

SCOTTISH CRIMINAL CASES REVIEW COMMISSION

MINUTES OF THE POLICY MEETING ON FRIDAY 24 MAY 2024
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) – Office
Mrs Elaine Noad – Video Conference
Ms Jacqueline Fordyce – Video Conference
Ms Laura Reilly – Video Conference
Mrs Gillian Mawdsley – Office
Mrs Suzanne Mertes – Video Conference
Mr Finlay Young - Video Conference

Also Present:

Mr Michael Walker, Chief Executive - Office
Mr Chris Reddick, Director of Corporate Services (minutes) – Office
Miss Frances McMenamin K.C., Consultant Legal Adviser – Office
Mrs Fiona Govan, Senior Legal Officer – Video Conference (from section 2.3)
Miss Alison McNab, Legal Officer - Office (from section 2.3)
Mr Stephen Lynn, Legal Officer – Office (from section 2.3)

Section 1: Governance Matters (edited)

1.1 Apologies

Dr Quinn and Mr McMenamin 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 10 November 2023

The minutes of the Policy meeting held on 10 November 2023 were noted having previously been approved by the Board on 24 November 2023. The Board also noted the version of the minutes for the Publication Scheme.

1.4 Matters Arising (edited)

- 1.4.1 Mr Matthews referred to the previous discussion in respect of no appeal and out of time appeal cases and asked for an update on action taken forward. Mr Walker confirmed that applicants are advised of the Commission's view on the potential for an out of time appeal and that style documents, including statements of reasons, had been updated.
- 1.4.2 Mr Walker referred to previous discussions on the retention of forensic samples in Scotland, confirming that he had written to Ms Anna Donald at Justice Directorate following the Board discussion. He confirmed that he also raised the issue at the last quarterly meeting on 20 May 2024 and was hopeful for an update in time for the next Board meeting.

1.5 Correspondence (edited)

Mr Reddick provided an update in respect of a formal complaint which had now been referred to Mr Matthews and a response would be issued in due course.

Section 2: Policy Matters

2.1 Succession Planning (C Reddick & M Walker)

- 2.1.1 Mr Reddick introduced the updated succession plan document which had initially been considered last year by the Board. He confirmed that this had been updated to reflect the actual succession plan spreadsheets prepared for the Chief Executive and Director of Corporate Services roles and to identify individuals who would provide cover within the plan and how they will be trained. He also noted that this document also formed part of the existing business continuity plan and provided an overview of where copies of the document were held and how they could be accessed, both on and offline.
- 2.1.2 Mrs Noad noted that this was a helpful document. She suggested, as part of staff training, that information on enacting the plan should be discussed. She also referred to remuneration arrangements for anyone identified within the plan who may need to provide cover for more senior roles for a duration of time. Mr Reddick confirmed that acting up allowances had been made available in the past and agreed to update the succession plan document about such allowances and when they would be considered.
- 2.1.3 Mr Reddick then provided a demonstration to the Board on using his succession plan spreadsheet. He specifically identified all of the key roles that were covered within the spreadsheet, noting that activities had now been colour coded to reflect the frequency they are required to be undertaken. He also highlighted the various responsible officers and external contacts and communications, all of which linked into relevant folders on his network drive. He noted that access to the spreadsheets had been initially granted to the admin team and, under enactment arrangements, they had been provided with instructions on how to share the plans and obtain relevant system permissions and network access. In respect of keeping the plan up to date and tested, Mr Reddick provided an overview of when and how this would be done.

2.1.4 Mr Reddick confirmed that the internal auditors had now concluded their review of the Commission's succession planning arrangements and substantial assurance had been provided. After full discussion the Board agreed that this was an extremely extensive piece of work which now provided a good degree of cover for key roles within the Commission. The outcome of the recent audit was noted and the Board approved the Succession Plan document, subject to the agreed changes.

2.2 Board Evaluation Exercise 2023-24 (C Reddick)

2.2.1 Mr Reddick confirmed that he had collated all responses from Board Members in respect of the board evaluation questionnaire, circulated in February 2024, and provided to the Board a summary of findings/matter arising, as well as a report setting out potential improvements and subsequent recommendations. He noted that this process fitted in with the current Best Value Review and that it was his intention, subject to Board approval, the any agreed recommendations would be incorporated into the Best Value Action Plan and 2024-25 Business Plan Objectives.

2.2.2 In respect of matters arising from this exercise, Mr Reddick noted that many of them were more issues of awareness on governance practices and process and suggested that matters delegated to the Audit Committee should perhaps be better communicated back to the Board. He then took Members through individual findings.

2.2.3 After full discussion Mr Matthews suggested that it was probably not the best time to implement radical changes given that a new Chairman will be appointed from January 2025 and they may wish to be involved in such changes to governance arrangements. Mr Reddick agreed and confirmed that the Corporate Planning cycle would effectively involve the new Chairman in these areas. In the meantime it was agreed that the recommendations being suggested were appropriate and were agreed by the Board.

(Staff members joined the meeting at this point)

2.3 Wellbeing Strategy (C Reddick)

2.3.1 Mr Reddick provided Members with an overview of the new draft Wellbeing Strategy which had been part of the business plan objectives for 2023-24, confirming that this was really a statement of intent in respect of promoting staff health and wellbeing. In particular, he noted that the strategy set out existing wellbeing initiatives and ways in which the effectiveness could be monitored through a series of key performance indicators. He also noted that the internal auditors had just concluded a staff survey on behalf of the Commission and once the general finding had been communicated, he intended to incorporate any relevant matters or actions within the Wellbeing Strategy.

