

FORMAL MEMORANDUM

CASE PREPARATION

1. This document summarises the Commission's procedures and processes for the preparation of applications prior to allocation to a case reviewer.

Common Processes

2. All applications¹ will be placed into one of four categories (A, B, C or D). Before categorisation (see Formal Memorandum on CASE CATEGORISATION), the Stage 1 Commissioner will have obtained all of the core documents (see Appendix 1) relevant to the categorisation decision.
3. The Stage 1 Commissioner will also have considered whether any further relevant material (which might include material set out in Appendix 2) is necessary for the review and will have made arrangements for any such material to be obtained or otherwise preserved.

Category specific case preparation procedure

4. Those cases categorised as A will be allocated to a case reviewer together with the files identified by the Stage 1 Commissioner.
5. Those cases which are categorised as B or C will be subject to a further preparation procedure:
 - For B cases this procedure will take place 6 months after being placed into this category (unless the Casework Support Manager estimates that the case is likely to be allocated within the next month).
 - For C cases this procedure will take place 6 months before it is envisaged that the case will be allocated to a case reviewer.
6. The case preparation of B and C cases will be undertaken by case reviewers who will consider any additional submissions sent by the

¹ Excepted from this initial process are those cases in which: (a) the applicant has not previously appealed; or (b) there are no stated or plausible grounds; or (c) the grounds repeat those made on appeal; **and** the Commission considers that there are no exceptional circumstances which might justify a referral and no reasonable lines of enquiry that the Commission ought to pursue.

applicant or those instructed to represent the applicant. On the basis of an overview of all the information available the case reviewer will note (in the Case Record) the broad issues and will identify any material which, on the face of that information, will be needed to complete the review. This process is not intended to give a prescriptive list of either all of the issues to be investigated or all of the material that the reviewer could consider.

7. In particular, the person preparing the case should:
 - Check whether the material identified as necessary for the review by the Stage 1 Commissioner has been preserved.
 - Determine whether any other material needs to be preserved.
 - Indicate what material should be obtained ahead of allocation to enable the case reviewer to begin the review on allocation of the case.
8. Any administrative work arising from this process will be carried out by the Stage 1 administrative team. Any queries arising from the case preparation will be dealt with by the individual who prepared the case.
9. This procedure is explained, in full, in the flow chart at Appendix 3 of this document.

APPENDIX 1

Core Documents

Conviction applications

On indictment:

- Indictment
- Summing-up
- Advice and grounds of appeal
- Criminal Appeal Office summary
- Single Judge's ruling
- Full Court judgment

Summary:

- Magistrates' Court file
- Crown Court Appeal file

Sentence applications

On indictment:

- Prosecution opening
- Plea in mitigation
- The Judge's sentencing remarks
- Advice and grounds of appeal
- Criminal Appeal Office summary
- Single Judge's ruling
- Full Court judgment

Summary:

- Magistrates' Court file
- Crown Court Appeal file

APPENDIX 2

Examples of further relevant material

1. Please note that any relevant Formal Memoranda or Legal Briefing Papers should be considered. It may be appropriate to seek advice from one of the Commission's internal Advisers.
2. The headings identify areas that may be raised in the case under consideration. The nature of the case may be defined by that heading or there may be an element in the case which falls within one of the headings. If either applies consider the material or issues listed under that heading which may prompt further material being requested. They are not listed in any particular order.

Sexual offences

- Social Services files (see Formal Memorandum on CHILD SEXUAL ABUSE CASES)
- Criminal Injuries Compensation Authority files (see Formal Memorandum on CHILD SEXUAL ABUSE CASES)
- Other relevant caring agency file, e.g. NSPCC
- Education files
- Relevant medical files
- Relevant police checks (see draft Adult Sex Offences Formal Memorandum)
- Transcript of any hearing concerning the application of section 41 of the Youth Justice and Criminal Evidence Act 1999

Major police investigations (for example, murder, rape, major armed robbery, kidnapping, any other investigation conducted in a Major Incident Room or 'MIR')

- HOLMES database
- SIO policy books
- Minutes of any Gold, Silver and/or Bronze Commanders' meetings
- PII files
- Press releases

Northern Ireland

- See Legal Briefing Paper on NORTHERN IRELAND CASE REVIEW
- It is recommended that the NI Commissioner be consulted

Her Majesty's Revenue and Customs ('HMRC')

- See Formal Memorandum on HM REVENUE AND CUSTOMS OPERATIONS
- Consider both HMRC files and files from the Revenue and Customs Prosecutions Office

Police misconduct

- See Legal Briefing Paper on MISCONDUCT BY INVESTIGATORS
- One of the Commission's Investigations Advisers should be consulted
- Independent Police Complaints Commission file
- Police Ombudsman file
- Police Professional Standards file
- Any other relevant Police investigations file(s)
- Divisional or Basic Command Unit disciplinary/misconduct records

Defence negligence

- Relevant Bar Council (see entry in Outlook under 'General contacts' 'Bar Council complaints') or Law Society complaint material.
- Legal Services Ombudsman files.
- Waiver of legal professional privilege.
- Court of Appeal correspondence file.

Forensic Science

- Forensic Science Service files/material.
- Exhibits may be held by the Forensic Science Service, the Crown Prosecution Service or the relevant Police authority.

Security Services

- One of the Commission's Investigations Advisers should be consulted
- The Commission's point of contact, the Deputy Chairman, should contact the Security Service's point of contact to establish what level of clearance

is required in order to access any relevant Security Service files. This should be done at the case categorisation stage.

Mental health

- See Legal Briefing Paper on MENTAL HEALTH ACT 1983 AND RELATED MATTERS
- Mental Health Trust files
- Primary Care Trust files and or GP files
- Social Services files
- Prison medical file

Sentence cases

- See Legal Briefing Paper on SENTENCING
- Probation reports
- Pre-sentence reports
- Prison medical file

APPENDIX 3

Stage 1 Categorisation and Case Preparation Procedure

