

SCOTTISH CRIMINAL CASES REVIEW COMMISSION

MINUTES OF THE MEETING OF THE BOARD ON FRIDAY 26 JANUARY 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
Mr Raymond McMenamin
Doctor Rajan Darjee
Mrs Elaine Noad
Miss Frances McMenamin Q.C.
Professor Jim Fraser

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

1.1 Apologies

Mr Dunipace and Mr Ferguson Q.C. had submitted their apologies.

1.2 Conflicts of Interest/Declarations of Interest/Gifts & Hospitality (edited)

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

- Mrs Noad declared an interest in one new application.

1.3 Minutes of Board meeting held on 24 November 2017

The Board approved the minutes of the Board meeting held on 24 November 2017 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 Minutes of Audit Committee meeting held on 7 December 2017

The Board noted the minutes of the Audit Committee meeting held on 7 December 2017 which had been previously approved by the Audit Committee Members. The Board also noted the version of the minutes for the Publication Scheme.

1.6 Matters Arising

There were no matters arising.

1.7 Minutes of Policy meeting held on 8 December 2017

The Board approved the minutes of the Policy meeting held on 8 December 2017 subject to minor amendment. The Board also approved the version of the minutes for the Publication Scheme, subject to the same minor amendment.

1.8 Matters Arising

There were no matters arising.

1.9 Chairman's Report

Mr Matthews confirmed that he had no matters to raise.

1.10 Chief Executive's Report (edited)

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

- He confirmed that he and Mr Reddick had met with Audit Scotland on 16 January 2018 to look at their recent office refurbishment and to discuss the procurement of services in order to assist in the scoping for the Commission refurbishment project.
- He reported that the Commission had been asked to participate in a consultation exercise being taken forward by the New Zealand Ministry of Justice regarding the establishment of a New Zealand Commission. He confirmed that a draft response had been completed and that this was included later on in the agenda for discussion.
- He reported that he would be attending the Annual Law Society Dinner on 26 January 2018.

1.10.2 Mr Sinclair provided an update on one court action brought against the Commission by a previous applicant, confirming that this had been dismissed on all grounds and that a hearing was scheduled to consider expenses.

1.10.3 Mr Sinclair provided the Board with an update in respect of one of the Commission's legal officers who was currently on sick leave.

1.11 Court Decisions

- Duncan Stewart – Successful – 6 December 2017

A copy of the judgment in this case had been circulated for information. Mr Walker confirmed that he had met with Crown Office to discuss the implications of this decision on other related cases. They had confirmed that there were potentially 7 other individuals

affected by this judgment and confirmed that they were happy to provide the Commission with their contact details. After full discussion the Board agreed that Mr Walker should contact these individuals and ascertain if they wished to have their cases reviewed.

1.12 Correspondence

There was no correspondence for noting.

Section 2: Management Issues

2.1 Notification by Members of non-case related work

There was no non-case related work notified by Members.

2.2 Training & Development

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

- Miss Anderson and Mrs Govan attended the Royal Faculty of Procurators in Glasgow's seminar on Conviction Appeals on 25 January 2018.

2.3 Quarterly Case Statistics Report – 31 December 2017

Mr Sinclair provided the Board with a summary of the case statistics to 31 December 2017 and confirmed that a further 11 cases had been received so far in January 2018. The Board noted the content of his report.

2.4 Quarterly Finance Report – 31 December 2017

Mr Reddick provided the Board with a summary of the quarterly finance report to 31 December 2017, confirming that this had been discussed with Justice Directorate at the last quarterly meeting. The Board noted the content of his report.

2.5 Corporate Risk Register

Mr Reddick confirmed that the Audit Committee had considered the Commission's Risk Register at their last meeting in December 2017 and that they had recommended two changes to the scoring of individual risks as well as a small change to the formatting of the register. After full discussion the Board approved one change to the scoring of the risk associated with the receipt of exceptional cases but to maintain the scoring in respect of legislative change, taking into account the General Data Protection Regulations and Data Protection Bill. The Board also approved the formatting change.

