

Scottish
Sentencing
Council



Scottish Sentencing Council

Annual Report 2022-23

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Chair's foreword

The Right Hon Lady Dorrian, Lord Justice Clerk, Chair of the Scottish Sentencing Council



I am pleased to introduce the Scottish Sentencing Council's eighth annual report, which details our activities and key achievements in the period 1 April 2022 to 31 March 2023.

This was a very productive year for the Council, with substantial progress made in respect of our key responsibility, which is to prepare sentencing guidelines for the courts, and in meeting our statutory objectives, which are to promote consistency in sentencing, assist the development of sentencing policy, and promote greater awareness and understanding of sentencing.

Regarding sentencing guidelines, 2022-23 saw a particularly significant achievement with a public consultation exercise on our first ever offence guideline, which covers the statutory offences of causing death by driving. The consultation was open between August and November 2022 and allowed members of the public and interested organisations a chance to give their views – a vital step in ensuring the guideline will be fit for purpose.

Having taken into account the views expressed, we strengthened the guideline in certain key respects as a direct result of issues raised by respondents. Due to the careful and detailed work carried out in 2022-23, we were in a position to announce our final decisions about the guideline and submit it to the High Court for approval shortly after the period covered by this report.

If approved by the High Court, this guideline will be a first for Scotland's criminal justice system. Just as importantly, given that these offences can be amongst the most serious, complex, and sensitive dealt with by our courts, we believe that it will also provide clarity for bereaved families and others affected by such cases.

Alongside this, work gathered pace on the other guidelines under development, especially those on sexual offences and domestic abuse, which are a priority for the Council due to the level of public concern around such offences.

Stakeholder engagement took place in relation to draft guidelines on rape and offences involving indecent images of children, paving the way for wider consultation in 2023-24. Significant progress was made in determining the scope and nature of guidelines on sexual assault and domestic abuse, and in respect of a further general guideline on sentence discounting when a person pleads guilty, which is a step courts are required by law to consider.

It is worth noting that the considerable headway made with these guidelines in 2022-23 was possible as a result of increased staffing resources within the secretariat. This also allowed us to undertake a greater range of work in respect of our other key roles.

In particular, we were able to carry out public engagement – an essential part of promoting awareness and understanding of sentencing – to a greater degree than in previous years. This included presentations to higher education students, modern studies teachers and pupils, community councils, and the wider public. We also published a range of new educational resources about sentencing and the work of the Council, including well-received videos on the key themes of the sentencing young people guideline and university lectures.

Significant preparatory work was also carried out to develop new webpages to assist different justice system users, expand our social media platforms and activity, and upgrade our website, which is the main channel for communicating our work.

Engagement with practitioners and organisations involved in criminal justice across Scotland and beyond was of fundamental importance this year. Council members and staff attended a wide range of stakeholder conferences and events, both to give presentations about our work and to increase our understanding of important issues, including in relation to victims' experiences of the criminal justice system and policy developments in this area.

In November, we were delighted to host the inaugural 'Four Corners Conference', which brought together all of the sentencing bodies from the United Kingdom and Ireland to discuss topics of shared interest in each of the jurisdictions.

The Council's research programme remains a central pillar of our work. It provides the evidence base for the development of sentencing guidelines, helps to increase awareness and understanding of sentencing and offending behaviour, and informs wider policy considerations relating to sentencing.

During 2022-23, we published the findings of a number of important research projects, including on the challenges of sentencing individuals with mental health issues; a study of the difficulties in comparing sentencing across different jurisdictions; and a series of literature reviews exploring the law and sentencing practice in relation to domestic abuse, indecent images of children, assault, and fraud.

An especially important aspect of our research work this year was the beginning of two key projects seeking the views of victims and survivors of rape and sexual assault, and of domestic abuse. The impact of crime on victims is central to every sentencing decision, as we have made clear in our guidelines on the principles and purposes of sentencing and the sentencing process. It is vital that we continue to learn about the experiences of victims in our ongoing work.

At the end of 2022, we approved a detailed methodology for the monitoring and review of guidelines which are in force. This was used to inform our planned review of the sentencing young people guideline. While the operation of this guideline had been subject to monitoring by the Council since the time of its coming into effect in January 2022, the agreed methodology was established to bring a formal structure to, and expand upon, the activity which had been carried out since then.

Over the course of the year, we contributed to policy development by providing views in respect of various initiatives with a bearing on sentencing. We also carried out further engagement in respect of community sentencing by seeking the views of sentencers and social work practitioners from remote mainland or island areas in order to better understand the specific issues faced in these places. This work led to the finalisation of a report, which was published shortly after the end of the reporting year.

The Council's achievements this year have depended on the dedication of both members and staff. I wish to express my sincere thanks to each of the Council members who served during 2022-23. As volunteers whose positions are unremunerated, the expertise and insight they bring to their roles, and the time they commit to the Council's work, is highly valued and greatly appreciated. On behalf of all members, I would also like to record my thanks to the Council's secretariat for the support and advice they have provided throughout the year, without which we could not operate.

