

Scottish
Sentencing
Council



Scottish Sentencing Council

Business Plan

2024-27

Chair’s foreword	3
About us	6
Introduction	7
Who we are	8
How we work	15
Committees	16
Governance and accountability	19
Work programme 2024-27	25
Promoting consistency: sentencing guidelines	26
Research and information	34
Assisting with policy development	36
Promoting awareness and understanding	37

Chair's foreword

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



I am pleased to present the Scottish Sentencing Council's business plan, which covers the period October 2024 to October 2027.

The position of Chair of the Scottish Sentencing Council falls to the Lord Justice Clerk by virtue of holding that office. I will retire as Lord Justice Clerk, and therefore as Chair of the Council, in February 2025. When I first took on this role in 2016 the Council was in its infancy and grappling with the challenging task of preparing the very first guidelines for the Scottish jurisdiction, addressing the fundamental principles and purposes of sentencing. Since then I am gratified to note the significant amount which has been achieved in pursuance of the Council's statutory objectives.

Each sentencing guideline produced is a result of a process of careful and evidence-based decision-making, involving thorough research, consultation and testing prior to the submission of a final guideline to the High Court for its approval. This process, which of necessity takes time, is essential in ensuring guidelines are fit for purpose and do not inadvertently introduce adverse consequences. Four guidelines are now in effect and with the framework for general and offence guidelines now in place, several more are in active development.

With the completion of a suite of general guidelines designed to provide a framework for all sentencing in Scotland, the Council has now entered a new phase of work and is actively working on a significant number of offence guidelines. Considerable progress has been made in particular on guidelines on sentencing the offences of rape, domestic abuse and indecent images of children offences and the next period will also see advancement of planned guidelines addressing sexual assault, environmental and wildlife offences as well as on reductions for the tendering of a guilty plea (a matter which must, by law, be considered by the court at the point of sentencing).

I also expect the Council to be able to begin work on two new guidelines during this planning period. The Council has decided to develop a guideline on the sentencing of people with mental health and related issues. This work will be multi-faceted. It will include exploring the suitability of the available disposal options in such cases, and learning more about the nature and degree of the various issues that can arise and their relevance in sentencing.

Maintaining a focus on crimes of violence, the Council also intends to begin work to develop a guideline addressing assault. Assault offences are high in volume, affect a high number of victims, and can encompass a very broad spectrum of offending behaviour. Such a guideline would, in the

view of the Council, bring particular public value in terms of explaining the offence and how it is sentenced.

The Council continues to be concerned with gender-based offending, and an area which it considers might merit its attention is that of modern slavery and associated offences relating to human trafficking and prostitution. The Council hopes to carry out evidence-gathering in this area during the next three years to assist with its consideration of the topic.

Sentencing guidelines, while a central pillar of the Council's work, form only one aspect of its broad sphere of activity. As well as having responsibility to prepare guidelines, the Council has statutory objectives to assist with the development of sentencing policy and to promote awareness and understanding of sentencing.

The Council has carried out or commissioned a substantial amount of research, much of it novel to the Scottish jurisdiction. This includes first of its kind research with the public and with victims into perceptions of sentencing, and important research with sentencers in order to, among other things, ascertain what might improve judicial confidence in community disposals. A second national survey into public perceptions of sentencing has been commissioned, with the results anticipated during 2025. As well as informing the Council's future work, it will enable the development of a longitudinal dataset to allow measurement of its contribution to public understanding over time.

In addition to the various planned research projects described in this plan, there may be opportunities to contribute to the development of policy in relation to sentencing following the commencement of the independent review of sentencing and penal policy announced by the Scottish Government earlier this year, and any measures taken forward to address the current prison population, to the extent that either fall within the Council's remit or have a bearing on its work.

In pursuit of public education, a vast array of open source public and educational resources has been produced under the Council's auspices. All of the Council's information materials, ranging from videos, information packs, and case studies, to lesson plans and tertiary education lectures, are available via the Council's website. I commend them to those working in the criminal justice system, persons involved in criminal proceedings, students or indeed anyone with an interest in learning more about judicial decision-making and sentencing.

I would like to extend my sincere thanks to all Council members past and present, who so generously donate their time and expertise to these important endeavours. I am equally grateful to all the organisations and individuals, including members of the public with experience of crime and the criminal justice system, who have engaged with the Council's work over the years, whether through participation in our commissioned research, responding to our consultations or in correspondence.

Next year will mark the tenth anniversary of the Council's establishment, a milestone which will provide an opportunity for my successor and their fellow Council members to reflect on the good work that has been carried out and look ahead with a view towards its future ambitions. As the Council moves forward into its second decade I am confident that it will, through its ongoing pursuit of its statutory objectives to promote consistency, assist policy development, and promote greater awareness of sentencing policy and practice, continue to make a significant contribution to the Scottish criminal justice system.

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



Scottish
Sentencing
Council

Parliament House
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DX or LP number:
Our Ref.

Your Ref.

About us

Introduction

The Scottish Sentencing Council is an independent advisory body, with statutory objectives to promote consistency in sentencing, assist the development of sentencing policy, and promote greater awareness and understanding of sentencing.

We carry out a range of work relating to sentencing, including, in particular, preparing sentencing guidelines for the Scottish courts.

We have responsibilities to publish information about sentences imposed by the courts and to publish any guideline judgments issued by the courts. We can also conduct research and provide general advice or guidance in relation to sentencing matters.

