

**MEETING OF THE SCOTTISH SENTENCING COUNCIL**  
**06 DECEMBER 2024**  
**PARLIAMENT HOUSE, EDINBURGH**  
**DRAFT MINUTES**

**Members present:** Lady Dorrian, the Lord Justice Clerk (Chair)  
Lord Colbeck (judicial member)  
Sheriff Iain Fleming (judicial member)  
Lindsey Miller (prosecutor member)  
Victoria Young (advocate member) – by videoconference  
Joanne McMillan (solicitor member)  
Lynn Burns (victims expert member)

**Attendees:** Sheriff Amel Elfallah (advisor to the Council)  
Dr Hannah Graham (advisor to the Council)  
Jane Rice (Scottish Prison Service)

**Secretariat:** Ondine Tennant (secretary)  
David Dickson (principal legal officer)  
Dr Nicole Vidal (principal research officer)  
Valerie MacGregor (principal policy officer - engagement)  
David Ross (principal policy officer - corporate)  
Richard Smith (business manager)  
Hannah Downey (interim senior research officer)

**Apologies:** Lord Matthews (judicial member)  
DCC Bex Smith (constable member)

## **1. PROCEEDINGS**

### *Item 1.1: Introduction and welcome*

1. The Chair opened the meeting and noted that it was the 35<sup>th</sup> since the Council's inception.
2. The Chair welcomed Jane Rice of the Scottish Prison Service and noted that she would be observing the meeting.

3. The Chair then provided an update on staffing.

*Item 1.2: Previous meeting minutes [Paper 1.2]*

4. The Council approved the minutes of the previous meeting of 04 October 2024 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, 1.5, 3.1, 3.1A, 3.1B, 3.1C, 3.2, 3.2A, 3.2B, 3.2C, 3.2D, 4.1, 4.2, 4.2A, 4.3, 4.4, 4.5, 5.3, 5.3A, 6.1, 7.1, 7.2, 7.2A, 7.2B, 7.3, 7.3A, 7.3B, 7.4B, 7.4C, and 7.5.

*Item 1.5: Council and committee membership [Paper 1.5]*

7. The Council noted the update on Council and committee membership provided in **paper 1.5**. In particular, it was noted that there are currently three Council vacancies, for two judicial members and a lay member. It was expected that recruitment exercises to fill these vacancies would be begin shortly, with the Lord Justice General being responsible for the appointment of the judicial members and the Scottish Ministers responsible for the appointment of a new lay member. In respect of the latter, it was noted that Dr Hannah's Graham's tenure as a lay member had expired on 03 December and that, as agreed at the October meeting, she had been appointed as an advisor to the Council with effect from the expiry of her tenure and until her replacement is appointed.

*Item 1.6: Update on staffing [Oral]*

8. A staffing update was provided under item 1.1.

## **2. BUSINESS PLANNING**

*Item 2.1: Funding 2025-26 [Oral update]*

9. Ondine Tennant provided an update on the Council's funding requirements for the financial year 2025-26. She noted that delivery of the Council's business plan for the period 2024-2027 is predicated on sufficient funding being secured to support the

resources required, and that discussions with the Scottish Government are scheduled for early 2025.

10. The Council noted the update.

### 3. SENTENCING GUIDELINES

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

11. Lindsey Miller provided an update on discussions held by the Sexual Offences Committee in relation to early consideration of matters arising from the public consultation on the draft rape guidelines with reference to **papers 3.1 and 3.1A-C**.
12. The Council provided initial views on the issues, and noted that these would be further analysed by the secretariat under the auspices of the Research Committee and the Sexual Offences Committee. The Council noted in particular the plans to carry out an analysis of first instance cases against recent sentencing appeals in the context of the further consideration of sentencing ranges.

#### **ACTION POINT**

**AP1**      ***Secretariat to consider early matters arising from the public consultation on the draft rape guidelines and provide further information and advice to the Sexual Offences Committee.***

#### *Item 3.2: Domestic abuse guideline [Oral update with reference to papers 3.2 and 3.2A-D]*

13. Lord Colbeck provided an update on discussions held by the Domestic Abuse Committee in relation to the draft guideline with reference to **papers 3.2 and 3.2A-D**.
14. The Council agreed guideline amendments for the purpose of a judicial survey.

