



Criminal Cases Review Commission

## CASEWORK POLICY

Policy Title: **Making an Application**

Reference: **CW-POL-02**

Version: **3.0**

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### The CCRC’s Quality Statement

The CCRC is committed to achieving high-quality case reviews as quickly as possible. In order to achieve this, we operate under a Quality Management System; please see ‘Q-POL-01 CCRC Quality Policy’ for further information. Our policy documents are available on our website: [www.ccrcc.gov.uk](http://www.ccrcc.gov.uk).

If you or someone you represent has difficulty accessing the internet then please contact us via 0300 456 2669 (calls charged at local rate) and we will send a hardcopy of the relevant policy free of charge.

This is a quality-controlled document. Significant changes from the last issue are in grey highlight: like this. Significant deletions are shown as: [text deleted].

### Introduction

This document contains information for potential applicants to help them decide whether or not they should be making an application to the CCRC.

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## Key Points

- 1) The CCRC can only deal with convictions and sentences from the criminal courts of England, Wales, and Northern Ireland and from the Court Martial and the Service Civilian Court.
  - a. We cannot deal with immigration law, civil law or ASBOs.
  - b. Scotland has its own Commission (the SCCRC).
- 2) You should not apply to the CCRC before you have appealed unless there are 'exceptional circumstances' (very special reasons) that mean we can look at a case. These are very rare.
- 3) We usually tell people who come to us before they have appealed that they need to go back and try to appeal in the normal way. You can still try to appeal even if you have missed the deadline for appealing.
- 4) Applications to the CCRC are usually made in writing. Most people use our application form (either a paper form or an online form). An application can be made on behalf of a deceased person.
- 5) There is generally no limit to the number of times you can apply to us, but we will not start a new review if you are only repeating things that you have told us before.
- 6) We have a range of guidance and policy documents available on our website [www.ccr.gov.uk](http://www.ccr.gov.uk) which have been written to help you.
- 7) Our service is absolutely **free**, the court **cannot** add to your sentence, and you do **not** need a lawyer to apply to the CCRC.
- 8) The CCRC will look carefully at all the points made by an applicant or their representative, but in the end, **we** will decide what enquiries we think are needed in each case.
- 9) Some cases are straightforward and can be dealt with in a few weeks. Other cases are very complicated and can take many months to review.
- 10) We usually look at cases in the order in which they arrive.
- 11) The CCRC **does not act as your lawyer**. This means that **we do not represent you**. The CCRC is **independent** of everyone.

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## Definitions

Key Word	Meaning
ASBO	Anti-Social Behaviour Order
COD	Casework Operations Director

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## 1 General Information

- 1.1 The information in Sections 2 to 5 is available on our web site. The content is replicated in this document to provide a single collection of information for those who are unable to access the internet.
- 1.2 Sections 6 and 7 are only available in this document.

## 2 Can I Apply to the CCRC?

### 2.1 Who can apply to the CCRC?

Anyone can apply to the CCRC if they believe they have been wrongly convicted of a criminal offence or wrongly sentenced. You must have been convicted in a criminal court in England, Wales, or Northern Ireland or in the Court Martial or Service Civilian Court. You can ask us to look at your conviction, or your sentence, or both. It costs nothing to apply to us.

We can look at cases from the Crown Court or a Magistrates' Court or Youth Court. Anyone convicted of a criminal offence in the Court Martial or the Service Civilian Court since 01 October 2009 can also apply to us.

### 2.2 When should I apply to the CCRC?

You should apply to the CCRC after you have tried to appeal through the courts in the usual way. You can still try to appeal even if you think you have missed the deadline for appealing.

If you have already lost your appeal but you still think you have been wrongly convicted or sentenced, you should apply to the CCRC for a review of your case.

### 2.3 What if I have not appealed?

If you have not appealed through the courts in the usual way, the CCRC will usually write to you to explain that you need to go back and try to appeal. The CCRC accepts very few cases where people apply to us before they have tried to appeal in the usual way. We can only refer cases in the absence of a prior appeal if there are very special reasons. We call these "exceptional circumstances".

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2.4 What are “exceptional circumstances”?