In developing this plan, we have consulted the Lord Justice General, the Lord Advocate and the Scottish Ministers as required under section 12 of the Criminal Justice and Licensing (Scotland) Act 2010. We have also taken into account various discussions with interested parties and organisations which have been held over the last business period.

Who we are

Membership

The Scottish Sentencing Council is made up of **12 members**, reflecting a broad range of expertise and experience across the criminal justice system.

The categories of membership are provided for in the [Criminal Justice and Licensing \(Scotland\) Act 2010](#), as follows.

Judicial members

- The Lord Justice Clerk (Chair)
- One High Court judge
- One sheriff
- Two persons holding the office of summary sheriff or justice of the peace
- One further eligible judicial member or a sheriff principal

Legal members

- One prosecutor
- One advocate
- One solicitor

Lay members

- One constable
- One person with knowledge of victims' issues
- One other person who is not qualified as a judicial or legal member

Judicial and legal members are appointed by the Lord Justice General, in accordance with [The Scottish Sentencing Council \(Procedure for Appointment of Members\) Regulations 2015](#).

Lay members are appointed by the Scottish Ministers.

Our members



The Lord Justice Clerk

Chair

The chair of the Scottish Sentencing Council is the Lord Justice Clerk by virtue of the office.

Lady Dorrian took up appointment as Lord Justice Clerk on 26 April 2016.

The Rt Hon Lady Dorrian was appointed as a judge of the Supreme Courts in 2005 having served as a temporary judge since 2002. She was appointed to the Inner House in November 2012. She is a graduate of the University of Aberdeen and was admitted to the Faculty of Advocates in 1981 before becoming Standing Junior Counsel to the Health and Safety Executive and Commission between 1987 and 1994. She served as an advocate depute between 1988 and 1991, and as Standing Junior to the Department of Energy between 1991 and 1994. In 1994, she was also appointed Queen's Counsel. Between 1997 and 2001 she was a member of the Criminal Injuries Compensation Board. Lady Dorrian is also a Fellow of the Royal Society of Edinburgh.



The Rt Hon Lord Matthews

Senator member

Lord Matthews will hold office until 27 November 2025.

Lord Matthews was appointed a judge of the Supreme Courts in 2007, having served as a temporary judge since February 2004, and was appointed to the Second Division of the Inner House of the Court of Session in August 2021. He graduated from the University of Glasgow LL.B (Hons), and was admitted to the Faculty of Advocates in July 1979. He was appointed as Queen's Counsel in 1992 and practised at the Bar until his appointment as a sheriff in January 1997. He was Standing Junior Counsel to the Department of Employment in Scotland from June 1984 until March 1988, and served as an advocate depute from April 1988 until January 1993.



The Hon Lord Colbeck

Judicial member

Lord Colbeck will hold office until 11 July 2025.

A graduate of the University of Strathclyde, Lord Colbeck was admitted as a solicitor in 1988, working for A.C. White in Ayr and Levy & McRae in Glasgow before joining MacRoberts in 1993. He became a partner there in 1997, specialising in commercial and construction disputes and health and safety and environmental prosecutions, and served as the managing partner from 2011 to 2014.

Following his appointment as a part-time sheriff in 2011 and then a permanent sheriff in 2014, he was appointed as the Sheriff Principal of Glasgow and Strathkelvin in 2016. Lord Colbeck was appointed as a judge of the Supreme Courts in May 2023.



Sheriff Iain Fleming

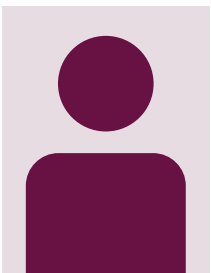
Sheriff member

Sheriff Fleming will hold office until 9 March 2026.

Sheriff Iain Fleming was appointed as a part time sheriff in 2005 and as a full time sheriff in 2014, following a career as a solicitor and solicitor advocate.

He served in the Sheriffdom of North Strathclyde at Greenock Sheriff Court until 2017, and since then has sat in Glasgow Sheriff Court, conducting courts at summary and solemn level.

As part of his duties in Glasgow he has presided at the problem-solving Alcohol Court since February 2018. He has also been a shrieval member of the Mental Health Tribunal for Scotland since 2011.



Lindsey Miller

Prosecutor member

Lindsey will hold office until 1 October 2026

Lindsey Miller is a graduate of the University of Aberdeen and joined the Crown Office and Procurator Fiscal Service in 1994.

She has held a number of operational and policy roles including responsibility for matters such as victims, vulnerable witnesses and sexual offences, as well as serious and organised crime and

counter-terrorism.

She was appointed as secretary to Sir Anthony Campbell's Inquiry into Crown Decision-Making in the Case of the Murder of Surjit Singh Chhokar, and was tasked by the Lord Advocate with preparing recommendations about the investigation of all sudden and unexplained deaths in Scotland and military deaths abroad, which led to the establishment of the Scottish Fatalities Investigation Unit (SFIU).

For a number of years she had strategic responsibility in Scotland for the Disrupt Strand of the Serious and Organised Crime Taskforce and has a particular interest in community experiences, specifically those of children and young people, and of organised crime.



Victoria Young

Advocate member

Victoria will hold office until 30 November 2028.

Victoria practises mainly in criminal law and has acted in the High Court for both prosecution and defence since being admitted to the Faculty of Advocates in 1995.

She graduated from the University of Glasgow in 1991 and spent a number of years with Brodies Solicitors in Edinburgh before beginning her devilling (training) with the Faculty in 1994.