#### **ACTION POINT**

**AP2**      ***Secretariat to prepare amendments to the draft guideline and prepare materials for a judicial survey on the draft domestic abuse guideline.***

*Item 3.3: Guideline committees update [Oral update]*

15. An update on the work of the Sexual Offences Committee, which last met on 14 November, was provided under item 3.1.
16. An update on the work of the Domestic Abuse Committee, which had not met since the last meeting of the Council, was provided under item 3.2.
17. Lord Colbeck provided an update on the work of the Discounting Committee. He noted that:
  - The Committee had not met since the last Council meeting.
  - However, further engagement with the judiciary and stakeholders is ongoing, with a view to having a final draft approved for a judicial survey and a public consultation in early 2025.
18. Sheriff Fleming provided an update on the work of the Environmental and Wildlife Crime Committee. He noted that:
  - The Committee had not met since the last Council meeting.
  - The secretariat will revert to the Committee with advice and recommendations in due course after a detailed analysis of the scope and approach of guidelines addressing environmental and wildlife offences has been completed.
  - The secretariat had engaged with Professor Amanda Whitfort of Hong Kong University to discuss her work in relation to species impact assessments. It was hoped that Professor Whitfort would engage with the Committee once its work on a wildlife offences guideline was at a more advanced stage.

#### **4. COMMUNICATIONS AND ENGAGEMENT**

*Item 4.1: Recent and upcoming engagement activity [Papers 4.1 and 4.1A]*

19. The Council noted **papers 4.1 and 4.1A**, which provided updates on recent and upcoming engagement activity.
20. In particular, it was noted that:

- members of the Council and the secretariat attended the SASO Annual Conference 2024 at which a theatre piece was performed by young people involved in and affected by crime (the Street project);
- members of the Council and the secretariat attended the second “Four Corners Conference”, the biannual meeting of the respective sentencing bodies of Scotland, Northern Ireland, England and Wales, and Ireland, which was held on 28-29 November in Dublin; and
- positive feedback on the Council’s work was received from the Law Society’s Criminal Law Committee at a recent meeting with its members.

*Item 4.2: Communications activity [Papers 4.2 and 4.2A]*

21. Joanne McMillan provided an update on the work of the Communications and Engagement Committee with reference to **papers 4.2 and 4.2A**. In particular, she noted that:

- The Committee last met on 13 November 2024.
- The information pack for victims and the general public has been published and circulated. The secretariat is now consulting on an easy read version as well as on an information pack for the media.
- A podcast based on the prison sentencing video is in the final stages of edit; classroom lesson plans about it and the community sentencing video are being developed; and a third video, which is on the sentencing process, is currently being commissioned.

**ACTION POINTS**

- AP3**      ***Secretariat to progress development of an easy read information pack.***
- AP4**      ***Secretariat to finalise a prison sentencing podcast and lesson plans based on the prison sentencing and community sentencing videos.***
- AP5**      ***Secretariat to explore interest in the Street Project as part of a wider series of visits to community justice and other projects in the new year.***

*Item 4.3: Media and digital report [Paper 4.3]*

22. The Council noted **paper 4.3**.

*Item 4.4: Publication of consultation responses and engagement policy [Paper 4.4]*

23. Joanne McMillan provided an update with reference to paper 4.4, which concerned proposals around the publication of consultation responses.

24. The Council provided views on the matters outlined in **paper 4.4**, which sought decisions on the timing of publication of Council submissions and responses to other bodies' consultations and as to the publication of responses to its consultation exercises, as well as an update to the Council's engagement policy in respect of political or activist campaigns. In respect of the timing of publication of responses to Council conducted consultations, members were mindful of the need to balance transparency with the potential adverse consequences of publishing incomplete information.

25. The Council:

- approved the Communications and Engagement Committee's recommendation to publish the Council's responses to consultations as a default as soon as the consultation closes;
- agreed that responses to the Council's public consultations on draft guidelines are to be published at the same time as the independent analysis and the Council's explanatory report; and
- approved the Communication and Engagement Committee's recommendation to update the current engagement policy.

**ACTION POINT**

**AP6**      ***Secretariat to update the Council's engagement policy available on its website.***

*Item 4.5: 10-year anniversary proposals [Paper 4.5]*

26. Members noted the proposals outlined in **paper 4.5** in relation to options to mark the Council's 10-year anniversary and discussed a further suggestion around engagement with University students. The Council asked for a selection of detailed options to be provided in due course.

## ACTION POINT

**AP7** *Secretariat to develop final proposals for the marking of the Council's 10-year anniversary.*

### 5. RESEARCH

#### *Item 5.1: Research Committee update [Oral update]*

27. Dr Hannah Graham provided an update on the work of the Research Committee. In particular, she noted that:

- The Committee last met on 11 November 2024.
- The Committee reviewed and discussed the final draft of the report on findings from the 'discounting' project: 'Public attitudes to sentencing following a guilty plea: findings from a mixed methods research project'. The Committee approved publication for the report pending full Council agreement.
- The Committee reviewed and discussed revisions to the mental health and sentencing issues paper, which, as the Council was aware, was published on 05 December.
- The Council was asked to note that following the mental health conference, the Judicial Institute has expressed interest in holding a joint event, perhaps in the form of a sentencing symposium. The Council intends to hold further discussions with the Judicial Institute about this.

