

# CCRC

Criminal Cases Review Commission

**Annual Report and Accounts**

2012/13

# Criminal Cases Review Commission Annual Report and Accounts **2012/13**

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Criminal Appeal Act 1995.

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**CCRC**  
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# Our vision:

is to give hope and bring justice to those wrongly convicted, to enhance confidence in the criminal justice system and, based on our experience, to contribute to reform of and improvements in the law.

# Our purpose:

is to review possible miscarriages of justice in the criminal courts of England, Wales and Northern Ireland and refer appropriate cases to the appeal courts.

# Our overall aims:

- are to investigate cases as efficiently and effectively as possible with thoroughness and care
- to work constructively with our stakeholders and to the highest standards of quality
- to treat applicants, and anyone affected by our work, with courtesy, respect and consideration
- to promote public understanding of the Commission's role

# Our values:

- independence
- integrity
- impartiality
- professionalism
- accountability
- transparency

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## Chair's Foreword

The last year has seen a substantial increase in the number of applications to the Commission, particularly amongst the most vulnerable and hard to reach, as a direct consequence of initiatives undertaken by the Commission. I am pleased to report that as a result the Ministry have increased our budget and we will be able to spend nearly half a million pounds more on casework in 2013/14 than we spent last year. I am also pleased to report that we passed our recent Triennial Review with flying colours.

In 2012/13 we saw the departure of Commissioners John Weeden and Mike Allen who had both completed the maximum ten years of service. Their contributions during that period were enormous and both are greatly missed at the Commission.

In popular fiction the wrongly accused stoically faces their fate until, at the eleventh hour, the master detective reveals the villain's identity and "their one little mistake" and thereby prevents a terrible miscarriage of justice.

The reality is more prosaic but more troubling. Most miscarriages occur because investigators and lawyers make often quite basic mistakes. Obvious lines of enquiry are not pursued. Evidence already in an investigator's possession is overlooked or its significance is not realised. Experts get it wrong or stray beyond their areas of competence. Lawyers do not ask the right questions or simply get the law wrong.

Of course witnesses can be in error or commit perjury, juries can make mistakes, new science can shed new light and so on. But most miscarriages of justice occur simply because of avoidable mistakes by the professionals involved. The biggest single cause of miscarriages is the failure to

disclose to the defence material to which they were entitled and which, had they had it, might have led to a different outcome at trial or to no trial at all.

The Court of Appeal has commented in the case of Mohammed<sup>1</sup> (2010) and most recently in the case of Bismark<sup>2</sup> (2013) on the failure of defence lawyers to advise genuine refugees on the scope of the potential defences under the law. Yet last year alone, the Commission received 56 applications raising issues of asylum and immigration and human trafficking. We referred four such cases last year and have so far referred five more this year with another 27 under review and 28 more in the queue.

I am talking about people who really are fleeing from serious persecution, who may have good reason to fear for their very life, or who come from countries which have no recognised government or where it is impossible to obtain a passport or exit visa, yet who have been prosecuted and convicted for not having the right documents. Or who have been trafficked into this country, sometimes as children, and forced to work in the sex industry or as slaves. And I am talking about cases where it is obvious that this was so and that no prosecutions should have been brought, let alone succeeded, and yet where no one, not the UKBA, police, prosecution or defence lawyers spotted these obvious facts and their significance.

Allegations of rape and sexual assault must always be taken seriously, whether made by children or adults. In fact, there are simple checks which can usually establish very quickly whether complainant credibility might be an issue for consideration. Checks of police data bases to see whether the complainant has made untrue complaints

<sup>1</sup> R v Mohammed [2010] EWCA Crim 2400

<sup>2</sup> R v Bismark [2013] EWCA Crim 384

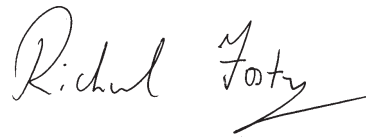
about others in the past. We frequently carry out such checks and it is a matter of considerable concern when we discover convictions where the prosecution team have not done this themselves.

We referred three cases based on such credibility issues last year and expect to refer a similar number this year.

Apart from the personal trauma to the accused and to any victim or victim's friends and relatives when convictions occur and are subsequently quashed, which can be huge and devastating, there is also the financial cost. The financial cost of getting it right in the first place is considerably less than the

financial cost of getting it wrong and then having to correct the mistake. The human cost may never, of course, be recoverable.

And, to make an obvious point, failure can cut both ways. If most miscarriages seen by the Commission come about from professional shortcomings, how many of those who should have been brought to justice, to pay a penalty which reflects their criminality, escape justice for the same reasons?

A handwritten signature in black ink that reads "Richard Foster". The signature is written in a cursive, flowing style.

**Richard Foster CBE** Chair

## Chief Executive's Introduction

It has been an extremely challenging year both in terms of finances and of the dramatically different casework environment in which we have been operating.

We worked hard throughout the year doing everything we could to refine our processes to stay within budget and continue to deliver a good service to applicants. We have had to balance a tight budget with a potentially overwhelming increase in new applications. In recent years the number of applications to the Commission has averaged around 900 a year. During 2012/13 we saw a staggering increase in new cases as a result of making ourselves more accessible. Last year we received 1,625 applications compared to 1,040 in 2011/12 and we have seen meritorious applications from some of the most vulnerable sectors in society.

We are pleased and relieved that our efforts to work within budget, while dealing with the significant increase in workload, have been recognised and thanks to an increase in our budget we aim to spend almost half a million pounds more on casework in the year ahead. The increase means that, for the first time in many years, we begin a business year looking to appoint more front line staff as we continue to look for ways in which to use our resources for the benefit of applicants.

To start the year in this improved position provides a welcome contrast to our situation at the start of 2012/13 when, with great regret, we said goodbye to some key members of staff as part of a voluntary redundancy package. It is much to the credit of those concerned that their commitment and professionalism shone through during what was undoubtedly a very difficult time for them personally.

During 2012/13 we also had to contend with the loss of two hugely experienced Commissioners who reached the end of their ten-year appointments. However, we also saw the appointment of four new part-time Commissioners.

Another challenge during 2012/13 was the Triennial Review of the Commission overseen by the Cabinet Office. We are of course extremely pleased that the evidence gathered at the public consultation stage of the review supported the continued existence of the Commission and that the final report, published on 6th June 2013, is a strong endorsement of the work we do here. The report raises some questions about our governance structure and that is something upon which we will be reflecting in the year ahead. The majority of the substantial amount of work required of us by the Triennial Review fell to the senior management team; I owe them a debt of gratitude for the way in which they juggled work on the review with ensuring that our day-to-day operations ran smoothly.

The positive outcome of the Triennial Review and the improved budget settlement represent significant votes of confidence in the work of the Commission. We were also delighted that the Commission has been exempted from changes to branding arrangements that will see government departments and most non-departmental public bodies required to adopt the same logo and branding. This was a very real concern for us; we considered that our inclusion in the new branding arrangements would have represented an erosion of our independence from government and would have made it harder for applicants to identify and access the Commission.

Looking forward, the challenge for us, even with our improved financial settlement, will be to ensure that we continue to deal with our increased caseload and maintain the high standards expected of us. In order to meet that challenge, I will be relying, as I have relied in 2012/13, on the energy and dedication of the uniquely skilled and experienced group of people with whom I am privileged to work.



**Karen Kneller** Chief Executive



## Section One

# Directors' Report

## Commissioners

Commissioners are appointed by the Queen on the recommendation of the Prime Minister. Each Commissioner is appointed for a period of up to five years and can if re-appointed serve for a maximum of ten years.

At the end of March 2013 there were ten Commissioners including the Chair, Mr Richard Foster CBE.