Since calling to the Bar she has been instructed in more than 150 High Court trials, including for offences such as murder, rape, terrorism and serious assault. In 2020, she was appointed as an ad hoc advocate depute with the Crown Office and Procurator Fiscal Service and since then has prosecuted trials and participated in the taking of evidence on commission.

For the last three years, Victoria has assisted with the National Bar Mock Trials Competition. She is also a trainer with the Faculty of Advocates Advocacy Training Course.



Joanne McMillan

Solicitor member

Joanne will hold office until 31 May 2028.

Joanne heads up her own firm in Glasgow. She appears in courts across Scotland on a daily basis and has a particular interest in sentencing and the parole process.

Joanne graduated from the University of Strathclyde in 2008. In 2010, she commenced her traineeship at Turnbull McCarron Solicitors where she remained for 10 years. She set up her own firm in July 2020, dealing in both criminal and civil law. Joanne is also a member of the executive committee of the Glasgow Bar Association.



Deputy Chief Constable Bex Smith

Constable member

DCC Smith will hold office until 16 June 2029.

DCC Bex Smith holds over twenty years of policing experience drawn from a range of nationally significant command functions. She has executive responsibility for Crime and Operational Support. Within her portfolio, DCC Smith holds responsibility for Major Crime, Public Protection, Local Crime, Organised Crime, Counter Terrorism, Intelligence and Operational Support.

She joined Police Scotland in 2022 when she was appointed Assistant Chief Constable for Major Crime, Public Protection and Local Crime and has spent 18 of her 21 years in policing in public protection, major crime and serious and organised crime (SOC).

Bex was a Regional Head of Investigations at the National Crime Agency, where she managed all SOC investigations across a wide variety of threats, including modern slavery and human trafficking, drugs, fraud and child abuse. Prior to that, DCC Smith was a Detective Superintendent within Surrey Police with responsibility for a major ICT change programme and was also a talent lead, supporting fast track candidates.

DCC Smith is an experienced Strategic and Tactical Firearms Commander and has worked in professional standards.



Lynn Burns

Victims expert member

Lynn will hold office until 25 June 2028.

Lynn has personally been impacted by violent crime and has a longstanding interest in victims' issues. She has been involved with a number of victims' groups and organisations following the murder of her son, Sam, in 2013. She currently sits as the victim representative on the Scottish Government's Victims Taskforce and has done so since 2018. She

also sits on the Scottish Parliament's Cross Party Group for Adult Survivors of Childhood Sexual Abuse.

Lynn volunteers with Young Enterprise Scotland, working with young people about to embark on further education. She has also been involved with several projects through the Scottish Violence Reduction Unit and various local community groups. She is a trustee of Break the Silence, an Ayrshire-based charity which supports survivors of rape and childhood sexual trauma.

In her professional life, she is an independent financial advisor and runs her own company, with over 40 years' experience.



Dr Hannah Graham

Lay member

Dr Graham will hold office until 3 December 2024.

Dr Hannah Graham is a Senior Lecturer in Criminology at the Scottish Centre for Crime and Justice Research (SCCJR) at the University of Stirling. Dr Graham has previously worked as a criminologist at the University of Tasmania, Australia. Throughout her career as a criminologist, she has conducted research and worked with a range of people and agencies, including police, procurators fiscal, judiciary, lawyers, court staff, prison staff, justice social work and community justice, charities, people with lived experience of the criminal justice system, and justice policymakers.

Dr Graham is the author or editor of four books, published internationally, on rehabilitation, criminal justice work, and innovative approaches to justice. She is an Editor of the European Journal of Probation, and a member of the Community Sanctions and Measures Working Group in the European Society of Criminology.

Dr Graham is a member of the national Council for the Scottish Association for the Study of Offending (SASO).

In 2017-2018, Dr Graham was part of a team of researchers to conduct an independent review of the Aberdeen Problem Solving Approach, in collaboration with Aberdeen Sheriff Court and community justice partners. This approach specialises in working with people with complex needs and prolific offence histories to offer rehabilitative opportunities and address the underlying causes of their offending. In 2007, she conducted an independent evaluation of a mental health court diversion initiative for the Magistrates Court and Forensic Mental Health Services in Tasmania, Australia.



Sheriff Amel Elfallah

Advisor to the Council

Sheriff Elfallah was appointed as an advisor to the Council in May 2024 following the expiry of her term of office as a judicial member.

Sheriff Amel Elfallah has been a sheriff in Paisley since April 2024, and previously served as a summary sheriff in Glasgow. She originally trained and qualified as a solicitor in personal injury litigation, before joining the Crown Office and Procurator Fiscal Service (COPFS) in 2003. She became a senior procurator fiscal depute in 2008 and held that role in various departments within COPFS, undertaking summary, solemn, and appellate criminal work.

She also specialised in equalities and training work, and has been a National Institute for Trial Advocacy-accredited trainer since 2008.

Two judicial member positions were vacant at the time of publication.



How we work

Committees



Much of the detail of the Council’s work is undertaken by committees made up of smaller groups of Council members. Two types of committees have been established: standing committees and working group committees.

Standing committees are created for an indefinite period to carry out specific areas of ongoing work. There are currently two standing committees: the Communications and Engagement Committee and the Research Committee.

Working group committees are established for a defined period of time, and thus far have been tasked with developing specific guidelines.

Committees can only be made up of members of the Council. However, the Council may decide to appoint advisors to committees where appropriate, if there is a need for longer term expert advice on a particular subject.

The [current membership](#) of each committee is set out on the Council’s website.