The Rt Hon Lady Dorrian
Lord Justice Clerk and Chair of the Scottish Sentencing Council



Introduction

Introduction

The Scottish Sentencing Council was established on 19 October 2015 under Part 1 of the [Criminal Justice and Licensing \(Scotland\) Act 2010](#).

This annual report, which covers the period 01 April 2022 – 31 March 2023, describes the Council's work in relation to the development of sentencing guidelines, its key achievements and work in progress, its expenditure, and other information relating to its work over the course of the year.

Statutory objectives and functions

The Council is an independent advisory body with the following **statutory objectives**:

- to promote consistency in sentencing practice
- to assist the development of policy in relation to sentencing
- to promote greater awareness and understanding of sentencing policy and practice

The Council's **functions** include:

- preparing sentencing guidelines for the Scottish courts
- publishing guideline judgments issued by the Scottish courts
- publishing information about sentences imposed by the courts

It also has powers to **publish information** about, and **conduct research** into, sentencing and to **provide advice and guidance** of a general nature on sentencing matters.

Sentencing guidelines

The Council must prepare sentencing guidelines for the consideration of the High Court of Justiciary, Scotland's highest criminal court. If the High Court approves the guidelines, it may do so in whole or in part, and with or without modifications.

Guidelines do not have effect unless approved by the High Court.

The Council has **broad discretion** as to the format and subject matter of sentencing guidelines. In particular, guidelines may cover:

- the principles and purposes of sentencing
- sentencing levels
- the particular types of sentence that are appropriate for particular types of offence or offender

Membership

The Scottish Sentencing Council is made up of **12 members**. The categories of membership are [provided for in the 2010 Act](#).

The Lord Justice General is responsible for appointing the judicial and legal members, after consulting the Scottish Ministers.

The Scottish Ministers are responsible for appointing the lay members, after consulting the Lord Justice General.

A number of changes in membership took place during 2022-23.

Louise Arrol KC joined the Council as the advocate member in June 2022. This was followed by the appointment of Summary Sheriff Amel Elfallah as a judicial member in July 2022.

Krista Johnston's term of office as the solicitor member ended on her appointment as a sheriff in September 2022.

DCC Will Kerr's term of office as the constable member ended in October 2022 when he was appointed as Chief Constable of Devon and Cornwall Police. He was replaced by DCC Malcolm Graham, who was appointed as the constable member in March 2023.

Council membership during 2022-23 is set out at page 9.

Staff

During 2022-23, the Council's Secretariat comprised the following posts:

- Secretary
- Principal Legal Officer
- Principal Research Officer
- Principal Policy Officer (Corporate)
- Principal Policy Officer (Engagement)
- Senior Policy Officer
- Communications Manager
- Business Manager
- Interim Researcher

CATEGORY	POSITION	TITLE
Chair	The Lord Justice Clerk, by virtue of that office	The Right Hon Lady Dorrian
Judicial members Appointed by the Lord Justice General, after consulting the Scottish Ministers	One other person holding the office of judge who normally sits as a judge of the Outer House of the Court of Session or the High Court of Justiciary	The Right Hon Lord Matthews
	One sheriff	Sheriff Iain Fleming
	Two persons holding the office of summary sheriff or justice of the peace	Summary Sheriff Amel Elfallah (from July 2022)
		Susan Fallone JP
One further eligible judicial member or a sheriff principal	Sheriff Principal Craig Turnbull	
Legal members Appointed by the Lord Justice General, after consulting the Scottish Ministers	One prosecutor	Lindsey Miller, Deputy Crown Agent
	One advocate	Louise Arrol KC (from June 2022)
	One solicitor	Krista Johnston (until September 2022)
Lay members Appointed by the Scottish Ministers, after consulting the Lord Justice General	One constable	Deputy Chief Constable Will Kerr (until October 2022)
		Deputy Chief Constable Malcolm Graham (from March 2023)
	One person with knowledge of victims' issues	Vacant (Lynn Burns was appointed in July 2023, after the period covered by this report)
	One other person who is not qualified as a judicial or legal member	Dr Hannah Graham

Committees

The Council has two types of committee: standing committees and working group committees. Standing committees are established on a long-term basis to handle particular areas of ongoing work. Working group committees are established for a defined period of time and will generally focus on the development of a particular guideline, lasting only until this work is finished.

The 2010 Act provides that only members of the Council can be members of its committees. However, under the Council's standing orders, committees can appoint advisors who are not members of the Council, subject to the approval of the Chair of the Council.

Standing committees

The Council's two standing committees, the Communications Committee and the Research Committee, were established in 2016.

The **Communications Committee** leads on promotional and public awareness work. A key part of this involves engaging with organisations and individuals to raise awareness and understanding of sentencing, and to encourage participation in the Council's work. The Committee met four times in 2022-23. The agendas and minutes of its meetings can be found [here](#).

