



## NEWS RELEASE

### **The Scottish Criminal Cases Review Commission ('the Commission') has referred the case of Mark Anthony Conway to the High Court of Justiciary.**

In accordance with the Commission's statutory obligations, a statement of reasons for its decision has been sent to the High Court, the Lord Advocate and Crown Office. The Commission has no power under its founding statute to make copies of its statements of reasons available to the public.

On 2 August 2017 at the High Court in Glasgow the applicant pled guilty to a charge of fraud. The offence was committed through the creation of false entries on a computerised ledger of payments due by his employer, Dundee City Council. The banking details for those ostensibly legitimate payments were for the applicant's own building society or bank accounts. The fraud persisted over a period of 7 years and the agreed value was in excess of £1 million. The applicant cited a gambling addiction as motivation for his actions.

On 24 August he was sentenced to a period of 5 years and 4 months' imprisonment which was reduced from 8 years due to the timing of the plea. He sought to appeal the length of the sentence on grounds unrelated to the referral but this was refused at the sifting stage by the High Court. The applicant applied to the Commission in August 2019 wishing it to refer his case to the appeal court. He cited grounds under headings of fresh evidence, comparative justice, defective representation, and judicial misdirection or error.

The Commission has decided **to refer** the applicant's sentence to the High Court of Justiciary.

It had been advanced in mitigation on behalf of the applicant that there was no prospect of the value of the fraud being repaid and it was also suggested that the actions of bookmakers towards the applicant had not breached the Gambling Act 2005. The Commission considers that there is now fresh evidence showing that, after the applicant had been sentenced, the local authority had recovered sums equal to the value of the fraud and the most substantial payment towards this came from one online bookmaker. They had paid £500,000 to the Council in recognition of regulatory breaches concerning its dealings with the applicant. The Commission considers that this was information which was not available to the court at sentencing, that there is a reasonable explanation for it not being available at the time of sentence and it may have had a material bearing upon the headline sentence selected.

The Commission, having had regard to disposals in similar cases where offenders had been convicted of crimes of dishonesty involving significant values, also considers that the sentence imposed may be outside the range of sentences which the judge at first instance, applying his mind to all the relevant factors, could reasonably have considered appropriate.

This release is for information purposes only and the content of this news release should not be treated as forming part of the Commission's statement of reasons.

### **Notes for Editors**

The Scottish Criminal Cases Review Commission was established as an independent body on 1 April 1999 to review alleged miscarriages of justice in Scottish convictions and/or sentences. Under section 194 A to L of the Criminal Procedure (Scotland) Act 1995 (as inserted by section 25 of the Crime and Punishment (Scotland) Act 1997) the Commission can refer a case to the High Court if it believes that a miscarriage of justice may have occurred and that it is in the interests of justice that a reference should be made. Once a case is referred to the High Court by the Commission, it will proceed as a normal appeal.

The Commission operates with a Board of 8 Members, one of whom is the Chairperson, a Chief Executive, a Director of Corporate Services, a Head of Casework, 2 Senior Legal Officers, 5 Legal Officers and administrative support staff.

In terms of its disclosure policy, the Commission will disclose the fact that a case has been referred. However, as it operated under strict statutory non-disclosure provisions, the Commission will not disclose any further information about such cases.

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