Standing committees

Communications and Engagement Committee

Remit

The Committee supports the Council in its communications and engagement activity, focusing in particular on its statutory objective to “promote greater awareness and understanding of sentencing policy and practice”.

Strategy

The Committee will assist the Council in delivering its Communications and Engagement Strategy, in particular by:

- building the Council’s public profile
- identifying and overseeing promotional and public education projects and events
- identifying areas for collaboration with others, including contribution to public education projects, and participating in, and attending, conferences and events
- overseeing the development of promotional and informational materials including further website

development

Consideration will be given to the following key areas:

- developing the website and other relevant material as accessible resources
- raising awareness of sentencing policy and practice
- developing a comprehensive strategy for communications around guidelines
- engaging with the judiciary, practitioners, media, justice delivery organisations, stakeholders, and the wider public
- preparing key messages on Council business
- evaluating Council communications and engagement work
- providing and disseminating helpful and accurate sentencing information, including in collaboration with relevant organisations

In preparing the Communications and Engagement Strategy, the Committee will take due account of the needs of different audiences and tailor relevant activity accordingly.

Minutes of the Committee's meetings are [published on the website](#) in accordance with the Council's [standing orders](#).

Research Committee

Remit

The Committee supports the Council in its research activity, particularly in the creation and oversight of a research framework and the tendering of research projects, to enable the Council to meet its objective of undertaking research on sentencing in Scotland. The Committee will deliver the Council's research programme by:

- managing the research framework on behalf of the Council and keeping it under review
- overseeing the design and delivery of evidence gathering to support guideline development and review
- reviewing specifications for commissioned research and considering speculative applications for funding or collaborative research
- overseeing research projects during their lifespan
- providing support to working group committees
- reviewing outputs from research projects

- disseminating research findings
- reporting to the Scottish Sentencing Council with its recommendations and, where applicable, referring significant or potentially controversial decisions to the Council

Minutes of the Committee's meetings are [published on the website](#) in accordance with the Council's [standing orders](#).

Working group committees

As at October 2024 the following working group committees are developing detailed proposals for the sentencing guidelines currently being prepared:

- Sexual Offences Committee
- Domestic Abuse Committee
- Discounting Committee
- Environmental and Wildlife Crime Committee

Working group committees oversee all aspects of the development of a guideline, operating until it is submitted to the High Court, approved, and implemented. Their work includes:

- making recommendations to the Council as to the scope, content and approach of the relevant guideline
- identifying knowledge and information gaps relevant to the guideline's development
- reviewing draft guidelines
- supporting engagement with relevant stakeholders at all stages of the guideline's development
- overseeing consultation, including the preparation of consultation documents and impact assessments

Further committees will be created to develop guidelines or take forward other work as required.

A list of [current committees](#) is available on the Council's website.

Governance and accountability



Business plan and annual report

The Council is required to prepare and submit to the Scottish Ministers on a regular basis a three year business plan setting out how it plans to carry out its functions.

The Council must consult the Scottish Ministers, the Lord Advocate, the Lord Justice General and any other persons it considers appropriate in preparing the business plan. The Scottish Ministers must lay the plan before the Scottish Parliament and the Council must publish it. The plan can be revised at any time during the three year period it covers.

The Council is required to submit an annual report to the Scottish Ministers after the end of every financial year, including details on its activities, performance and what it has spent. The Scottish Ministers must lay the report before the Scottish Parliament and the report must be published by the Council.

All the Council's business plans and annual reports are published on its [website](#).

Standing orders and rules of conduct

The Council has the power to determine its own proceedings. These are contained in our [standing orders](#). The standing orders deal with matters such as the frequency of meetings, collective decision-making, publication of Council papers, and public communications.

The standing orders also include rules of conduct to which all members have subscribed. These deal with subjects such as registration and declaration of interests and lobbying.

The standing orders and rules of conduct are available on our website and are subject to annual review.

How we spend our funds

We detail in each business plan what activity we propose to carry out during the period covered by the plan and set out in our annual report what has been carried out in the previous year. The plan and report both provide information on the Council's budget and expenditure.

Information on our procurement exercises and contracts with a value in excess of £25,000 is

available on our [procurement of goods and services webpage](#).

A members' expenses scheme details what Council members are able to claim for costs associated with Council business.

Openness and transparency

We are committed to operating in an open and transparent way and understand that this is an essential part of good governance and achieving accountability. In line with this commitment, details of the way we work, and our governance arrangements and corporate information, are made publicly available on our website, which also includes details of [Council meetings](#).

In addition, the Council is subject to the Freedom of Information (Scotland) Act 2002. In accordance with the Scottish Information Commissioner's Model Publication Scheme, the Council has produced a [Guide to Information](#) which provides more details on:

- the information we publish
- how to easily find that information
- what charges may be applied for producing information
- how to request information that has not been published

Relationship with other bodies

The Council is an independent advisory body corporate. It is not, in general terms, under the direction of any other authority. It does, however, have statutory duties to consult others on specific matters and, in some circumstances, can be required to prepare, review, or consider the preparation or review of guidelines. In addition, various bodies have duties in relation to the Council's operations.

The Scottish Ministers

The Council must submit each of its business plans and annual reports to the Scottish Ministers, who may direct that the Council provide certain information in either of these documents.

In addition to the requirement to consult the Scottish Ministers on its business plan, the Council is required to consult the Scottish Ministers on draft sentencing guidelines and their accompanying draft impact assessments. Ministers may request that the Council prepare or review sentencing guidelines on any matter but cannot compel the Council to do so. The Council must, however,

provide reasons if refusing such a request.

