

Scottish  
Sentencing  
Council



Scottish Sentencing Council

# Annual Report 2021-22

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Scottish Sentencing Council  
Parliament House  
Edinburgh  
EH1 1RQ

[sentencingcouncil@scotcourts.gov.uk](mailto:sentencingcouncil@scotcourts.gov.uk)  
0300 790 0006

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## Chair's foreword

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



In my foreword to the Scottish Sentencing Council's annual report for 2020-21, I reflected on the fact that the year in question was largely dominated by the impact of the COVID-19 pandemic. By contrast, I am delighted to say that in the period covered by this report, 01 April 2021 to 31 March 2022, it is instead the Council's achievements that stand out - in particular, the finalisation and approval in close succession of two sentencing guidelines, 'The sentencing process' and 'Sentencing young people'.

The creation of a series of general guidelines setting out a high-level framework for all sentencing decisions in Scotland has been the Council's primary focus since it was established in 2015. The first part of this framework, the 'Principles and purposes of sentencing' guideline, came into effect in 2018. The High Court's approval of 'The sentencing process' and 'Sentencing young people' guidelines in July and November 2021 respectively brought about the completion of this framework.

This was a significant milestone for both the Council and sentencing in Scotland. For the Council, it fulfilled a key commitment in our second business plan, covering the period 2018-21, marking the end of the first phase of our work and allowing us to turn our focus to the development of guidelines on specific offences.

For sentencing generally, 'The sentencing process' guideline is the first time that the various steps courts take in reaching sentencing decisions have been expressly defined in a single document in Scotland. Similarly, the 'Sentencing young people' guideline distils the latest evidence on the development of cognitive maturity in young people and the causes of offending by them, explaining clearly and concisely why they should be sentenced differently from adults. Both guidelines will help to demystify sentencing for the public, provide assistance to the judiciary, and encourage greater consistency in how sentencing is approached.

'The sentencing process' guideline provides an overarching structure for all offence guidelines. Once it was finalised, work already underway on the Council's first offence guidelines was able to gather pace. I am pleased to say that good progress was made on these guidelines, which will cover statutory offences of causing death

by driving, the offences of rape and sexual assault, and offences in relation to indecent images of children.

While the development of sentencing guidelines remains the Council's main responsibility, it is not our only one. We must also seek to assist the development of sentencing policy, and promote greater awareness and understanding of sentencing. We carried out a number of significant and important activities in these areas during 2021-22.

In October, we published a report on a consultative exercise seeking judicial views on community sentences, including on whether there are any gaps or barriers in the provision of such sentences and what might improve judicial confidence in them. We followed this up at the end of March with a stakeholder discussion event, which further explored the issues raised in the report. Both the report and the event were intended to inform the wider policy discussion around the provision of community justice, including the development of the Scottish Government's revised National Community Justice Strategy.

A particular focus of our work in relation to promoting greater awareness and understanding of sentencing this year was on the sentencing young people guideline. When we published our report on the public consultation on the draft guideline in September, we noted that the independent analysis of responses had highlighted an apparent gap in understanding of the criminal justice system between organisations and many individual respondents. We considered it an important part of our remit to address this.

Among a range of activities, including media interviews and articles by Council members, a free webinar held in January in collaboration with the Children and Young People's Centre for Justice stands out. This explored the guideline's key themes and involved more than 400 participants, with an even higher number viewing the recording of the event afterwards. It attracted interest from Ireland, Australia, New Zealand, Canada, and the USA. The success of this event demonstrates the Council's growing profile and reach.

More generally, the Council's website continues to be the main platform for communicating the full range of our work. I am extremely pleased to note that the number of visitors to our website in 2021-22 increased by more than a quarter compared to the previous year. Our Twitter and LinkedIn accounts and our YouTube channel saw a significant increase in interest as well.

The Council's research programme also plays a role in helping us to assist in the development of sentencing policy and in promoting greater awareness and understanding of sentencing, as well as being of fundamental importance to our evidence-based approach to guideline development.

During the year, we published in-depth research into public perceptions of sentencing for sexual offences, and a study exploring the attitudes of young people to sentencing. We also carried out a range of literature reviews, including on the sentencing of offences involving indecent images of children, domestic abuse, and on mental health and sentencing.