Exceptional circumstances are very rare. There must be a good reason why you did not appeal. There must also be a good reason why you cannot appeal now without the CCRC’s help. There are no automatic exceptional circumstances. We decide if there are exceptional circumstances based on the facts of each case.

2.5 What is not an “exceptional circumstance”?

Here are some examples of what is **not** an exceptional circumstance:

- a) You forgot to appeal or have missed the deadline. In those situations, you can still ask the court for an appeal. This is called appealing “out of time”.
- b) You received advice from your solicitor or barrister that you have no grounds for appeal. This does not stop you from appealing.
- c) You have been unable to get a solicitor or barrister to help you appeal. You can apply for an appeal yourself without legal assistance.

2.6 If you are thinking about applying to us before you have tried to appeal your case, you will need to carefully read ‘CW-POL-06 Exceptional Circumstances’ which is available for free from our website.

2.7 Where can I find out about appealing in the usual way?

If you were convicted in a Crown Court, you will find useful information about appealing in a booklet called ‘Appealing a conviction or sentence to the Court of Appeal – help for applicants’. There should be copies of this in your prison library.

You can get the booklet and the forms you need on the internet. Go to: [www.justice.gov.uk/courts/procedurerules/criminal/forms](http://www.justice.gov.uk/courts/procedurerules/criminal/forms)

You can get a paper copy of the booklet and the forms by calling the Criminal Appeals Office on 020 7947 6011.

The charity JUSTICE also has a helpful booklet called ‘How to Appeal’. This deals with appeals in Crown Court cases. You can find it at: <https://justice.org.uk/ourwork/publications/how-to-appeal>

Information about appealing in relation to magistrates’ court cases can be found at: [www.gov.uk/appeal-against-sentence-conviction](http://www.gov.uk/appeal-against-sentence-conviction)

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- 2.8 The CCRC can only look at criminal convictions. Not everything that happens in the courts has to do with the criminal law. We do not have any power to look at civil cases and things like breaches of court orders such as ASBOs are not usually criminal offences. We cannot deal with things that happen in County Courts or Family Courts or Tribunals.
- 2.9 We can only deal with cases from the criminal courts of England, Wales, and Northern Ireland. There is a separate Scottish CCRC which deals with criminal convictions in the Scottish courts. Convictions in the Channel Islands or the Isle of Man can only be considered by the Home Office.

### 3 How do I apply to the CCRC?

- 3.1 If you have lost an appeal and now want to apply to the CCRC, applications need to be made in writing using the CCRC's application form. The application form is not a test and we have tried to make it as easy as we can. You can apply by:
- a) Filling in a paper application form or
  - b) Printing off the form from our website or
  - c) Filling in the online application form.
- 3.2 We will post an application form to you if you contact us:

Telephone	0300 456 2669 (calls charged at local rate) 0121 233 1473 (Switchboard)
Email	<a href="mailto:info@ccrc.gov.uk">info@ccrc.gov.uk</a>
DX Address <sup>1</sup>	715466 Birmingham 41
Post	CCRC 23 Stephenson Street Birmingham B2 4BH

Just let us know your name and address and we will send you the application form for free.

- 3.3 If you send us a paper form you **must sign** the application form before sending it to us. Someone else can apply for you. We will contact you to check that you do want us to look into your case.

<sup>1</sup> A mail system often used by solicitors (non-lawyers should use our postal address at 23 Stephenson Street).