The Council's annual budget for direct expenditure and staffing costs is allocated by the Scottish Ministers.

Scottish Parliament

After being submitted to Ministers, both the Council's business plan and its annual reports are laid before the Scottish Parliament.

In addition, from time to time, the Council may provide evidence to Parliament on matters under its consideration where that is appropriate and where they are within our remit.

Scottish Courts and Tribunals Service

The Scottish Courts and Tribunals Service ("SCTS") provides staff, services and accommodation to 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.

Organisations involved in appointments to the Council

There are several groups involved in selecting individuals as Council members.

Judicial and legal members are appointed by the Lord Justice General. The prosecutor member is appointed on the nomination of the Lord Advocate. The Dean of the Faculty of Advocates and Law Society of Scotland, as the relevant professional organisations, must be consulted before the advocate and solicitor member, respectively, are appointed.

Lay members are appointed by the Scottish Ministers, with the constable member being appointed by Ministers on the nomination of the Chief Constable of Police Scotland.

The Lord Justice General and Scottish Ministers must consult each other before making any appointments to the Council.

Complaints

The Council is subject to Schedule 2 of the Scottish Public Services Ombudsman (SPSO) Act 2002, which requires us to produce a complaints handling procedure and also to publish complaints information on a quarterly and annual basis. This information will be published on our [website](#) and in our annual reports.

We have published a [Complaints Handling Procedure](#) detailing how we will deal with complaints, what constitutes a complaint, the different stages of the procedure and the timescales involved.

Resources

Staff

The Council Secretariat currently comprises the following permanent posts:

- Secretary to the Council
- 2 Principal Policy Officers
- Principal Legal Officer
- Principal Research Officer
- Senior Research Officer
- Senior Policy Officer
- Communications Manager
- Business Manager

The Council periodically appoints temporary members of staff to supplement the permanent secretariat complement, for specific purposes. The total estimated costs of staff for the year 2024-25, including salary, pension and National Insurance contributions, are £797,000 (based on the pay award for 2024-25).

Associated costs

The development of sentencing guidelines and the preparation of accompanying impact assessments involve a significant amount of research and analysis. To assist with this, the Council requires a range of information which is not currently produced on a routine basis.

The SCTS is required under section 10 of the 2010 Act to provide such sentencing information as

may be reasonably required by the Council. The SCTS Management and Information Analysis Team assists with data collection and provision.

SCTS also provides shared services, such as HR, procurement and ICT support to the Council.

Budget

The Council was allocated a budget of £1,025,000 in 2024-25.

In 2024-25, planned expenditure was estimated to be around £797,000 on staffing, with around £187,000 on research projects, including some of the costs of the second national survey on public perceptions of sentencing, as well as for research into public views on sentencing for environmental and wildlife offences, and an exploratory study on unwarranted disparities in sentencing in Scotland. The remaining expenditure will be allocated to conference attendance, staff and member training, travel and subsistence, public education activities, and general office costs.

It should be noted that both staffing costs and planned direct expenditure are subject to fluctuations in-year: pay and staff can change, and direct expenditure depends on tenders being received and the progress of projects, which can sometimes be matters outwith the Council's control.

The table below summarises how we intend to spend our direct expenditure budget in the year 2024-25.

Actual expenditure for each financial year will be recorded in our annual reports.

BUDGET 2024-25

Category	Description	Anticipated spend*
General office expenditure	Printing costs, stationery etc.	6
Meetings and events	Venue hire, catering and conference costs	17
Training and expenses	Members' and staff travel & subsistence and costs of training associated with Council business	8
Promoting awareness and understanding	Website development, publications and educational resources	10
Research	Commissioned projects, consultation analysis etc.	187
Total		228

(*All figures to nearest £000)

All of the work described in this business plan is predicated on the Council being allocated sufficient resources to support its work programme.



Work programme 2024-27



Our **work programme** for 2024-27 is set out below by reference to our statutory objectives to seek to promote consistency in sentencing practice, assist policy development in relation to sentencing, and promote greater awareness and understanding of sentencing policy and practice.

Promoting consistency: sentencing guidelines

The Council's primary function is the preparation of sentencing guidelines. We believe guidelines will be key to achieving the Council's statutory objective to promote consistency in sentencing practice. Guidelines will also support our objective to promote awareness and understanding of sentencing policy.

Under the 2010 Act, the Council must prepare guidelines if asked to do so by the High Court or the Sheriff Appeal Court. It must consider any requests for guidelines made by the Scottish Ministers. If the Council decides not to fulfil a request by Ministers, it must provide reasons for that decision. In the absence of any statutory requests, the Council has broad discretion as to what guidelines it should prepare.

The following criteria will be taken into account when selecting topics for guidelines.

- **Statutory request by the High Court or Sheriff Appeal Court:** the Council will be obliged to prepare or review a guideline in the event of a request.
- **Statutory request by the Scottish Ministers:** the Council will have regard to any request by Ministers for the preparation or review of any guideline.
- **Public value:** particularly where a guideline is expected to improve awareness or understanding and/or public confidence and to what extent.
- **Impact on sentencing practice:** particularly in relation to the volume of offenders, offences or disposals, and/or the extent to which a guideline might be expected to promote consistency.
- **Areas of particular difficulty or complexity:** a guideline may be warranted as a result of the nature of the subject matter or the applicable law.
- **New legislation or developments in case law:** these may require an existing guideline to be revised.
- **Resources required** for the preparation of a guideline and the resources available to the Council.