During 2012/13 four new Commissioners were appointed and three stepped down. The appointments of Angela Flower, Celia Hughes and Ranjit Sondhi were formally announced to Parliament on 4th December 2012. Paul Mageean's appointment was announced on 20th December 2012. Mr Michael Allen and Mr John Weeden CB both completed the maximum period of ten years as Commissioners during 2012. Miss Angela Flower, who had worked at the Commission since 1997 as a Case Review Manager and as a Legal Advisor before being appointed Commissioner, left in February 2013 in order to take up a post as a full time Judge of the Mental Health Review Tribunal.

On 4th March 2013, Deputy Chairman Alastair MacGregor was appointed by the Home Secretary as the first Commissioner for the Retention and Use of Biometric Material. The appointment meant that from that date onwards Mr MacGregor's working week at the Criminal Cases Review Commission reduced from five days to two.

During the year 2012/13, the Commissioners were:

Mr Richard Foster CBE (Chair)  
Mr Alastair MacGregor QC (Deputy Chair)  
Mr Michael Allen (until 1st September 2012)

Ms Penelope Barrett  
Mr James England  
Miss Angela Flower (appointed 12th November 2012, resigned 28th February 2013)  
Miss Julie Goulding  
Ms Celia Hughes (appointed 12th November 2012)  
Mr Paul Mageean (appointed 21st January 2013)  
Mr Ian Nichol  
Mr Ewen Smith  
Mr Ranjit Sondhi CBE (appointed 12th November 2012)  
Mr John Weeden CB (until 1st September 2012)

## Non-executive directors

The Commission had two non-executive directors during 2012/13. They were Dame Anne Owers DBE and Dr Maggie Semple OBE, FCGI.

## Directors

During 2012/13 the Directors of the Commission were: Miss Karen Kneller, Chief Executive and Accounting Officer (interim Chief Executive from April until her appointment as the Chief Executive in February 2013), Mr Colin Albert, Director of Finance & IT, and Mr Matthew Humphrey, (interim) Director of Casework. Together they comprised the Senior Management Team responsible for the day-to-day running of the Commission.

## Code of Best Practice

The Commission adopted a Code of Best Practice for Commissioners at its first meeting in January 1997. This code was revised in 2012 in light of the Cabinet Office Code of Conduct for Board Members of Public Bodies and it was decided to merge the Staff Code of Conduct with the Commissioner Code of Conduct. The

resulting Code of Conduct for Commission Board Members and Employees sets out the standards of personal and professional behaviour and propriety expected of all Board members and members of staff. The key principles on which the code is based are the Seven Principles of Public Life also known as the Nolan principles. The Code of Conduct for Commission Board Members and Employees includes a commitment to maintain a register of Commissioners' interests and to make that register available for inspection at the Commission by appointment.

## Risks and uncertainties

The Commission's systems of internal control have been designed to manage the risks faced by the Commission in order to safeguard its assets against unauthorised use or disposition, to maintain proper accounting records and to communicate reliable information for internal use or publication.

## Audit and Risk Committee

This Committee ensures high standards of financial reporting and proper systems of internal control and reporting procedures. It reviews internal and external audit reports on behalf of the Commission. The Committee is chaired by Commission non-executive director Dr Maggie Semple.

## Auditor

Arrangements for external audit are provided for under paragraph 9 of Schedule 1 to the Criminal Appeal Act 1995, which requires that the Comptroller and Auditor General examine, certify and report on the statement of accounts. The report, together with the accounts, is laid before each House of Parliament.

No remuneration was paid to the auditor for non-audit work during the year. As far as the Accounting Officer is aware, there is no relevant audit information of which the Commission's auditor is unaware.

The Accounting Officer has taken all the steps which she ought to have taken to make herself aware of any relevant audit information and to establish that the Commission's auditor is aware of that information.

## Personal data related incidents

The Commission takes very seriously its responsibilities to protect personal data relating to applicants, witnesses, victims and others. Section 23 of the Criminal Appeal Act 1995 makes it an offence to disclose any information obtained by the Commission in the exercise of its functions except in very specific circumstances. There were no personal data related incidents in 2012/13, or in any previous year, which had to be reported to the Information Commissioner or were otherwise recorded as being of significance.

## Expenses of Commission Chair and Chief Executive

The total expenses claimed in 2012/13 by the Chair was £569. The total claimed by the Chief Executive was £450.



**Karen Kneller**  
Chief Executive  
26/06/2013

## Section Two

# Casework

We have seen an unprecedented number of applications this year. This has been driven by the introduction of the Easy Read application form and the work that we have done in drawing attention to convictions affected by the Refugee Convention, the Immigration and Asylum Act 1999 and/or the Asylum & Immigration (Treatment of Claimants) Act 2004.

One of the challenges in 2012/13 has been to maintain our casework performance against a continuing background of diminishing resources and the surge in application numbers. It is satisfying to be able to report that, whilst waiting times have grown, the growth has been limited because we have closed many more cases than we did in 2011/12.

We ended 2012/13 with 38 individual Case Review Managers (CRMs) in post making a Full Time Equivalent (FTE) of 34.48. That is five more (3.98 FTE) than we started the year with. The increase was due to the use of an underspend generated from in-year savings that allowed us to employ a number of CRMs on fixed-term contracts. The underspend was largely attributable to delays associated with the appointment of new Commissioners. We managed for half of 2012/13 with only eight Commissioners. Although the number of Commissioners at the end of the year stood at ten, a greater proportion of them are now part time. It is remarkable that we have coped as well as we have with so few resources in these key areas; that we have been able to do so is thanks to the hard work and dedication of staff and Commissioners.

We expressed concern in the last two Annual Reports that we expected to see the Commission's financial situation deteriorate further and that we anticipated we would struggle to maintain performance – and so it proved. We are delighted to now find ourselves facing 2013/14 with an increase

in our funding settlement that will allow us to recruit additional frontline staff. Even with these much needed new staff we will have to work hard to avoid longer waiting times and longer reviews for our applicants.

The Commission's casework performance is monitored using a set of Key Performance Indicators, or KPIs. The casework KPIs are discussed below and are set out on pages 68 and 69 of this report.

### **Time from receipt to allocation**

We appreciate how important it is for applicants to know that we are addressing the issues in their case. KPI 1 monitors the average time taken for an application to be allocated to a CRM for review, and gives an indication of how long applicants are having to wait before their case review is started. Our target for KPI 1 is to allocate cases where the applicant is at liberty within less than 18 months from receipt of application. Where the applicant is in custody, we aim for less than six months. In 2012/13 the actual average time was nine months for at liberty cases and 6.4 months for custody cases. The substantially shorter time for at liberty cases was largely due to a large number of at liberty cases that were prioritised this year. We have set ourselves a more ambitious target for at liberty cases for the next business year.

### **Time from allocation to provisional decision**

We aim to review cases quickly and thoroughly. KPI 2 monitors the average time taken for an application to be reviewed. We aim for review cases to reach the provisional decision stage within an average of 40 weeks of being allocated to a CRM. For cases where the applicant has not yet sought an appeal (No Appeal cases) and cases where the issues raised in the application do not require a lengthy review (Fast Track cases) the target is 15 weeks. At the end of March 2013, the average time taken for a review case was 37.6 weeks. No Appeal and Fast Track cases took an average of 16.3 weeks.

It is worthy of note that 47% of applications received this year have been No Appeal cases. The Commission can only refer a No Appeal case to an appeal court if, in addition to the “real possibility” threshold test that applies in every case, it finds there are exceptional circumstances for doing so.

We introduced new procedures in late 2012 to identify and deal promptly with those No Appeal cases where it was clear that there were no identifiable exceptional circumstances that would allow us to refer the case while a right of appeal remained. Around half of the No Appeal cases closed in 2012/13 were dealt with using these new, quicker, procedures. As with all No Appeal cases, we wrote to the applicants explaining why their case would not be reviewed while a right of appeal remained and advising them that they could apply to us again if they needed to once their conventional rights of appeal had been exhausted.

