

# SCOTTISH CRIMINAL CASES REVIEW COMMISSION

## MINUTES OF THE MEETING OF THE BOARD ON FRIDAY 28 SEPTEMBER 2018

10.00 AM, PORTLAND HOUSE

### FOR DISCLOSURE VIA THE PUBLICATION SCHEME

In line with the Commission's Disclosure policy, various paragraphs may have been edited or deleted from these minutes as the information contained therein relates to specific case information and/or personnel-related matters. Where the summary of discussion has been edited or the names have been deleted, this is indicated at the start of the relevant paragraph or section.

#### **Present:**

Mr Bill Matthews (Chairman)  
Mr Raymond McMenamin  
Mrs Elaine Noad  
Mr Colin Dunipace  
Miss Frances McMenamin Q.C.  
Professor Jim Fraser  
Mr Peter Ferguson Q.C.

#### **Also Present:**

Mr Gerard Sinclair, Chief Executive  
Mr Chris Reddick, Director of Corporate Services (minutes)  
Mr Michael Walker, Head of Casework  
Sir Gerald Gordon Q.C., Consultant Legal Adviser

### Section 1: Governance Matters (edited)

#### **1.1 Apologies**

There were no apologies.

#### **1.2 Conflicts of Interest/Declarations of Interest/Gifts & Hospitality**

Members were asked to declare any known conflicts of interests or gifts and hospitality.

Mr Sinclair reported that the Taiwanese judges, who visited the Commission on 26 September 2018, had presented attendees with a gift pen each and a paper weight for the office.

#### **1.3 Minutes of Board meeting held on 31 August 2018**

The Board approved the minutes of the Board meeting held on 31 August 2018 subject to minor amendment. The Board also approved the version of the minutes for the Publication Scheme subject to the same minor amendment.

#### **1.4 Matters Arising**

There were no matters arising.

## **1.5 Chairman's Report**

- 1.5.1 Mr Matthews reported that he had attended the Commission's talk to the delegation of Taiwanese judges on 26 September 2018.
- 1.5.2 Mr Matthews reported that Justice Directorate had confirmed that Miss McMenamain Q.C. had been granted a 6 month extension to her appointment whilst recruitment for replacement Members was taken forward.
- 1.5.3 Mr Matthews provided an update on the recruitment process confirming that the personal specifications had been agreed and 3 new Members would be sought, 2 legal and 1 lay.

## **1.6 Chief Executive's Report**

Mr Sinclair provided the Board with updates on the following matters:

- He confirmed that a delegation of Taiwanese judges had attended a talk at the Commission on 26 September 2018 and provided Members with a full update.
- He reported that the New Zealand Bill had been published and laid which set out to create a New Zealand Commission based primarily on the Scottish system. He noted that this would go through the Committee process over the next 2 to 3 months with the expectation of the Commission being set up in 2019.
- He reported that he had attended the Judicial Institute seminar with Sir Gerald Gordon and Professor Fraser on 27 September 2018.

## **1.7 Court Decisions**

Mr Sinclair confirmed that there were still 2 outstanding referrals awaiting decision.

## **1.8 Correspondence**

(Mr Sinclair left the meeting for this discussion as the correspondence related to an appeal against his decision to register the applicant on the Persistent & Repeated Applications Register.)

Mr Reddick referred to the circulated correspondence received from one applicant. After full discussion the Board agreed that the content of the letter should be acknowledged although their initial decision would remain unchanged.

## **Section 2: Management Issues**

### **2.1 Notification by Members of non-case related work**

Mr Matthews confirmed that he had attended the presentation given to the delegation of Taiwanese judges on 26 September 2018.

### **2.2 Training & Development**

The following training and development had been undertaken since the last meeting of the Board:

- Mr Keane had attended First Aid Training in Glasgow from 5 to 7 September 2018.

### Section 3: Case Matters (edited)

#### 3.1 Monthly Case Summary

Mr Sinclair confirmed that a total of 14 new applications had been received in September 2018.

#### 3.2 Notification of cases where final decisions have been issued since the last meeting of the Board, following the 28 days for submission of further representations expiring:

There was one case in this category.

#### 3.3 Notification of decision cases agreed at previous meetings of the Board but not yet issued:

There were no cases in this category.

#### 3.4 Referral press releases issued since last meeting of the Board:

There were no cases in this category.

#### 3.5 Requests for extensions of time to submit further representations:

The Board granted one such request, for four weeks.

#### 3.6 Want of Insistence Cases:

There were no cases in this category.

#### 3.7 Discussion Cases:

Mr Fenn provided the Board with a full update about one aspect of the review. Mr Walker provided an update on the review timescales.

Miss McMenamin Q.C. left the meeting for the discussion in this case having previously declared a conflict of interest and therefore took no part in its consideration

### Section 4: Proposed Referral Cases

There were no cases in this category.

### Section 5: Proposed Interim Cases

There were no cases in this category.

### Section 6: Proposed Supplementary Cases (edited)

**6.1–6.3** The Board considered 3 supplementary statements of reasons. After full discussion it finally agreed not to refer those cases to the High Court.

## Section 7: Stage 1 Pre Acceptance Cases (edited)

**7.1–7.14** A total of 14 new applications were considered and the following decisions were made:

1 case	Accepted on conviction and sentence
1 case	Accepted on conviction
2 cases	Accepted on sentence
6 cases	Rejected: the applicant had not appealed and there were no plausible or stateable grounds of review
1 case	Rejected on conviction as the applicant had not appealed against conviction and there were no plausible or stateable grounds of review; rejected on sentence as the grounds of review were a repeat of the grounds of appeal
1 case	Rejected: there were no plausible or stateable grounds of review and it was not in the interests of justice to accept the case for a stage 2 review
1 case	Rejected: it was not in the interests of justice to accept the case for a stage 2 review
1 case	Continued for 1 month

Mr McMenamin left the meeting for the discussion in one case having previously declared a conflict of interest and therefore took no part in its consideration.

The Board noted Mr Sinclair's decision to place one applicant on the Persistent & Repeated Applications Register.

## Section 8: Concluding Matters

### 8.1 Any Other Competent Business

There was no other competent business.

### 8.2 Date of Next Meeting

- Board Meeting – Friday 26 October 2018 @ 10:00

Chris Reddick  
16 October 2018