This year, a particular focus of the Committee's work was on engagement with higher education students, modern studies teachers and pupils, community councils, and the wider public. New educational material published in 2022-23 included [three animated videos](#) on the Council's sentencing young people guideline, a classroom PowerPoint presentation, and online lectures, all of which can be found on the [educational resources](#) page of the Council's website.

In addition, the Committee oversaw engagement activities directed at professionals and practitioners, including a webinar to raise awareness of the public consultation on the Council's draft guideline on the statutory offences of causing death by driving, and Council presentations at the International Society for the Reform of Criminal Law Conference 2022.

The Committee also began work to expand the Council's social media platforms and activity and arranged for the relaunch of the blog on the Council's website as '[Spotlight on sentencing](#)'.

This variety of work has helped to promote awareness and understanding of sentencing amongst a wide range of interested stakeholders and the wider public, and succeeded in raising the Council's profile.

Further information about communications and engagement activities can be found at pages 21-27.

The Committee's membership during 2022-23 was as follows:

- Summary Sheriff Amel Elfallah (from August 2022; chair from October 2022)
- Dr Hannah Graham
- Lindsey Miller (from December 2022)
- Sheriff Krista Johnston (until September 2022; advisor from October 2022)

The Committee's advisors in 2022-23 were:

- Sheriff Paul Brown (former judicial member of the Council)
- Sheriff Andrew McIntyre (former judicial member of the Council)

The **Research Committee** advises the Council on the commissioning, progress, and dissemination of research projects. It met once in person and advised on projects by correspondence throughout the year. The agendas and minutes of its meetings can be found [here](#).

The Committee provided oversight and advice on the commissioning and management of several research projects, including commenting on draft reports, a media strategy for dissemination of reports, and the evaluation of tenders for research projects.

In November 2022, the Committee considered and recommended to the Council a monitoring and review methodology for the ongoing review of in force guidelines.

The Committee discussed and recommended to the Council plans for research projects to be undertaken during the 2023-24 financial year.

The Committee also considered approaches from external researchers seeking support on projects with a focus on sentencing.

Further information about research carried out by the Council can be found at pages 28-29 of this report.

The Committee's membership during 2022-23 was as follows:

- Dr Hannah Graham (chair)
- Sheriff Iain Fleming
- Susan Fallone JP
- Louise Arrol KC (from August 2022)

Working group committees

These committees support the development of specific sentencing guidelines, including making recommendations to the Council as to the scope, content, and approach of its work, reviewing draft guidelines, supporting engagement with relevant stakeholders, and overseeing the guideline consultation process.

During 2022-23, working group committees were in place to support the Council's work to develop guidelines on statutory offences of causing death by driving, the sexual offences of rape and sexual assault, offences involving indecent images of children, domestic abuse, sentence discounting, and environmental and wildlife offences. A working group committee on sentencing young people remained in place until July 2022.

Details of each committee's work, membership, and advisors during 2022-23 are provided below.

Sentencing Young People Committee

Under its terms of reference, the Sentencing Young People Committee was wound up on 26 July 2022, six months after the sentencing young people guideline came into effect following its approval by the High Court. At the beginning of the period covered by this report, the Committee oversaw the arrangements for a webinar which involved the launch of three educational videos about the sentencing young people guideline, and for Council participation at the National Youth Justice Conference 2022.

The Committee's membership during 2022-23 was as follows:

- Sheriff Principal Craig Turnbull (chair)
- Sheriff Krista Johnston

The Committee's advisors in 2022-23 were:

- Sheriff Matt Jackson KC (former advocate member of the Council)
- Sheriff David Harvie (former prosecutor member of the Council)
- Sue Moody (former victims expert member of the Council)
- John Scott KC (former solicitor member of the Council)

Death by Driving Committee

Following the conclusion of the public consultation exercise on the draft guideline on statutory offences of causing death by driving, the Death by Driving Committee met twice in early 2023 to consider the analysis of responses to the consultation. It made a series of recommendations to the Council regarding the content of the draft guideline. The Committee also considered a number of matters by correspondence both before and after the consultation exercise took place.

The Committee's membership during 2022-23 was as follows:

- Lord Matthews (chair from January 2023)
- DCC Will Kerr (chair until October 2022)

The Committee's advisors in 2022-23 were:

- Sheriff David Harvie (former prosecutor member of the Council)
- Sheriff Norman McFadyen (former judicial member of the Council)

Sexual Offences Committee

The Sexual Offences Committee met five times during 2022-23 and also considered a range of matters by correspondence in that period. As a result of increased staffing resources within the secretariat, in the second half of the year the Committee was able to accelerate work on the three projects it oversees: the development of guidelines on the sentencing of rape, sexual assault, and offences relating to indecent images of children. Significant progress was made in respect of each of these projects.

