

SCOTTISH CRIMINAL CASES REVIEW COMMISSION

MINUTES OF THE POLICY MEETING ON FRIDAY 11 DECEMBER 2015
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.

Members Present:

Mrs Jean Couper CBE, Chairman
Professor George Irving CBE
Mr Peter Ferguson Q.C.
Miss Frances McMenamin Q.C.
Mr Gerrard Bann
Professor Jim Fraser
Mr Colin Dunipace

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, Head of Casework
Mr Daniel Fenn, Senior Legal Officer
Mrs Fiona Govan, Senior Legal Officer
Miss Mary Frances Ralston, Legal Officer
Mr Kevin Henry, Legal Officer
Mr Jim McShane, Legal Officer
Mr Stephen Lynn, Legal Officer

Section 1: Governance Matters

1.1 Apologies

Dr Darjee had submitted his apologies.

1.2 Declarations of Interest – 6 monthly Update

Members were asked to complete and return declaration of interest forms so that the Conflicts of Interest Register could be updated.

1.3 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.

1.4 Minutes of Policy meeting held on 24 July 2015

The minutes of the Policy meeting held on 24 July 2015 were noted having previously been approved by the Board on 29 August 2015. The Board also noted the version of the minutes for the Publication Scheme.

1.5 Matters Arising

There were no matters arising.

Section 2: Stage 1 Cases (edited)

2.1–2.7 A total of 7 new applications were considered and the following decisions were made:

1 case	Accepted for a review of conviction and sentence
1 case	Accepted for a review of conviction
1 case	Rejected: the applicant had not appealed against conviction or sentence and there were no stateable grounds of review
1 case	Rejected: the grounds of review were a repeat of the grounds of appeal
1 case	Rejected: the grounds of review were a repeat of the grounds of appeal and there were no stateable grounds of review
1 case	Rejected: there were no new grounds of review
1 case	Continued for 1 month in order to obtain further information

Section 3: Position Papers

Prior to the discussion on the individual position paper updates, Mr Sinclair provided and overview of the amendments to the Criminal Procedure (Scotland) Act which Justice Directorate had advised were likely to be implemented early in 2016. He confirmed that the amendments removed the right of the High Court to apply Section 194DA and the requirement for the Commission to consider finality and certainty. In summary, the amendments would take the Act back to its pre-Cadder position. He also confirmed that the Commission would need to reconsider its Interests of Justice Position Paper which he agreed would be taken forward in January 2016. Mrs Couper thanked Mr Sinclair for the update and confirmed that these changes reflected well on the Commission's lobbying in respect of the original updates.

3.1 Position Papers:

- Disclosure
- Guilty Pleas
- Interviewing Jurors
- Misdirection
- Sufficiency
- The Commission's Statutory Test

3.1.1 Mr Fenn presented the updated position papers, identifying any proposed updates for Member's attention. He confirmed that all other text had previously been agreed and that this was simply the first review and update since the papers were initially approved.

3.1.2 After full discussion the Board approved the suggested updates. The format of the position papers was also discussed in detail, particularly the use of footnotes and the intended audience of the position papers. It was agreed that footnotes were appropriate and that publication should continue to be via the website where they could be accessed easily.

Section 4: Policy Matters (edited)

4.1 Research & Development: Referrals 2008-13 (Mrs Govan)

Mrs Govan provided an overview of the referrals report and the key themes coming out of the research. After full discussion Mrs Couper confirmed that this had been an extremely useful piece of work and had provided assurance that there were no significant issues that need to be addressed.

4.2 Action Plan: Applicants with Learning Difficulties (Mrs Govan)

Mrs Govan provided an overview of the proposed Action Plan for Applicants with Learning Difficulties. After discussion, it was agreed that the target timescales on the action plan should all be set at 31 March 2016.

4.3 Draft Corporate Plan 2016-19 (Mr Reddick)

Mr Reddick provided an update of the draft Corporate Plan which he confirmed had been considered at the last quarterly meeting with Justice Directorate. He also confirmed that the current draft would be updated once confirmation of the Commission's funding arrangements for the next year had been received. The current draft was discussed in detail and Mr Reddick agreed to update the document with all agreed changes.

4.4 Draft Communications Strategy (Mr Reddick)

Mr Reddick presented the draft Communications Strategy and confirmed that he had discussed the draft in detail with Mrs Couper prior to the meeting. Mr Reddick confirmed that he and Mrs Couper had been in agreement that the current format comprised both a strategy and a more detailed action plan and it had been suggested that the

document be separated, with the strategy part being published and the action plan used by management to oversee the implementation of the strategy. After discussion it was agreed that Mr Reddick would make the suggested changes and bring the strategy back to the Board for approval.

4.5 Persistent & Repeated Applications Policy (Mr Reddick)

Mr Reddick reported that he had undertaken the annual review of the Persistent & Repeated Applications Policy in line with the current review schedule and confirmed that he had proposed no changes to the Policy. He also provided an update on the current Persistent & Repeated Applications Register. After discussion the annual review was noted and it was agreed that the policy review should now be moved into the standard 3-year review cycle with the register continuing to be reviewed annually.

Section 5: High Court Decisions

There were no High Court decisions issued since the last Policy meeting.

Section 6: Concluding Matters

6.1 Any Other Competent Business

Journal Updates

Mr Sinclair confirmed that journal updates since the last Policy meeting on 24 July 2015 had been circulated for information.

6.2 Date of Next Meeting

Policy Meeting – Friday 22 July 2016 @ 10:00

Chris Reddick
18 December 2015