Other factors may need to be taken into account in selecting guidelines. For example, the interaction with other guidelines in existence or under development, or whether there are plans for legislation which may have implications for a guideline's content.

Methodology

Guidelines, once introduced, will become part of the Scottish criminal justice system and will have real effects on the people involved in criminal cases. Guidelines will therefore take time to deliver if they are to properly achieve their aims.

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 has now been published and is available on our website [here](#).

Guidelines will be developed in eight stages. The process is summarised in the table below. The work described takes time to get right. We are very mindful that 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. Stages 2-4 in particular are critical to ensuring that guidelines are fit for purpose, achieve their aims, and that their potential effects are fully understood.

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.

Guidelines



The Council has now developed and submitted to the High Court three guidelines of general application, addressing:

- the principles and purposes of sentencing
- the sentencing process
- sentencing young people

The first two of these guidelines apply to every sentence imposed, in every court in Scotland. These guidelines also apply alongside the sentencing young people guideline to all young people aged 24 or under when they plead or are found guilty, whatever the offence in question. Between them, these three guidelines set the foundation for all sentences handed down in Scotland, promoting consistency in approach and helping to explain to the public how sentencing decisions are made.

These general guidelines provide a high level framework for the development of offence guidelines, the first of which, on the statutory offences of causing death by driving, came into effect on 16 January 2024. We expect to make good progress on a number of further offence guidelines during this planning period.

Guideline projects in progress

Sexual offences

Sexual offending remains an area of significant public concern and criminal justice activity, with increased reporting, prevention, and enforcement action. Sexual offences account for a high proportion of sentencing, particularly in the High Court, often involving difficult decisions in complex circumstances. This is an area of great public importance in which we believe guidelines will bring significant benefits to the judiciary, those who have been involved in such cases, and the wider public.

A Sexual Offences Committee has been established to oversee this work, and a variety of research has been undertaken. This includes research into public perceptions, work which has also involved interviews with victims and survivors; and into current sentencing practice.

Two draft guidelines, addressing rape offences under sections 1 and 18 of the Sexual Offences

(Scotland) Act 2009 (and their common law equivalents), have been prepared and will be finalised following consideration of a public consultation exercise held between July and October 2024.

A guideline covering offences relating to indecent images of children is in development, and guidelines on sexual assault will be begun once resources allow.

Domestic abuse

Domestic abuse offences involve a high number of victims and account for a significant proportion of crimes in Scotland. Following a programme of research, evidence-gathering and engagement, including research into victims' and survivors' perceptions of sentencing of these offences, and into sentencing practice following the coming into force of the Domestic Abuse (Scotland) Act 2018, a draft guideline is being prepared for the purposes of public consultation.

We consider that guidance on sentencing for these offences would be helpful to the courts and that it would help to provide transparency for the public and the families involved in these cases.

Environmental and wildlife offences

Offences in these areas are a matter of public importance, sometimes involving complex circumstances which may lead to a difficult sentencing decision. Sentencing in both types of case can be difficult, for example because the harm and culpability involved might be quite different from the majority of criminal offences - in some cases there may not be an identifiable victim, but instead the harm caused (or risk of harm) is to the public at large. In addition, the offender may be a company rather than an individual. There may, therefore, be significant public policy issues for the court to consider.

We consider that guidelines addressing environmental and wildlife offences would be of public benefit, these being matters of particular significance to Scottish communities and the wider Scottish economy.

Following a decision in 2019 to prioritise guidelines on sexual offences, and in light of the changes to penalties for wildlife crimes under the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020, work on guidelines covering environmental and wildlife offences has now resumed. The Environmental and Wildlife Crime Committee has reconvened and is considering the scope and approach of the guidelines. It also expects to consider the findings of a commissioned study into public views on sentencing for environmental and wildlife offences once it concludes in 2024-25.

Sentencing following a guilty plea

A guideline on the level of reduction to be applied where a guilty plea has been tendered (which is a step courts are required by law to consider, and is often referred to as ‘sentence discounting’) presents significant opportunities to improve public understanding of sentencing and to assist with predictability. Support and advocacy organisations tell us that victims and their families sometimes find it difficult to understand why a discounted sentence has been given in certain circumstances, and there is anecdotal evidence from practitioners that a guideline would provide greater predictability for accused persons.

Because of the high proportion of guilty pleas, the guideline is likely to have broad applicability and therefore has the potential to considerably impact practice. A committee has been established to consider the terms of a guideline, research on establishing current practice has been undertaken, and a study on public perceptions on the subject has been completed and will be published during 2024-25.

New guidelines

Mental health and related issues

In addition to the continuation of the above guideline projects, the Council has given consideration to the challenges involved in addressing mental health and related issues in sentencing.¹

The prevalence of mental illness, neurodivergence, neurological conditions, and learning disabilities among the offending population, coupled with the delicate balancing exercise involved in selecting an appropriate and effective sentence for convicted persons, presents particular challenges for sentencers. The Council has carried out a range of research and engagement on this complex issue, including research with the judiciary (which we anticipate publishing in late 2024) and a stakeholder conference of sentencers, experts, practitioners, policy professionals and others in August 2024.

1. Mental health can be used to describe a broad spectrum of issues including mental wellbeing, common mental health difficulties (e.g. anxiety, low mood) and severe mental illness (e.g. schizophrenia, major depression and bipolar disorders). It is important to note that these terms are not mutually exclusive, as poor mental health and wellbeing can, for example, be experienced by someone with a stable psychiatric diagnosis. While ‘mental health and related issues’ is commonly used as an umbrella term – and is intended to cover, for the purposes of this plan, issues such as neurodivergence and learning disability – the use of appropriate terminology will form an essential component of the Council’s consideration of the topic.