The Committee's membership during 2022-23 was as follows:

- Lord Matthews (chair)
- Louise Arrol KC (from August 2022)
- Sheriff Krista Johnston (until September 2022; advisor thereafter)

The Committee's advisors in 2022-23 were:

- Sheriff Matt Jackson KC (former advocate member of the Council)
- Sheriff Andrew McIntyre (former judicial member of the Council)

Domestic Abuse Committee

The Domestic Abuse Committee met three times during 2022-23 and also considered a range of matters by correspondence in that period. As a result of increased staffing resources within the secretariat, the Committee has been able to take significant decisions on the approach to developing a draft guideline on domestic abuse offences and made steady progress towards delivering an initial document upon which to engage and consult.

The Committee's membership during 2022-23 was as follows:

- Sheriff Principal Craig Turnbull (chair)
- Summary Sheriff Elfallah (from August 2022)
- Susan Fallone JP
- Lindsey Miller (from May 2022)

The Committee had one advisor in 2022-23:

- Sheriff Paul Brown (former judicial member of the Council)

Discounting Committee

The Discounting Committee met two times during 2022-23. The Committee has commenced work on developing a draft guideline.

The Committee's membership during 2022-23 was as follows:

- Sheriff Principal Craig Turnbull (chair)
- Sheriff Iain Fleming
- Dr Hannah Graham
- Sheriff Krista Johnston (until September 2022)

Environmental and Wildlife Crime Committee

The Environment and Wildlife Committee remained on hiatus and did not meet during 2022-23. This was to allow the Council to give greater priority to the development of guidelines on sexual offences. The Committee will reconvene and resume work on the environmental and wildlife offences guideline during 2023-24.

The Committee's membership during 2022-23 was as follows:

- Susan Fallone JP
- DCC Will Kerr (until October 2022)



Sentencing guidelines

Sentencing guidelines

Under the 2010 Act, the High Court and the Sheriff Appeal Court may require the Council to prepare or review sentencing guidelines when issuing a guideline judgment under the relevant provisions of the Criminal Procedure (Scotland) Act 1995.

The Scottish Ministers may request that the Council consider preparing or reviewing sentencing guidelines. The Council must have regard to such a request but is not obliged to comply with one.

No statutory requests to prepare or review guidelines were made of the Council in the period to 31 March 2023.

Guideline development

A key focus in 2022-23 was on the draft guideline on the **statutory offences of causing death by driving**. This guideline is the Council's first on specific offences, and the first time it will set out guidance to help courts select a specific type and level of sentence.

A public consultation on the draft guideline was open from 30 August 2022 until 22 November 2022. An independent analysis of responses was considered by the Death by Driving Committee and the Council in the first quarter of 2023. The Council published its [report on the consultation](#), setting out its decisions about the final content of the guideline and how this differed as a result of views expressed, after the period covered by this report.

Death by driving offences can be amongst the most serious, complex, and sensitive cases dealt with by our courts. Although relatively uncommon, they are of significant public concern and have a devastating effect on the families of victims. While nothing can make up for the tragic loss of life involved, the Council believes that the guideline will provide clarity for the families of victims and others affected by death by driving cases, and assist judges in the difficult task of deciding on a sentence. Subject to approval by the High Court, it will be the first guideline of its kind in Scotland, marking an important development for both the Council and Scotland's criminal justice system.

In respect of the development of guidelines on sexual offences, significant progress was made as a result of increased staffing resources within the secretariat. Stakeholder engagement took place in relation to the draft guidelines on **rape** and **offences involving indecent images of children**, helping to inform the content of both draft guidelines and the approach to wider consultation on them, which will take place in 2023-24. Work to determine the scope of guidelines on **sexual assault** got underway, resulting in a project plan being put to the Council shortly after the period

covered by this report.

Important progress was also made in relation to **domestic abuse**, with decisions being reached about the scope and nature of a draft guideline and steady progress made towards delivering an initial document upon which to engage and consult.

Work began on a further general guideline on **sentence discounting when a person pleads guilty**. The Council is of the view that this will help to increase transparency and understanding around this issue.

While work on a guideline on **environmental and wildlife crime** remained paused to allow sexual offences guidelines to be given priority, the Council considered what further research should be undertaken when the project resumes in 2023-24

Methodology for guideline development

Since its establishment, the Council has given considerable thought to how guidelines should be developed, taking into account experience in other jurisdictions and lessons learned during the development of the 'Principles and purposes of sentencing' guideline.

One of the key tasks contained in our first business plan was the development of a methodology setting out how we will take forward the work to prepare individual guidelines. This was published in October 2018. As part of its statutory duty to review guidelines in force, the Council began work developing a detailed methodology for monitoring and review in autumn 2022. This was approved in December 2022, with a revised methodology published shortly after the end of the reporting year in April 2023. The revised methodology is [available on our website](#) and is summarised below.

The methodology sets out the process for guideline preparation, and explains the various steps the Council takes to ensure guidelines are robust, evidence based, and useful to both the public and the judiciary.

The guideline development process commences with consideration of possible guideline topics. Once the Council has agreed to proceed with a guideline, it will engage with stakeholders and those with an interest or expertise in the area.

As the Council is committed to an evidence-based approach to guideline development, it will also gather information about the guideline topic. This might include new research, evidence about

current sentencing practice, or a review of research and information available from other sources.

