

FORMAL MEMORANDUM

COMMUNICATING WITH APPLICANTS

Introduction

1. This document outlines the Commission's policy on communicating with applicants. The process begins when applications to the Commission are received by the Stage 1 team, which carries out an administrative function.

Stage 1

2. Many applicants will correspond with Stage 1 prior to allocation of their cases. A short question and answer leaflet, which addresses the issues most frequently raised, will be sent with the first letter acknowledging the application. The letter informs applicants about the administrative processes that will operate before their cases are allocated and explains why detailed correspondence about the specifics of the case will not be possible before then.
3. When an applicant makes a telephone call to Stage 1 prior to the allocation of the case he or she should again be advised that it will not be practicable for a member of the Commission's staff to enter into a dialogue about the details of the case until it is allocated to a case reviewer. (References to case reviewers in this memorandum should be taken as applying equally to all those engaged in reviewing cases.) When a member of Stage 1 receives a telephone call seeking answers to technical questions about a case or about criminal justice procedures in general, which they are unable to respond to, the caller should be advised to seek independent legal advice. In the event of any difficulty in this regard, additional advice about dealing with such a call should be obtained from a case reviewer with relevant experience, or one of the Commission's Legal Advisers.

Review Stage

4. Once a Commissioner has carried out the initial screening process, Stage 1 will write to inform the applicant whether the case can be reviewed thoroughly within a comparatively short timescale (A case), or whether it will have to join the list of those requiring a more time-consuming review (B or C cases).

A Cases

5. It is not generally necessary to inform an applicant that work has started on a case. In many cases the first indication that an applicant will receive that work has started will be the Provisional Statement of Reasons. In some cases the case reviewer will consider it appropriate to inform the applicant that work has started. When this is done the applicant should be reminded of the possibility that if substantial issues that cannot be investigated within a comparatively short timescale are identified the case will have to join the queue of those requiring a more time-consuming review.
6. Further contact with applicants will be in accordance with the advice set out below for B and C cases, subject to the guidance contained in the Casework Pathways Formal Memorandum.

B and C cases

Routine contacts by case reviewers

7. It is recognised that cases may have remained in a queue for some time prior to allocation. The applicant and/or his or her representative should, therefore, be notified at the earliest opportunity that a case has been allocated. The notification letter, which may be sent by the relevant Casework Administrator, will confirm that the case has been allocated and explain the role of the reviewer. The letter should also explain that the case reviewer will spend some time familiarising him/herself with the application before making contact with the applicant and that no purpose would be served by the applicant contacting the case reviewer in the meantime.
8. Case reviewers should have a reasonable understanding of a case before communicating with the applicant in person. The case reviewer's first substantive letter to the applicant should usually set out the Commission's understanding of the issues raised by the applicant (or his/her representatives) and seek clarification where necessary. In B cases the reviewer should write to the applicant within two weeks and in C cases within four weeks. This will give the applicant an early opportunity to raise any matters not addressed in the letter.

General Guidelines

Case reviewers should establish clear lines of communication with the applicant and/or the applicant's representative

9. Case review is facilitated by establishing at the outset the most appropriate arrangements for communicating with applicants and/or their representatives. These arrangements should be maintained throughout, unless it is necessary to modify them because of developments during the

review.

10. When an applicant is represented, the case reviewer should decide whether to deal direct with the applicant or with the applicant's representative. Much will depend on the nature of the case. It is sometimes best to discuss these arrangements by calling the representative. Where an applicant is legally represented, all letters to and from the applicant should normally be copied to the legal representative.
11. Generally, the case reviewer will deal only with the applicant or the applicant's representative. In some cases there are campaign groups, or other actively interested parties, whose involvement can be managed through the applicant's representative. If there is no representative, arrangements should be made to communicate with one campaign group, or other interested party, only.
12. Any arrangements that are made should always be confirmed in writing to the applicant and the representative. The decision about how contact will be maintained, and any later amendments, should be noted in the Case Record.

The Commission should be as open as possible about its policies and procedures, and the reasons for its decisions

13. The Commission wishes to be as open as possible with applicants. It is generally unhelpful to an applicant for the case reviewer to make piecemeal disclosure of information discovered during the course of a review. It will be appropriate to disclose facts learned during the course of a review if the case reviewer requires comment on them, or a response from an applicant, again always subject to any constraints on disclosure.
14. Whilst applicants may wish to know what steps are being taken during a review, the implications of such disclosure must be considered. For example, an applicant might generally be told that an expert has been consulted, but it will not always be appropriate to disclose the Commission's intention to interview a witness, or to disclose what a witness has said while the review is in progress.