### **Caseflow balance**

KPI 3 shows how the overall number of cases completed in a year compares with the number of applications received. If the number of cases received is greater than the number dealt with in a year, queues and waiting times may well increase; if the number is smaller they may well decrease. During 2012/13 we completed 351 fewer cases than we received. For comparison, in 2011/12 we completed 162 fewer cases than we received. The fact that there is a significant difference between cases received and the number closed is a consequence of the increase in the number of applications received during 2012/13. This year we received 1,625 applications; 585, or 64%, more than in 2011/12 (which itself saw a 10.3% increase on 2010/11). This is directly attributable to the Commission’s deliberate efforts to ensure that more of those who want to reach us can do so.

### **Quality Assurance**

The quality of our casework is something the Commission takes extremely seriously. This year we created a new performance indicator,

KPI 5, to provide a measure of quality in addition to our KPI on complaints and judicial reviews. The process involves randomly sampling closed cases and looking at them afresh. Of the 76 cases we sampled in 2012/13, it was decided that further work should be done on one case. This was a sentence case and having carried out the further work it was clear that the sentence was appropriate and the original decision correct. The quality assurance process is also a good way of identifying issues of good practice which can then be promulgated across the organisation as well as providing substantial assurance regarding our approach to casework and the application of our policies and procedures.

### **Referrals**

Since starting work in 1997 the Commission has on average referred 32.4 cases a year to the appeal courts at a long term referral rate of 3.47%. In 2012/13 we referred 21 cases; one fewer than in 2011/12. It means that in 2012/13 we referred 1.6% of the 1,269 cases concluded during the year. For comparison, the referral rate in 2011/12 was 2.5%, in 2010/11 it was 2.3% and in 2009/10, when we referred 31 cases, it was 3.5%.

In 2012/13 69.2% of Commission referrals decided by the appeal courts were allowed. This means that since 1997, when the Commission started work, 70.2% of appeals following a Commission referral have been allowed.

Several factors have influenced the relatively low number of referrals and the referral rate this year. The most significant factor, particularly in relation to the referral rate, has undoubtedly been the large increase in the number of applications that followed the introduction of the Easy Read application.

We introduced the form in an effort to make the Commission more accessible, particularly to people who have difficulty with reading and writing. While the clear aim was to increase

the number of referable cases, it was recognised as inevitable that deliberately widening the search in this way would also drive a substantial increase in the number of cases that could not be referred.

We have largely kept pace with the increased caseload in terms of identifying and appropriately concluding in a timely fashion those cases where it was clear that there was no prospect of a referral. However, by definition, it takes much longer to deal with those cases where it seems possible that, upon further investigation, there may be some prospect of a referral to an appeal court. As the KPI data shows, such cases, including any cases destined to be referred, will only rarely be assessed, allocated and investigated to a conclusion within the same year in which the application was received. Because referrals lag in this way, we believe it will be another year at least before we are able to properly assess the impact on referrals and referral rates of our efforts to make ourselves more accessible.

The Commission has always reported its referral rate as a percentage of the total number of cases closed and will continue to do so. When considering rates of referral it is perhaps worth bearing in mind what the calculation involves. The figure for the total number of cases closed includes every single application received by the Commission regardless of whether or not it comes under the statutory remit defined by the Criminal Appeal Act 1995.

This means that the total cases figure used in the calculation includes those no appeal cases where applicants have not appealed and where there are no exceptional circumstances that would allow us to refer the case while a right of appeal remained. In any given year those cases account for around 40% of the total applications to the Commission. If cases of this type are removed from the calculation, along with reapplications that raise no new grounds, and cases that are ineligible because they relate

to matters outside of our jurisdiction, the Commission's long-term referral rate can be expressed as approximately 7.5%.

In our last Annual Report and Accounts, we discussed our having identified a series of cases where refugees or asylum seekers have been prosecuted for offences relating to their entry to the UK, such as having a false passport or no passport at all. International law prohibits such prosecutions where people are fleeing persecution and UK law provides defences designed to protect people in this position. We referred several of these types of cases in 2011/12. Linked to this is the protection offered to victims of human trafficking by the Council of Europe Convention on Action against Trafficking in Human Beings. We have made a concerted effort this year to disseminate information to other agencies and organisations (including the Crown Prosecution Service, Law Society and relevant prisons) about these topics. This work is continuing. We have received a substantial number of applications relating to convictions of these types, some have been referred for a fresh appeal.

## Analysis of referrals to the appeal courts in 2012/13

(see table on pages 65-67)

The referral of four cases during 2012/13 - those of Messrs Bashir, K, L and Ms Estifanos - represent the continuation of a theme highlighted in last year's report.

All of these cases involve people who entered the UK as asylum seekers or refugees, and who were prosecuted, convicted and imprisoned for offences linked to their entry to the UK, such as not having the correct travel documents. All pleaded guilty, but none was advised that they may have had a defence available to them.

Two of these cases, those of Mr Bashir and Mr L, involved possession of a false identity

document with intent, contrary to section 25(1) of the Identity Cards Act 2006. They were referred to the Court of Appeal on the basis that each was a refugee who was advised to plead guilty in circumstances which deprived him of a defence under section 31 of the Immigration and Asylum Act 1999, and where that defence would probably have succeeded.

Another of the cases was that of Nebiyat Estifanos, whose conviction was referred to Isleworth Crown Court. The facts are similar to those of Tesfagabir in which the guilty plea was vacated following a Commission referral (see 17).

Ms Estifanos pleaded guilty to failing to produce a passport contrary to section 2 of the Immigration and Asylum (Treatment of Claimants) Act 2004 at Uxbridge Magistrates' Court in May 2006. She was sentenced to three months' imprisonment.

The Commission considered whether an appeal of this conviction in the Crown Court would succeed in light of the decisions in *Soe Thet v Director of Public Prosecutions* [2006] EWHC Admin 2701 and *R v Mohammed and Osman* [2007] EWCA Crim 2332 which established the proper interpretation of section 2 of the 2004 Act. The Commission concluded that there was a real possibility that Ms Estifanos' appeal would succeed in that she had a reasonable excuse for not producing a genuine immigration document (pursuant to section 2(4)(c) or 2(6)(b) of the 2004 Act) because of the fact that she was persecuted because of her Pentecostal Christian religion by the Eritrean authorities and was therefore unable to obtain a passport.

### **Other convictions**

Of the 21 cases the Commission referred this year, four were murders, two were robberies, one was arson, two involved illegal firearms, and one involved attempted rape. These figures broadly reflect the position in previous years. Those observers who have suggested that the Commission should forego the

requirement to review Magistrates' Court convictions may wish to reflect on the fact that a significant number of the cases falling into the 'asylum' group mentioned above are not only convictions from Magistrates' Courts, but also arise from guilty pleas, from which there is no right of appeal and would not be remediable but for the Commission's intervention.

Another of the Commission's referrals this year was in the case of J, which concerned the issue of offences committed by victims of 'human trafficking'. In 2012, J, a 17 year old Vietnamese man, was arrested at a property which had been adapted for the purpose of growing cannabis. Later, at Youth Court, he pleaded guilty to the production of cannabis. J was sentenced to a six month Detention and Training Order.

Around the time of his prosecution J told the Youth Offending Team that he had been in the UK for two months having travelled here by lorry via Russia and France, that he had been forced to grow cannabis and that when he tried to escape he was caught and beaten.

