

## SCOTTISH CRIMINAL CASES REVIEW COMMISSION

### MINUTES OF THE POLICY MEETING ON FRIDAY 13 DECEMBER 2013 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.

#### Members Present:

Mrs Jean Couper CBE, Chairman  
Mr Stewart Campbell  
Professor Brian Caddy  
Professor George Irving CBE  
Miss Frances McMenamin Q.C.  
Mr Gerard McClay

#### 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 Michael Walker, Senior Legal Officer  
Mr Daniel Fenn, Senior Legal Officer  
Miss Mary Frances Ralston, Senior Legal Officer  
Mr Stephen Lynn, Legal Officer  
Mr Jim McShane, Legal Officer

### Section 1: Governance Matters (applicant's name deleted)

#### 1.1 Apologies

1.1.1 Mr Bann and Mr Ferguson Q.C. had submitted their apologies.

#### 1.2 Conflicts of Interest/Declarations of Interest/Gifts & Hospitality

1.2.1 Members were asked to declare any known conflicts of interests or gifts and hospitality. Mr Ferguson Q.C. declared an interest in 1 case.

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

#### 1.3 Minutes of Policy meeting held on 16 August 2013

1.3.1 The Board noted the minutes of the Policy meeting held on 16 August 2013 those having previously been approved by the Board on 30 August 2013. The Board also noted the version of the minutes for the Publication Scheme.

## 1.4 Matters Arising

There were no matters arising.

### Section 2: Stage 1 Pre Acceptance Cases (edited)

2.1 – 2.13 A total of 13 new applications were considered and the following decisions were made:

3 cases	Rejected: on the basis that there were no stateable grounds of review
1 case	Rejected: on the basis that there were no plausible grounds of review (guilty plea)
2 cases	Rejected: on the basis that the grounds of review were a repeat of the grounds of appeal
1 case	Rejected: on the basis that the applicant had not appealed against sentence
1 case	Rejected: on the basis that the applicant had not appealed against conviction or sentence
1 case	Rejected: on the basis that the grounds of review were a repeat of the grounds of appeal and there were no stateable grounds of review
1 case	Rejected: on the basis that the applicant had not appealed against conviction and there were no stateable grounds of review
1 case	Rejected: on the basis that it was not in the interests of justice to accept the case and undertake a full review
1 case	Suspended: awaiting the outcome of ongoing action
1 case	Withdrawn: on the grounds that the application was incompetent

### Section 3: Policy Matters

#### 3.1 Stage 1 – “Short Form” Statement of Reasons

3.1.1 Mr Fenn provided Members with an overview of his paper and proposals on changes to the Commission’s Stage 1 letter and the adoption of a “short form” statement of reasons. He confirmed that the attached draft was simply to demonstrate the possible look and content of such a document and set out the potential benefits of such an approach. Mr Fenn also identified proposals which had been discussed at the last Legal Officer meeting in respect of issuing

applicants with a summary of their grounds of review, as understood by the Commission, at the acknowledgement stage.

3.1.2 Mrs Couper confirmed that she was supportive in principle of these changes and agreed that enhancing consistency was a positive move forward. Members discussed the draft in detail and in general agreed with the approach as well as making a number of suggested changes which included the title of the document. Members were also supportive of the proposed change to the acknowledgement letter setting out the perceived grounds of review.

3.1.3 After further discussion it was agreed that the new acknowledgement letter would be adopted from the New Year and the new format stage 1 statement of reasons would be adopted subject to agreed changes and updates.

### **3.2 Statement of Reasons – Draft Executive Summary**

3.2.1 Mr Sinclair provided a summary of recent changes to the format of the Commission’s statement of reasons and in particular to the executive summary. He confirmed that the review of the executive summary was to address matters of consistency in content and format. Members discussed the proposed executive summary template in detail and agreed its adoption.

### **3.3 A Human Rights Based Approach**

3.3.1 Mr Walker provided Members with a summary of the background to his paper on a Human Rights Based Approach, based on the development of Scotland’s National Action Plan for Human Rights by the Scottish Human Rights Commission. He set out the principles of the approach which could be adopted by the Commission as part of its core operations. He outlined how the Commission could enhance its current approach and highlighted a number of actions that were being taken forward, primarily by way of the Commission’s Business Plan objectives and proposals for a further Best Value Review in 2013-14.

3.3.2 Mr McClay referred to the Commission’s current arrangements for undertaking interviews at the office and identified a number of potential health and safety concerns. After further discussion it was agreed that Mr Sinclair and Mr Reddick should investigate the creation of a purpose built interview room to address these concerns and implement changes from 1 April 2014.

3.3.3 After further discussion regarding Mr Walker’s paper Mrs Couper confirmed that she was supportive of the proposals and agreed that there was merit in demonstrating adherence to these principles as part of policy review and update.

### **3.4 Human Rights & Domestic Legal Traditions – Lord Reed’s Paper**

3.4.1 Mr Fenn provided Members with an introduction to Lord Reed’s Paper on “Human Rights & Domestic Legal Traditions,” and identified some of the key points being raised and possible lessons for the Commission. After discussion, Members noted the content of the paper and its application to the Commission.

### **3.5 Environmental Policy & Action Plan**

3.5.1 Mr Lynn confirmed that the review of the Commission’s Environmental Policy and Action Plan had been undertaken in accordance with the 2013-14 Business Plan

objectives. He set out the main updates to the policy and action plan, confirming that these were more a “tidy up” of a policy which had bedded in well and was operating effectively. In particular he noted that the quarterly environmental meetings had been changed to half yearly and that Miss Ralston had recently taken over as Environmental Officer.

3.5.2 Mrs Couper confirmed that the revised policy and action plan appeared to be appropriate for the Commission taking into account its size and ability to reduce environmental impact. Members discussed the policy and action plan and noted a number of minor updates and amendments before approving both documents.

### **3.6 Equal Opportunities Policy**

3.6.1 Mr Reddick provided Members with an overview of the updated Equal Opportunities Policy, confirming that this had been undertaken in accordance with the Equality Act and the Commission’s commitment to equalities as set out within the published Equality Duty Mainstreaming Report.

3.6.2 Members discussed the new policy in detail and made a number of suggested updates and amendments. In particular, the requirement to gather equalities information on application forms was discussed and Mr Reddick agreed to update this section in accordance with latest guidance and good practice. Subject to the agreed changes being made the policy was approved.

## **Section 4: Concluding Matters**

### **4.1 Any Other Competent Business**

4.1.1 Mrs Couper asked if any further consideration was required on the Independence Referendum following the issue of the Scottish Government’s White Paper and the paper considered at the last Policy meeting on 16 August 2013. Mr Fenn agreed to consider the justice sections of the White Paper and report back.

### **4.2 Date of Next Meeting**

Board Meeting – 31 January 2014@ 10:00

**Chris Reddick**  
20 December 2013