One of the most significant developments of the year was the publication in November of our business plan for the period 2021-24. As well as confirming the continuation of the development of the offence guidelines I have mentioned, we also announced that we would prepare a sentencing guideline on domestic abuse offences, a further general guideline on sentence discounting, and would resume work on an environmental and wildlife offences guideline.

The move to a new phase of work as outlined in the business plan for 2021-24, and the achievements set out in this report, would not have been possible without the dedication and insight demonstrated by members of the Council, past and present, during their terms of office. A point that bears repeating is that Council members are volunteers and their positions are unremunerated. I am extremely grateful to each of them for helping to make 2021-22 such a productive year for the Council.

Sadly, the year was also marked by the tragic passing of our first advocate member, Stephen O'Rourke QC. Stephen served on the Council between 2015 and 2019 and made an invaluable contribution to the development of our first sentencing guidelines, helping to set the foundations of all our future work. His loss is deeply felt by his former colleagues on the Council, and indeed across the Scottish justice system, in which he played an important role for many years.

In closing, I would like to record my sincere thanks, on behalf of all members, to the Council's secretariat for all of their hard work over the course of the year. The Council could not operate without the level of support and advice that they provide, and it is most appreciated.

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

# Introduction



# Introduction

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

This annual report, which covers the period 01 April 2021 – 31 March 2022, describes the Council’s work in relation to the development of sentencing guidelines, its key achievements and work in progress, its expenditure, and other information relating to its work over the course of the year.

## Statutory objectives and functions

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

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

The Council’s **functions** include:

- preparing sentencing guidelines for the Scottish courts
- publishing guideline judgments issued by the Scottish courts

- publishing information about sentences imposed by the courts.

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

## Sentencing guidelines

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

Guidelines do not have effect unless approved by the Court.

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

- the principles and purposes of sentencing
- sentencing levels
- the particular types of sentence that are appropriate for particular offences or offenders
- circumstances in which guidelines may be departed from.



## Membership



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

A number of changes in membership took place during 2021-22. Summary Sheriff Paul Brown was appointed as a sheriff in 16 August 2021, and Matt Jackson QC was appointed as a sheriff on 04 October 2021. This meant that their terms of office as, respectively, judicial and legal members of the Council automatically ended on those dates.

David Harvie completed his term of office as the prosecutor member of the Council in September 2021. He was replaced by Lindsey Miller, who joined the Council in October 2021 and will serve until 2025.

Council membership during 2021-22 is set out at pages 10-11.

## Staff

During 2021-22, the Council's Secretariat comprised the following posts:

- Secretary
- Principal Legal Officer
- Principal Research Officer
- Interim Researcher
- Senior Policy Officer
- Communications Manager
- Business Manager.

Category	Position	Title
<b>Chair</b>	The Lord Justice Clerk, by virtue of that office	The Rt Hon Lady Dorrian
<b>Judicial members</b>  <b>Appointed by the Lord Justice General, having consulted the Scottish Ministers</b>	One other person holding the office of judge who normally sits as a judge of the Outer House of the Court of Session or the High Court of Justiciary	The Hon Lord Matthews
	One sheriff	Sheriff Iain Fleming
	Two persons holding the office of summary sheriff or justice of the peace	Summary Sheriff Paul Brown (until August 2021)
		Susan Fallone JP
One further eligible judicial member or a sheriff principal	Sheriff Principal Craig Turnbull	

Category	Position	Title
<b>Legal members</b>  <b>Appointed by the Lord Justice General, having consulted the Scottish Ministers</b>	One prosecutor	David Harvie Crown Agent for Scotland (until September 2021)  Lindsey Miller, Deputy Crown Agent (from October 2021)
	One advocate	Matt Jackson QC (until October 2021)
	One solicitor	Krista Johnston
<b>Lay members</b>  <b>Appointed by the Scottish Ministers, having consulted the Lord Justice General</b>	One constable	Deputy Chief Constable Will Kerr
	One person with knowledge of victims' issues	Lesley Weber
	One other person who is not qualified as a judicial or legal member	Dr Hannah Graham

## Committees

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

### Standing committees

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

The **Communications Committee** leads on promotional and public awareness work. A key part of this involves engaging with organisations and individuals to raise awareness and understanding of sentencing, and to encourage participation in the Council's work.