The Commission referred J's conviction on a number of grounds, including that there was new evidence to show that J was a credible victim of human trafficking and that he was compelled to commit a criminal offence as a direct consequence of his trafficked situation. The Commission also noted that, despite the fact that there was material available at the time of J's conviction which should 'plainly have raised at least the apprehension' (as the Court later described it) that J had been trafficked to the UK, neither the police, the defence, the prosecution nor the Youth Court instigated any further enquiries. Indeed, the Commission argued in its referral that J's prosecution amounted to an abuse of process and that to allow his guilty plea to stand would result in a clear injustice.

The practices of now discredited and disbanded police squads occasionally feature in our referrals. Martin Foran's case was

referred in December 2012 and arose out of the practices of the West Midlands Police Serious Crime Squad. Mr Foran was convicted in 1985 of robbery and conspiracy to rob, and sentenced to a total of eight years' imprisonment.

It emerged that an officer involved in his case had been heavily criticised by the Court of Appeal (in another case) and that the officer concerned was also involved previously in *R v McIlkenny & Others* (the Birmingham Six case). The Commission also recognised that since Mr Foran's appeal, the case law in this area has developed. Mr Foran's conviction was quashed in April 2013.

The Supreme Court and the European Court of Human Rights are bodies to which many of the Commission's applicants make reference in their submissions to us. The case of Ali Tahery has been considered by both of these institutions.

Mr Tahery was convicted of wounding with intent at Blackfriars Crown Court. The full Court of Appeal dismissed his appeal against conviction on 24th January 2006. He applied to the European Court of Human Rights ('ECtHR') alleging that the judge's decision to allow a statement to be read from an absent witness - whose evidence was central to the prosecution case - violated his rights under Article 6 of the European Convention of Human Rights. In 2009 the Fourth Section of the ECtHR ruled that the reading of the statement to the jury had violated Mr Tahery's rights under Articles 6(1) and 6(3) of the Convention. Mr Tahery applied to the Commission citing that decision in support of his application. However, during this first Commission review, in *R v Horncastle and Ors* [2009] UKSC 14 the Supreme Court considered and responded to, and expressed its disagreement with, some of the reasoning underlying the decision of the Fourth Section in relation to Mr Tahery. It invited the Grand Chamber to reconsider the decision in light of its own reasoning.

The decision of the Fourth Section was then referred to the Grand Chamber of the ECtHR and on 15 December 2011 the Grand Chamber gave its judgment. Although the Grand Chamber departed from some of the reasoning of the Fourth Section, it unanimously held (agreeing with the Fourth Section) that Mr Tahery's Article 6 rights had been violated by the judge's decision to allow the statement to be read to the jury. In April 2012, Mr Tahery applied again to the Commission, this time relying on the Grand Chamber's judgment. The Commission referred Mr Tahery's conviction on the basis that the Grand Chamber's judgment raised a real possibility that the Court of Appeal would quash Mr Tahery's conviction.<sup>3</sup>

Complainant credibility continues to represent a significant feature in a number of Commission referrals. In the sexual assault case of H, the Commission considered Social Service records concerning the complainant and uncovered new evidence which significantly undermines the complainant's credibility.

In E, a so-called 'care home' sexual abuse case, the 2001 conviction related to events which occurred in the 1970s. The referral was based on fresh evidence in that relevant Social Services material was not disclosed, and on new legal argument concerning i) the practice of charging indecent assault where the facts alleged comprised unlawful sexual intercourse, but that offence was time-barred; and ii) delay and the loss of records which might have resolved an issue as to whether the offence could have taken place within the time-frame alleged.

In the sexual assault case of G, the Commission referred because of the inadequacy of the Judge's directions on recent complaint evidence. The Judge failed to direct the jury expressly that (under section 120 of the Criminal Justice Act 2003) they could treat the evidence of a previous statement as going to the truth of its contents and that the evidence was not independent

<sup>3</sup> Mr Tahery's conviction was quashed on 6 June 2013

because it came from the complainant. This misdirection was held to be fatal to the safety of the conviction in *A(A)* [2007] EWCA Crim 1779.

Omar Benguit was convicted in January 2005 of the murder of Jong-Ok Shin and sentenced to life imprisonment. The Commission identified new evidence which we considered potentially undermined the credibility and reliability of the principal prosecution witness. Also discovered was new evidence and material which, had it been known at trial, would have enabled the defence to suggest that an alternative suspect - a convicted murderer - had been responsible for the murder.

In the case of Victor Nealon the Commission referred an attempted rape conviction on the basis of new evidence. Fresh analysis of the clothing of the victim established the presence of DNA of an unknown male. This evidence could have been deployed by the defence at trial had it been known about at the time and, in the context of the other evidence, could have been significant.

Non-disclosure continues to feature in Commission cases. In the murder and wounding with intent case of Kevin Cole, the Commission referred on the basis that the non-disclosure of a prior description of the offender provided by the main identifying witness, and of a significant admission of a co-defendant in interview prior to Mr Cole's ID parade, deprived him of properly informed advice. It also prevented the trial judge from being able to direct the jury properly as to *Turnbull*. The Commission concluded that these issues raised a real possibility that the Court would overturn Mr Cole's conviction.

### **Sentence only**

The Commission made five sentence-only referrals in 2012/13.

The case of F involved a sentence of imprisonment for public protection ("IPP"), a type of sentence no longer available since the coming into force of the Legal Aid,

Sentencing and Punishment of Offenders Act 2012 ('LASPO').

F pleaded guilty to wounding with intent and received an IPP sentence. In spite of long-standing concerns about his mental health, F had a history of not engaging with psychiatric services and assessments. This prevented a firm diagnosis being made. The court had a psychiatric report which stated that F did not meet the criteria for a hospital order under section 37 of the Mental Health Act 1983. However, in July 2007, F was transferred from prison to hospital under section 47 of the Mental Health Act, with a restriction order under section 49. He was diagnosed by two doctors as suffering from a personality disorder. F's mental health deteriorated to the point where he was detained in conditions of high security.

The Commission obtained material from prison files, the Ministry of Justice mental health unit and reports from two experts, both of whom concluded that F was suffering from a personality disorder (and met the criteria for a hospital order) at the time of his sentence, and that he continues to meet the criteria for a hospital order. The Commission referred F's sentence on the basis that there was a real possibility the Court would substitute a hospital order for the IPP sentence.

Similar considerations applied in the case of Sharon Logan, also referred this year. She was sentenced to life imprisonment for arson. The Commission considered that there was a real possibility of the Court substituting a hospital order. Quashing the life sentence and imposing instead a Hospital Order, the Court said:

*We do not intend to waste precious time and resources in analysing further the reasons why a wrong diagnosis was made. To a large extent, the CCRC has done that job for us in its customary thorough fashion.*

The mandatory minimum term for possession of a firearm was much discussed in the media during 2012/13 in relation to the case



of Sergeant Danny Nightingale. That was not a Commission case, but we did in November 2012 refer to the Court of Appeal the mandatory sentence imposed on Hainsley Dixon who had pleaded guilty to possession of a firearm in November 2010 at Birmingham Crown Court. The judge concluded that there were no exceptional circumstances in her case and imposed the mandatory minimum term of five years' imprisonment.

The Commission referred Miss Dixon's sentence on the basis that there was a real possibility the Court would conclude that the imposition of the mandatory term was arbitrary and disproportionate within the meaning attributed to that phrase in *R v Rehman and Wood* [2006] 1 CR App R (S) 77 and *R v Boateng* [2011] EWCA Crim 861. The case of Boateng was decided a few days after Miss Dixon's first appeal. The facts were similar to those of Miss Dixon's case in that Miss Boateng had no idea what was in the bag left by a friend at her home. In *Boateng*, the Court concluded that this amounted to exceptional circumstances allowing the imposition of a lesser term than the mandatory five years' imprisonment.