- 3.4 If you fill in the online form you will get an email from us to say we have received it. You will get this email within 5 working days of submitting your form online. Then you can email us any documents you think will help us.
- 3.5 You can't save the online form and come back to it, so you might want to read through the copy on our website and collect your information together **before** you start filling in the online form.
- 3.6 Remember, there needs to be **significant new evidence or new legal argument** for the CCRC to be able to refer your case to an appeal court. This needs to be something that has **not already been heard by a court before**. Your application is your chance to tell us everything about what is wrong with your conviction and/or sentence.
- 3.7 What is “significant new evidence or legal argument”?
- 3.7.1 This means something that was not covered at your trial or your appeal. For example, new evidence not known about at the time, or a new development in science. We cannot look again at things that were known about by the jury, the judge, or the magistrates. We cannot look again at information known at your trial even if you believe that the jury made the wrong decision in your case. We need to find something new that makes your case look very different now. We cannot help you if you just repeat the same points to us that were made at your trial or appeal.
- 3.7.2 The CCRC needs something new and important which will make the appeal court think in a different way about your case. You need to tell us everything in your application form which you think is new and could make a difference in your case.
- 3.8 What will you do with my application form?  
When we get your application form, we will write to you about what will happen next. We will then obtain any material that we might need, like the files from the court where you were convicted and from your appeal. We might need to obtain other documents before we can decide whether we can review your case. If we decide that we should begin to review your case, we will write to you to tell you. We might, however, decide that we cannot review your case, for example:
- a) If you have an appeal pending.

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- b) If you have not tried to appeal before and there are no special reasons why we should review your case before you have tried to appeal in the normal way.
- c) If your application does not raise any significant new points that might allow us to send your case for an appeal.

If we decide that such a situation applies in your case, we will write to you to explain our decision.

3.9 For further information about how we review your case, see 'CW-POL-04 Case Review Process' which is available for free from our website.

3.10 What will it cost me?

We do not charge anything so applying to us will not cost you any money. Our service is **free**.

3.11 Can a prison sentence be increased if I apply to the CCRC?

A sentence **cannot** be increased if you apply to the CCRC. Also, a sentence **cannot** be increased if we send a case back to the appeal court, even if the Court eventually turn down your appeal.

3.12 Do I need a lawyer?

No, you do not need a lawyer to apply to the CCRC. If you fill out an application form and send it to us, we will look at your case. We will look into your case whether or not you are represented by a lawyer. The case review process can involve complicated legal issues. A good lawyer can help you to understand these issues. There is guidance for applicant and their representatives available on our website.

3.13 Will I get Legal Aid?

A solicitor may be able to get funding to help with your case under the Legal Aid scheme. If you are unable to get legal aid, you **might** be able to get free help from:

Advocate  
48 Chancery Lane  
London  
WC2A 1JF

Telephone: 0207 092 3971  
[www.weareadvocate.org.uk](http://www.weareadvocate.org.uk)

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### 3.14 How can I find a lawyer?

You can get advice about finding a lawyer by contacting Civil Legal Advice on 0345 345 4 345 or going to their website at <https://www.gov.uk/civil-legal-advice>.<sup>2</sup> Although their website does not mention criminal law, they can help find a criminal lawyer.

You can also:

- I. look in Inside Time (the national newspaper for prisoners), or
- II. if you have internet access, use the Inside Time search tool by going to <https://insidetime.org/directory/categories/solicitors>, or
- III. visit the Law Society's Find a Solicitor website <https://solicitors.lawsociety.org.uk/> and use the quick search option "Crime" to find your nearest criminal law solicitor.

By choosing a law firm which belongs to the Criminal Litigation Scheme, your solicitor will meet the high standards set by the Law Society.

### 3.15 Does the CCRC represent me?

The CCRC does **not act as your lawyer**. Our job is to look into your case independently. This means that **we do not represent you**, but it also means that we do not represent the police, the prosecution or anyone else. **The CCRC is independent of everyone.**

### 3.16 If the CCRC reviews my case, will that stop my deportation?

Applying to the CCRC does not give you an automatic right to have deportation proceedings suspended. If we refer your case for an appeal, then your deportation may be stopped until the appeal is finished. If you are deported after you have applied to the CCRC, we can review your case. You must provide us with a contact address or email address.

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<sup>2</sup> Calls cost approximately 9p per minute from a landline. Calls from mobiles may cost more. If you are worried about the cost, you can request a call-back within 24 hours by either calling CLA or texting 'legal aid' and your name to 80010. The service operates Monday to Friday: 9am–8pm and Saturday: 9am–12.30pm. Outside these times, you should leave a message and CLA will call back within one working day.

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### 3.17 What will you do with my information?