The Committee's membership during 2021-22 was as follows:

- Krista Johnston
- Dr Hannah Graham
- Lesley Weber
- Sheriff Paul Brown (member and Chair from May 2021, while still a summary sheriff and member of the Council; advisor from August 2021)
- Sheriff Andrew McIntyre (advisor).

The **Research Committee** advises the Council on the commissioning, progress, and dissemination of research projects.

Its membership during 2021-22 was as follows:

- Dr Hannah Graham (Chair)
- Sheriff Iain Fleming (from May 2021)
- Susan Fallone JP.

### Working group committees

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

Working group committees are currently in place to support the Council's work to develop guidelines on the sentencing process, sentencing young people, causing death by driving, and environmental and wildlife offences.

The membership of each committee during 2021-22 was as follows:

### **Sentencing Process Committee**

- Sheriff Principal Craig Turnbull (Chair)
- The Rt Hon Lord Turnbull (advisor)
- Sheriff Norman McFadyen (advisor).

### **Sentencing Young People Committee**

- Sheriff Principal Craig Turnbull (Chair)
- Krista Johnston
- Sheriff Matt Jackson QC (member until October 2021; advisor from November 2021)
- David Harvie (member until September 2021; advisor thereafter)
- Sue Moody (advisor)
- John Scott QC (advisor).

### **Death by Driving Committee**

- The Hon Lord Matthews
- David Harvie (Chair until September 2021; advisor thereafter)
- DCC Will Kerr (elected Chair January 2021)
- Sheriff Norman McFadyen (advisor).

### **Environmental and Wildlife Crime Committee**

- Susan Fallone JP
- DCC Will Kerr.

### **Sexual Offences Committee**

- The Hon Lord Matthews (Chair)
- Krista Johnston
- Lesley Weber
- Sheriff Matt Jackson QC (member until October 2021; advisor from December 2021)
- Sheriff Andrew McIntyre (advisor).

In 2021, the Council agreed to establish two new working group committees: the Discounting Committee and the Domestic Abuse Committee. Both committees held their first meeting after the end of the reporting year. The membership of each committee during 2021-22 was as follows:

### **Discounting Committee**

- Sheriff Principal Craig Turnbull
- Sheriff Iain Fleming
- Krista Johnston
- Dr Hannah Graham.

### **Domestic Abuse Committee**

- Sheriff Principal Craig Turnbull
- Susan Fallone JP
- Lesley Weber
- Sheriff Paul Brown (advisor).

# Sentencing guidelines



# Sentencing guidelines

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

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

No statutory requests for guidelines were made of the Council in the period to 31 March 2022.

## Guidelines approved during 2021-22

The Council submitted its second guideline, '[The sentencing process](#)', to the High Court on 24 June 2021.

This guideline was approved by the High Court on 15 July 2021, and came into effect on 22 September 2021, applying to all sentencing decisions on or after that date.

It describes how courts reach sentencing decisions: the [various steps](#) which they take, and the matters

to be taken into account – such as the [seriousness of the offence](#), and any [aggravating and mitigating factors](#).

As this is the first time that these have been expressly defined in a single document in Scotland, it is the Council's hope that the guideline will be of significant benefit to the public in particular by explaining how sentencing decisions are made, as well as assisting the judiciary and encouraging consistency in how sentencing is approached.

The Council's third guideline, '[Sentencing young people](#)', was submitted to the High Court on 27 September 2021. It was approved by the High Court on 09 November 2021 and it came into effect on 26 January 2022. It applies to all sentencing decisions from that date, but only where the person being sentenced is under 25 at the date of their plea of guilty or when a finding of guilt is made against them.

The guideline was developed over an intensive period of research and stakeholder engagement, culminating in a full public consultation in 2020. The Council's [report on the public consultation](#) – which was published in September 2021, along with an [independent analysis](#) of responses – highlights the range of development work carried out and the decisions taken in response to the consultation exercise.

The Council believes that the guideline will raise public awareness and understanding of why sentencers take a different approach in relation to the sentencing of young people, and that it will benefit sentencers by distilling the key factors they need to consider into a concise and accessible document. In particular, it incorporates the [latest research and evidence](#) around cognitive development.