The case of James Muldoon concerned the impact on sentence calculation of section 240 of the Criminal Justice Act 2003, in relation to the period that Mr Muldoon spent on remand. The Commission anticipates seeing fewer of these cases since the coming in to force of the LASPO Act, which allows for such sentence corrections to be made administratively.

The case of David Hackett concerned the assumptions to be applied (or not) contained within section 72A of the Criminal Justice Act 1988 (as amended) when considering the making of a Confiscation Order.

### **Northern Ireland**

Two matters arising out of the "Troubles" were referred this year.

One was the well known case of Martin McCauley. Mr McCauley was convicted for

unlawful possession of firearms at Belfast Crown Court in 1985. This related to a shooting, by officers of the Royal Ulster Constabulary, of Mr McCauley and another man (who died) in a hay barn in Lurgan, County Antrim. The firearms of which Mr McCauley was found to be in possession were recovered from the barn. The Commission referred the case to the Court of Appeal in Northern Ireland on the basis of sensitive information which could not be publicly disclosed, but which gave rise to a real possibility that the Court of Appeal would overturn Mr McCauley's conviction.

The other was the case of Patrick Livingstone who was convicted of murder at Belfast Crown Court in 1977. The basis of the referral was fresh evidence which should have been disclosed at the time, which was relevant to the credibility of the officers to whom Mr Livingstone was said to have confessed.

## Analysis of appeal court decisions in 2012/13

The 26 referrals dealt with by the courts during 2012/13 were cases which had been referred by the Commission over several years; relatively few were referrals made in 2012/13.

### **Conviction cases**

Perhaps the most high-profile decision this year was in the case of Sam Hallam (*R v Hallam* [2012] EWCA Crim 1158). It was a case in which there had been a substantial and sustained campaign by the family and supporters of Mr Hallam who was convicted of murder in 2005 after a young man was killed during group disorder in Islington, London. Mr Hallam was 17 at the time of the murder. He appealed against his conviction but the appeal was dismissed. He applied to the Commission in 2008. The Commission's in-depth and long-running investigation involved the appointment, under s.19 of the Criminal Appeal Act 1995, of an investigating officer from Thames Valley Police.

The referral was based on fresh information about the way Mr Hallam came to be named as having taken part in the violence and on other new evidence. Much of this information was unearthed as a direct consequence of the initial painstaking investigative work of the Case Review Manager involved and the result is a tribute to his dedication.

Quashing the conviction, Lady Justice Hallett said:

*We are indebted to the Criminal Cases Review Commission and the Thames Valley Police for an extremely thorough investigation and analysis of the evidence.*

### **Asylum & Immigration cases**

The Courts considered a number of cases which involved people who entered the UK as asylum seekers or refugees and who were prosecuted and punished for offences linked to their entry to the UK, such as not having travel documents.

Shuale-Mongoue and Djeumeni were two such cases, with near identical circumstances. In 2004, Mr Shuale-Mongoue, and Mrs Djeumeni, both Cameroon nationals, were arrested at Heathrow Airport attempting to board a flight to Canada. They told the police that they had come to the UK from Cameroon via the Ivory Coast and were en route to Canada where they intended to seek asylum.

Two days later both pleaded guilty at Uxbridge Magistrates' Court (on the advice of legal representatives) to possession of a false instrument with intent (contrary to section 3 of the Forgery and Counterfeiting Act 1981) and attempting to obtain air services by deception (contrary to section 1(1) of the Criminal Attempts Act 1981). They were sentenced at Isleworth Crown Court to eight months' imprisonment. The Commission referred the convictions on the basis that each had a statutory defence under section 31 of the Immigration and Asylum Act 1999 in that they were refugees (for the purposes of the

Refugee Convention) who were in the "continuing course of a flight from persecution" en route to Canada where they intended to seek asylum. The Crown Court did not uphold either conviction.

The cases of Fissaha Tesfagabir and, separately, Mahad Adan were heard at the Crown Court. In both cases, the appeals were unopposed by the Crown and the guilty plea of each was vacated. Both were convicted, following guilty pleas at a Magistrates' Court, of failure to produce a document contrary to section 2 Immigration and Asylum (Treatment of Claimants) Act 2004. The Commission considered whether their appeals in the Crown Court would succeed in light of the decisions in *Soe Thet v Director of Public Prosecutions* [2006] EWCH Admin 2701 and *R v Mohammed and Osman* [2007] EWCA Crim 2332 which established the proper interpretation of section 2 of the 2004 Act.

The Commission concluded in both cases that there was a real possibility that the appeals would succeed in that both men had a reasonable excuse for not producing a genuine immigration document (pursuant to section 2(4)(c) or 2(6)(b) of the 2004 Act). In Mr Tesfagabir's case this arose out of the fact that he was persecuted on the grounds of religion by the Eritrean authorities and was therefore unable to obtain a passport. In Mr Adan's case, it arose out of the fact that Somalia has not had a passport issuing authority since 1991 and the UK government has not recognised Somali passports since 3rd July 2003.

The Crown Prosecution Service did not contest either hearing, and the Crown Court set aside the guilty pleas.

### **Other conviction cases**

There was some resolution in 2012/13 of the long-running question of how the Northern Ireland Court of Appeal would deal with the series of so called "youth confession" referrals made to it by the Commission in recent years.

In May 2012, the Court handed down its judgments in the Commission referral cases of Brown, Wright, McDonald and McCaul. These cases were referred partly in light of the decisions of the Court in *Mulholland* [2006] NICA 32 and *Fitzpatrick and Shiels* [2009] NICA 60.

In each of these cases from the 1970s the applicant was arrested and interviewed under the emergency provisions legislation then in force. Each made admissions which were subsequently relied upon at trial and formed the decisive evidence against them. Each was aged 15 or 16 at the time. None of them had access to a solicitor during their detention before making their admissions and none was accompanied by a parent or independent person during interview.

In the cases of Messrs Brown, Wright and McDonald the Commission referred the cases on the basis that there was a real possibility the Court would consider that the manner in which each appellant was detained and interviewed involved significant breaches of the Judges' Rules and of other protections which they should have enjoyed and that, in consequence, the admissions made were unreliable and/or inadmissible and that in those circumstances the convictions were unsafe.

In Mr McCaul's case, the reasons for referral were that the trial judge's decision to admit evidence that Mr McCaul had made oral admissions (and his written statements) - notwithstanding that there had been significant breaches of the Judges' Rules - was wrong; also that the trial judge's decision to disregard evidence regarding Mr McCaul's vulnerability and suggestibility was wrong.

The Court quashed the convictions of Mr McDonald and Mr McCaul but upheld those of Mr Brown and Mr Wright. As reported in our last two Annual Reports, we received a number of applications related to "youth confession" cases. The Commission had been unable to progress these applications in the absence of the

Court's judgment in the cases of Messrs Brown, Wright, McDonald and McCaul. Following the judgement in May 2012, we have proceeded to review those applications and at the time of writing, several of those cases remain under review.

The "Troubles" related case of Liam Holden (*R v Holden* [2012] NICA 26) arose out of one of the Commission's longest and most detailed reviews. In 1972 a sniper shot Private Frank Bell of the Parachute Regiment, while he was on patrol. Private Bell died three days later. Mr Holden and his brother were subsequently arrested and questioned by soldiers of 1st Parachute Regiment. The soldiers obtained a confession from Liam Holden and then transferred him to the Royal Ulster Constabulary who took a statement to similar effect.

The Commission referred Mr Holden's conviction on the basis that there was a real possibility the Court would conclude that the confessions were obtained in circumstances which rendered them unreliable and inadmissible. The Court quashed the conviction on the basis that the case against Mr Holden depended decisively on his alleged admissions. The Court considered that in all the circumstances of the case the admissions ought not have been admitted in evidence.