Frequent telephone calls to the case reviewer are unlikely to assist an applicant's case materially and should not be encouraged

15. Some applicants make frequent telephone calls to the case reviewer. To deal effectively with each call, it is important to identify its purpose. Case reviewers should explain to applicants the Commission's role, and should focus on new issues. Some applicants will press case reviewers to disclose information. Case reviewers should explain that disclosure is not generally made until the Commission has reached either a decision to refer, or has provisionally come to a view not to refer.

16. It is unhelpful to applicants for case reviewers to express views on the safety of the original conviction, or the merits of the application. Case reviewers should not commit themselves to updating applicants frequently. Reviews may take longer than expected and broken commitments are only likely to cause unnecessary frustration or disappointment to the applicant. However, contact with applicants and/or their representatives should be maintained, at least once every three months, while the review is in progress.

The applicant's case is generally best put in writing

17. In the course of a review, there may be specific questions that the case reviewer would like to put to the applicant. They are generally best asked in writing. This allows an applicant to consider what is being asked, to take his/her time in drafting a response, and possibly to obtain legal advice before sending a reply.

18. Where necessary, applicants who are not legally represented may be advised that legal aid or other assistance is generally available if they need help to respond to specific questions or to make further representations to the Commission. Help from a solicitor by means of the Legal Advice and Assistance scheme can be obtained using the Criminal Defence Service forms (CDS 1&2), dependent on an assessment of the applicant's financial means. Citizens Advice Bureaux, local Advice Centres and/or Law Centres will be able to tell an applicant what other useful local resources are available to provide suitable assistance. Applicants who are serving a prison sentence may be able to obtain similar assistance from the prison's Appeal or Legal Aid officer, a Probation Officer and/or a Prison Visitor. Applicants may also be advised that some campaign groups exist to support persons who claim to have been victims of a miscarriage of justice; these include Justice, Innocent and the Miscarriage of Justice Organisation (MOJO). The addresses of these and other groups may be found in the Commission's General Contacts list or on the Commission's website – www.ccrcc.gov.uk.

When it is appropriate to interview applicants

19. Applicants often favour face-to-face meetings with Commission staff rather than contacts by letter and/or telephone. However, case reviewers have not routinely met applicants. Considerations about how, when and where case reviewers make contact with applicants – and whether this should include a meeting - must be made on objective grounds, related to the needs of the particular case review.

20. Applicants and/or their representatives who ask for meetings with case reviewers should be encouraged to submit their representations in writing. If they believe, nevertheless, that a meeting would assist, they should be asked to explain why. A case reviewer should agree to meet an applicant only if satisfied that such a meeting is likely to advance the objectives of

the review. The case reviewer should do so only after discussing the matter with the Assigned Commissioner (AC), Single Commissioner Decision-Maker (SC) and/or with a Legal or Investigations Adviser. Where a meeting is considered appropriate, it will usually be more efficient to invite applicants who are at liberty to attend the Commission's office. When this occurs, arrangements should be made with the Finance section to pay the applicant's reasonable expenses.

21. For further advice on the conduct of interviews, case reviewers should see the Formal Memorandum on interviewing.

The Commission is responsible for the conduct of the review

22. Applicants and/or their representatives sometimes request the case reviewer to undertake specific investigations. Such requests should always be considered carefully, but it is for the case reviewer in consultation with the AC, SC and/or a Legal or Investigations Adviser, to decide what investigations are to be carried out, and what disclosure is to be made of their outcome. Any decision that is taken in this respect should be fully noted in the case record.

Post-decision Contacts with Applicants

23. Applicants often seek to continue their contact with the Commission after a final decision on their case has been taken and communicated. The Commission's policy on the handling of post-decision contacts is set out in the Formal Memorandum on post-decision activity on cases.

Staff Personal Security

24. Where an applicant's behaviour causes a member of staff to be concerned about his or her personal security, then reference should be made to the Commission's Staff Handbook – "The management of persons who present a potential risk to the safety of staff".