondine Tennant introduced a draft response to the Sentencing and Penal Policy Commission's call for evidence at **paper 6.2A**.
33. Two matters were suggested as requiring attention and the members present asked the secretariat to make one correction and consider clarification of a second matter.

ACTION POINT

AP10. Secretariat to circulate revised draft of the response to the Commission's call for evidence.

7. GOVERNANCE AND REPORTS

Item 7.1: Annual Report 2024-25 [Papers 7.1 and 7.1A]

34. **Paper 7.1** sought approval, in principle, of the Council's draft annual report for 2024-25, which was provided at **paper 7.1A**.
35. The members present agreed to recommend that the Council should approve, in principle, the draft annual report at **paper 7.1A** and agree that the report should thereafter be finalised by the secretariat in consultation with the Chair.

ACTION POINT

AP11. Secretariat to finalise the annual report for 2024-25 in consultation with the Chair and arrange for its submission to the Scottish Ministers and publication thereafter.

Item 7.2: Standing papers: correspondence, FOISA, and complaints; finance overview; guideline timetable [Papers 7.2A-C]

36. **Paper 7.2A** summarised correspondence, complaints, and FOI requests since the last meeting.
37. **Paper 7.2B** updated the Council on expenditure in the 2024-25 financial year.
38. **Paper 7.2C** set out the timetable for the development of each of the Council's guidelines.
39. The members present noted the content of **papers 7.2A-C**.

Item 7.3: Decisions by correspondence [Oral update]

40. The members present noted that one decision had been made by correspondence since the Council's last meeting on 21 March. This was to approve a response to

correspondence received from the Scottish Parliament Citizen Participation and Public Petitions Committee regarding a petition about the use of the absolute discharge in sexual offences.

8. AOB

41. The Chair noted that the Council had received an invitation from the House of Commons Speaker's Conference to give oral evidence to the inquiry into threats to candidates and MPs, following its written evidence submitted in February in response to some specific questions asked by the Conference on whether guidelines should be amended to include aggravations in relation to these offences to provide greater deterrence. It is expected the session will take place on 02 July at Westminster and the secretariat is in discussions with the Chair about who might be best placed to attend.
42. Lord Matthews noted that following his presentation to this year's International Society for the Reform of the Criminal Law International Conference, various approaches had been made by attendees to meet the secretariat and learn more about the Council's work and approach.
43. The Chair noted that at the close of business the Council would be hosting guests including Dr Shona Minson from Oxford University; Judge María Jimena Monsalve, a visiting judge from Argentina; and the two sentencers who preside over the Female Offenders' court at Glasgow, Sheriff Shona Gilroy and Summary Sheriff Joanna McDonald. Council representatives, Dr Minson and Judge Monsalve will be also be observing the Female Offenders' Court as part of a knowledge exchange project.

9. FUTURE MEETING DATES

44. The members present noted the following dates for 2025:
 - Council workshop: 05 September 2025
 - Council meeting: 03 October 2025
 - Council meeting: 05 December 2025