The non-disclosure of evidence was considered in two cases. One was the case of *Manochehr Bahmanzadeh (R v Bahmanzadeh* [2012] EWCA Crim 2954). The other was the Magistrates' Court case of *Jawid Yusuf*.

Mr Bahmanzadeh was convicted of permitting his nightclub to be used for supplying the drug ecstasy. During 2006, undercover police officers acting as "test purchasers" attended the club and made numerous purchases of ecstasy tablets. The evidence of the test purchase officers added to the Crown's case that Mr Bahmanzadeh must have been aware that drugs were being supplied in the club and permitted it.

The Commission established that material which potentially undermined the credibility of other witnesses had not been disclosed at trial. In view of the significance of their evidence, when set against the context of the other evidence in the case, the Commission considered there was a real possibility the Court would overturn the conviction. The Court upheld the conviction. However, this was a case where the Commission referred the conviction and the sentence. While the appeal against conviction was dismissed, the appeal against sentence, on the grounds that the sentence was inappropriate in light of the new evidence, was upheld and Mr Bahmanzadeh was not returned to prison.

The case of Mr Yusuf concerned convictions for false accounting. The Commission referred the case on the basis that it had discovered material which was undisclosed at trial which was capable of undermining the credibility of key prosecution witnesses and assisting the defence, and which, had it been deployed at trial, might have led the magistrates to reach a different verdict. The conviction was not upheld.

In the cocaine smuggling case of Mr Adekunle Akanbi-Akinlade (*R v Akanbi-Akinlade* [2012] EWCA Crim 2574) the Commission discovered that an important trial witness had lied in the evidence she gave against the defendant (the witness was subsequently convicted of perverting the course of justice). The evidence she gave was of considerable importance to the Crown's case. The Commission considered that there was a real possibility the Court would quash the conviction on the basis that Mr Akinlade's defence was not, and could not have been, properly evaluated by the jury which had been asked to reject it on the basis of perjured evidence; nor would the trial judge have made the decisions that he did to admit the evidence if these facts had been known. The conviction was quashed.

The Court considered a number of convictions in which the Commission made a referral based on new evidence which raised

questions about the credibility of the complainant.

In *R v SV* [2013] EWCA Crim 159 the applicant had been convicted of a count of assaulting a child under the age of 13 by penetration and of two counts of rape. The complainant was the appellant's daughter. He was sentenced to ten years' imprisonment. The Commission referred the case on the basis of evidence of post-trial retractions by the complainant, and on the strength of other material which arguably undermined the account of events she gave at trial. The Court refused to admit the evidence, stating that it was not credible and so did not meet the criteria for admitting such evidence pursuant to section 23 of the Criminal Appeal Act 1968. Accordingly, the Court upheld the convictions.

In the case of *R v O'Donnell* [2012] EWCA Crim 2393, Mr O'Donnell was convicted of two counts of rape. The Commission referred on the basis that fresh scientific evidence (relating to the interpretation of the results of the testing of DNA) undermined the credibility of the complainant and raised a real possibility that the Court would quash the conviction. The Court held that the fresh material did not significantly alter the position which was before the jury. The convictions were upheld. At the time of referral this case was anonymised as B.

The case of *Latevi Lawson (R v Lawson (Latevi))* [2012] EWCA Crim 1961) was a sexual abuse case. The Commission considered that fresh evidence could have had a significant impact on the medical evidence and the complainant's credibility. The Court was of the view that the fresh material would not have put the defence in a significantly stronger position as it did not "add a new topic for cross-examination nor did it extend a topic already known to the defence".

The conviction was upheld. At the time of referral this case was anonymised as Z.

**Sentence only cases**

The case of David Pleasants (*R v Pleasants* [2012] EWCA Crim 3022) concerned the operation of section 116 (1) of the Powers of Criminal Courts (Sentencing) Act 2000 (as amended by the Criminal Justice & Immigration Act 2008) in relation to the complex 'release on licence' and 'return to custody' provisions. The Commission's analysis of the position was conceded by the Crown, the appeal was allowed and the relevant Order was quashed. At the time of referral this case was anonymised as E.

The Court also considered the sentence case of Hainsley Dixon central to which was the meaning of 'exceptional circumstances' with respect to section 51A of the Firearms Act 1968. The Commission had referred Miss Dixon's case on the basis that it was factually similar to a recent authority (*R v Boateng* [2011] EWCA Crim 861).

The Court took the opportunity to comment on the Commission's work more broadly:

*Following the [appeal] decision, the Criminal Cases Review Commission carried out a review of the case. As is characteristic of the work of the Commission, the report which was sent to this court on 15th October 2012 is careful, clear and sets out the cogent reasons as to why this court should reconsider the matter.*

Nevertheless, the court was not persuaded that the facts in Miss Dixon's case amounted to exceptional circumstances and concluded: "after much anxious consideration, and with deep gratitude to the Criminal Cases Review Commission for referring the matter to us that we must dismiss this appeal.

**Section 15 investigations for the Court of Appeal**

An area of the Commission's core work that receives relatively little public and media attention is the investigative work that we do in relation to cases where the Court of Appeal Criminal Division is considering a first appeal

or an application for leave to appeal.

The Court of Appeal can direct the Commission to investigate and report on matters related to ongoing appeals pursuant to section 15 of the Criminal Appeal Act 1995 and 23A of the Criminal Appeal Act 1968.

We have been very busy in 2012/13 and have acted on directions from the Court in relation to nine cases involving 19 individual appellants. This compares to eight such cases involving 17 appellants last year. The increase in activity in this area continues the trend of recent years. In fact, the Commission has handled more section 15 investigations in the five years between the start of 2008/9 and the end of 2012/13 than it did in the ten years between its creation in 1997 and the end of 2007/8.

Section 15 investigations always require our immediate attention as they relate to live proceedings. They are often complex and demanding cases involving issues such as questions about the behaviour of jurors and allegations of retractions of trial evidence. Such cases are necessarily given priority and can absorb a substantial amount of casework resource.

The Court of Appeal expressed its appreciation of the Commission's efforts on its behalf in its most recent Review of the Legal Year in which it said:

*We continue to be greatly assisted by the CCRC in the essential matter of directed investigations under section 23A Criminal Appeal Act 1968 into allegations of jury impropriety, it is no exaggeration to say that this function has never been more significant and the Court has never failed to be impressed by the thoroughness of their investigations.*

One particular trend worthy of note has been the increase in recent years in the number of our section 15 investigations involving allegations about jurors' inappropriate use of the internet such as conducting research

about defendants and posting comments on social media sites. Until 2007 we had not been asked to investigate any instances of this kind. Nowadays such allegations are the single most common cause of section 15 investigations. Indeed, in his introduction to the Review of the Legal Year mentioned above, Lord Judge commented that:

*The Court continues to be concerned by the long and short term issue of the way in which modern technology will impinge on trial by jury. There have been an increasing number of cases in which grounds of appeal against conviction have featured allegations of jury impropriety relating to the misuse of technology. This is a matter that will require close attention over the coming year to ensure the continuing integrity of the jury system...[ ]...the Court is deeply indebted to the Criminal Cases Review Commission for all aspects of their assistance, not least the way in which they carry out investigations into allegations of jury misconduct.*

The Commission took part in the Law Commission's consultation on the law of contempt, including juror contempt (see page 32).

### **Judicial Reviews**

Applications for judicial review are handled by the Administrative Court at the Royal Courts of Justice in London and in a few regional court centres including Birmingham. Following a successful judicial review of a decision taken by the Commission, the Administrative Court can require us to revisit the decision in question.

During 2012/13 Commission decisions have been subject to a total of 34 challenges; this compares with 25 such challenges in 2011/12. Nine of the challenges in 2012/13 were resolved as a result of correspondence within the pre-action protocol (introduced in England and Wales in 2002) in that no proceedings were issued at the Administrative Court. As in previous years, the majority of these claimants have sought to

challenge our decision not to refer convictions to the appeal courts.

