



The Lord Justice Clerk

Parliament House
Edinburgh, EH1 1RQ

20 February 2019

Daniel Johnson MSP
M1.12
The Scottish Parliament
Edinburgh
EH99 1SP

Dear Mr Johnson,

Thank you for your letter of 14 February 2019, regarding your concerns about the sentence passed in a recent sexual offences case and the Scottish Sentencing Council's planned work in this area.

As you know, the Council does not comment on individual sentences, which are a matter for the presiding judge. However, we recognise that sexual offending, particularly where children or young people are involved, is a matter of significant public interest and concern. This contributed to our decision to initiate work to develop a guideline or guidelines on sexual offences during the 2018-21 period, as announced in our most recent business plan.

Our early consideration of this topic has also been informed by a highly constructive stakeholder conference hosted by the Council in 2018, which was attended by delegates from criminal justice bodies, victim support organisations, third sector organisations, academia, and the judiciary. We consider such engagement to be a vital part of our work, and this event allowed us to gather views on the sentencing of sexual offences, and the various challenges which such cases can present, from those with experience and expertise in this area.

Given the wide range of sexual offences, it is likely that the Council will prepare separate guidelines on different types of offence, rather than a single guideline covering the entirety of sexual offending. Taking account of the views expressed during our sexual offences conference, and preparatory discussions with judicial office holders, we are currently considering potential priority topics to be the initial focus for work in this area, and we hope to be able to announce further details soon. We note your suggestion that we should consider developing guidelines on sexual assault, giving particular attention to the sentencing of young people. On the latter

The Right Honourable Lady Dorrian

Telephone 0131 240 6732

Fax 0131 240 6704

DX549306 Edinburgh 36

lscott@scotcourts.gov.uk

www.scotcourtsribunals.gov.uk

point, however, I would note that we are already in the process of developing a guideline about the sentencing of young people for any offence, and we intend to issue a public consultation on this later in 2019.

Regarding the current timeframe for our work on sexual offences, I would highlight the Council's early decision to take an evidence-based approach to the development of guidelines, involving extensive research and consultation. We have committed to taking the necessary time to understand current practice, to carry out research into effective sentencing approaches, and to listen to those who are affected by sentencing decisions. This is crucial, as the impact of proposing a guideline which has not been properly considered and tested is considerable; even small changes in sentencing practice could have significant consequences, both for those involved in individual cases and for the criminal justice system as a whole.

For that reason, while we will carry out this work expeditiously, we must allow sufficient time to ensure that the resulting guidelines are fit for purpose and that their likely effect is understood. At this early stage it is difficult to provide an accurate timetable, particularly as this may vary significantly depending on the complexity of the topic(s) chosen, the research required, and the views received from interested parties and during the public consultation exercise. More information about how the Council goes about developing guidelines is available on our website at: <https://www.scottishsentencingcouncil.org.uk/sentencing-guidelines/>

Finally, you ask what role the Council might play in circumstances where there is concern about a sentencing decision from the public or those involved in a case. While we do not intend to comment on specific sentencing decisions, we consider our role in promoting greater public awareness and understanding of sentencing to be extremely important. It is our hope that by continuing to develop our website (which contains extensive information about a range of sentencing issues), through engaging with the Scottish Government, Scottish Parliament and other bodies with regard to sentencing policy, and through the development of guidelines which are of use to both the judiciary and the public, we can help inform public discussion and debate and promote greater consistency in sentencing practice.

You may be interested to note that, in addition to consulting on the sentencing of young people, we intend to issue a public consultation this year on a guideline on the sentencing process, setting out the various steps judges take when making a sentencing decision, and the factors which may be taken into account. In conjunction with our "Principles and purposes of sentencing" guideline, which came into force in 2018, we hope that this will give the public a much greater understanding of the whole sentencing process.

I hope this is helpful, and I look forward to receiving any views you have about the work of the Council in future.

Yours sincerely,
Leona J Dowai