- 3.17.1 If you apply to the CCRC we will use the information you give us to help us consider your case. This includes your personal information. This means that we may use the information you give us to get hold of material belonging to other organisations. This could be information about you. It could be information about another person. We will do this if we think it could have an impact on your case.
- 3.17.2 The CCRC has special legal powers<sup>3</sup> to get any material or information we need to look into a case. We can get the information even if organisations or individuals do not want us to have it. We can get case related information from the police or the courts. We can get information from other places like the NHS and social services. Once we have started looking into a case, **we will decide what material we need.**
- 3.17.3 We know how sensitive the information involved in our investigations can be. We always take great care of the information that we get when looking into cases. We try to get only what we need. We aim to keep the information only for as long as is reasonable.
- 3.17.4 We are very careful about how and when we share information about cases. We only share when it is allowed by the Criminal Appeal Act 1995, the General Data Protection Regulations, and the Data Protection Act 2018.
- 3.17.5 When we refer a case for appeal, the information relevant to the appeal is usually shared. It is shared with the applicant, the appeal court, and the prosecution. When we refer a case, we will usually tell the victim involved in the case.
- 3.17.6 When a case is referred for appeal, we usually issue a press release. The press release includes the reasons why it is being referred. We may also share information about the applicant with the Miscarriage of Justice Support Service which is a charity that offers help to people who have been wrongly convicted.

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<sup>3</sup> See 'CW-POL-27 Power to Obtain Material from Public Bodies (s.17)' and 'CW-POL-28 Power to Obtain Material from Private Bodies and Individuals (s.18A)' for further information.

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3.18 Who will decide on my case?

Our Commissioners make the decision whether to send a case back to the appeal court. Our Commissioners come from a range of professional backgrounds. Many are legally qualified. All have been chosen because of their experience. All have proven ability to make important decisions in complicated matters. Commissioners are appointed by The Queen on the advice of the Prime Minister.

3.19 How long will it take?

How long your case takes will depend on lots of things. A straightforward review might only take a few weeks. A more complicated review can take many months, and sometimes years.

**4 How will the CCRC communicate with me about my case?**

4.1 Most of the time we will write to you or your representative. If you have given us an email address, we will use that instead of the post.

4.2 We always send a letter in the post to acknowledge when an application has arrived. If you have applied to us and have not had a letter from us within two weeks, please get in touch again.

4.3 We will usually post a letter to tell you about any developments in your case. Please make sure we have the right address for you. Don't forget to tell us if your address changes or you move prisons.

4.4 There are rules on communicating with the CCRC from prison. These rules are set out in Prison Service Order 4400. If you have trouble with reading or writing, we will try to find a suitable way of communicating with you. We will also consider translating material into other languages where necessary - we will provide this for free.

4.5 How can I contact the CCRC?

You can phone the CCRC, but we like to have things in writing. We need a clear record of everything so that we can go back to it when we are thinking about your case. The CCRC contact details are at [para 3.2](#) of this document. If you phone us, we will make a written record of what we talked about.

4.6 Can I e-mail you?

You can only apply by email if you have scanned in your signed application form. You might prefer to use our online application form. After you have applied, you can contact us by e-mail to talk about your case.

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#### 4.7 Will you visit me?

In most cases we can find out everything we need to in writing, or on the phone. If we think we need to talk to you face to face we can arrange a video conference or meeting with you. We do not usually receive visitors at the CCRC office. If we decide that we do need to meet you, we will agree the meeting in advance.

## 5 What Happens After I Apply?

### 5.1 What will the CCRC do to investigate my case?

5.1.1 The CCRC was created specially to review cases where someone says they have been the victim of a miscarriage of justice. We have special legal powers<sup>4</sup> which mean we can get any information that we need from any public body in England, Wales and Northern Ireland.<sup>5</sup>

5.1.2 This means that we can get sensitive information from organisations like social services, the armed forces and intelligence agencies. We can obtain material that the police and the prosecution did not have to disclose to the defence (including Public Interest Immunity or PII material) and information from the Criminal Injuries Compensation Authority (CICA) and others.

