

SCOTTISH CRIMINAL CASES REVIEW COMMISSION

MINUTES OF THE POLICY MEETING ON WEDNESDAY 19 DECEMBER 2018
13:30, PORTLAND HOUSE

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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.

Members Present:

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

Policy & Case Related Items Only:

Mrs Fiona Govan, Senior Legal Officer
Mr Daniel Fenn, Senior Legal Officer
Miss Mairi Claire Anderson, Legal Officer
Mr Stephen Lynn, Legal Officer
Mr Eamon Keane, Legal Officer
Mr David Fitzpatrick, Legal Officer

Section 1: Governance Matters

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.

There were no declarations of conflicts, gifts or hospitality.

1.3 Minutes of Policy meeting held on 10 August 2018

The minutes of the Policy meeting held on 10 August 2018 were noted having previously been approved by the Board on 31 August 2018. The Board also noted the version of the minutes for the Publication Scheme.

1.4 Matters Arising

There were no matters arising.

Section 2: Policy Matters (edited)

2.1 Standard Policy Reviews

Mr Reddick provided an update on the latest set of policy reviews included on the agenda of the meeting, noting that no material changes had been made to their content. He confirmed that updates were primarily in respect of format and to take into account the Commission's new equalities banner on the introduction to policy/procedure documents. He also confirmed that the Board documents were also being reviewed in advance of new Members being appointed from April 2019.

2.2 Board: Code of Conduct

Mr Reddick provided the Board with an overview of the updated Board Code of Conduct, setting out the minor administrative updates to the document. After full discussion the Board approved the updated version of the Code of Conduct.

2.3 Board: Terms of Reference

Mr Reddick provided the Board with an overview of the updated Board Terms of Reference document, confirming that a number of minor amendments had been submitted by way of annotations. He confirmed that this would all be updated within the final document. Mrs Noad also suggested updating the terms of reference in respect of the Remuneration Committee in order to make it clear that such matters are dealt with by the full Board sitting as the "Remuneration Committee."

2.4 Complaints Procedure

Mr Reddick provided the Board with an overview of the updated Complaints Procedure which was discussed in full.

2.5 Procurement Policy

Mr Reddick provided the Board with an overview of the updated Procurement Policy. He confirmed that he had received a number of annotations and minor amendments which he confirmed would be actioned. Mr Sinclair also noted that this policy would potentially require further amendment in terms of Brexit. It was agreed that this would be kept under review.

2.6 Corporate Planning: 2019-22

- 2.6.1 Mr Reddick confirmed that the Commission was due to put in place a new Corporate Plan covering the period 2019-22 and referred to his cover paper which had been drafted to kick start the process and engage Members into discussion about the Commission's aims and priorities for the next 3-years. He reflected on the current plan in which the key theme was effectiveness, as well as efficiency, and how the Commission engaged with others it works with. He noted that the content would likely remain similar to the current plan as the Framework Document was unchanged in its requirements for corporate plan contents. In terms of themes to explore further, he suggested that this was a good opportunity for the Commission to do some reflection as it approaches its 20th anniversary as well as a degree of reinvention in respect of how it delivers its key services.
- 2.6.2 Mrs Noad suggested that the format of the document should be updated slightly so that key aims and objectives appear at the start of the document with the detail and outcomes being incorporated into appendices. In terms of key themes she agreed that quality of service and value for money should continue to be at the fore.
- 2.6.3 Mr Matthews agreed that themes covering quality, value for money and reflection as the Commission approaches its 20th anniversary should all be included. Mr Sinclair confirmed that these fitted in well with the Commission's planning in respect of infrastructure and communications. In respect of research, he confirmed that the right topics needed to be identified as well as the appropriate ways of taking such projects forward.
- 2.6.4 Professor Fraser suggested that awareness of the Commission was still a key issue for potential applicants and there was potentially an outreach role in this regard. The Board then discussed possible approaches in respect of undertaking external research or collaborating with peer groups.
- 2.6.5 Mr Reddick agreed to take on board all comments received and agreed to have a draft reading for the Board's meeting in February 2019.

2.7 Routine Taping of Interviews

Mr Fenn provided the Board with an overview on the newly drafted policy in respect of the routine taping of interviews and the background giving rise to this policy. The Board discussed the policy in detail and agreed a number of amendments in terms of the application of the policy and the ability to apply this consistently. After full discussion the Board approved the policy subject to the agreed updates and amendments.

2.8 Personal Safety Policy

Mrs Govan provided the Board with an overview of the updated policy, confirming that this had been subject to extensive internal review before being redrafted. She confirmed that the updated policy was now in a form that could be easily and consistently applied, particularly in respect of staff making external visits. Mr Matthews requested that the policy be broadened to include Board Members. After further discussion a number of other minor amendments were agreed before the Board approved the policy.

2.9 Guide for Applicants & Representatives – Submissions to the Commission

Mrs Govan provided the Board with an overview of the updated guidance document confirming that this had been simplified in terms of language and format. After further discussion the updated guidance document was approved and Mrs Govan agreed to take forward the agreed changes.

Section 3: Position Papers

3.1 Position Papers:

- Sufficiency
- Guilty Pleas
- The Commission’s Statutory Test
- Misdirection
- Tribunal Bias

3.1.1 Mr Fenn provided a summary of the proposed changes and updates to the listed position papers, confirming that these were all relatively minor. After full discussion the Board approved all of the suggested updates and requested that the revised versions be published.

Section 4: Case Notes & High Court Decisions

4.1 Case Notes:

- Sheridan V SCCRC
- Paterson V SCCRC

4.2 High Court Decisions

- Wendy Graham Judgment – 2 October 2018
- John Doherty Judgment – 20 November 2018

4.2.1 Mr Fenn provided a summary of the listed case notes which he had prepared as well as the latest High Court decisions in respect of Commission referrals which we discussed in full by the Board. Mr Sinclair noted that redacted versions of the case notes could be a useful inclusion in future annual reports and agreed to consider this further as part of the preparation of the 2018-19 Annual Report.

Section 5: Case Matters

Stage 1: Pre-Acceptance Cases (edited)

5.1–5.8 A total of 8 new applications were considered and the following decisions were made:

1 case	Accepted on sentence
1 case	Rejected: the applicant abandoned the appeal without good reason and there were no plausible or stateable grounds of review
1 case	Rejected: the grounds of review were a repeat of the grounds of appeal
4 cases	Rejected: there were no plausible or stateable grounds of review
1 case	Rejected: it was not in the interests of justice to accept the case for a full review

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

Section 6: Concluding Matters

6.1 Any Other Competent Business

CCRC Chairman's (Richard Foster) Farewell Speech – 10 October 2018

Mr Sinclair confirmed that he had circulated copies of Mr Foster's farewell speech for Members attention and summarised the key messages within its content.

6.2 Date of Next Meeting

Policy Meeting – tbc

Chris Reddick
16 January 2019