

Annex A: Consideration of a Time-limited Pilot of Single Judge Rape Trials Working Group Terms of Reference

This is one of a number of working groups which will report to the Lady Dorrian Governance Group. These working groups are set up with the remit to:

- provide, information and support and inform Governance Group discussions on specific areas or aspects of the recommendations placed within the remit of identified workstreams by providing briefing, papers and advice as required
- share accountability and ownership of actions and ensure they are delivered on time
- where appropriate, encourage stakeholders and organisations to work together to avoid duplication of effort

The shared terms of reference of these working groups are:

- to develop, discuss and take forward proposals and actions in support of the recommendations of Lady Dorrian's report
- to report on progress against those actions to the Governance Group, and to ensure updates on workstreams are provided in a timely manner
- where the working group membership feels it is necessary, to obtain views, advice, challenge and/or support from the Governance Group
- to delegate actions to stakeholders for implementation (where organisationally and/or legally possible), and to obtain reports on the progress of implementation
- to commission, if and where necessary, any additional work required to support consultation or implementation of the actions and recommendations from Lady Dorrian's report
- to appropriately prioritise work
- to ensure a common understanding of what success looks like

Recommendation 5: Time-limited pilot of single judge rape trials

The retention of juries for sexual offence cases was an issue on which the Lord Justice Clerk's cross justice Review Group was strongly divided. The wording of the recommendation reflects that division accordingly that:

“consideration should be given to developing a time-limited pilot of single judge rape trials to ascertain their effectiveness and how they are perceived by complainers, accused and lawyers, and to enable the issues to be assessed in a practical rather than a theoretical way. How such a pilot would be implemented, the cases and circumstances to which it would apply and such other important matters should form part of that further consideration.”

Over a six month period, the Working Group is asked to:

- identify the key areas for development in order to make recommendations to the Governance Group on how to progress the consideration of a pilot, this may include aspects of feasibility and potential challenges (legal and other) of a pilot
- identify what other information, research, evidence may be needed to assist the consideration of the issues arising from the recommendation and any pilot

- consider how the progress, consideration and evaluation planned in relation to recommendation 5 and 'steps to enhancing the quality of jury involvement' might impact on the scope of any planned pilot
- identify policy and operational development required to further the consideration of a pilot and key opportunities/challenges to building consensus given the division of the Review Group
- consider what might be included within a public consultation document to gather views on the recommendation
- look at any other issues relevant to its considerations
- consider the implications of progressing of this recommendation in light of the work on the other recommendations within the Report, bearing in mind the independence of certain recommendations identified in the Report

Working Group membership

The membership of the working groups will be kept to a reasonable minimum to support their need to make quick and effective progress. The suggested membership and chairing arrangements for this working group are as follows:

- Members:
 - Scottish Government (Chair)
 - Scottish Courts and Tribunal Service
 - Faculty of Advocates
 - Law Society of Scotland
 - Crown Office and Procurator Fiscal Service
 - Rape Crisis Scotland
 - Scottish Human Rights Commission
 - Victim Support Scotland

Secretariat to this working group is provided by the Scottish Government