The finalisation and approval of both guidelines fulfilled a key commitment in the Council's [second business plan](#), covering the period 2018-21. It also marked the end of the first phase of the Council's work, where its focus was on creating a suite of general guidelines which would apply to all offences in Scotland. The guidelines join the '[Principles and purposes of sentencing](#)' guideline in forming a framework for all sentencing decisions in Scotland. This also provides the foundation for future guidelines on specific offences, which will be the Council's focus in the next phase of its work.

## Guideline development

Although the main focus in 2021-22 was on the sentencing process and sentencing young people guidelines, the Council also made good progress in relation to the other [guidelines under development](#): guidelines on the statutory offences of causing death by

driving, sexual offences (rape, indecent images of children, and sexual assault) and sentence discounting.

Judicial views on an early draft of the **death by driving guideline** were sought in late 2021. The Council took these into account in the finalisation of a draft guideline for public consultation, which launched in August 2022, outwith the period covered by this report. This guideline is likely to be the Council's first offence guideline and as such it may provide something of a template for future offence guidelines.

In respect of **sexual offences guidelines**, research into [public perceptions of sentencing for sexual offences](#) was published in July, and a literature review on the sentencing of offences involving indecent images of children was carried out. Further details about these projects are provided in the [research and information](#) section below. Iterative drafting of the rape, indecent images, and sexual assault guidelines gathered pace under the direction of the Sexual Offences Committee.

A new working group committee was established to take forward work on a **sentence discounting guideline**, drawing on some preparatory work carried out in 2020-21, including a [literature review](#) published in that year.



In October 2021 the Council [announced](#) its intention to:

- resume work on the **environmental and wildlife offences guideline**, now that the sentencing provisions within the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 have been commenced
- prepare a **guideline on the sentencing of domestic abuse offences**
- explore the sentencing of people with mental health issues to assist with further consideration of a guideline in this area.

## Methodology for guideline development

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

One of the key tasks contained in our first business plan was the development of a methodology setting out how we will take forward the work to prepare individual guidelines. This was published in October 2018 and is [available on our website](#).

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

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

As the Council is committed to an evidence-based approach to guideline development, it will also gather information about the guideline topic. This might include new research, evidence about current sentencing practice, or a review of research and information available from other sources.

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

and carefully consider what changes need to be made to the guideline.

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

Once a guideline is in force all Scottish courts must have regard to it when sentencing in a case to which the guideline applies. The Council will review each of its guidelines from time to time.

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

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

In order to increase the transparency of the Council's work, the stage which each of the guidelines currently under development is at is indicated on our website.

### **Stage 1 – Initial consideration of the guideline topic**

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

### **Stage 2 – Development of a draft guideline**

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

### **Stage 3 – Seeking the views of judges**

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

### **Stage 4 – Consulting on the guideline**

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

### **Stage 5 – Finalising the guideline**

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

### **Stage 6 – Submitting the guideline for approval**

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

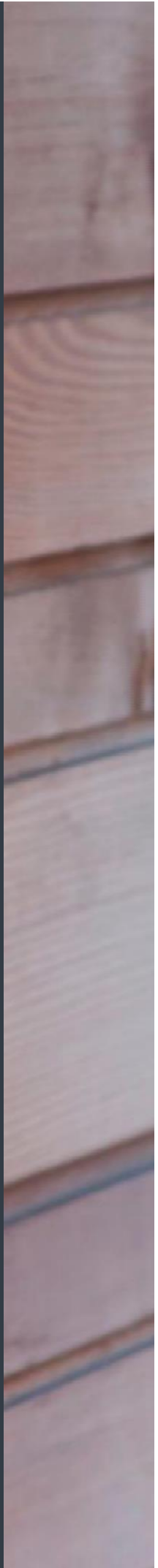
### **Stage 7 – Raising awareness about the guideline**

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

### **Stage 8 – Monitoring and review**

We must review each guideline from time to time. We will monitor the operation of guidelines to help us decide whether we need to review or update the terms of the guideline.

# Key achievements and work in progress



# Key achievements and work in progress

## Sentencing guidelines

As noted previously, the Council's second and third guidelines were finalised and approved during this reporting year.

'[The sentencing process](#)' guideline was approved by the High Court on 15 July 2021 and came into effect on 22 September 2021; and the '[Sentencing young people](#)' guideline was approved by the High Court on 09 November 2021 and came into effect on 26 January 2022.

Further details about the finalisation and approval of these guidelines is set out in the section on [guidelines approved in 2021-22](#) at pages 15-16 above.

