

## SCOTTISH CRIMINAL CASES REVIEW COMMISSION

### MINUTES OF THE POLICY MEETING ON FRIDAY 8 JULY 2016 10.00 AM, PORTLAND HOUSE

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. **(There have been no edits to these minutes.)**

#### Members Present:

Mrs Jean Couper CBE, Chairman  
Professor George Irving CBE  
Mr Gerrard Bann

#### Also Present:

Mr Gerard Sinclair, Chief Executive  
Mr Chris Reddick, Director of Corporate Services  
Sir Gerald Gordon Q.C., Consultant Legal Adviser

#### For Policy Items:

Mr Daniel Fenn, Senior Legal Officer  
Miss Mary Frances Ralston, Legal Officer  
Miss Mairi-Claire Anderson, Legal Officer

### Section 1: Governance Matters

#### 1.1 Apologies

Dr Darjee, Mr Ferguson Q.C., Miss McMenamin Q.C., Professor Fraser and Mr Dunipace had submitted their 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. The following declarations of interest were noted:

- There were no new declarations of interest.
- There were no new declarations of interest or gifts and hospitality.

#### 1.3 Minutes of Policy meeting held on 11 December 2015

The minutes of the Policy meeting held on 11 December 2015 were noted having previously been approved by the Board on 29 January 2016. The Board also noted the version of the minutes for the Publication Scheme.

## 1.4 Matters Arising

There were no matters arising.

## 1.5 Policy Matters

It was agreed that items 3.1 to 3.3 of the agenda should be dealt with before the staff group joined the meeting.

### 2016-17 Pay Policy

- 1.5.1 Mr Reddick provided Members with a full update on negotiations with the Trade Union in respect of the 2016-17 Pay Remit, which had received Remuneration Group approval. He confirmed that the Trade Union had asked the Commission to consider one aspect of the remit as a result of the proposals currently being considered by Scottish Government and that he had agreed to do so. He also confirmed that staff had been advised of this.

### Governance Policies & Procedures

- 1.5.2 Mr Reddick presented the Code of Conduct for Board Members, the Board Terms of Reference and the Board Member's Attendance Procedure confirming that these documents were now due for review. He noted that he had no recommended changes to make to these documents and that he had received a number of suggested wording updates from Members.
- 1.5.3 Mrs Couper referred to the Code of Conduct and noted that this didn't currently include any information in respect of preparation for meetings, albeit this was covered in standard terms of appointment. After discussion it was agreed that Mr Reddick should consider this change and present an updated version for consideration at the next meeting. Members also noted the other documents and the minor suggested updates.
- 1.5.4 Mr Reddick reminded Members to submit their updated declarations of interest forms in order for the register to be updated.

## Section 2: Position Papers

Members of the staff team joined the meeting at this point.

### 2.1 Position Papers:

- Defective Representation
- Fresh Evidence
- Moorov
- Oppression
- Unreasonable Verdict

- 2.1.1 Mr Fenn presented the updated versions of the position papers confirming that there had been a number of updates and comments from Members in respect of style and format. He noted that there had been a number of comments in respect of the use of citations and confirmed that his approach had been to cite

cases in full on their first occasion and not thereafter. After discussion it was agreed that this approach was appropriate.

- 2.1.2 Mr Fenn reported that the Sentencing Council had been provided with a copy of the Commission's Sentencing Paper which they had found useful and requested that they could publish this on their website. He also noted that they had provided some general feedback on this paper in relation to style.

#### **Defective Representation**

- 2.1.3 Mrs Couper referred to the Defective Representation paper and suggested that Mr Fenn should provide some background and update on the Anderson case. Mr Fenn and Miss Anderson provided Members with an overview of this case and more recent defective representation referrals made by the Commission which were discussed in full. Mr Sinclair suggested that the paper should be updated to refer to successful examples first as a matter of style. After full discussion the updated paper was approved.

#### **Fresh Evidence**

- 2.1.4 Mr Fenn confirmed that there were no suggested changes or updates to this paper.

#### **Moorov**

- 2.1.5 Mr Fenn confirmed that he had received comments on this paper from Miss McMenamin Q.C. and noted that he would seek clarification on these. He also set out the context to the two proposed updates to the paper which, after full discussion, were approved.