The Commission conceded one case prior to proceedings being issued. This was the case of Kirush Nanthakumar (and his co-defendants Messrs Miah and Kumbay). The Commission agreed to re-open the case on a limited basis in order to interview a particular witness. The case has been allocated to a fresh Case Review Manager and at the time of writing this report the case is ongoing.

There have been no cases this year in which permission for a judicial review to proceed has been granted by the Administrative Court.

### **Complaints**

The Commission received 44 complaints during 2012/13. This represents a 12% decrease on the previous year when 50 complaints were received.

We aim to handle complaints fairly, thoroughly and within a reasonable amount of time. We are committed to always acknowledging receipt of a complaint within ten working days and we aim to provide a substantive response within 20.

During 2012/13 the average time it took to acknowledge receipt of a complaint was six working days. The average time from the receipt of a complaint to the sending of a substantive response was 19 working days. Last year it took an average of three days to acknowledge complaints and an average of 16 to respond.

The Commission has a two stage complaints procedure. Most complaints are dealt with at the first stage, but the second stage allows those who remain dissatisfied with our response to ask for the handling of their complaint at stage one to be reviewed by the chief executive, or by a non-executive director. In 2012/13, seven complaints, or 16% of the total, moved to stage two. Last year only 10% of complaints moved to stage two.

The Commission counts a complaint as upheld if any aspect of the Commission's conduct of a case is found to have been deficient regardless of whether that deficiency affected the outcome of the case. In 2012/13 the Customer Service Manager upheld a total of four complaints (9% of those received) compared to three complaints (6%) upheld in the previous year. No cases needed to be re-opened as a result of a complaint being upheld during 2012/13.

The vast majority of complaints to the Commission are made by applicants on their own behalf. The most common cause for complaint is a disagreement with the Commission's decision not to refer a case. Complaints of this origin accounted for 65% of the total in 2012/13. Almost all others were complaints relating to delay, communication or discrimination.

The Commission takes all complaints very seriously but pays particular attention to, and records separately, any allegation that the Commission has unfairly discriminated against someone. There were three allegations of discrimination made against the Commission in 2012/13; two fewer than last year. No such complaints were upheld in 2012/13.

As in previous years, the complaints received by the Commission related to a wide range of convictions. However, in recent years an increasing number of complaints came from applicants who did not receive a custodial sentence for the conviction concerned. In 2012/13, 39% of the complaints were made by non-custody applicants. In 2011/12 it was 26%, in 2010/11 it was 28% and in 2009/10 it was 8%. The overall proportion of custody to non-custody cases among Commission applicants in 2012/13 was approximately 70% and 30% respectively.

### **Military cases**

The Armed Forces Act 2006 amended the Criminal Appeal Act 1995 and the Court Martials Appeals Act 1986 to give the

Commission jurisdiction over convictions and/or sentences arising from the Court Martial or Service Civilian Court after 31st October 2009. The Commission received two applications relating to cases of a military origin; one was a summary case in which we had no jurisdiction, the other was a no appeal case where there were no exceptional circumstances so no review was required.

### **Royal Prerogative of Mercy**

Section 16 of the Criminal Appeal Act 1995 gives the Commission two areas of responsibility relating to the Royal Prerogative of Mercy. One is to recommend the use of the Royal Prerogative where the Commission sees fit. The other is to respond to requests from the Secretary of State in relation to the use of the Royal Prerogative. The Commission has had no cause to do either in 2012/13.

## Section Three

# Resources

### **Human Resources**

It has been a challenging year for staffing at the Commission. The success of the Easy Read application form has put considerable pressure on the organisation and particularly on case reviewers and casework support staff. To help us cope with the substantial increase in work during 2012/13 we created a number of temporary posts for case reviewers, investigators and casework administrators and offered paid overtime to some staff.

As set out in the Chief Executive's introduction to this report, we will, thanks to an increase in funding, be recruiting a number of permanent and fixed term Case Review Managers and other staff in order to return staffing levels to a more appropriate level in the year ahead.

At 31st March 2013 there were 31 permanent Case Review Managers at the Commission making up a full time equivalent (FTE) of 28.46. At the turn of the year we also employed seven CRMs (6.02 FTE) on fixed term or temporary contracts. Together they accounted for an FTE of 34.48. For comparison, at the end of last year we had 32 (29.36 FTE) CRMs, all of whom were permanent.

Following the departure in April 2012 of the previous Chief Executive, the Commission reviewed the post of Chief Executive and decided that it should, from then on, involve greater emphasis on the strategic leadership of casework. The redefined Chief Executive post was recruited internally and Karen Kneller, previously the Commission's Director of Casework and interim Chief Executive, was appointed to it. Subsequently, the Director of Casework role was also reviewed and an internal appointment to the post of Director of Casework Operations was made at the start of April 2013.

In last year's Annual Report we explained that the process of recruiting several new Commissioners was underway.

Commissioners are not appointed by the Commission but by the Queen on the recommendation of the Prime Minister. For that reason the recruitment process for Commissioners is run by the Ministry of Justice with input from the Commission. Four new Commissioners joined us during the year with the first starting in November 2012 and the fourth in January 2013.

Unfortunately one of the new Commissioners left in February 2013 in order to take up a full time judicial appointment. Therefore, at the end of March 2013 there were ten Commissioners in post with a combined FTE of 7.7 whereas at the end of March 2012, there were nine Commissioners in post with a combined FTE of 7.6.

With one Commissioner due to leave after the maximum ten years of service at the end of October 2013 and two others due to follow suit in 2014, we will need to recruit several more new Commissioners. Also, Commission Chair Richard Foster will come to the end of his five year appointment period in November 2013. As this Annual Report was being prepared in early 2013/14, the Ministry of Justice was conducting a recruitment exercise with a view to appointing a Chair and up to five new Commissioners.

During May 2012 we conducted a staff survey in which 80% of staff and Commissioners took part. Overall the survey results were very positive; in the majority of the areas we either held our own or improved on the results achieved in the two previous comparable surveys of 2009 and 2010.

The Commission responded to the findings of the most recent survey by producing an action plan in consultation with staff. Implementation of the plan is being monitored by the Internal Communications Group, which is led by the Chief Executive. The Commission's system of staff appraisal has been substantially refined since its



introduction in 2010. The set of competencies on which the appraisals are largely based was reviewed and revised during 2012/13 to make them more manageable and better matched to the various roles in the organisation. The new competencies are now in place ready for the round of appraisals taking place in the early months of 2013/14.

We have continued to develop our training for casework staff and in 2012/13 provided training for our front line administration staff in handling difficult calls and in assisting people with mental health issues. We have also continued with our rolling programme of applying Equality Impact Assessments to all of our policies and procedures.

The level of sickness absence continued to show improvement in 2012/13 as it has in recent years. We achieved an average sickness absence of seven days per annum; just inside our Key Performance Indicator target of 7.5 days and better than 2011/12 when average sickness absence was 7.8 days. This has been achieved by managers taking direct responsibility for managing staff absences and by pro-actively putting in place reasonable adjustments to help people return to work sooner than might otherwise have been possible.

The Commission continued with its programme of employing apprentices under the National Apprenticeship Scheme. A new apprentice joined the Business Administration Team in 2012/13 while our two existing apprentices continue to work in our Records Management Team. From the Commission's perspective, our involvement in the National Apprenticeship Scheme continues to be a great success.

### **IT Resources**

One of the Commission's key objectives is the continuing provision of a secure and stable IT environment that meets our business needs at reasonable cost. In pursuit of this objective, the previously outsourced managed service contract was allowed to expire, and the IT

service provision brought in-house at the beginning of the year. This involved the creation of a new team and associated activities such as refining the change management process and creating an IT service support framework to define levels of service. The transition from an outsourced to an in-house service was made without any degradation in the level of service.