## Research and information



In July, the Council published in-depth, independent research into [public perceptions of sentencing for sexual offences](#). Through a series of focus groups and interviews, the research examined awareness and understanding of sexual offences among the public, views on the factors which should be taken into account when sentencing, and perceptions of current practice, including a sentencing exercise using a real-world case.

The Council commissioned the research to help guide its work to promote understanding and awareness of sentencing, and to inform its development of guidelines on sexual offences.

As part of developing the sentencing young people guideline, the Council commissioned the University of the West of Scotland to explore the opinions of young people, including young people with convictions, on sentencing and the themes and issues that arose out of a draft version of the guideline.

The resulting study, '[A qualitative exploration of the attitudes of young people to the sentencing of young people in Scotland](#)', was published in August 2021. The findings, which were taken into consideration by the Council in finalising the guideline, suggested that young people were largely in agreement with the provisions in the draft guideline.

In October, the Council published a paper, '[Judicial perspectives of community-based disposals](#)', on a consultative exercise with sentencers across Scotland carried out by the Council in early 2021. This sought to identify any gaps or barriers to the provision of community-based disposals and to ascertain what might improve judicial confidence in community-based interventions.

In support of the sentencing process and sentencing young people guidelines, the Council published final impact assessments covering the costs and benefits of the guidelines, and assessments of their likely impact on the criminal justice system in general. These drew together data gathered from engagement with key stakeholders and took account of responses to the Council's public consultation exercises on each guideline.

In 2021-22, the Council also commissioned literature reviews on the sentencing of offences involving indecent images of children; assault; domestic abuse; mental health and sentencing; the first part of a literature review of fraud offences; and a study of the methodological challenges of comparative sentencing research. Although work on each of these was completed during the year, the resulting reports will not be published until after the period covered by this report.

The Council has continued to undertake direct research with sentencers across the country, seeking their views on sentencing.

At the start of the reporting year the Council considered the outcome of discussions it had held with a number of High Court judges and sheriffs at courts across Scotland about sexual offences, exploring the factors considered in sentencing these offences and how a final decision is reached.

In preparation for the sentencing guideline on domestic abuse offences, the Council also considered examples of sentencing from a selection of cases sentenced under the Domestic Abuse (Scotland) Act 2018.

Engagement has also continued with members of the academic and research communities through direct meetings and conference attendance.

Looking forward, the Council has agreed an external research plan for 2022-23 and will be proceeding with a number of projects in the next year.

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

## Promoting awareness and understanding

Although the ongoing impact of the COVID-19 pandemic continued to limit

opportunities for in-person engagement, the Council carried out a range of activity throughout the year to promote awareness and understanding of sentencing via its website and social media channels, and through virtual meetings where face-to-face ones were not possible.

The Council published its three-year [communications and engagement strategy](#) in November. This explains that Council communications priorities during the 2021-24 period will concentrate on three key areas: explaining sentencing; community-based sentences; and sexual offences and gender-based violence.

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

## Openness and engagement

In fulfilment of the Council's commitment to demonstrate transparency and to work productively with others, meetings and events were held with a wide variety of stakeholders over the course of the year, including during the development of the business plan for 2021-24.

A particular focus was on raising awareness of the sentencing young people guideline. The Council held a [workshop](#) on the guideline at the National Youth Justice Conference in June 2021.

Then in January 2022, the Council, together with the Children and Young People's Centre for Justice (CYCJ), held a [free webinar](#) on the guideline's three key themes: maturity, rehabilitation, and the need for an individualised approach.

This proved to be a highly popular event. 654 people registered for it and 404 people watched or took part in it live. As at the date of writing this report, the [recording of the webinar](#) had been viewed 449 times. It attracted interest from across the world, including people from Ireland, Australia, New Zealand, Canada, and the USA. Due to its popularity, a follow-up was held in April, after the end of the reporting year.

In January, the Council also began to develop a series of short animated videos on the guideline's key themes, although these were [published](#) after the end of the period covered by this report.

In December the Council visited [HMP Greenock](#) and the [Risk Management Authority](#) (RMA) in Paisley. The Council also held its last business meeting of 2021 at the RMA. A [blog](#) about these visits is available on the Council's website.