The Council, having considered the issues raised during both exercises, concludes that a guideline in this area is necessary.

We hope that a guideline can go some way to assist with sentencing decisions in these, often difficult, cases and that it will help to clarify the complex sentencing process to the public as well as those involved in criminal proceedings.

Assault

The Council is also mindful of the value in providing guidance on offences of violence, these being of particular public concern. It is therefore intended that a guideline on the common law offence of assault, which would offer the possibility of also providing guidance on offences involving offensive weapons, another matter of concern to the public, should be prepared.

Convictions for assault offences account for a high proportion of criminal offending.² The offence of assault encompasses a very wide range of circumstances, from contact which causes no injury to very severe harm, and there is a wide range of sentencing options, with disposals ranging from admonition to life imprisonment.

The Council therefore believes a guideline would be of benefit to the judiciary and in particular to the wider public in explaining how these offences are sentenced.

The sentencing process

As of September 2026 the sentencing process guideline (which sets out and explains the general process to be followed and common factors to be considered in all sentencing decisions) will have been in effect for five years. It is intended to carry out a focussed review of this framework guideline with a view to considering whether it requires any adjustment to ensure that it remains aligned with developments in legislation (such as the creation of new statutory aggravations), case law, and sentencing practice.

2. According to the Scottish Government's statistics on criminal proceedings in Scotland, the rate of assault convictions is decreasing overall, from around 12,000 in 2010/11 to around 8,000 in 2019/20, although the most recent bulletin notes that rises in convictions in 2021 were driven by increases in the number of non-sexual crimes of violence and crimes against society, with the largest contributor to this being common assault, which increased by 33% or 1,632 convictions. See Criminal Proceedings in Scotland, 2019-20, Table 4b, available at: <https://www.gov.scot/publications/criminal-proceedings-scotland-2019-20/pages/11/> and Criminal Proceedings in Scotland, 2021-22 - Updated, available at <https://www.gov.scot/publications/criminal-proceedings-scotland-2021-22-updated/pages/8/> [Both accessed 16 October 2024].

Modern slavery and offences related to human trafficking and prostitution

Another area in which the Council considers guidance on sentencing might be of merit is in relation to modern slavery and offences of exploitation relating to human trafficking and prostitution. The Council hopes to carry out evidence gathering in this area to assist with future consideration of the case for a guideline on this matter.

Guideline review

The Council is statutorily obliged to review its guidelines periodically. A methodology for so doing has been published and a review of the sentencing young people guideline's first year of operation is expected to be published in early 2025. Any offence and offender guidelines approved by the High Court will now become subject to that routine process of review after having been in force for one year, with each then being subject to a more comprehensive review after three years in force.

As well as our own review processes, the High Court and Sheriff Appeal Court can require us to review any guideline, and the Scottish Ministers can request that we review a guideline. In these circumstances we will take an appropriate approach to the review depending on the time the guideline has been in force, the circumstances that have led to the review, and the type of guideline being reviewed.

Research and information



The Council may publish information about, and conduct research into, sentencing matters. Research activity will align with our business plan priorities and our statutory objectives and will, generally, be focussed in support of the development or review of guidelines. As the Council's endeavours expand or contract in relation to its objectives to assist with the development of policy, or promote awareness and understanding, research priorities will be reflected in the research programme which underpins all of our work.

The research required for guidelines will depend on the nature of the guideline in question and the evidence and information already available to us.

Research that we conduct or commission to support the development of guidelines may include:

- **Data-gathering:** to determine what sentencing information is currently collected and whether any further statistical information is required, to assist with the development of a guideline and in assessing its potential impacts.
- **The preparation of literature reviews:** for example to establish the information currently available or to better understand practice in other jurisdictions to help inform the Scottish approach.
- **Research with the judiciary:** to ascertain current sentencing practice, identify areas in which guidelines may be particularly useful, and test guidelines' content and usability.
- **Case analysis:** to ascertain sentencing practice and identify factors which influence sentences.
- **Public understanding research:** we regularly carry out research to assess general public understanding and awareness of sentencing in relation to specific topics to assist with the development of guidelines and inform decisions on future business plans. This may take the form of targeted focus groups (for example with members of the public or with persons who have been involved in or affected by certain types of case) or wider scale web or telephone surveys.

Guideline review activity will be dependent on the guideline in question and carried out in line with the Council's established methodology for routine reviews.

Specific projects

In addition to the previously mentioned studies into public perceptions of sentencing environmental and wildlife offences, and sentence discounting, a number of research projects are expected to conclude or begin during 2024-2027.

Building on our 2019 survey, the first of its kind in the Scottish jurisdiction, a second **national survey on public perceptions of sentencing** has been commissioned and its findings are expected to be available during 2025. It is anticipated that the survey will explore general public awareness of sentencing with a view to establishing a longitudinal dataset, and examine the following new topics: understanding of sentencing; community sentencing; mental health, cognitive differences and related issues; domestic abuse; and media consumption and understanding of sentencing.

As well as informing various aspects of our work, including guideline development, this important research will allow us to better understand public perceptions and expectations of sentencing, which is particularly important to improving awareness of, and thereby public confidence in, sentencing. Once the findings are available, we will consider whether further qualitative research to better understand what influences public perceptions of sentencing is required.

We have commissioned research into whether there is evidence of **unwarranted disparities in sentencing** and expect that this will be published during 2025.

