

SCOTTISH CRIMINAL CASES REVIEW COMMISSION

MINUTES OF THE POLICY MEETING ON FRIDAY 10 NOVEMBER 2023 10:00, HYBRID MEETING

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.

Members Present:

Mr Bill Matthews (Chair) – Video Conference
Mr Raymond McMenamin – Video Conference
Mrs Elaine Noad – Video Conference
Ms Jacqueline Fordyce – Video Conference
Ms Laura Reilly – Video Conference
Mrs Gillian Mawdsley – Office
Mrs Suzanne Mertes – Video Conference

Also Present:

Mr Chris Reddick, Director of Corporate Services (minutes) – Office
Miss Frances McMenamin K.C., Consultant Legal Adviser – Office
Mr Daniel Fenn, Senior Legal Officer – Office (from section 3)
Mrs Fiona Govan, Senior Legal Officer – Office (from section 3)
Miss Alison McNab, Legal Officer - Office (from section 3)

Section 1: Governance Matters

1.1 Apologies

Dr Quinn and Mr Walker 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.

There were no declarations of conflicts, gifts or hospitality.

1.3 Minutes of Policy meeting held on 3 March 2023

The minutes of the Policy meeting held on 3 March 2023 were noted having previously been approved by the Board on 31 March 2023. The Board also noted the version of the minutes for the Publication Scheme.

1.4 Matters Arising

Mr Matthews asked for an update in respect of the succession plans that had been under development and discussed at the last meeting. Mr Reddick confirmed that these were well underway and he would provide a demonstration of the finalised plans in the new year. He also confirmed that they would be subject to internal audit review in quarter 4.

1.5 Correspondence

There was no correspondence.

Section 2: Training & Development

2.1 Equalities Act 2010 – Compliance Training

Mr Reddick introduced the Equalities Act 2010 Compliance Training which was based on a recording of a session provided to all staff in October 2023 by Ms Sarah Gilzean, Partner at Morton Fraser.

(Staff left the meeting for this session)

Section 3: Court Decisions (edited)

3.1 SCCRC Referral – Case of DM – 31 October 2023 (D Fenn)

Mr Fenn provided the Board with a summary of the Opinion of the Court in the Commission's referral of the case of DM which was issued on 31 October 2023. After full discussion it was agreed that this was a useful judgment despite the appeal not being granted.

Section 4: Policy Matters (edited)

4.1 Investigative Strategies & Decision Making (D Fenn) (edited)

4.1.1 Mr Fenn presented Mr Walker's paper on Investigative Strategies and Decision Making, noting that this provided a number of discussion points which considered the Commission's decision-making structures, governance arrangements and standing orders. After providing an overview of the Commission's current decision-making processes he canvassed any thoughts or opinions from Members.

4.1.2 After full discussion it was agreed that any points arising from the review of the Commission's decision-making processes should be communicated to the Sponsor Team.

4.2 Persistent & Repeated Applications Policy and Persistent & Vexatious Correspondents Policy (C Reddick)

4.2.1 Mr Reddick presented Mr Walker's paper in respect of the review of both the Persistent & Repeated Applications Policy and the Persistent & Vexatious Correspondents Policy. He noted a number of suggested updates to provide greater

clarification of assessment criteria being applied, particularly in respect of the annual reviews of both registers.

4.2.2 The Board discussed both policies in detail and agreed that they had been working effectively to date but acknowledged they might benefit from minor update. It was agreed that Mr Reddick should take forward the update of both policies with Mr Walker and then circulate to the Board for consideration and approval.

4.3 Conflicts of Interest (D Fenn)

Mr Fenn presented his guidance document for Members and staff on Managing Conflicts of Interest, confirming that this had been drafted following previous discussions on the topic. The Board discussed the guidance document in detail and approved it subject to some minor updates in respect of inserting some non-legal professional body examples and Mr Fenn considering whether anything further was required in respect of solicitors who had in-house/PDSO connections.

4.4 UN Convention on the Rights of the Child (D Fenn)

Mr Fenn provided a verbal update on initial plans to review the Case Handling Procedures in light of the UN Convention on the Rights of the Child, noting that there had been little relevance identified from his initial considerations. He confirmed that the UNCRC Incorporation Bill would be going back to the Scottish Parliament and suggested that further consideration be given to its impact on the Commission once the Bill had been reconsidered. The Board agreed with Mr Fenn's suggestion.

4.5 SCCRC Board – Terms of Reference (C Reddick)

Mr Reddick provided the Board with a summary of the Board Terms of Reference document, confirming that this was scheduled for review and update. He noted that the only change being suggested was to clarify the actual approach adopted for the Remuneration Committee, whereby remuneration matters are considered by the Board sitting as the Remuneration Committee. After full discussion the Board agreed this minor change and approved the Terms of Reference.

4.6 Applications where there has been no appeal (F Govan)

4.6.1 Mrs Govan presented her paper on applications where there has been no appeal and set out the current approach to considering these applications before a decision is taken. She confirmed that on a lot of occasions, there are reasons for rejection over and above the no appeal ground. She also set out the recently revised text for these type of cases to be included within stage 1 statements of reasons.

4.6.2 The Board discussed this in detail and in particular the likelihood of an out of time appeal being allowed. It was agreed that the matter should be put on the agenda for discussion at the next legal officer meeting. It was also noted that each case should be considered on a case-by-case basis, with both legal officers and members providing appropriate challenge as to why applicants have not appealed and the consideration of their explanation.

4.7 SCCRC Engagement Strategy (F Govan & A McNab)

Mrs Govan and Miss McNab provided the Board with an update on the SCCRC Engagement Strategy and in particular the talks and events that had been taken forward since the

strategy was agreed. Miss McNab confirmed that engagement with the profession had been taken forward in an attempt to increase the level of represented applications being submitted to the Commission. She noted that the impact of this engagement was likely to be long-term as awareness of the Commission was raised. After full discussion the Board thanked Mrs Govan and Miss McNab for their engagement activities, noting that this was good ambassadorial work on behalf of the Commission.

4.8 Biodiversity Report 2021-23 (A McNab)

Miss McNab presented her updated Biodiversity Report for the period 2021-23 confirming that it was a legal obligation to report on these matters on a 3-year cycle. She also confirmed that the format remained unchanged from the Commission's previous report. After full discussion the Board approved the report and Miss McNab confirmed that she would arrange to have this published on the Commission's website.

4.9 Post Office/Horizon Cases (D Fenn & A McNab) (edited) (Conflict: Mrs Mawdsley)

(Mrs Mawdsley left the meeting for this discussion having previously declared a conflict of interest and therefore took no part in its consideration.)

Mr Fenn confirmed that the Board's response to the Horizon Compensation Advisory Board had been issued following the Board meeting in October 2023 which had now been followed up by a further enquiry and request for information. After full discussion it was agreed that Mr Walker and Mr Fenn should draft a response on behalf of the Board, providing the factual information requested.

Miss McNab provided the Board with an update on the current cases being considered.

Section 5: Concluding Matters

5.1 Any Other Competent Business

There was no other competent business.

5.2 Date of Next Meeting

Policy Meeting – TBC

Chris Reddick
17 November 2023