At the end of March, the Council held a community sentencing stakeholder event. This involved stakeholders from across the criminal justice system and explored further the issues raised in

the Council's paper, '[Judicial perspectives of community sentencing](#)'. A report about this event will be published in due course.

The Council continued to engage with the Scottish Parliament during the year. An informal meeting was held with the Criminal Justice Committee in January 2022 to discuss how the Council operates, its role in relation to policy and public education, and the three general guidelines produced to date.

The Council also submitted correspondence to the Scottish Parliament's Citizen Participation and Public Petitions Committee in respect of its work on [sexual offences](#) and [domestic abuse](#).

Regular meetings were held at official level with the Scottish Government, and the Chair of the Council met the Cabinet Secretary for Justice and Veterans in September 2021 to discuss the business plan for 2021-24.

Engagement with the judiciary and wider legal profession, both in Scotland and elsewhere, continued to be extremely important for the Council throughout the year.

Aside from ongoing research with Scottish sentencers in relation to the development of guidelines, the Council gave presentations at the Grampian, Highland and Islands sheriffdom conference in November 2021; and at Justice of the Peace conferences for

South Strathclyde, Dumfries and Galloway, and Lothian and Borders, in August 2021, and for North Strathclyde in February 2022.

The Council also delivered presentations at several judicial training courses organised by the Judicial Institute over the course of the year.

In November, the Council was delighted to welcome French judges who act as liaison magistrates with the UK justice system. The meeting with the two judges covered the Council's work in general, with a specific focus on domestic abuse, including the French judges' perspective and any notable differences in their experience.

Due to restrictions caused by the Omicron variant, a planned visit by a Council delegation to the Sentencing Council for England in Wales in London in January was not able to go ahead. Instead, the Chair of the Council held a virtual meeting with her counterpart at the England and Wales Council, Lord Justice Holroyde, to discuss areas of mutual interest.

The Council was also pleased to engage with the Irish Penal Reform Trust, first by publishing in April a [blog](#) originally written for the IPRT about developing principles for sentencing guidelines in Ireland, and later by giving a presentation to the IPRT in October.



As in previous years, we also published details of all [Council meetings](#), including agendas and minutes.

## Website and social media

The Council's website continues to be the main channel for communicating the full range of its work. As well as explanatory information on sentencing in a variety of formats including [videos](#) and '[If You Were the Judge](#)' case studies, the website is regularly updated with [news](#) of the Council's activities and details of its research and data gathering. It is intended to be an engaging and user-friendly resource for people wanting to find out more about sentencing and the Council's work.

The number of visitors to the website experienced significant growth in 2021-22, with more than 74,530 people accessing the site from April 2021 up to the end of March 2022. This is a 27.1% increase on the previous year. The most popular pages were those on [prison sentences](#), [sentences and appeals](#), [jargon buster](#), [community payback orders](#), and [what the law says](#).

The Council made increased use of its [Twitter](#) account during the year. There were 482 new followers between 1 April 2021 and 31 March 2022, up from 307 in the previous 12 months (an increase of 57%). The Council's

172 tweets in the 2021-2022 year were collectively viewed 513,620 times, compared to 185,140 views the previous year (an increase of 177.4%).

On [LinkedIn](#), the Council reached 204 followers by the end of March 2022.

Video content continues to be a popular format for public engagement. The Council's [YouTube channel](#), which was launched in August 2019, saw increased interest, with its videos having been collectively viewed around 6,700 times between April 2021 and March 2022.

[How do courts in Scotland make sentencing decisions](#) (released July 2019) continues to be the most popular video on the Council's YouTube channel, with 3,777 views in 2021-2022.

## Media

Throughout the year, we continued to engage constructively with the media, offering comment on sentencing issues where appropriate and, in particular, providing interviews and articles in relation to the sentencing process and sentencing young people guidelines.