2.6 General Data Protection Regulations (GDPR) & Data Protection Bill (DPB)

Mr Walker provided the Board with a comprehensive overview of his paper in respect of both pieces of legislation and the potential impact on the Commission. After full discussion it was agreed that Mr Walker should continue to consult with both the CCRC and Parliamentary Committee in respect of clarification on specific matters affecting the Commission.

2.7 Guidance for Applicants and Representatives on Submissions

Mr Fenn confirmed that the production of such guidance had been discussed at the last Policy meeting in December 2017 and that this draft had been prepared based on feedback received. He confirmed that the intention would be to issue this to applicants and representatives as part of the acceptance stage. After full discussion the Board approved the guidance subject to a number of minor updates.

2.8 The Commission's Statutory Test

Mr Fenn presented a copy of the updated Statutory Test paper which was approved by the Board.

2.9 Draft response to consultation on the New Zealand Criminal Cases Review Commission

Mr Sinclair referred to the draft response to the consultation mentioned as part of his Chief Executive's report, confirming that the closing date was 15 February 2018. The Board confirmed that they were content with the draft response.

2.10 Update in respect of a Stage 1 Application (edited)

Mr Sinclair provided the Board with an update in respect of an ongoing Stage 1 application and his proposed course of action which was approved by the Board.

Section 3: Case Matters (names deleted)

3.1 Monthly Case Summary

Mr Sinclair confirmed that a total of 11 new applications had been received to date in January 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 were no cases 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:

- A second and final extension of time was approved in respect of one case.

3.6 Want of Insistence Cases:

There were no cases in this category.

3.7 Discussion Cases:

The Board considered one discussion case and agreed that it should be continued to the relevant Committee meeting in March 2018 for further consideration.

Section 4: Proposed Referral Cases

There were no proposed referral cases.

Section 5: Proposed Interim Cases

There were no proposed referral cases.

Section 6: Proposed Supplementary Cases (edited)

6.1–6.6 The Board considered 6 supplementary statements of reasons. After full discussion it agreed finally not to refer those cases to the High Court

Section 7: Stage 1 Pre Acceptance Cases (edited)

7.1–7.13 A total of 13 new applications were considered and the following decisions were made:

1 case	Accepted for a review of sentence
1 case	Accepted for a review of conviction only; rejected in respect of sentence as there were no stateable grounds of review and it was not in the interests of justice to accept the case for a full review
2 cases	Rejected: there were no stateable grounds of review
1 case	Rejected: it was not in the interests of justice to accept the application for a full review
1 case	Rejected: the grounds of review were a repeat of the grounds of appeal and it was not in the interests of justice to accept the case for a full review
1 case	Rejected: there were no plausible ground of review (guilty plea) and there were no stateable grounds of review
1 case	Rejected: the grounds of review were a repeat of the grounds of appeal and it was not in the interests of justice to accept the case for a full review
1 cases	Rejected on conviction as there were no plausible grounds of review (defective representation and guilty plea); rejected on sentence as there were no stateable grounds of review

1 case	Rejected on conviction as there were no stateable grounds of review; rejected on sentence as the applicant had not appealed against sentence and there were no stateable grounds of review
1 case	Rejected on conviction as the applicant had abandoned his appeal without good reason and there were no stateable grounds of review; rejected on sentence as there were no stateable grounds of review
1 case	Rejected on conviction as the applicant had abandoned his appeal without good reason and there were no stateable grounds of review; rejected on sentence as the grounds of review were a repeat of the grounds of appeal
1 case	Continued for 1 month in order to obtain further information

Miss McMenamin Q.C. and Mr McMenamin left the meeting for the discussion in one case (the same case) having previously declared a conflict of interest and therefore took no part in its consideration. Miss McMenamin left the meeting for the discussion in one other case having previously declared a conflict of interest and therefore took no part in its consideration. Mrs Noad left the meeting for the discussion in one case having previously declared a conflict of interest and therefore took no part in its consideration.

Section 8: Concluding Matters

8.1 Any Other Competent Business

The Commission's calendar for the next 6 months was circulated for information.

8.2 Date of Next Meeting

- Audit Committee Meeting – Thursday 22 February 2018 @ 10:30
- Board Meeting – Friday 23 February 2018 @ 10:00

Chris Reddick
15 February 2018