

SCOTTISH CRIMINAL CASES REVIEW COMMISSION

MINUTES OF THE MEETING OF THE BOARD ON FRIDAY 29 SEPTEMBER 2006, 10AM, PORTLAND HOUSE FOR DISCLOSURE VIA THE PUBLICATION SCHEME

In line with the Commission's Disclosure policy, various paragraphs 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, this is indicated at the start of the relevant paragraph or section.

Present:

The Very Reverend Graham Forbes, Chairman
Sir Gerald Gordon Q.C.
Mr David Belfall
Miss Ruth Anderson Q.C.
Mr Graham Bell Q.C.
Mr James Mackay
Mr Gerard Sinclair, Chief Executive
Mr Chris Reddick, Director of Administration

Apologies

Professor Peter Duff had submitted his apologies.

Minutes

The Board approved the minutes of the meeting held on 25 August 2006, subject to some minor amendments. The Board also approved the version of the minutes for the Publication Scheme, subject to the above.

Matters arising (edited)

Mr Sinclair confirmed that the Dean of the Faculty of Advocates would be joining the Board for lunch at 12.30pm. He also confirmed that both the Lord Justice General and the Lord Justice Clerk had acknowledged their invitations to visit the Commission, although dates had yet to be confirmed by them.

Mr Reddick confirmed that a new Senior Administration Officer had been appointed and was due to start with the Commission on 30 October 2006.

Provost Forbes requested an update on the ongoing 2005-06 Pay Remit issues. Mr Sinclair confirmed that there was little progress to report, although the situation would be discussed in detail at the next quarterly meeting with SEJD, scheduled for 5 October 2006. Mr Reddick confirmed that the Union had submitted a letter to the Commission noting staff dissatisfaction with the current situation. Mr Reddick confirmed that a copy had been passed to SEJD, and that the Union's proposed next course of action was to write directly to the Justice Minister.

Mr Belfall requested an update on the current Commissioner appointment process. Provost Forbes confirmed that dates in November and December 2006 had been

agreed for interviews and it was likely that the immediate vacancy would be filled soon after.

Chairman's report

There were no matters to be reported to the Board by the Chairman, other than what had previously been raised under Matters Arising.

Chief Executive's report (edited)

Mr Sinclair reported as follows:-

- Mr Sinclair and Mr Reddick had attended a meeting with the Union, Prospect, on 4 September 2006 to discuss the 2005-06 Pay Remit.
- Staff from CCRC had visited the Commission on 7 September 2006 to look at the Commission's Case Management System, Solcase.
- Interviews for the Senior Administration Officer position had been held and a successful candidate appointed, as detailed under Matters Arising.
- The next quarterly meeting with SEJD had been scheduled for 5 October 2006. The agenda and papers had been circulated.
- The High Court had issued its decision in the case of Ronald Neeson, referred by the Commission. The High Court refused the appeal. A copy of the High Court's decision had been circulated.

Mr Sinclair provided the Board with a staffing update as follows:

- Mr Sinclair confirmed that Mr Reddick had now successfully completed his 12 month probationary period. The Board noted this and confirmed that they were more than satisfied with Mr Reddick's performance and accordingly confirmed the permanent appointment.
- Mr Sinclair reported that Mr Mullan had tendered his resignation and would be leaving the Commission on 13 October 2006. He will be taking up an appointment with SLAB as Head of Criminal Legal Services. The Board requested that their sincere gratitude and congratulations be passed onto Mr Mullan, recognising his considerable contribution to the work of the Commission over a number of years.
- Mr Sinclair set out his proposed staffing plan, which would be discussed with SEJD at the next quarterly meeting. He confirmed that Mr Hanlon was due to complete his secondment with the Commission in January 2007 and that Mr Fenn was due to complete his traineeship in September 2007. Mr Hanlon had confirmed that, as requested by the Commission, he was willing to stay on for an additional 3 to 4 months subject to Crown Office approval. On this basis, Mr Sinclair proposed recruiting at this stage for a legal officer, subject to SEJD approval, and considering further staffing options, including the Senior Legal Officer post upon conclusion of the 426 case.
- Mr Sinclair informed the Board that Miss Birnie had tendered her resignation and would be leaving the Commission on 20 October 2006. Mr Sinclair requested approval to promote Miss O'Hara to the position of Administration Officer and to recruit for an Administrative Assistant. The Board approved these proposals.
- Mr Sinclair informed the Board that he had received a paper from the Commission's trainee regarding his salary structure, which he agreed to circulate and discuss in detail at the Board meeting in October 2006.

- Mr Sinclair confirmed that he is scheduled to meet with Mr Colin Fox MSP on 2 October 2006 to discuss the work of the Commission.