Presentations, conferences, seminars, and visits

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

Presentations, conferences, seminars, and visits	Date
Law Society of Scotland's Scottish Parliament election hustings	April 2021
'Beyond ACEs and Towards Trauma Informed Practice' online event	April 2021
Partnership for Action Against Wildlife Crime UK (PAW UK) event	April 2021
'Safeguarding Children' films launch event	April 2021
School Mock Court Project	April 2021
Law Society of Scotland Annual Conference 2021	April 2021
'Understanding the Scale of Violence Committed Against Women in the UK Since Birth' launch event	April 2021
'Females and Criminal Justice LiveStream' by Street Cones	May 2021
'Technology Assisted Harmful Sexual Behaviour and Children and Young People' – CYCJ webinar	May 2021
'Implementing the United Nations Convention on the Rights of the Child in Scotland' – webinar	June 2021
'Socially Just Justice' – CYCJ webinar	June 2021
Scottish Sentencing Council workshop at National Youth Justice Conference 2021 – 'Sentencing and the rights of children and young people'	June 2021
'Stories of (In)Justice? Exploring young people's stories of youth justice' – CYCJ webinar	August 2021
Presentations to Justice of the Peace conferences (South Strathclyde, Dumfries and Galloway, and Lothian and Borders)	August 2021
Scottish Universities Law Institute (SULI) Showcase Conference 2021	August 2021
'Understanding Digital Abuse' – Scottish Women's Aid	September 2021
'Understanding the Dynamics of Domestic Abuse' – Scottish Women's Aid	September 2021

Presentations, conferences, seminars, and visits	Date
Presentation and discussion at meeting of the Law Society of Scotland's Criminal Law Committee	September 2021
Community Justice Scotland policy forum - Scottish Government's consultation on 'A National Care Service for Scotland'	September 2021
Law Society of Scotland roundtable discussion on trauma informed training and its place in criminal law.	September 2021
'Understanding Consent Online' – Scottish Women's Aid	September 2021
Meeting with the Lord Advocate	September 2021
'Exploring the relationship between children's rights & restorative justice' – CYCJ webinar	September 2021
Presentation at UK Environmental Law Association Scotland Conference	September 2021
'Self-Care and Community Care for GBV Workers' – Scottish Women's Aid	September 2021
Meeting with Cabinet Secretary for Justice and Veterans	September 2021
Community Justice Scotland workshop: 'Redefining (community) justice: a framing toolkit'	September 2021
Presentation at Judicial Institute shrieval induction course	October 2021
Presentation to Glasgow Immigration Tribunal Judges	October 2021
Presentation to Glasgow Bar Association on the sentencing process guideline	October 2021
'Rurality and Domestic Abuse' – Scottish Women's Aid	October 2021
Presentation to the Irish Penal Reform Trust	October 2021
Presentation to the Kilmarnock Faculty of Solicitors Criminal Law Conference	October 2021
Presentation to Grampian, Highland and Islands Sheriffdom Conference	November 2021
'Identifying Risk and Supporting Recovery' – Scottish Women's Aid	November 2021
'Mental Health and Justice' - SASO webinar	November 2021
Meeting with French liaison judges	November 2021

Presentations, conferences, seminars, and visits	Date
Presentation at Judicial Institute course on children and young people	November 2021
'Intimate Partner Femicide' – Scottish Women's Aid	December 2021
'Working with Victims, Survivors and Perpetrators of Domestic Abuse' – Scottish Women's Aid	December 2021
Meeting with Lord Holroyde, Chair of the Sentencing Council for England and Wales	January 2022
Meeting with the Scottish Parliament's Criminal Justice Committee	January 2022
'Ending Domestic Violence: Implementing the Domestic Abuse Act & Finding a Long-Term Strategy for Protection and Prevention' – Public Policy Exchange webinar	January 2022
'Introduction to Sentencing Young People Guideline Seminar' – Law Society of Scotland	January 2022
Scottish Sentencing Council and CYCJ webinar on the sentencing young people guideline	January 2022
The 19 <sup>th</sup> Kilbrandon Lecture – Dr Claire Lightowler: 'A rights-respecting approach for children who offend'	January 2022
'Equality and Justice' – SASO webinar	January 2022
'Supporting Women in the Criminal Justice System: Protecting the Vulnerable, Reducing Reoffending & Improving Conditions' – Public Policy Exchange webinar	February 2022
'Mind My Experience the VSS Language Guide' - launch event, Victim Support Scotland	February 2022
Presentation at Judicial Institute sentencing course	March 2022
'Beyond Glass Walls - Victims Experiences of the Criminal Justice Response to Domestic Abuse' – book launch	March 2022
'Imagine A Country' - annual Community Justice Scotland national event	March 2022
'Prisoner dis/enfranchisement in Scotland' - University of Edinburgh online event	March 2022
Scottish Sentencing Council community sentences discussion event	March 2022

## Assisting policy development

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

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

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

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

One of the Council's most significant contributions to policy development in 2021-22 was its paper, '[Judicial perspectives of community sentencing](#)', and the subsequent community sentencing stakeholder event held at the end of March, which

explored further the issues raised in the paper. Both the paper and the stakeholder event were also intended to inform the development of the Scottish Government's revised National Community Justice Strategy, and the further development of policy in respect of community justice.

