

Criminal Cases Review Commission (CCRC)

The Role of the CCRC

The primary function of the Criminal Cases Review Commission is to review possible miscarriages of justice in the criminal courts of England, Wales and Northern Ireland. Following a review of an individual's case, where appropriate, they can then refer it to the Appeal Courts.

It is an independent body and given statutory power by The Criminal Appeal Act 1995 (CAA 1995).

Applications are generally made to the Commission to bring the cases to their attention. However, an application is not always necessary to bring about an investigation. An individual can request to have either their sentence (S9.1.a) or conviction (S.9.1.b) reviewed.

An individual should generally have attempted to appeal their conviction prior to applying to the CCRC. The CCRC will only refer a case to an appeal Court where they are shown significant new evidence or a new legal argument that was not available at the trial/appeal.

What the CCRC has the powers to do?

Powers are contained within Section 8 to 25 Criminal Appeal Act 1995.

They will then consider whether to refer the convictions to the appropriate appeal court, undertake further investigations or require the police to undertake further investigations under section 19 of the CAA 1995.

Each case is led by a case reviewer supported by a team of experts. The case will then be considered to a single commissioner or a committee of commissioners who ultimately has the decision regarding whether it is referred to the appeals court.

The Commission will not make a referral to the appeal court unless there is real possibility that the conviction, verdict, finding or sentence would not be upheld were the reference to be made (S.13 CAA 1995).

To carry out its role, the Commission has the authority to obtain documents from Public Bodies (S.17 CAA 1995) that it believes will assist it in exercising its functions. This power can only be used when it is reasonable to do so. This is a broad power.

Their normal approach

1. Obtain all relevant papers used in the prosecution, in particular those used in the courts which recorded the conviction and heard the appeal.
2. Decide whether the case goes to a "case reviewer" for investigation.
3. Applications may be rejected at this stage e.g. if there hasn't been an appeal or any special reasons why there should be a review before appeal in the normal way.
4. If reviewed, refer the case to the appeal courts where the CCRC thinks there is a real possibility that they will quash the conviction or change the sentence.
5. The courts must then hear the appeal and decide whether to quash the conviction or change the sentence.

The exception

The Commission can make a reference in exceptional circumstances (S.13.2 CAA 1995) even where there has been no new argument or evidence in relation to a conviction, verdict or finding presented or alternatively where there have been no prior appeals proceedings.

What is considered as exceptional circumstances is not an exhaustive list and appears to be a broad discretionary power.

Examples of this are rare. It would still require the existence of a real possibility that the conviction would not be upheld if the Commission made the referral.

What they have requested from POL

The CCRC required POL to identify all documents and other materials relating to their investigation into the horizon system and associated criminal proceedings.

Specifically they requested a copy of Brian Altman QC's report, an updated summary of the decisions and actions taken by the Post Office following Brian Altman QC's report or copies of the documents recording those actions and decisions in addition to the preservation of any materials associated with the affected cases.

POL's external criminal solicitors have reviewed all relevant Crown Court and Magistrate Court cases going back to 2010 in which the primary evidence was Horizon data, including those with suggested problems with Horizon training or support. Once these were identified they were reviewed thoroughly to assess whether any of the material should have been provided had they been aware of information contained within the Second Sight interim report. This also included considering information for disclosure. We have not received any applications for permission to appeal to the Court of Appeal.

This appears to be unusual behaviour for the CCRC as an independent organisation but it may not be unprecedented. The SPMR's are still able to apply for leave to appeal through the ordinary appeals process if they believe they have sufficient information to demonstrate an unsafe conviction.

We continue to engage with the CCRC in a constructive manner.