#### **Oppression**

- 2.1.6 Mr Fenn confirmed that the paper had been updated to take account of new authorities with no additional changes. After full discussion the updated paper was approved, subject to the update of the review dates.

#### **Unreasonable Verdict**

- 2.1.7 Mr Fenn outlined the proposed updates to the paper which were discussed in full and subsequently approved.
- 2.1.8 Members thanked Mr Fenn for his updates and noted that the position papers were an extremely useful resource.

### **Section 3: Policy Matters**

Items 3.1 to 3.3 had been considered earlier in the agenda.

#### **3.4 Counter Terrorism – Bomb Threat Procedure**

- 3.4.1 Mr Reddick presented the draft Bomb Threat Procedure and attached checklist which he confirmed had been drafted following a recommendation from the internal auditors that such guidance should be in place and available to staff. He confirmed that the procedure had been drafted on the basis of similar guidance produced by Scottish Government and confirmed that he also intended sourcing staff training on this procedure from the Scottish Government team.

3.4.2 Mrs Couper thanked Mr Reddick for the working draft and confirmed that she was fully supportive of such guidance. After full discussion it was noted that the procedure was very specific and could potentially be improved by considering other types of threats for inclusion. Mr Reddick agreed to look at this and update as appropriate. Members also agreed with Mr Reddick's proposals in respect of staff training.

### **3.5 Persistent & Repeated Applications and Persistent & Vexatious Correspondents Registers**

3.5.1 Mr Reddick presented his report on the Persistent & Repeated Applications and the Persistent & Vexatious Correspondents Registers confirming that both associated policies had been reviewed and updated in 2015 and were now on a 3-year review cycle. He also confirmed that, in accordance with both policies, both registers had now been subject to annual review by himself and the Chief Executive and that no proposed changes had been recommended. Members noted the outcome of the annual reviews.

3.5.2 Members discussed both policies and suggested that they may benefit from additional clarity. Mr Reddick therefore agreed to look at these points separately on each policy and bring any proposed changes back to the Policy meeting in December 2015.

### **3.6 Data Protection Act**

Mr Sinclair presented Mr Walker's paper in respect of the Commission's website and the Data Protection Act. Members noted the content of the paper and confirmed that they were content with the current information available on the website.

### **3.7 Reporting of Crime**

Mr Fenn presented a paper that he had prepared following a discussion at a legal officer's meeting in respect of the reporting of crime identified as part of the investigation of cases undertaken by the Commission. Members discussed the paper in detail and agreed that some form of guidance for staff would be useful, requesting that Mr Fenn consider this further based on their discussions and return to the Board in due course.

### **3.8 Effectiveness Focus**

Mr Sinclair confirmed that the Commission's 2016-19 Corporate Plan had now been finalised and published on the website. He confirmed that the plan had been drafted to take into account the Commission's commitment to add value by focusing on the effectiveness aspects of its work as well as the ongoing review of efficiency. He noted that this was particularly important so that the Commission could satisfy itself of its effectiveness and continued efficiency before demonstrating this further to the public. Members supported Mr Sinclair's comments in this respect and agreed that the new Corporate Plan had set out the framework by which this could be reviewed.

## Section 4: High Court Decisions

5 December 2015 – 30 June 2016

Members noted that High Court decisions had been issued in the following cases:

- Case of John Milligan – Conviction Referral – 23 February 2016
- Case of Andrew Brown – Sentence Referral – 18 March 2016

## Section 5: Concluding Matters

### 5.1 Any Other Competent Business

#### CCRC

5.1.1 Mr Sinclair circulated copies of articles written about the CCRC which set out various views both the organisation and the investigation of alleged miscarriages of justice. After full discussion it was noted that these articles were extremely interesting and there were perhaps learning points for the Commission. It was agreed that these would be considered further and a more detailed report should be brought to the next meeting in December 2016.

#### Journal Updates

5.1.2 Mr Sinclair confirmed that he had circulated various journal articles for information purposes.

### 5.2 Date of Next Meeting

Policy Meeting – Friday 9 December 2016 @ 10:00

**Chris Reddick**  
21 July 2016