Development of a draft guideline then takes place, based on the information gathered. Thereafter, the Council seeks the views of judges, and once the draft guideline has been further adjusted it will consult widely on its terms. The Council has made a commitment to carry out a full public consultation on each of its guidelines, and is keen to hear from all those who wish to comment on a guideline. It must also, by law, consult the Scottish Ministers and the Lord Advocate. When the consultation has finished, the Council will analyse the responses and carefully consider what changes need to be made to the guideline.

The Council's guidelines only take effect if they have been approved by the High Court. Once a guideline has been finalised, it will be submitted to the High Court, together with an assessment of the guideline's anticipated impact on the criminal justice system. If the High Court approves a guideline the Council will publish it, along with the impact assessment, as soon as it can, together with details of when the guideline is to come into force.

Although the development process takes time, it is essential in ensuring that guidelines are fit for purpose and that they do not have any unintended or unhelpful consequences for the criminal justice system.

The Council will take steps to raise awareness of each new guideline once it has been approved, and must review each guideline from time to time.

The various steps in the guideline development process are summarised in the table on page 19.

The progress of guidelines currently under development is [indicated on our website](#).

Stage 1 – Initial consideration of the guideline topic

We will agree the aims and scope of a guideline and a plan for its development. We will also establish a committee to oversee the work involved.

Stage 2 – Development of a draft guideline

We will focus on stakeholder engagement and evidence gathering when developing early drafts of the guideline.

Stage 3 – Seeking the views of judges

We will seek the views of judges on current sentencing practice and any areas of difficulty in which guidance would be helpful. This will help to ensure that the guideline is useful and that potential impacts are identified.

Stage 4 – Consulting on the guideline

We will take a broad range of views into account in developing guidelines. To that end, we will carry out public consultation on all our guidelines. We are also required to consult the Scottish Ministers and the Lord Advocate.

Stage 5 – Finalising the guideline

We will take into account what we have heard during consultation, and make any necessary revisions to the draft guideline and accompanying impact assessment.

Stage 6 – Submitting the guideline for approval

The High Court requires to approve our guidelines before they can take effect. When approving a guideline, the High Court will also specify when it is to come into force.

Stage 7 – Raising awareness about the guideline

We will take steps to raise awareness of each new guideline once it has been approved. We will work to ensure that all those who have an interest in, or are affected by, a guideline are prepared for it.

Stage 8 – Monitoring and review

We must review each guideline from time to time. We have developed a staged approach to this, enabling us to react promptly to any unexpected or undesirable consequences while establishing a solid evidence base for longer term reviews.



Key achievements and work in progress

Key achievements and work in progress

Promoting awareness and understanding

One of the Council's key roles is to promote awareness and understanding of sentencing. In line with its [Communications and Engagement Strategy 2021-24](#), and as a result of additional staff to support this work, the Council was able to carry out an extensive range of communications activity in 2022-23, including the preparation of new educational resources and an increased level of engagement with a variety of audiences.

A central aim of these activities was to increase knowledge and understanding of how sentences are decided, including in relation to the three sentencing guidelines in force during 2022-23, on the [principles and purposes of sentencing](#), [the sentencing process](#), and [sentencing young people](#). There was also a focus on raising awareness of the Council's first ever offence guideline, covering offences of causing death by driving.

In all of its communications and engagement work, the Council is supported by the Communications Committee.

Openness and engagement

In fulfilment of the Council's commitment to demonstrate transparency and to work productively with others, meetings and events were held with a wide variety of stakeholders over the course of the year.

The Chair of the Communications Committee recorded two lectures, one providing an introduction to the Council and its work, and one on sentencing guidelines, aimed at students who are pursuing higher education in the field of criminology and law. Following [publication of the lectures on our website](#), two further lectures were delivered live on request to the University of Glasgow and the Open University.

In November, interactive presentations were delivered at two modern studies conferences to showcase the Council's learning materials: one for modern studies teachers organised by the Modern Studies Association, and one for school pupils from across Scotland organised by George Watson's College.

Several Doors Open Day events in September enabled the Council to hold a number of back-to-back, interactive sessions attended by interested members of the public in both Glasgow and

Edinburgh. These covered the Council's role and work in general and sentencing guidelines.

In order to reach another sector of the public, a presentation was delivered to a well-attended, national community council webinar, which included a wide-ranging and informative Q&A session.

A further focus of engagement activity in 2022-23 was in relation to victims' experiences of the criminal justice system and policy developments in this area. This involved attendance at a number of events, including:

- in May, "Hush – Breaking the Silence", a multimedia exhibition created by Victim Support Scotland's Support for Families Bereaved by Crime team, which explored a number of families' experiences of grief and the criminal justice system
- in July, an engagement event around the proposed establishment of a Victims' Commissioner for Scotland
- also in July, an online policy forum session concerning the Scottish Government's consultation on improving victims' experiences of the justice system
- a meeting of the Victims Organisations Collaboration Forum Scotland in October
- a conference on the experiences of survivors of coercive control in March

Several activities took place to raise awareness of the sentencing young people guideline: a webinar co-hosted with the Children and Young People's Centre for Justice in April, a workshop at the National Youth Justice Conference in June, and a speech by the Chair of the Council at the Scottish Association for the Study of Offending's Edinburgh branch conference in October.

