

MEETING OF THE SCOTTISH SENTENCING COUNCIL
04 OCTOBER 2024
PARLIAMENT HOUSE, EDINBURGH
DRAFT MINUTES

Members present: Lady Dorrian, the Lord Justice Clerk (Chair)
Lord Matthews (judicial member)
Lord Colbeck (judicial member)
Sheriff Iain Fleming (judicial member)
Lindsey Miller (prosecutor member)
Victoria Young (advocate member) – by videoconference
Joanne McMillan (solicitor member)
DCC Bex Smith (constable member)
Lynn Burns (victims expert member)
Dr Hannah Graham (lay member)

Attendees: Sheriff Amel Elfallah (advisor to the Council)
Giorgio Ventisei (law clerk to the Lord Justice Clerk)

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)
Will Searle (senior communications manager)

1. PROCEEDINGS

Item 1.1: Introduction and welcome

1. The Chair opened the meeting and noted that it was the 34th since the Council's inception. The Chair welcomed Will Searle to his first meeting since his appointment as the Council's new interim senior communications manager and informed members that Sheriff Krista Johnston had resigned as an advisor to the Communications and Sexual Offences Committees.

Note of thanks: the Council recorded its thanks to Sheriff Krista Johnston for her contribution to the Council's work during her time as an advisor to the Council's Communications and Sexual Offences Committees.

2. The Chair then provided a short update on staffing, informing members that Caroline Bellinger had returned to the secretariat team as Communications Manager and that Julie Duran, senior policy officer to the Council, had moved to a new role on promotion as the Head of Legal Secretariat and Tribunal Training within the Judicial Institute for Scotland.

Note of thanks: the Council recorded its thanks to Julie Duran for her contribution to the Council's work during her time as Senior Policy Officer.

Item 1.2: Previous meeting minutes [Paper 1.2]

3. The Council approved the minutes of the previous meeting of 07 June 2024 provided at **paper 1.2**.

Item 1.3: Progress of actions since last meeting [Paper 1.3]

4. The Council noted the progress of actions provided at **paper 1.3**.

Item 1.4: Private papers [Oral update]

5. The Council agreed not to publish the following papers: 1.3, 1.5, 2.1, 2.1A, 2.1B, 2.2, 4.1, 4.2, 4.2A, 4.2B, 4.3, 4.4, 5.2, 5.3, 5.3A, 5.3B, 5.3C, 5.4, 6.1, 7.1, 7.1A, 7.2, 7.2A, 7.3, 7.4B, 7.4C and 7.5.

Item 1.5: Update on committee membership [Paper 1.5]

6. The Council:
 - noted the update on Council and committee membership provided in **paper 1.5**;
 - the secretariat's intention to bring forward proposals for streamlining the procedure for making committee reappointments; and

- agreed to appoint Dr Hannah Graham as a Council advisor on the expiry of her term of office on 03 December 2024 until her replacement as a lay member of the Council is appointed by the Scottish Ministers.

ACTION POINT

AP1 Secretariat to carry out the necessary arrangements around the agreed appointment of Dr Hannah Graham as an advisor to the Council with effect from 04 December 2024.

Item 1.6: Update on staffing [Oral update]

7. An update on staffing was provided under **item 1.1**.

2. BUSINESS PLANNING

Item 2.1: Business Plan and Communications and Engagement Strategy 2024-27 [Oral update and papers 2.1 and 2.1A-B]

8. The Council considered revised drafts of its business plan and communications and engagement strategy for 2024-27.
9. In respect of the business plan, the Chair provided an update on the statutory consultation with the Lord Justice General, Scottish Ministers, and the Lord Advocate. The Council noted the content of the business plan.
10. In respect of the communications and engagement strategy it was noted that it follows the same format as the existing strategy, updated to reflect the new priorities as outlined in the 24-27 business plan.
11. **Paper 2.1** also invited the Council to consider changes to the remits of the two standing committees, the Communications Committee and Research Committee, as well as a change to the name of the former.
12. The Council:
 - noted the engagement and the statutory consultation carried out to date in respect of the business plan;

- agreed to the proposed revised name and remit of the Communications Committee;
- agreed to the proposed revised remit of the Research Committee;
- approved the business plan for 2024-27;
- approved the communications and engagement strategy for 2024-27; and
- agreed to the proposed arrangements for publication of both documents.

ACTION POINT

AP2 Secretariat, in consultation with the Chair, to finalise arrangements for the submission of the business plan 2024-27 to the Scottish Ministers, and for publication of the business plan and the communications and engagement strategy thereafter.

AP3 Secretariat to update the website and all relevant documents with the revised remits of the Communications and Research Committees.