5.1.3 We can also use our special legal powers<sup>6</sup> to obtain information from private bodies and individuals.<sup>7</sup>

5.1.4 We will use our special legal powers to get the information **we** think we need to review a case. We may use any information to review a case. We will always be very careful about releasing sensitive information to anyone outside the CCRC.<sup>8</sup>

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<sup>4</sup> Under section 17 of the Criminal Appeal Act 1995.

<sup>5</sup> See 'CW-POL-27 Power to Obtain Material from Public Bodies (s.17)' for further information.

<sup>6</sup> Under section 18A of the Criminal Appeal Act 1995.

<sup>7</sup> See 'CW-POL-28 Power to Obtain Material from Private Bodies and Individuals (s.18A)' for further information.

<sup>8</sup> See 'CW-POL-19 Disclosure by the CCRC' for further information.

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5.2 Do some cases get priority?

5.2.1 We look at cases in the order in which they arrive.

5.2.2 We also deal with cases of people under 21 years old as a priority.

5.2.3 There may be special reasons why a particular case should be looked at more urgently. These special reasons can be things like concerns about the health of the person applying, a serious illness affecting a potentially important witness, or something affecting how long evidence may last.<sup>9</sup>

5.2.4 The time to tell us about any special reasons in your case will usually be after we have written to you to say we will be reviewing your case.

5.3 Will the CCRC investigate everything I think it should?

The CCRC will look carefully at all the points made by an applicant or their representative. **We will decide** what enquiries we think are needed in each case. We will consider requests for particular investigations, but we will only carry out work if **we** think it will help the review. Our decisions about what investigations to do are always based on the relevance and potential evidential value of the work in question.

5.4 What if the CCRC decides not to send my case for another appeal?

5.4.1 If you think you have not been treated fairly, you can make a formal complaint to the CCRC up to 3 months after we have closed your case.<sup>10</sup> We will look at how the CCRC has behaved. We **cannot review your case again** under the formal complaint process.

5.4.2 If you think that there is something wrong with the way we made our decision, you can apply to the Administrative Court for a judicial review.<sup>11</sup> You do not have to complain to us before doing this. You should be aware that there are time limits in the judicial review processes. **You should seek independent legal advice** before pursuing this route.

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<sup>9</sup> See 'CW-POL-04 Case Review Process' for further information.

<sup>10</sup> See 'CW-POL-12 Complaints' for further information.

<sup>11</sup> See 'CW-POL-13 Judicial Review' for further information.

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- 5.4.3 **You can re-apply to the CCRC.** If you have some significant new evidence or argument which has not been considered at trial, on appeal or in any earlier applications to the CCRC you can make a re-application. You will need to complete a new application form to tell us what is new. You also need to tell us why it wasn't included in your earlier application.
- 5.5 For further information about how we review your case, see 'CW-POL-04 Case Review Process' which is available for free from our website.

## 6 Applications on behalf of Deceased Persons

- 6.1 [text deleted]<sup>12</sup>
- 6.2 The CCRC **may** refer the conviction of a person who was convicted in the **Crown Court** and who has died, or who dies during our review. However, we can only refer such a conviction if we determine that there is a person who would be approved by the Court of Appeal to pursue the appeal.<sup>13</sup>
- 6.3 An approved person is someone within one of the following categories:<sup>14</sup>
- a) the widow or widower or surviving civil partner of the deceased;
  - b) the 'personal representative' of the deceased;<sup>15</sup> or
  - c) any other person appearing to the Court to have, by reason of a family or similar relationship with the deceased, a substantial financial or other interest in the determination of the appeal.

**Without an approved person, there can be no appeal** so there is no point in the CCRC carrying out a review.

- 6.4 Do any time limits apply?  
No, time limits do **not** apply in respect of CCRC referrals.<sup>16</sup>

<sup>12</sup> [text deleted]

<sup>13</sup> Section 44A(1)(b) Criminal Appeal Act 1968.

<sup>14</sup> As stated in section 44A(3) Criminal Appeal Act 1968.

<sup>15</sup> Within the meaning of section 55(1)(xi) Administration of Estates Act 1925.

<sup>16</sup> By virtue of section 44A(4) Criminal Appeal Act 1968.