Engagement with the judiciary and wider legal profession, both in Scotland and elsewhere, continued to be extremely important for the Council throughout the year. Aside from ongoing research with Scottish sentencers in relation to the development of guidelines, some of the wider engagement included a number of presentations at judicial conferences: the North Strathclyde sheriffdom conference in November; and Justice of the Peace conferences for North Strathclyde, Grampian, Highland and Islands, and South Strathclyde, Dumfries and Galloway, in October.

In October, the Council presented two papers at the annual conference organised by the [International Society for the Reform of Criminal Law](#). These were on neuroscience and sentencing, with a focus on the Council's sentencing young people guideline, and on victims' rights and sentencing.

The Council also organised and hosted a webinar aimed at legal practitioners in relation to the draft guideline on statutory offences of causing death by driving to encourage engagement in our open, public consultation held as part of the guideline's development.

In November, the Council initiated, organised, and hosted the inaugural ‘Four Corners Conference’, which brought together all of the sentencing bodies from the United Kingdom and Ireland to exchange and discuss experiences, achievements, and aims on topics of shared interest in each of the jurisdictions. The conference was thought by all involved to have been a successful and enjoyable event.

Engagement with other bodies involved in Scotland’s criminal justice system continued to be of importance to the Council. It invited the Scottish Prison Service to deliver a presentation at its June meeting on the rehabilitation programmes available in custody. At its September meeting, the Scottish Environmental Protection Agency gave a presentation about its work, with a particular focus on the impact of serious organised crime.

As in previous years, we also published details of all meetings, including agendas and minutes, of the Council and its Communications and Research Committees.

Website and social media

The Council’s website continues to be the main channel for communicating the full range of its work. It is intended to be an engaging and user-friendly resource for people wanting to find out more about sentencing and the Council.

The site is regularly updated with news items highlighting Council activities including details of our research and engagement work. In 2022-23, the most popular pages were those on [prison sentences](#), a [jargon buster](#), [sentences and appeals](#), [community payback orders](#), and [approved guidelines](#).

The website also hosts regular in-house and guest blogs on the different aspects of sentencing and how sentencing operates. In 2022-23, the blog was relaunched as “[Spotlight on sentencing](#)”. Blogs published during the year covered a range of topics, including the [Caledonian System](#), [sentencing domestic abuse in Scotland](#), [supporting offenders with communication needs](#), and an explanation of [how the sex offenders register operates](#).

Following feedback, a number of additional resources were added to the site, including a new PowerPoint presentation for use in the classroom, and two university lectures. New material also included the publication of three educational videos on the key themes of the Council’s sentencing young people guideline. These are also available on the Council’s [YouTube channel](#). The Council is working to expand its range of educational videos and began the development on the first in a series of videos about sentencing in Scotland.

Significant preparatory work was carried out in 2022-23 to enable improvements to the Council's website and the expansion of its social media activity. The results of most of this work appeared after the reporting year ended, but are noted below because the key decisions and necessary preparations took place largely in 2022-23.

Development began on a number of new webpages to assist different justice system users and point them to appropriate partner organisations. In particular, content for a [comprehensive page serving victims of crime](#) was drafted, with the aim of providing a wealth of information in one place to help people better understand victims' rights within the justice system.

Work was also initiated on upgrading our website hosting platform to improve ease of use and allow better functionality, and work began to expand the Council's social media platforms and activity, paving the way for the launch of the [Council's new Facebook page](#), a [newsletter](#), and a regular series of Friday Facts and Mythbusters after the end of the reporting year.

Media

Throughout the year, the Council continued to engage constructively with the media, offering comment on sentencing issues where appropriate. In particular, we engaged widely with the media around the launch of the public consultation on the draft guideline on the statutory offences of causing death by driving. This included broadcast interviews with the Chair of the Council and articles by Council members in national and local media.

Presentations, conferences, seminars, and visits

The following table details some of the presentations delivered and conferences, seminars, and visits attended by Council members or staff:

