

Note of Meeting between Cabinet Secretary for Justice and Home Affairs and Lord Justice Clerk, Chair, Scottish Sentencing Council – 17 May 2023 – 3.30pm, Parliament House

Present:

Lady Dorrian, Lord Justice Clerk

Angela Constance, Cabinet Secretary for Justice and Home Affairs

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Neil Rennick – Director of Justice

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1. Lady Dorrian provided the Cabinet Secretary with a brief overview of the process followed by the Sentencing Council in developing new sentencing guidelines, noting that the Council takes great care to establish a robust evidence base in guideline development and that it considers its public education role. She then set out the process that the Council follow when reviewing the operation of existing guidelines.
2. She explained that there are three guidelines currently in effect: the guideline on the principles and purposes of sentencing, the guideline on the sentencing process and the guideline on sentencing of young people.
3. The Council follow a 'two stage' process for reviewing the operation of new guidelines. A review when the guideline has been operating for one year looking at reporting of cases involving the guideline and any cases where the decision was made not to follow the guideline, as well as monitoring of statistics to identify any changes to sentencing practice that may have resulted from the adoption of the guideline.
4. This will be followed by a 3 year review which looks at all the factors listed above and involves direct engagement with practitioners and judges looking at how the guideline has worked over a longer period once more data were available (for example should appeals analysis be required). The 3 year review will be published.
5. Mr Rennick asked if the Council had considered publishing the one year review. REDACTED noted that the difficulties with this include the potential limitations in the data after only 1 year (for example, much of it being provided by SCTS MIAT it may be subject to subsequent and separate quality assurance processes) and that much of it may be subject to rules against the pre-emptive publication of official statistical releases.
6. Lady Dorrian and the Cabinet Secretary then discussed forthcoming sentencing guidelines. Lady Dorrian said that work on sentencing guidelines on rape and offences concerning indecent images of children is progressing well.
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7. The Council have begun work on guidelines on sexual assault, sentence discounting and domestic abuse. REDACTED

8. Mr Rennick asked Lady Dorrian how the Council intend to align guidelines with each other. Lady Dorrian explained that this is ensured through principles and purposes of sentencing and the sentencing process guidelines, which provide a framework for other guidelines, and that the Council's committee process and focus on research and evidence also supports consistency and coherence.

9. Lady Dorrian provided an update on work on the guideline on death by driving offence REDACTED

10. Lady Dorrian said that new funding arrangements mean that the Council have been able to create three new posts which has helped significantly in progressing work on new guidelines. Two of these posts have been filled and they are currently looking to recruit a full-time researcher.

11. Lady Dorrian said that, in terms of the Council's wider policy work, they have undertaken research with the judiciary on community sentencing and will have a public education video to go on their website.

12. She said that there are two projects that the Council would like to do subject to additional funding being made available. The first which they estimate would cost REDACTED is a nationally representative study on public perceptions of sentencing, and the second is work on public awareness, which they estimate would cost REDACTED

13. On membership of the Council, it was noted that a victims expert would shortly be appointed on the recommendation of Scottish Ministers and a separate solicitor appointment on the recommendation of the Lord President. She noted that DCC Graham is the Police Scotland representative. REDACTED