2.3.2 After full discussion the Board agreed that this was a very worthwhile document and conveyed effectively the Commission's commitment to staff wellbeing. Mr Matthews highlighted previous work undertaken in respect of vicarious trauma and

the importance that this was given within the Commission. The draft Wellbeing Strategy was approved.

2.4 Environmental Action Plan (A McNab)

- 2.4.1 Miss McNab presented the updated Environmental Action Plan, confirming that this update followed the production of last year's Biodiversity Report, which was subsequently approved and published. She provided a summary of the various points covered within the action plan, noting that reference was now being made to adaptations, not previously covered and a requirement under the Climate Change (Scotland) Act 2009. She confirmed she had had initial discussions with Mr Reddick in terms of taking forward the consideration of relevant adaptations and how this would be done within existing risk management and business continuity arrangements. She also confirmed that she would be taking forward some external training on this in the next few weeks which would be cascaded.
- 2.4.2 Mrs Mawdsley suggested that any such training could be extended to the Board and would reflect the importance that this should receive. Mrs Noad asked specifically what adaptation measures would look like for the Commission. Miss McNab suggested that the impact of climate change on the Commission would potentially cover issues such as accessibility and reliability of transport and access to premises and also issues such as network and IT resilience. She confirmed that work would be taken forward on considering these issues and relevance to the Commission. After further discussion the Board approved the Environmental Action Plan.

2.5 Information Governance Policies (S Lynn)

- 2.5.1 Mr Lynn confirmed to the Board that the Commission's Information Governance Policies were due for annual review and that this had been allocated to him as part of his role as Information Officer at the Commission. Before summarising the various policy updates Mr Lynn provided an overview of related developments within the office which he had taken forward following his external training and certification as a Data Protection Practitioner. He reported that quarterly records management meetings had now commenced with the Chief Executive and Director of Corporate Services and that Data Protection was now a standing item on all Staff meetings. In addition, he confirmed that he is taking forward work to develop the Commission's accountability framework which will be a useful resource in demonstrating compliance with the data protection regime.
- 2.5.2 Mr Lynn provided an overview of proposed updates to the following information governance policies:

- Data Protection Policy
- Privacy Notice
- Retention Policy
- Disclosure Policy

After full discussion the Board approved the updated policies.

- 2.5.3 Mr Young queried the Commission's approach to dealing with potentially vulnerable applicants, where self-harm may be an issue, and what data protection restrictions may exist. Mrs Noad confirmed that specific arrangements had been put in place in

the past on a case by case basis where it was considered that an applicant should be supported when receiving a potentially unfavourable decision from the Commission. Mr Walker also confirmed that specific needs would be considered at the start of the process by legal officers in line with the case handling procedures, particularly in respect of welfare concerns.

- 2.5.4 The Board then discussed whether there was an opportunity to do more for vulnerable applicants and signpost areas of support within Commission communications. It was agreed that Mr Young would discuss this further with Mrs Govan as part of her engagement remit.
- 2.5.5 The Board also discussed issues relating to cyber security and data breaches and it was agreed that further training for staff and Members should be considered.

2.6 Best Value Review (C Reddick)

- 2.6.1 Mr Reddick provided the Board with an overview of the Best Value Framework and how this had been developed since its inception. He confirmed that there had been little change to this since the Commission undertook its last Best Value Review and as a result there was limited additional guidance on taking forward such reviews. He also noted that there was still quite a high level of repetition within the frameworks and a number of areas that were of limited relevance to a small organisation such as the Commission.
- 2.6.2 Mr Reddick then took Members through each of the nine sections of the framework and particularly focused on points giving rise to recommendation within the Best Value Action Plan. He noted that many of these were what he considered good practice governance points and, as previously mentioned as part of the Board Evaluation Exercise, he had incorporated many of these within the new business plan objectives.
- 2.6.3 The Board discussed the new Best Value Review and Action Plan in detail, thanking Mr Reddick for his work on this before formally approving the update.

Section 3: Position Papers

3.1 Position Papers (D Fenn)

- 3.1.1 In Mr Fenn's absence, Mr Walker presented the following updated Position Papers;

- Sufficiency
- The Commission's Statutory Test

Mr Walker confirmed that a number of suggested updates had been received as part of annotations and he would pass these onto Mr Fenn to action. He also set out the main changes to both documents as part of their latest review.

- 3.1.2 Mr Young confirmed that he had found these useful documents and queried who their intended audience was, noting that they were quite complex documents. Mr Walker confirmed that they were initially produced as an internal guide for staff as a

means of enhancing consistency in decision making. The position papers had subsequently been updated to include flow charts and then published on the website and provided to both applicants and their representatives to assist in formulating grounds and completing the application process. Mr Lynn also noted that they had previously been important in the Judicial Review process and had been lodged with papers as part of the Commission's defence.

3.1.3 The Board discussed the position papers in detail and in particular whether there was scope to simplify these, possibly through an easy read/Plain English approach. It was accepted that there were different audiences for these and for many, including Commission staff, these were legal documents. It was however agreed that potential changes and updates could be considered as part of their ongoing review. The Board also approved the updated position papers on sufficiency and the Commission's statutory test.

Section 4: Concluding Matters

4.1 Any Other Competent Business

There was no other competent business.

4.2 Date of Next Meeting

Policy Meeting – TBC

Chris Reddick
11 June 2024