

FORMAL MEMORANDUM

PRIORITY RANKING AND ORDERING OF CASES

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Introduction

1. As the Commission has an accumulation of cases waiting for review, it has devised a system for ordering cases and determining whether or not specific cases should be given priority.

Ordering of cases

2. The Commission has developed a staged approach to case review. At Stage 1, cases are assessed for eligibility. Cases may be assessed as requiring allocation to a case reviewer, raising No Reviewable Grounds (NRG) or, for reapplications, raising no fresh issues. For further information see the Commission's Formal Memorandum [Stage 1 Decisions](#).
3. Cases assessed as requiring allocation to a case reviewer move to Stage 2 for review.

General approach to allocation

4. The Commission will allocate Stage 2 cases in date order of receipt. Priority will be given to applicants who are in-custody¹ over those at-liberty, until

¹ An applicant will only be regarded as in-custody if still serving the sentence imposed in respect of the conviction to be reviewed. Applicants serving a default sentence of imprisonment as a result of the non-payment of a confiscation order will be regarded as at-liberty.

waiting times have been minimised. Smaller at-liberty cases may be taken out of order where this is necessary to balance a case reviewer's portfolio or for reasons of operational effectiveness.

5. The result of this policy is that the oldest at-liberty case awaiting review will generally be twelve months older than the oldest in-custody case². This differential delay will be maintained until the case accumulation has been reduced to allow progressive reduction in the differential delay between at-liberty and in-custody cases.
6. The Commission aims to allocate all in-custody cases within 6 to 8 months of receipt. As a result, at-liberty cases are allocated between 18 and 20 months from receipt.
7. When the case accumulation has been minimised, cases will then be reviewed in date order of application and once the materials to review the case are available, without regard to the at-liberty or in-custody status of the applicant.

Priority ranking cases

8. There are, however, a limited number of exceptions to the allocation approach described in the preceding paragraphs.
 - (i) The Commission will give priority to at-liberty cases determined to be 'significant'. Significant at-liberty cases are taken forward in date order of receipt alongside applications from persons in custody. After consultation with stakeholders, the Commission considers the following to be significant:
 - applications from persons at-liberty in which the applicant received a life sentence;
 - applications from persons at-liberty in which the individual factors demonstrate that the conviction has an exceptionally adverse impact on the convicted person or on another individual or individuals.
 - (ii) The Commission will give priority to applications for a review of sentence only, where the applicant is in custody and appears to have less than two years still to serve, taking into account the statutory provisions affecting eligibility for early release.

² Allocation can only take place once the Commission has sufficient documents and materials to begin the review of the case. As a result, cases will from time to time be taken out of order.

- (iii) The Commission identifies and gives priority to any case where there are exceptional circumstances that justify a prioritised review. In determining whether priority is to be afforded to a specific case the Commission takes into account various factors, including:
- The old age and/or ill health of the applicant where there is concern that the applicant may die before the case is dealt with or where there is evidence that the applicant's serious ill health is directly and significantly aggravated by the delay;
 - The above principle applies equally to any close family member of the applicant;
 - The youth of the applicant where, having regard to the nature of the offence, the sentence imposed and the applicant's personal circumstances, the conviction has an exceptionally adverse impact on their welfare and/or educational and career prospects. In the same way, the young age of the applicant at the date of conviction may also be a consideration;
 - The risk of being unable to secure or obtain relevant evidence, or of relevant evidence deteriorating, for whatever reason;
 - Operational effectiveness;
 - The impact of delay on the criminal justice system.
- (iv) Section 15 of the Criminal Appeal Act 1995 addresses those situations where the Court of Appeal has directed the Commission to investigate a discrete issue or issues on the Court's behalf. The Court's power to make such directions is to be found in section 23A(1) of the Criminal Appeal Act 1968 and section 25A(1) of the Criminal Appeal (Northern Ireland) Act 1980. The Commission recognises the need for such matters to be addressed and finalised expeditiously. As a general rule, the Commission will prioritise such investigations ahead of other Commission work. For further information see: [Section 15: Investigations for the Court of Appeal.](#)

Procedure for priority ranking

9. Significant at-liberty cases are identified at Stage 1 and automatically receive the appropriate prioritisation.

10. Section 15 referrals to the Commission from the Court of Appeal are sent to the Chairman, and the Director of Casework prioritises the allocation of these cases.
11. Applicants or their representatives generally initiate requests for priority, although Commission staff may also identify cases where priority ranking should be considered. The procedure is as follows:
 - (i) The member of Commission staff who receives the request or generates the internal request will complete a request for priority. This will be passed to the Casework Support Manager (CSM) or Director of Casework (DoC)..
 - (ii) The DoC will decide whether or not to prioritise the case and in doing so will apply the policy set out above. The DoC may seek the views of others or delegate as she considers appropriate.
 - (iii) The CSM or DoC will record the reasons for the decision taken.
 - (iv) Where the request for priority was generated by the applicant, s/he will be informed in writing of the reasons for the decision.