#### *Item 5.2 Research projects update [Oral update]*

28. Nicole Vidal provided an update on research projects. In particular, she noted that:

- The final questionnaire for the national survey on perceptions of sentencing has been scripted and fieldwork for this is anticipated to commence in January 2025.
- The unwarranted disparities in sentencing and environment and wildlife offences projects are both scheduled for completion before the end of the financial year.
- The secretariat will be commencing work on the one-year review of the Death by driving guideline and the three-year review of the Sentencing young people guideline in January 2025.

*Item 5.3 Monitoring and evaluating guidelines [Papers 5.3 and 5.3A]*

29. Nicole Vidal introduced **paper 5.3**, which provided a summary of the proposed plan of research to be undertaken for the three-year review of the Sentencing young people guideline. With reference to **paper 5.3A**, which provided a draft of the one-year review of the Sentencing young people guideline, **paper 5.3** proposed updating the methodology for monitoring and review of in-force guidelines to reflect a greater emphasis on qualitative research to be carried out during the three-year review.
30. The Council noted the updates and approved the proposals outlined in **paper 5.3**.

**ACTION POINT**

- AP8**      ***Secretariat to update the methodology for monitoring and review of in-force guidelines, as instructed.***

**6. POLICY DEVELOPMENT**

*Item 6.1: Policy update [Paper 6.1]*

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

**7. GOVERNANCE AND REPORTS**

*Item 7.1: Review of standing orders [Paper 7.1]*

32. **Paper 7.1** sought approval of proposed amendments to the Council's standing orders.
33. The Council approved the proposed amendments to the standing orders.

**ACTION POINT**

- AP9**      ***Secretariat to publish the revised standing orders on the website as soon as practicable.***



*Item 7.2: Review of records management plan and other governance documents [Papers 7.2 and 7.2A-B]*

34. The Council considered **paper 7.2**, which provided an update on the annual review of various governance documents. In particular, it sought the Council's approval of amendments to its records management plan and information asset register.
35. The Council noted the content of **paper 7.2** and approved the proposed amendments to the records management plan and information asset register.

**ACTION POINT**

**AP10**     ***Secretariat to revise the records management plan and information asset register and arrange for the revised records management plan to be published as soon as practicable.***

*Item 7.3: Unacceptable actions policy [Papers 7.3 and 7.3A-B]*

36. The Council considered **paper 7.3**, which sought the Council's approval of an unacceptable actions policy.
37. The Council approved the proposed unacceptable actions policy at **paper 7.3A**.

**ACTION POINT**

**AP11**     ***Secretariat to publish the unacceptable actions policy as soon as practicable.***

*Item 7.4: Standing papers: correspondence, FOISA, and complaints; finance overview; guideline timetable [Papers 7.4A-C]*

38. **Paper 7.4A** summarised correspondence, complaints, and FOI requests since the last meeting.
39. **Paper 7.4B** updated the Council on expenditure in the 2024-25 financial year to date.
40. **Paper 7.4C** set out the timetable for the development of each of the Council's guidelines.
41. The Council noted the content of **papers 7.4A-C**.

*Item 7.5: Decisions by correspondence [Paper 7.5]*

42. The Council noted that two decisions had been made by correspondence since its last meeting in October. These were to:

- approve a response to the Criminal Justice Committee on recent statements in Parliament about the prison population; and,
- approve a report about the conference on mental health, neurodivergence, and learning disability in sentencing held on 30 August.

## 8. AOB

43. The Chair noted that this was her last meeting as Council Chair, due to her upcoming retirement as Lord Justice Clerk in February 2025. She provided reflections on her time as Chair and the Council's achievements during that time.

*Note of thanks: the Chair recorded her thanks on behalf of the Council to the secretariat for the provision of the support underpinning the Council's significant achievements during the past decade.*

44. On behalf of Council members, advisors, and staff, Lord Colbeck thanked the Chair for her leadership of the Council since she had assumed the role by virtue of her appointment as Lord Justice Clerk in April 2016 and wished her a happy and fulfilling retirement.

*Note of thanks: Council members, advisors, and staff recorded their thanks to Lady Dorrian for her leadership of the Council during her time as its Chair.*

## 9. FUTURE MEETING DATES

42. The Council noted the following meeting dates for 2025:

- Council workshop: 28 February 2025
- Council meeting: 21 March 2025
- Council meeting: 6 June 2025
- Council workshop: 29 August 2025
- Council meeting: 3 October 2025
- Council meeting: 5 December 2025