Item 2.2: Funding 2025-26 [Paper 2.2]

13. Ondine Tennant provided an update on the Council's anticipated funding requirements for the financial year 2025-26 with reference to **paper 2.2**. She noted that delivery of the business plan was predicated on sufficient resources being secured to support the work and that discussions with the Scottish Government would continue following the meeting.
14. The Council noted the update and **paper 2.2**.

3. SENTENCING GUIDELINES

Item 3.1: Guideline committees update [Oral update]

15. Lord Matthews noted that the Death by Driving Committee had not met since the last Council meeting. In accordance with its terms of reference, the Committee was wound-up on 16 July, six months after the guideline on death by driving offences took effect. Operation of the guideline was now subject to routine monitoring and review in terms of the Council's methodology.

16. Lord Matthews provided an update on the work of the Sexual Offences Committee. He noted that:

- The Committee had not met since the last Council meeting.
- The public consultation on the draft rape guidelines was launched on 25 July and is due to close on 18 October. A reminder to key stakeholders will be issued in advance of the deadline.

17. Lord Colbeck provided an update on the work of the Domestic Abuse Committee. He noted that:

- The Committee has met twice since the last Council meeting, on 28 August and 25 September.
- Following initial, informal engagement, the draft guideline has been updated and is to be circulated to committee members for approval before being provided to the full Council.

18. 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, work on developing a draft guideline has continued, and as a consequence a draft was circulated to Council members in August for approval by correspondence.
- This will allow for further engagement with the judiciary and stakeholders, with a view to having a final draft approved for full judicial and public consultation in early 2025.

19. 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 scoping analysis has been completed.
- The secretariat had engaged with Scottish Government officials in relation to the operation of the Animals and Wildlife (Penalties, Protections and Powers)

(Scotland) Act 2020 and provided a general update on the Council's previous and upcoming work in this area.

20. Lord Matthews informed members that he had attended the Commonwealth Magistrates' and Judges' Association Conference in Kigali, Rwanda between 8 and 12 September 2024. This had featured a presentation by Professor Amanda Whitfort of the University of Hong Kong on wildlife crime sentencing and species victim impact statements. It was noted that this may be of relevance to the Council's work in this area.

ACTION POINT

AP4 *Secretariat to contact Professor Amanda Whitfort of the University of Hong Kong regarding potential engagement with the Council around her work on species victim impact statements.*

4. COMMUNICATIONS AND ENGAGEMENT

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

21. The Council noted **papers 4.1 and 4.1A**, which provided updates on recent and upcoming engagement activity.
22. Members noted that plans for a second Four Corners Conference were being developed and that it would be held on 28-29 November 2024.

ACTION POINT

AP5 *Council members to contact the secretariat regarding their availability to attend the Four Corners Conference on 28-29 November 2024.*

Item 4.2: Communications activity [Papers 4.2 and 4.2A-B]

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

- The Committee last met on 17 September 2024.
- A new video on prison sentencing was now complete and will be published as part of the Council's series of educational videos on sentencing. The Committee proposed development of a third video to continue the series.
- An information pack has been produced for victim organisations and one is being developed for the media.
- A blog on 'Sentencing criminals who reoffend when released early from prison' has been published on the website.
- The Chair of the Council conducted an interview with the legal platform, Hey Legal, in relation to the public consultation on the draft rape guidelines.
- The secretariat presented at three Doors Open Day events.

ACTION POINTS

AP6 ***Secretariat to make arrangements for publication of the prison sentencing video with a view to maximising its reach.***

AP7 ***Secretariat to begin the development process for a third educational video on sentencing.***

AP8 ***Secretariat to progress development of an information pack for the media.***

Item 4.3: Media, social media update, and reporting proposal [Paper 4.3]

24. Joanne McMillan introduced **paper 4.3**. She noted the paper proposes a new format for quarterly reporting to provide a clearer way to track monthly, quarterly, and year on year growth. The Council noted **paper 4.3**.

Item 4.4: Law award [Paper 4.4]

25. The Council approved the proposals outlined in **paper 4.4** in relation to sponsorship of a law award.

ACTION POINT

AP9 Secretariat to take forward the agreed proposals in relation to the law award discussed.

5. RESEARCH

Item 5.1: Research Committee update [Oral update]

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

- The Committee last met on 12 September 2024 to consider the research projects and priorities outlined in **paper 5.2**.
- The Committee noted that the meeting was inquorate and therefore any recommendations reached will be put to the next committee meeting for decision. The committee also agreed that papers would be considered by correspondence.
- The Committee considered by correspondence an update to the research committee remit, discussed at **item 2.1** of today's meeting.