PRESENTATIONS, CONFERENCES, SEMINARS, AND VISITS	DATE
"Thinking about justice" - CYCJ webinar	April 2022
"Community-Based Support for Offenders with Communication Support Needs"- SOLD conference	April 2022
Partners in Advocacy meeting	May 2022
"Hush - Breaking the Silence" - Victim Support Scotland's Support for Families Bereaved by Crime (SFBC) team's multimedia lived experience project	May 2022
Compassion Prison Project Conference	June 2022
Online attendance at the Dartmouth Wellness Court, Nova Scotia	June 2022
Annual 'Roger Hood' Lecture: Forty Years On: Taking Stock of the Sentencing Guidelines Movement - Oxford University Faculty of Law	June 2022
Workshop at the National Youth Justice Conference on the sentencing young people guideline	June 2022
"Keeping Children Safe: Tackling Technology Assisted Harmful Sexual Behaviour Conference" - Stop It Now! Scotland	June 2022
How Sentencing Guidelines are Developed - 100% Legal podcast	July 2022
"A Victims' Commissioner for Scotland - Engagement Event" - Scottish Government	July 2022
"Improving victims' experiences of the justice system" - Community Justice Scotland Policy Forum	July 2022
"Deferred Sentencing: Unfulfilled Potential" - Sentencing Academy	July 2022
Meeting with Victim Support Scotland's Support for Families Bereaved by Crime (SFBC) team	July 2022
"To love or to punish? That is the question" - Royal Society of Edinburgh	August 2022
Attendance at "Making Justice Work for Everyone" Apex Scotland Annual Lecture	September 2022
Doors open day - Glasgow High Court	September 2022

PRESENTATIONS, CONFERENCES, SEMINARS, AND VISITS	DATE
Doors open day - Parliament House	September 2022
His Majesty's Inspectorate of Prisons for Scotland (HMIPS) Annual Conference	September 2022
Presentation to North Strathclyde Justice of the Peace annual conference	October 2022
Attendance at Victims Organisations Collaboration Forum Scotland meeting	October 2022
“Suspended Prison Sentences in Post-Communist Europe: The Unexplored Behemoth” - Department of Economics, Charles University, Faculty of Law, Prague, Czech Republic - webinar	October 2022
Presentation to the Kilmarnock Faculty of Solicitors Criminal Law Conference	October 2022
Sentencing Young People Guideline seminar - SASO	October 2022
Hey Legal interview on the Council’s public consultation on the draft death by driving guideline	October 2022
“Unlocking criminal justice data” - Ministry of Justice and Scottish Centre for Administrative Data Research webinar	October 2022
Webinar for practitioners on the Council’s public consultation on the draft death by driving guideline	October 2022
“Contemporary Issues In Sentencing” - Sentencing Academy in conjunction with De Montfort University	October 2022
Presentations to the International Society for the Reform of Criminal Law conference	October 2022
Presentation to Grampian, Highlands and Islands Justice of the Peace annual conference	October 2022
Presentation to South Strathclyde, Dumfries and Galloway Justice of the Peace annual conference	October 2022

PRESENTATIONS, CONFERENCES, SEMINARS, AND VISITS	DATE
Presentation to South Strathclyde, Dumfries and Galloway Sheriffdom Conference	November 2022
Modern Studies Association Conference 2022	November 2022
Presentation to North Strathclyde Sheriffdom Conference	November 2022
Speech by the Chair of the Council at the Scottish Association for the Study of Offending's Edinburgh branch conference	November 2022
Modern Studies Advanced Higher conference	November 2022
Problem-Solving Court Approaches Conference - Centre for Justice Innovation	December 2022
Presentation to the Sentencing Council for England and Wales	January 2023
"Current Issues in Sentencing Policy and Research" - Sentencing Academy event	January 2023
Lecture to students at the University of Glasgow	January 2023
Presentation to Advanced Higher Modern Studies students at Boroughmuir High School	February 2023
Lecture to students of the Open University	March 2023
Presentation to the Community Council forum	March 2023
Conference on Unwarranted Disparities in Sentencing, organised by the EROS (Empirical Research on Sentencing) network	March 2023
"Scottish Criminal Justice Experiences of Survivors of Coercive Control" event held by Glasgow Caledonian University's Gender Research and Equalities Network	March 2023
"Children and the Justice System" seminar held by the Law Society of Scotland	March 2023
Launch of Families Outside's research report "Paying the Price: The Financial Cost to Families of Imprisonment and Release"	March 2023
Launch of the School of Sociology and Social Policy's report "Towards a Balanced and Inclusive Sentencing Approach"	March 2023

Research and information

During 2022-23, the Council published the findings of a number of important research projects carried out on its behalf by a range of expert academics from universities across the UK and the Sentencing Academy.

In May 2022, the Council published a literature review, “[Mental Health And Sentencing](#)”, to coincide with Mental Health Awareness Week 2022. This explored the challenges of, and approaches to, sentencing offenders with mental health issues.

Also in May 2022, the Council published “[The Methodological Challenges Of Comparative Sentencing Research](#)”, a study of the difficulties in comparing sentencing across different jurisdictions. Among other things, this found that direct one-to-one comparisons between jurisdictions – such as between Scotland and England and Wales – are fraught with difficulty.

In June 2022, the Council published a literature review, “[The sentencing of offences involving domestic abuse in Scotland](#)”, which explored some of the laws used to prosecute domestic abuse in Scotland, the role of specialist courts, and the experiences of victims of these offences.

In August 2022, the Council published “[Offences involving indecent images of children](#)”, a literature review aimed at helping to inform the development of a guideline on such offences. It found that there is little support for the proposition that viewing indecent images is a gateway to committing contact offences against children.

