



# CRIMINAL JUSTICE COUNCIL FALKLAND ISLANDS

## APPROVED MINUTES

**A Meeting of the Criminal Justice Council and Sentencing Guidelines Committee  
Thursday 20<sup>th</sup> May at 10am  
The Court Room, Town Hall, Stanley**

### **In attendance:**

**Present:** Sarah Whitby (Chair), Steve Dent, Ros Cheek, Jeff McMahon, Laura Bennett, Derek Clarke, Dick Sawle (via link), Nicola Robinson, Phil Axon (via link), Emma Fulton (via link)

**In attendance:** Stuart Walker

**Observers:** Adam Smyth, Yvette Sheriff

### **1. Apologies for absence**

Simon Young, Alison Inglis

### **2. Minutes of the meeting held on 11<sup>th</sup> February 2021**

Page 3, paragraph 3 FIDF should read FIDC, once amended minutes are approved as a true record.

### **3. *Criminal Justice Council***

### **4. Annual Report 2021 and Action Plan 2021/2022**

No specific comments were made.

### **5. Lay member applications**

SW outlined the two applicants, Yvette Sheriff and Adam Smyth, have attended today to observe and to have a conversation with SW after the meeting. Views sought as to whether both could join, though statute states only two lay members. Members agreed would be a benefit to have both lay members if possible, and if not we could invite people to attend even if not formally a member.

### **6. Membership from prison representative**

EF raised the absence of a prison representative at the CJS where every other criminal justice agency is represented. Not provided for in legislation and wonder if there is a need to amend.

There was a discussion with mixed views and EF outlined the aims of the CJC in legislation is for a 'whole system' approach and considered this cannot be achieved

when one agency is missing, additionally the aims include reducing reoffending, punishes offenders, protects the public etc

- PA said probation can meet the aims and objectives, NR advised that sometimes the views of probation and prison differ. This is why it is important to have both views represented on the council.

SW put the matter to members to vote and the outcome was against a prison representative member. SW indicated a representative could be invited to attend on any occasion it was considered they should be involved.

## **7. Procedural Guidance for the Council and the Sentencing Guidelines Committee**

It was noted that the Criminal Procedure Rules have now been gazetted.

**Action: EF to distribute to practitioners and arrange publication on court website.**

EF proposed the suggested amendments to be added to the 'list' to be progressed in due course:

- Criminal Procedure Rule 4.6 – documents that cannot be served purely by electronic means – amendment suggested that for the Court the documents can be purely served electronically. No change proposed for practitioners.
- Plea and trial preparation form (AI)  
AI suggested to EF amendment to include defence witness requirements.  
SWa added a section regarding interpreters should also be included.

**Action: EF to liaise with practitioners regarding proposed amendments, additional suggestions for the trial preparation form and to seek views regarding rule 4.6 and whether they would like this to remain as is for their purposes or to be amended.**

## **8. Probation Officers report as to the statistics for breaches of orders and the effectiveness of sentencing. Standing item**

NR ran through caseload report and highlighted that she continues to try to expand the voluntary engagement and including preventing individuals entering the criminal justice, system, those who end supervision and wish to continue working with probation and those due to Social Services involvement.

## **9. Guidelines for the Advisory Committee for the Prerogative of Mercy**

SWa briefing prepared and ran through 3 areas, quite a lot of work, not great priority/ crisis as no current cases in 2 and 3 and there is a pardon process albeit unwieldy.

There was a discussion regarding the value in having a committee when other work is of greater priority.

It was agreed that the sub-committee should remain.

DS raised the involvement of the Chief Executive and MLAs in the advisory committee, as provided in s.70 of the constitution. RC highlighted that there is a review of the constitution underway and that is the appropriate route to make comments regarding this.

**Action: Sub-committee to decide on timeline for work and keep CJC advised and updated via agenda item.**  
**SW to draft wording in relation to constitutional review.**

#### **10. Review of Statistics produced by the Courts**

SD ran through report and all named agreed to undertake.  
EF emphasised that she would not be inputting data and this would need to be undertaken by owners.  
Data to be collated from 1 July and to be made available at CJC meetings, and for the public via the court website.

**Action: SD to liaise with EF to prepare spreadsheet to be made accessible to all owners to input data.**  
**EF to liaise with MDL to prepare template/ graphical reps**  
**SD to liaise with data owners inputters regarding access to spreadsheet**

#### **11. Representation and access to justice**

SW outlined there was a period of uncertainty where there was concern if there are enough defence representatives on island. Item to be parked for now as seems to be okay currently and managing.  
SD noted virtual ways has assisted with this.  
SW people have been rep in court, local practitioners have a lot of work and multi-disciplinary, crime requires out of hours, huge pressure to cover range of work and we should be grateful to them.  
NR can be quite difficult 1<sup>st</sup> time at court not ideal as can't speak to after court, issue when more than one person charged with offence all 3 people had same representative, in another all had separate representative which seems fairer.  
SW suggested the only other option to consider is public defender, as operates in St Helena. Legal aid system provides funding; it is about number of practitioners.  
JM reported recent issues with interview representation, builds in delay, pressure of those who operate in the criminal justice system.

#### **12. Court website and CJC information**

EF informed members that Laura has been and continues to be reviewing the court website content with the objective of updating, making sure the information is relevant and accessible. This includes updating forms to encourage self-service. Members were advised CJC information, including membership and minutes are contained on the website and encouraged spreading awareness of this.

#### **13. Court digitalisation**

EF advised the court were implementing 'digital by default' processes, which includes corresponding electronically, digital files and accepting service electronically, where possible to reduce duplication and save resources in terms of time, paper and storage space.  
As part of this the court are promoting and encouraging service users to utilise digital means where possible. EF emphasised this did not mean documents served in

paper format would not be accepted and there not an expectation for service users to change their processes unless they chose to do so.

#### **14. Sentencing Guidelines Committee**

#### **15. Review of guidelines**

SW updated members that the Chief Justice CJ has now approved overarching sentencing guidelines and they are in force. This was noted to be extraordinary achievement.

#### **16. Any other business/ Date of next meeting**

Domestic Abuse Bill- SW on 26<sup>th</sup> April 2021 the UK Domestic Abuse Bill provides a definition of domestic abuse in s.1 and for the first time this law includes behaviour including control, coercive, physical, emotional etc

SW raised mechanism for getting this it into our law and whilst a Domestic Abuse Ordinance would be desirable this is not likely to be achieved quickly. One way to achieve would require amendments to criminal law. Domestic Violence Protection Orders do exist but this can only be applied for and granted if there has been violence.

SWa advised that criminal law revision is taking place, ExCO paper approved various work. DA Bill took a while in UK, we were aware so some will be added to criminal law revision work.

**Date and time of next meeting Thursday 16<sup>th</sup> September at 10:00am**