

**SCOTTISH CRIMINAL CASES REVIEW COMMISSION
MINUTES OF THE MEETING OF THE BOARD ON FRIDAY 25 JUNE 2010
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
Mr Gerry McClay
Mr Gerrard Bann
Professor Brian Caddy
Mr Christopher Shead

Also present:

Mr Gerard Sinclair, Chief Executive
Mr Chris Reddick, Director of Corporate Services
Sir Gerald Gordon, Consultant Legal Adviser

Apologies

Mr Campbell, Professor Irving and Mr Bell Q.C. had submitted their apologies.

Mrs Couper provided the Board with an update on the health of Mr Bell Q.C and confirmed that Justice Directorate had been approached in order to investigate cover for the Board in his absence.

Conflicts of Interest/Gifts & Hospitality (names deleted)

Members were asked to declare any known conflicts of interests or gifts and hospitality. It was noted that Mr Shead had noted conflicts of interest in two new cases and one continued case calling at today's meeting of the Board; it was noted that Mr Bell Q. C. had noted a conflict of interest in one new case calling at today's meeting.

Mr Sinclair confirmed that he had attended the Ayr 300th Faculty dinner on 4 June 2010.

Minutes – Board meeting 28 May 2010

The Board approved the minutes of the Board meeting held on 28 May 2010 subject to minor amendment. The Board also approved the

version of the minutes for the Publication Scheme subject to minor amendment.

Matters arising

Mr Reddick confirmed that the date of the Policy meeting had been confirmed as Friday 13 August 2010.

Mrs Couper confirmed that the Audit Committee training had taken place on Friday 4 June 2010 and it had been extremely useful.

Mr Sinclair confirmed that there had been an article in the Herald on 15 June 2010 by Ms Lucy Adams, following the release of the Scottish Information Commissioner's decision. He confirmed that the article identified third party consent difficulties and the Commission having ongoing discussions to seek consent.

Mr Sinclair provided a further update with regard to the SCCRC (Permitted Disclosure of Information) Order 2009 and the ongoing consent issues with the main parties. He confirmed that reminder letters had been issued to all parties since the date of the last meeting of the Board and provided the following specific updates:

- Following the Board's consideration of the initial response from Crown Office, a more detailed letter had been issued by the Commission. No response has been received to date.
- A short response had been received from Taylor & Kelly solicitors, although this had prompted a letter from the Commission seeking further clarification as to their position.
- An indication had been received from Mr Megrahi's solicitor suggesting that he was willing to provide his consent if the documents were released in their entirety and subject to other party consent.
- A representative from Foreign Office had been in touch with the Commission immediately before the Board meeting and a full response was expected today. They had indicated that they were prepared to provide consent subject to minor redactions.

The Board noted the updates and agreed to delay further third party consent enquiries for 1 month in order to give the outstanding respondents further time.

Minutes – Audit Committee meeting 11 June 2010

Mrs Couper confirmed that the Audit Committee minutes were for noting and would be approved by the Audit Committee at their next meeting.

Matters arising

In Mr Campbell's absence, Mrs Couper confirmed that the Audit Committee Members had met privately with the representatives from both internal and external audit at the meeting on 11 June 2010 and no matters of concern had been raised by any of the parties.

Mrs Couper also confirmed that the Audit Committee had recommended to the Accountable Officer that the annual accounts be signed. This had been undertaken after the meeting and the external audit statement had subsequently been signed and received.

Chairman's Report

Mrs Couper confirmed that she had no additional updates that were not already covered on the agenda.

Chief Executive's report

8.1 Mr Sinclair provided the Board with updates on the following matters:

- Mr Sinclair confirmed that he had attended the Audit Committee training on 4 June 2010.
- Mr Sinclair reported that he had attended the Ayr 300th Faculty dinner on 4 June 2010.
- Mr Sinclair confirmed that he had attended Sir Gerald Gordon's annual legal seminar in Edinburgh on 10 June 2010. He also confirmed that a number of staff members had also attended the event.
- Mr Sinclair reported that the review of Sheriff and Jury Procedure Report had been issued on 11 June 2010.
- Mr Sinclair confirmed that he had attended the Audit Committee meeting on 11 June 2010.
- Mr Sinclair reported that Mr Newall had provided a talk on the Commission to Harper McLeod Solicitors.

Mr Sinclair provided the Board with an update on procedural and appeal hearings which were duly noted by the Board.

SCCRC Appeal Court Decisions (names deleted)

Mr Sinclair provided the Board with an update on the decision of the High Court following the hearing before the Lord Justice General, Lord Kingarth and Lord Clarke on 30 and 31 March 2010 and the issue of the decision on 28 May 2010. The decision confirmed that the Commission could talk to jury members about matters extrinsic (not intrinsic) which happened prior to them retiring for consideration. He confirmed that it was helpful in terms of providing clarity and concluded the issue in one case and assisted in taking forward one case.