Two further pieces of research were published in October 2022:

- “[Sentencing assault offences](#)”, a literature review which examined and compared assault guidelines across a range of jurisdictions and explored relevant case law, appeal judgements, and the key features considered when sentencing these offences
- “[Fraud sentencing: a systematic literature review](#)”, which explored three overarching themes: fraud sentencing processes, fraud perpetrators, and fraud victims

In early 2023, the Council commissioned and began work on three major research projects exploring perceptions of sentencing, two of which have a specific focus on the views of victim-survivors: the first in respect of domestic abuse sentencing, and the second in respect of offences involving sexual assault and rape. The third project seeks to explore public perceptions of sentence discounting.

A further aspect of our research programme was the ongoing review of the sentencing young people

guideline. The Council has been monitoring the operation of this guideline since it came into effect in January 2022. As noted earlier in this report, a detailed methodology for the monitoring and review of all guidelines was approved in December 2022. This brought a formal structure to, and expanded upon, the activity which had been carried out on the guideline up to that point, and has informed the course of the review since then.

The Council also continued to undertake direct research with sentencers across Scotland, seeking their views on sentencing. In early 2023, the Council considered the outcome of discussions with a number of High Court judges about the sentencing of death by driving offences. In preparation for the sentencing guideline on domestic abuse offences, the Council also held discussions with High Court judges and sheriffs at courts across Scotland, exploring the factors considered in sentencing these offences and how a final decision is reached.

The Council also engaged with the academic and research communities through direct meetings and conference attendance.

In all of its research activity, the Council is supported by the Research Committee.

Assisting policy development

One of the Council's statutory objectives, in carrying out its functions, is to seek to assist the development of policy in relation to sentencing. Our views on what this role involves are [set out on the Council's website](#).

In the business plan for 2021-24, the Council noted that to date it has provided assistance with policy development on a case-by-case basis, focussing primarily on the development of guidelines.

However, it is anticipated that there will be a significant number of initiatives relating to sentencing in the coming years where the Council will be uniquely placed to help, particularly in relation to assessing the implications and practicability of proposals.

Moreover, the Council believes that increased activity in this area will bolster its efforts to improve awareness and understanding of sentencing practice and policy, although the limited resources available to it mean that its primary task will continue to be the preparation of guidelines.

One of the main areas in which the Council carried out policy development work in 2022-23 was in relation to community sentencing. This stemmed from a stakeholder conference held just before the start of the period covered by this report. During the year, the Council carefully considered the

findings of the conference and carried out supplementary engagement with sentencers and social work practitioners from remote mainland or island areas in order to further its understanding of the specific issues faced in these places. In the course of the year, the Council considered this information alongside the output from the conference itself and formed conclusions, leading to the finalisation of a [report](#), which was published shortly after the end of the reporting year.

In 2022-23, the Council also contributed to policy development by providing views in respect of various initiatives with a bearing on sentencing, including the following:

- a [response](#) to the Scottish Government's consultation seeking views on key aspects of the revised National Strategy for Community Justice
- a [response](#) to the Scottish Government's consultation on policy proposals for a Children's Care and Justice Bill
- a [submission](#) to the inquiry on public opinion and understanding of sentencing by the UK Parliament's Justice Committee



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FOURTH SERIES

Expenditure

Expenditure

The Scottish Courts and Tribunals Service (SCTS) has the statutory function of providing, or ensuring the provision of, the property, services and staff for the Council, under section 62 of the Judiciary and Courts (Scotland) Act 2008 and The Scottish Courts and Tribunals Service (Administrative Support) (Specified Persons) Order 2015. As such, the costs of the Council are borne by the SCTS.

The Council was allocated a direct expenditure budget of **£197,004** for the year 2022-23. Actual expenditure is detailed on the table below.

The Council's staffing budget is administered by the SCTS. Staffing costs during the year were **£560,100**.

EXPENDITURE 2022-23*		
Category	Description	£
General office expenditure	Printing costs, stationery etc.	179
Meetings and events	Venue hire, catering, and conference costs	7,088
Training and expenses	Members' and staff travel and subsistence, and costs of training associated with Council business	4,314
Promoting awareness and understanding	Website development, publications, and educational resources	25,638
Research	Commissioned projects, consultation analysis etc.	150,281
Total		187,500

*All category figures are rounded to the nearest pound and the total provided is the sum of those rounded amounts.

SCTS associated costs

Costs relating to services and accommodation provided by SCTS are not included in the table, such as shared overheads, telephone charges, judicial travel and subsistence, and provision of data relating to sentencing.



Correspondence, freedom of information, and complaints

Correspondence, freedom of information, and complaints

The following table provides information on the number of requests received under the Freedom of Information (Scotland) Act 2002 (FOISA) and the Scottish Public Services Ombudsman Act 2002 (the SPSO Act), along with the number of items of correspondence received.

The Council is obliged to report on its complaints handling performance information, under schedule 2 to the SPSO Act. There were no complaints received during the period.

CATEGORY	NUMBER
FOISA requests	7
Complaints	0
Items of correspondence	77

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