



## FORMAL MEMORANDUM

### **No Reviewable Grounds Cases**

#### **Categorisation**

1. Categorisation of applications, where the applicant has previously sought to appeal the conviction or sentence which is the subject of the application, is carried out by Stage 1 Commissioners. Cases may be categorised as Category A, B, C, D or No Reviewable Grounds (NRG).
2. Category A, B, C and D cases are sent for review by case reviewers. NRG cases are dealt with by Stage 1 Commissioners.
3. In categorising a case the Stage 1 Commissioner will consider the submissions made by the applicant in light of such core documents as are available and relevant (see Appendix 1) and any other materials submitted with the application. In the case of applications from people convicted of sex offences, additional considerations apply: see the Commission's Formal Memorandum "Sexual Offence Cases". A case may be categorised as an NRG case where one or more of the following conditions is met and the Commissioner is satisfied that there are no reasonable lines of investigation which the Commission might pursue which have a realistic prospect of producing grounds for referral:
  - No stated grounds
  - Repeat of appeal grounds
  - No plausible grounds
  - Review not possible
4. "No stated grounds" refers to an application where the applicant has made no submissions whether in Part 4 of the Application Form or in other correspondence. If the Commissioner is satisfied that there are no submissions and no reasonable lines of investigation which the Commission might pursue that might produce grounds for referral, the case may be dealt with as an NRG case.
5. "Repeat of appeal grounds" refers to an application where the submissions repeat, whether verbatim or in substance, grounds of appeal which have

already been considered by the Single Court of Appeal Judge and/or the Full Court of Appeal and which therefore cannot be said to be new. If the Commissioner is satisfied that there are no new submissions and no reasonable lines of investigation which the Commission might pursue that might produce grounds for referral, the case may be dealt with as an NRG case.

6. “No plausible grounds” refers to an application which contains submissions which do not simply repeat appeal grounds but which do not require further investigation as they do not present any plausible basis for referring the case to the Court of Appeal. If the Commissioner is satisfied that the submissions raise no plausible basis for a referral and that there are no reasonable lines of investigation which the Commission might pursue that might produce grounds for referral, the case may be dealt with as an NRG case.
7. “Review not possible” refers to an application where, owing to the unavailability of core documents and relevant files (such as the Magistrates’ Court File, the Crown Court File, the Police File, the Crown Prosecution Service File and the Court of Appeal File), it is not possible to review the case as the evidence upon which the conviction was based and/or the facts upon which the sentence was based cannot be determined. If the Commissioner is satisfied that there is no reasonable prospect of being able to establish these matters by other means or from other sources, the case may be dealt with as an NRG case.

### **Procedure**

8. Where the Stage 1 Commissioner categorises a case as an NRG case, the Commissioner will issue a provisional statement of reasons in letter format to the applicant or representative, allowing 28 days for further submissions.
9. If no further submissions are received, or if submissions are received but they do not alter the Commissioner’s opinion, the Commissioner will close the case and issue a final statement of reasons in letter format to the applicant or representative.
10. If the further submissions persuade the Commissioner that there may be a real possibility that an appeal would succeed, or that there is an issue, or there are issues, which require investigation the outcome of which might give rise to such a real possibility, the case will be categorised for review in the normal way.
11. Where a case is categorised as requiring review, the applicant or representative will be notified by letter. The case will be placed in the appropriate queue ready for allocation to a case reviewer

## **APPENDIX 1**

### **Core Documents<sup>1</sup>**

#### **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 (if appropriate)
- Plea in mitigation
- The Judge's sentencing remarks
- Advice and grounds of appeal
- Criminal Appeal Office summary
- Single Judge's ruling
- Full Court judgment

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<sup>1</sup> Not all core documents will be available in all cases, nor may they all be necessary to the determination of an application. The absence of a core document need not delay the determination of an application if the information it contains is not relevant to the determination of the issues raised or, if relevant, the information is available from another source.

Summary:

- Magistrates' Court file
- Crown Court Appeal file