Mr Sinclair referred to the appeal court decision in the case of Affleck which was discussed in full. Mr Sinclair confirmed that the terminology used in the decision might give a poor impression of the Commission's review process and that some legal officers had previously expressed concerns that statements of reasons were being erroneously misquoted in decisions. Sir Gerald Gordon suggested that the Commission's statement of reasons to refer could be published and this would provide some form of balance. This matter could be considered further at the policy meeting.

Mr Sinclair referred to the appeal court decision in the case of Ferrie which was discussed in full. He noted the unusual format of the decision and identified that the Commission's reason for referral appeared to be misrepresented, with some errors of fact contained within the decision. Again, this was a matter to be discussed at the policy meeting and, if required, taken up with Justiciary Office.

Cases (edited)

New applications

Fourteen new applications had been received since the last meeting of the Board. In addition, four continued applications were considered by the Board. Of these, two cases were accepted for review of conviction and sentence; four cases were accepted for review of conviction; five cases were continued for one month in order to obtain additional information; two cases were rejected on the basis that the applicant had not appealed against his conviction; one case was rejected on the basis that there were no new grounds of review; two cases were rejected on the basis that the grounds lodged were the same as those raised at appeal; and two cases were continued until the Board meeting in October 2010, to await the outcome of the Cadder case.

Notification of cases where final decisions have been issue since the last meeting of the Board, following the 21 days for submission of further representation expiring.

The Board noted that final decisions had been issued in two cases.

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

The Board noted that there was one case in this category.

Referral Press Releases issued since the last meeting of the Board

The Board noted that a press release had been issued in one case since the last meeting of the Board.

Requests for extensions of time

The Board approved three extensions of time, each for a period of four weeks.

Want of insistence cases

There were no cases in this category.

Discussion cases

Miss Ralston provided the Board with an overview in one case. After discussion the Board agreed that the case should be considered further by Committee and in particular considered against the referral in the case of David Patterson.

Decision cases

The Board considered eight statements of reasons; it decided that decisions not to refer the case to the High Court should be issued in respect of all eight cases.

In one case it was agreed that Mr Newall should contact the applicant's husband in advance of the decision being issued in order to give him advance notification of the Board's decision.

The Board considered one supplementary statement of reasons; it decided that a final refusal letter should be issued in that case.

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

Mrs Couper confirmed that the Audit Committee had agreed 1 hour preparation and 1 ½ hours attendance for the meeting on 11 June 2010. A full day attendance was also agreed for the Audit Committee training on 4 June 2010.

Mrs Couper confirmed that she had spent time on succession planning matters.

Training and Development

The Board noted that the following training and development had taken place since the last meeting of the Board:

- Mrs Couper, Mr Campbell, Professor Caddy, Mr Bann, Mr Sinclair, Mr Reddick, Mr Newall and Mr Walker had all attended the CIPFA Audit Committee training on 4 June 2010.
- Mr Sinclair, Miss Ralston and Ms MacLean had attended Sir Gerald Gordon's seminar in Edinburgh on 10 June 2010.

- Mr Walker, Mr Newall and Mrs Reid had attended a leadership skills training course in Edinburgh on 22 June.
- Ms Maclean and Ms Ralston had attended an LSA seminar on expert forensic evidence on 23 June.

Corporate Risk Register

Mr Reddick provided the Board with an update on the current risk register which had been considered by the Audit Committee on 11 June 2010. He confirmed that the format of the current register and risk methodology adopted by the Commission had been discussed in detail and it had been agreed that Mr Campbell and Mr Reddick would meet in August 2010 to discuss an appropriate way of enhancing the system. The Board noted the various updates and plans to revise the risk approach.

Best Value Update

Mr Reddick confirmed that the current best value plan was now complete and that the majority of actions classified as 'ongoing' would be addressed over the coming year by planned policy work, such as the development of a new Procurement Policy etc. He also confirmed that the Commission was scheduled to undertake a further full best value exercise by 30 December 2010.

2009-10 Annual Report & Accounts

Mr Reddick confirmed that the annual accounts had been signed on 11 June 2010 and submitted to the Auditor General by KPMG on 16 June 2010. Both the account and the annual report will be laid by the Scottish Ministers in the Scottish Parliament on Wednesday 30 June 2010.

Mr Reddick confirmed that copies of the annual report are expected from the printers today.

Any Other Business

There was no other business.

Date of next meeting

The following meeting dates were confirmed:

- Board Meeting - Friday 30 July 2010
- Policy Meeting - Friday 13 August 2010

CHRIS REDDICK
2 July 2010