Building the knowledge base

The Council recognises the importance of independent research and the role of academia in informing its own work, as well as that of wider sentencing policy and in improving awareness and understanding of sentencing more generally. In recognition of this, in addition to commissioning a significant amount of externally conducted research, we have sought to increase engagement with researchers and academics in recent years, with a view to furthering and maximising the knowledge base in relation to sentencing.

With this in mind, in November 2023 the Council, in conjunction with the University of Glasgow and the Sentencing Academy, hosted the inaugural Scottish Sentencing Research Symposium, an event which welcomed experts from across the UK to offer perspectives on sentencing research. The symposium examined three important areas: sentencing and mental health, sentencing young people and community sentencing. It is intended that a further symposium will be held during the next planning period.

Over the next period, the Council will seek to publish a greater amount of information about sentencing.

All of the Council's research and engagement publications are available on our [website](#).

Assisting with policy development

The work we have carried out to date in relation to mental health and related issues in sentencing has already uncovered a number of challenging issues which are unlikely to be capable of being resolved by a guideline. As part of the guideline's development and in pursuit of our objective to provide policy assistance, we will endeavour to carry out further research and engagement with interested parties to assist in identifying potential solutions to overcome some of the challenges in this complex area.

The years covered by this plan appear likely to see significant attention given to reform in the area of sentencing. In 2024 both the Scottish and UK governments announced a series of measures aimed at reducing the prison population in, respectively, Scotland and England and Wales. In addition to a range of specific initiatives being taken forward, or in contemplation, the Scottish Government also announced its intention to commission an independent **review of sentencing and penal policy**.

To the extent that the policy review, or any proposals relating to the prison population, fall within the Council's remit or have implications for its work, the Council will seek to provide assistance and carry out correlating activity to educate and inform where that is appropriate.

The Council will continue to consider on an ad hoc basis any proposals for legislation or other initiatives which fall within its remit.

Building knowledge and understanding of sentencing

The Council, which is committed to evidence-based decision-making and to improving the knowledge base in relation to sentencing generally, is keen to ensure that both sentencing policy and practice are based upon sound and comprehensive knowledge and understanding of the range of information and data relating to sentencing. We have carried out and commissioned a considerable amount of research, data collection and analysis in the field, but consider that there may be opportunities to explore whether the information presently available across the criminal justice system might be improved in a way which would aid our work and support fully informed decision-making and policy evaluation more generally.

The Council will continue to contribute to any efforts in this regard, and hopes to engage with others in order to contribute to improving information availability in the criminal justice system to support its own work as well as effective policy development more generally.

Promoting awareness and understanding

The Council carries out a wide range of communications and engagement work in fulfilment of its objective to promote awareness and understanding of sentencing policy and practice. Over the years we have widened the scope of our activity to include, among other things, several social media channels, podcasts, recorded lectures for higher and further education institutions, delivery of training of practitioners and support and advocacy workers, and the production of educational videos and interactive case studies. Where we can, we also seek to make conference presentations available on our website and via our YouTube channel.

We will continue to work closely with stakeholders, judicial partners, criminal justice organisations, victims' groups and academia to increase knowledge and awareness of sentencing policy and practice. We will extend our reach in providing webinars and training events to justice and third sector organisations, and educational institutions, and we will continue to provide lectures and presentations at universities, schools and community events.

Our recent website work has included an accessibility update and a new information page for victims. We will continue to develop our public resources, particularly through the production of more accessible and engaging formats, such as videos and interactive case studies, and we will further promote our website as a comprehensive and authoritative source of information on sentencing.

In addition to the findings of the second national survey on public perceptions, which will give us a broad understanding of changes to public attitudes to and understanding of sentencing over time, we plan to develop specific methodologies to better monitor and evaluate our progress in this area.

In line with the priorities outlined in this plan, we will seek to give particular focus to the following specific matters in our communications and education work.

Sexual offences and gender-based violence

Sexual offending and gender-based violence remain an area of public concern and account for a high proportion of sentencing, particularly in the High Court, often involving difficult decisions in complex circumstances. Through the ongoing development of sentencing guidelines for offences involving rape, sexual assault and indecent images of children, as well as a guideline on domestic abuse, we will continue to raise awareness of the issues involved in sentencing these offences.

Sentencing practice

As the Council continues to publish sentencing guidelines relating to both a general and offence-based nature, it is important to make clear how these guidelines interact, and the role that they play in the sentencing process. The Council will aim to raise awareness of that process, including the considerations taken into account, amongst those with an interest in sentencing, as well as more generally. With the intention of improving understanding of sentences imposed and to assist the wider development of sentencing policy, the Council will also aim to publish increased data around the sentences imposed by the Scottish courts.

Mental health and related issues in sentencing

The Council has commenced work on conducting research and engagement to support awareness raising and other activity in relation to the sentencing of those with mental health and related issues, such as learning disabilities and neurodivergent and neurological conditions. The result of this work indicates that a sentencing guideline on mental health and related issues would assist both the judiciary in deciding these sentences and the public in understanding how these decisions are made. Alongside and as part of the development of a sentencing guideline, we will raise awareness of the issues involved in sentencing those with mental health and related issues.

Council's 10-year anniversary

Finally, the Council is pleased to be celebrating its 10-year anniversary during 2025. The Communications and Engagement Committee will be tasked with considering what specific activities should be undertaken to mark this important occasion, with a view in particular to ensuring our ongoing public awareness and educational activity will feature prominently in our communications and engagement around this important milestone.

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