In 2021-22, the Council also contributed to policy development by responding to the Scottish Government's consultations on the following matters:

- [A National Care Service for Scotland](#)
- [National strategy for community justice: review consultation](#)
- [Scottish Crime and Justice Survey](#)
- [Bail and release from custody arrangements](#).

In October, the Council responded to the Scottish Law Commission's consultation on the mental element in homicide.

## Business Plan 2021-24

The Council's [third business plan](#) (covering the period 2021-24) was laid in the Scottish Parliament on 22 November 2021 and published on 23 November 2021.

In developing this business plan, we engaged with a wide variety of stakeholders to discuss the Council's

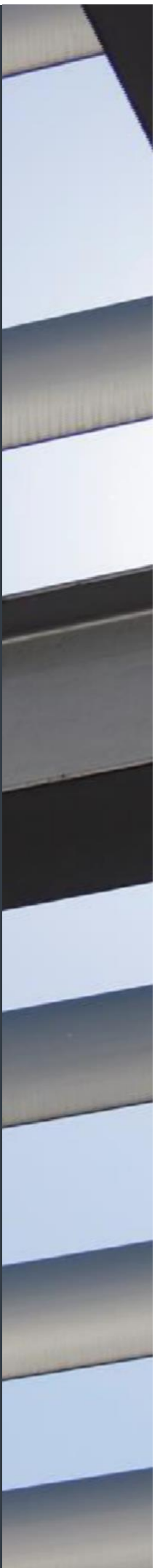
work to date and what areas we might focus on over the next three years. We also, as required by the 2010 Act, consulted with the Scottish Ministers, the Lord Justice General, and the Lord Advocate.

In the business plan for 2021-24, the Council announced that it would be moving to a new phase of work in which its focus will turn to offence guidelines and confirmed its intention to prepare a sentencing guideline on domestic abuse offences.

Also included in the work programme will be the continuation of the development of guidelines for death by driving, the sexual offences of rape, indecent images of children, and sexual assault, as well as on sentence discounting, and the resumption of work on an environmental and wildlife offences guideline.

As previously mentioned, the Council also indicated its desire to undertake increased activity in pursuit of its statutory objective to assist with policy development. With members drawn from a broad range of criminal justice organisations and every tier of the judiciary, as well as the ability to carry out targeted research on sentencing matters, it is uniquely placed to assist with policy development and to help ensure that proposals relating to sentencing are fully considered and practicable.

# Expenditure





# Expenditure

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

The Council was allocated a direct expenditure budget of **£197,004** for the year 2021-22. Actual expenditure is detailed on the table on page 34.

The Council's staffing budget is administered by the SCTS. Staffing costs during the year were **£404,303**.

<b>Expenditure 2021-22*</b>		
<b>Category</b>	<b>Description</b>	<b>£</b>
General office expenditure	Printing costs, stationery etc.	<b>322</b>
Meetings and events	Venue hire, catering, and conference costs	<b>4,791</b>
Training and expenses	Members' and staff travel and subsistence, and costs of training associated with Council business	<b>6,074</b>
Promoting awareness and understanding	Website development, publications, and educational resources	<b>11,169</b>
Research	Commissioned projects, consultation analysis etc.	<b>163,668</b>
<b>Total</b>		<b>186,024</b>

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

## SCTS associated costs

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

Correspondence,  
freedom of  
information, and  
complaints



## Correspondence, freedom of information, and complaints

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

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

Category	Number
FOISA requests	3
Complaints	0
Items of correspondence	68

Scottish  
Sentencing  
Council



Scottish Sentencing Council  
Parliament House  
Parliament Square  
Edinburgh  
EH1 1RQ

[sentencingcouncil@scotcourts.gov.uk](mailto:sentencingcouncil@scotcourts.gov.uk)  
[@ScotSentencing](#)  
0300 790 0006

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