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## 6.5 Death of the applicant after submitting an application

- 6.5.1 Occasionally an applicant dies after applying to the CCRC, but before a decision has been made. Whether the case is awaiting allocation or under review, efforts will be made to find out if there is a close relative interested in pursuing the application.
- 6.5.2 A close relative is usually a parent, sibling, spouse, partner, or child. A Commissioner will consider whether the Court of Appeal is likely to approve the relative in the event of a referral. If it appears that there is someone who is likely to be an approved person, and they have an interest in pursuing the application, the CCRC will proceed with the review.
- 6.5.3 If there is no close relative who wishes to pursue the application, or none can be contacted, then the case will be closed as a decision not to refer, without the need for a provisional decision.

## 6.6 Discretion

The CCRC has a discretion not to refer a case for appeal even when there is a real possibility that the conviction, verdict, finding or sentence would be quashed. Whenever the case of:

- I. A person who was deceased at the time of the application or
- II. A person who died after an application was submitted

is being considered by the CCRC, the general principles described in 'CW-POL-07 The Discretion to Refer' will apply.

## 7 **Linked Cases: Co-Defendants and Other Potential Applicants**

- 7.1 Most of our reviews result from applications from, or on behalf of, a convicted person. However, the CCRC may become aware of information which brings into question the safety of a conviction where there has been no application for review.
- 7.2 Similarly, the CCRC may become aware that cases are linked by a common connection, such as co-defendants, a material witness, or a point of law. The CCRC may consider reviewing such cases together or will take steps to initiate an application where it feels that it would be in the public interest to do so.

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7.3 The CCRC will not invite an application unless it believes that the person concerned is, or might be, unaware of circumstances that might lead to a real possibility that his/her conviction (or sentence) might be quashed.

7.4 In exceptional cases the public interest may override the wishes of the convicted person, but the CCRC will not generally review a case without the agreement of the convicted person.

### 7.5 Co-defendants

7.5.1 Where co-defendants apply to the CCRC their cases will usually be reviewed together, even if they do not say the same things in their application.

7.5.2 On receipt of any new application, the CCRC will check any named co-defendants against a list of existing applicants. Where there is a match, it will generally be appropriate for the two cases to be linked.

7.5.3 Where one (or more) case(s) has already been referred to an appeal court, the Casework Operations Director (COD) will usually prioritise any later applications from a co-defendant(s), providing there is a real possibility of those reviews being concluded before the referred case is decided by the court. The COD will ensure that the appellate court is informed that a co-defendant's application has been received and is under active review.

7.5.4 Where one case is referred and it appears, as a result, that a co-defendant should be invited to apply to the CCRC, the Case Review Manager will notify the COD so that appropriate action can be taken.

### 7.6 Other linked cases

Where it appears that one or more cases are linked by a common connection, the COD will make suitable arrangements for co-ordinating those cases, including liaising with other public bodies as appropriate.

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## Appendices

None

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### Relevant CCRC Documents

Q-POL-01	CCRC Quality Policy
CW-POL-04	Case Review Process
CW-POL-06	Exceptional Circumstances
CW-POL-07	The Discretion to Refer
CW-POL-12	Complaints
CW-POL-13	Judicial Review
CW-POL-19	Disclosure by the CCRC
CW-POL-26	Assisting the Royal Prerogative of Mercy (s.16)
CW-POL-27	Power to Obtain Material from Public Bodies (s.17)
CW-POL-28	Power to Obtain Material from Private Bodies and Individuals (s.18A)

### Legal Documents (available for free from [www.legislation.gov.uk](http://www.legislation.gov.uk))

Administration of Estates Act 1925

Criminal Appeal Act 1968

Criminal Appeal Act 1995

Data Protection Act 2018

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### Document Control

Document author: Head of Quality

Issue authorised by: Casework Operations Director

### Version History

Date Issued	Version	Brief Details of Change	DCR
15/07/2021	1.0	First Issue	21-04
22/11/2022	2.0	Amend: 3.2 (plus new footnote 1), 3.13, 3.14, 7.3. New: 6.1, 6.2.	22-17
03/07/2023	3.0	Remove: 6.1 and footnote 12	23-26

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