Item 5.2 Research projects update [Paper 5.2]

27. Nicole Vidal introduced **paper 5.2**, which provided updates on current research projects and a forecast of research priorities for the next three years. In particular, she noted that:

- The proposed research priorities and projects assume Council approval of previously discussed items in the business plan and sufficient funding secured for these. If funding is insufficient, some projects may need to be deferred or reprioritised. These forecasts allow for flexibility in adjusting projects as necessary.
- One such priority highlighted in the paper is on the improvement of cross-agency information flows and the secretariat considers that it would be beneficial for the Council to engage in these efforts to improve information availability for better policy development.
- The Council was advised that an issue with accessibility of SCTS data had been identified earlier in the year and has since been assessed and addressed. As such,

the secretariat did not anticipate any implications for the Council's research programme.

- The Council noted the update on current research projects and agreed the forecasted additional priorities for 2024/25 and the forecasted priorities and projects for 2025/26 and 2026/27 as outlined in **paper 5.2**.

Item 5.3 Mental health and sentencing [Papers 5.3 and 5.3A-C]

28. David Ross introduced **paper 5.3**, which covered the following matters in respect of the Council's work on mental health and sentencing:

- an update on engagement;
- finalisation of the issues paper based on the judicial survey and interviews carried out between late 2023 and early 2024; and
- an outline of discussions at the stakeholder conference, "Mental health, neurodivergence, and learning disability in sentencing", held on 30 August.

29. The Council:

- noted the update on engagement outlined in **paper 5.3**;
- approved in principle the draft issues paper at **paper 5.3A** and agreed that it should thereafter be finalised by the secretariat in consultation with the Research Committee and the Chair;
- provided views on the outline of the group discussions at the mental health and sentencing conference at **paper 5.3C** and the proposals for the finalisation of the conference report; and
- agreed on an approach for publication of the issues paper and conference report once both were finalised.

ACTION POINTS

AP10 ***Secretariat to conclude targeted engagement with key stakeholders in relation to mental health and sentencing.***

AP11 Secretariat to finalise the mental health and sentencing issues paper and conference report in consultation with the Research Committee and Chair and arrange for their publication thereafter, subject to the conference report being approved by correspondence.

Item 5.4 European Society of Criminology Conference 2024 [Paper 5.4]

30. Hannah Downey introduced **paper 5.4**, which covered the following summary of key findings drawn from the presentations included in the EUROCRIM 24th anniversary conference, including:

- An outline of the presentations, discussions and papers which examined a range of challenges pertaining to international criminal justice.
- The academic discussions surrounding domestic abuse and rape sentencing, providing valuable insight for ongoing research on these topics.

31. The Council:

- noted that Hannah will draft a blog post summarising the conference and highlighting the key insights gained, and;
- noted that the secretariat believes that, given the utility of such events, the Council should maintain its engagement with the network.

ACTION POINT

AP12 Secretariat to prepare a blog in respect of the key findings drawn from the presentations included in the EUROCRIM 24th anniversary conference and publish it on the Council's website.

6. POLICY DEVELOPMENT

Item 6.1: Policy update [Paper 6.1]

32. 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: Annual report 2023-24 [Papers 7.1 and 7.1A]

33. **Paper 7.1** sought approval of the Council's draft annual report for 2023-24. The draft annual report, covering the period 1 April 2023 to 31 March 2024, was provided at **paper 7.1A**.

34. The Council approved, in principle, the draft annual report at paper 6.1A and agreed that the report should thereafter be finalised by the secretariat in consultation with the Chair.

ACTION POINT

AP13 **Secretariat to finalise the annual report 2023-24 in consultation with the Chair and arrange for its submission to the Scottish Ministers and publication thereafter.**

Item 7.2: Business continuity plan [Papers 7.2 and 7.2A]

35. The Council noted **papers 7.2 and 7.2A**, which concerned its business continuity plan.

Item 7.3: Public Sector Equality Duty and UNCRC [Paper 7.3]

36. The Council considered **paper 7.3**, which outlined and the implications for its work of the United Nations Convention on the Rights of the Child (UNCRC) and the Public Sector Equality Duty (PSED).

37. The Council noted that it has given equalities and UNCRC consideration in each of its impact assessments to date, in accordance with its duties under the Equality Act 2010. The secretariat were reviewing relevant templates and processes in this regard.

ACTION POINT

AP14 Secretariat to provide further advice on changes to policy documentation or impact assessments in due course.

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 four decisions had been made by correspondence since its last meeting in June. These were to:
 - approve the appointment of DCC Bex Smith as a member of the Sexual Offences Committee;
 - approve a date for launch of the public consultation on the draft rape guidelines;
 - approve a response to the Scottish Government's consultation on automatic early release of prisoners; and,
 - approve a draft guideline on sentencing following a guilty plea for the purpose of judicial and stakeholder engagement.

8. AOB

43. No further business was raised.

9. FUTURE MEETING DATES

42. It was noted that a potential visit was being explored for the next meeting on 6 December 2024 and that an update would be provided on this in due course. The possibility of engagement with the Faculty of Advocates around a future meeting was discussed.

43. The Council then 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

Scottish Sentencing Council Secretariat

October 2024