Mr Sinclair referred the Board to a case where an interim refusal was issued on 30 September 2005, with a subsequent request for an extension of time to submit further representations granted by the Board. No further representations were received and the supplementary statement of reasons was therefore issued. Mr Sinclair confirmed that he had subsequently received a letter from the applicant's legal representative on 15 September 2006 requesting the Commission to consider a late submission of further representations. Mr Sinclair suggested that the Commission could either request that a new application be submitted or consideration could be given to re-opening the existing case and reviewing the further representations. The Board agreed that, given the circumstances outlined, the case should be reopened, and considered by the next meeting of Committee C.

Case Statistics Report

Mr Sinclair addressed the Board on the case statistics report and provided projected case figures for the rest of the year based on current trends. Based upon current figures he projected that approximately 120 cases would be received by year end, 152 cases would be concluded and 10 referrals made. The Board noted the content of the report and the increase in the rate of concluding cases.

Finance Report

Mr Reddick talked through the finance report, identifying three areas of underspend against budget as at 30 September 2006. He confirmed that expenditure on Members' Fees was below forecast, although confirmed that expenditure would increase over the next six months as a result of implementing the expected new Fees Direction, additional special Board meetings to consider the 426 case and the recruitment of new Commissioners.

Mr Reddick also identified an underspend in relation to Training, although he confirmed that a number of events had been scheduled to coincide with legal officers' CPD year and the induction of new staff. Mr Reddick also confirmed that Investigations was also underspent, although he highlighted the unpredictability of this type of expenditure.

Mr Sinclair noted that the areas of underspend were generally against smaller budgets and was therefore not an area of concern. He also confirmed that SEJD had approved the extension of the lease for the 6th floor and the additional expenditure to be incurred.

Notification by Commissioners of non-case related work requiring Board's approval

There was no non-case related work requiring Board's approval.

Training & Development

Since the last meeting of the Board the following training has been undertaken by staff:

- Mr Fenn attended a Professional Competence Course at Edinburgh University from 4 to 12 September 2006.

Cases (edited)

New applications

Fourteen new applications had been received since the last meeting of the Board. In addition a further five continued applications were also considered by the Board. Of these, one was accepted for review of conviction alone; one for review of sentence alone; and three for review of both conviction and sentence. Nine cases were continued for further investigations to be carried out before deciding whether to accept them for review. Five cases were rejected as no appeals had previously been lodged, or no stateable grounds of review provided

Target cases

Mr Sinclair discussed the cases listed on the target case report. The Board duly noted the content of the target cases report.

Notification of cases where final decisions have issued since the last meeting of the Board

The Board noted that final decisions had been issued in the three cases

Notification of decision cases agreed at previous meetings of the Board but not yet issued

There were no cases under this category.

Requests for extensions of time

The Board approved extensions of time in four cases, and in each case allowed a further four weeks to lodge supplementary submissions.:

Want of insistence cases

There were no cases under this category.

Conflicts of interest noted since the last meeting of the Board

Miss Anderson Q.C. declared an interest in one newly accepted.

Discussion cases

There were no cases under this category.

Decision cases (edited)

The Board considered thirteen statements of reasons and decided that interim decisions not to refer the case to the High Court should be issued in respect of ten of

these cases; one case was continued for further consideration. Two cases were referred to the High Court for determination.

The Board considered four supplementary statements of reasons and decided that in all five cases final refusal letters should be issued.

Any Other Business (edited)

Mr Sinclair asked the Board if they wished to have a Board meeting in December. He suggested that a Policy meeting be held on 21 December 2006 and that if any urgent Board decisions were required these could be dealt with at the same time. He also confirmed that the Audit Committee would meet in December. This approach was agreed by the Board.

Mr Sinclair referred the Board to the current pro-forma statement of reasons document and asked for opinion on whether standard wording should be inserted against each new ground dealt with by the Commission, based on comments raised following the recent judicial review. The Board confirmed that this would be worth while and that Mr Sinclair should take this forward at the next Legal Officer meeting.

Mr Reddick informed the Board that a request had been made by the Criminal Compensation Section at SEJD to obtain a copy of the statement of reasons in respect of the Commission's referral in the case of Jamie Orr. The Board confirmed that this was acceptable and that a copy of the statement of reasons should be issued.

Mr Reddick referred the Board to the Commission's current Training Contract. He confirmed that he was unhappy with the current content and that he proposed inserting a sliding scale for recovery of course fees and the ability for the Board to exercise discretion over reducing/writing off fees under certain conditions.

The Board noted Mr Reddick's requested and confirmed their agreement in principle. It was agreed that the Training Contract should be updated and presented to the Audit Committee for review and approval. It was also agreed that the revised Contract and write off proposals be discussed with internal audit for comment before approval by the Audit Committee.

Date of Next Meeting

The next meeting of the Board will be held on Friday 27 October 2006.

CHRIS REDDICK
2 OCTOBER 2006