Alongside the service transition, the team continued with maintenance and update activities, including expanding the virtual environment resource with the addition of a server and upgrading the email server. Some essential infrastructure architecture changes were also made to enhance security.

During the year we also started a project to identify and implement a new casework management solution to replace the existing software which is no longer supported. The initial scope and product definition was completed in the year, and the procurement and implementation phases will be completed next year.

### **Financial Resources**

The Commission is funded entirely by means of a cash grant, called a Grant in Aid, from the Ministry of Justice. However, financial control is mainly exercised by means of delegated budgets. These are divided into three categories. The Resource Departmental Expenditure Limit (RDEL) covers most cash expenditure, but also includes depreciation; Resource Annually Managed Expenditure (RAME) covers movements in provisions; and Capital DEL (CDEL) is for expenditure on non-current assets which are capitalised.

At the time of writing the Commission has received a firm indicative budget for 2013/14. The table below shows a comparison of budget figures for the current year, the previous four years and the following year.

	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
	£000	£000	£000	£000	£000	£000
Fiscal RDEL	5,913	5,806	5,465	5,113	5,107	5,178
Non-cash RDEL	366	327	297	229	240	241
RDEL total	6,279	6,133	5,762	5,342	5,347	5,419
RAME	424	394	413	413	411	403
CDEL	95	348	205	100	43	235
TOTAL	6,798	6,875	6,380	5,855	5,801	6,057

**Note:** previous years budgets have been adjusted to reflect a change made last year in the reclassification of certain pension entries.

The 2013/14 settlement includes additional funding (over and above a revised baseline) to enable us to tackle the increased number of applications being received. The way in which this funding has been used, and the need for future years, will be reviewed mid-year. Funding for 2014/15 will be negotiated towards the end of 2013.

The principal risks and uncertainties which the Commission faces when planning and managing its financial resources concern the number and type of applications received, the Commission's ability to recruit and retain expert staff, the provision and maintenance of appropriate IT systems and the level of funding received. In addition, a project to replace the Commission's case management software was commenced in the year. This project is mission critical, and consequently the risks of the project failing are considered material for the organisation as a whole. Nevertheless, the level of funding remains the greatest risk faced by the Commission bearing in mind the continuing need for budgetary savings to be made across government, and the uncertainty surrounding measures planned elsewhere within the Ministry of Justice. The Governance Statement on pages 39 to 44 describes how the Commission manages these risks and uncertainties.

The cash Grant in Aid received from the Ministry of Justice in the year was £5.23m (2011/12 £5.30m). In accordance with government accounting rules which require Grant in Aid only to be drawn when needed, the Commission forecasts its cash requirement on a monthly basis. By only drawing down the amount of Grant in Aid needed in the month, the Commission aims to maintain its monthly end of period cash balances as low as possible, and sets its own internal target at £200k. The balance at the end of the year was £42,000 (2011/12 £171,000). In addition, the Commission is in the process of migrating its banking arrangements from a commercial provider to the Government Banking System so that any cash held is held for the benefit of the Exchequer.

### **Financial performance**

The primary indicator of financial performance is expenditure measured against the respective elements of the delegated budget. The Commission's actual expenditure compared with budget was as follows:

	2012/13			2011/12		
	Actual £k	Budget £k	Variance £k	Actual £k	Budget £k	Variance £k
<b>Fiscal DEL</b>	<b>4,931</b>	<b>5,107</b>	<b>(176)</b>	5,138	5,113	25
<b>Non-cash</b>	<b>(52)</b>	<b>240</b>	<b>(292)</b>	142	229	(87)
<b>RDEL</b>	<b>4,879</b>	<b>5,347</b>	<b>(468)</b>	5,280	5,342	(62)
<b>RAME</b>	<b>565</b>	<b>411</b>	<b>154</b>	274	413	(139)
<b>CDEL</b>	<b>42</b>	<b>43</b>	<b>(1)</b>	49	100	(51)
<b>Total</b>	<b>5,486</b>	<b>5,801</b>	<b>(315)</b>	5,603	5,855	(252)

**Note:** The 2011/12 budget has been adjusted to reflect the change made in that year in the reclassification of certain pension entries.

Expenditure against the budget heads shown above reconciles to net expenditure after interest as shown in the statement of comprehensive net expenditure on page 47 as follows:

	2012/13 £000	2011/12 £000
<b>Resource DEL</b>	<b>4,879</b>	5,280
<b>Resource AME</b>	<b>565</b>	274
<b>Total resource expenditure</b>	<b>5,444</b>	5,554
<b>Notional expenditure</b>	<b>Note 18</b> <b>621</b>	763
<b>Net expenditure after interest</b>	<b>6,065</b>	6,317

Notional expenditure is a presentational item included to ensure that the financial statements show the true cost of the Commission's operations. It is not scored against the Commission's budgets as it is not actually incurred by the Commission. Notional costs mainly relate to the cost of office accommodation, which is borne by the sponsor department on behalf of the Commission. The costs are included in the Statement of Comprehensive Net Expenditure as a notional cost in accordance with the FReM. There is an equivalent reversing entry in the Statement of Changes in Taxpayers' Equity. Full details are given in notes 1 and 18 to the accounts.

Financial performance as measured by expenditure against budget is one of our Key Performance Indicators (KPIs). The targets for KPI 8 are that for each of RDEL and CDEL expenditure should not exceed budget, nor fall below budget more than a percentage

target of the budget. Actual RDEL expenditure in 2012/13 was 8.75% below budget compared with the target of 2.5%. However, a significant proportion of this related to non-cash costs, which are to a large extent unpredictable and not susceptible to in-year control. Unexpected items relating to Commissioner pensions accounted for £223k of the favourable variance in this area. The favourable variance on Fiscal DEL, which represents that part of the budget which is cash-based, was about 3.4% of budget. One of the main areas where savings were generated in the year was IT, where it transpired that the savings anticipated from bringing the IT service in-house at the beginning of the year had been underestimated. In addition, the level of spend on expert reports (including forensic investigations) was lower than expected; spend in this area is always dependent on the nature and demands of the particular cases under review in the year and is difficult to

predict. Further savings arose within the staff costs budget from gaps between the retirement of Commissioners and the appointment of new Commissioners, and from not needing to utilise the full amount budgeted for planned staff exits. Savings were recycled into temporary staff appointments as far as was possible in the year, but a residual underspend remains. Actual CDEL (capital) expenditure was almost exactly on budget. See page 70 for results of KPI 8.

### **Financial statements**

The accounts for the year ended 31 March 2013 are set out on pages 38 to 64.

The Statement of Comprehensive Net Expenditure on page 47 shows total expenditure for the year of £5.83m (2011/12 £6.05m). Pension costs for Commissioners have declined by £40k as a result of the retirement of Commissioners with pensions and the appointment during the year of new Commissioners no longer entitled to a pension. Other staff costs have increased as a result of the recruitment of temporary staff to help cope with the large increase in the number of applications received compared with previous years, and an increase in the size of the IT team following the bringing in-house of the IT service at the beginning of the year.

Depreciation and amortisation has increased slightly compared with the previous year. The increase simply reflects the normal renewal of assets taking place in the year.

Other expenditure has fallen from £1.81m in 2011/12 to £1.38m in the current year. The reduction of £430k is attributable largely to savings generated by bringing the IT service in-house at the beginning of the year (£479k). There were other savings generated during the year as a result of tighter budgeting and control over expenditure, but these are offset

by the fact that last year's total was depressed by the partial release of the dilapidations provision on our old offices prior to our move to our current offices early in the previous financial year.

There were no significant investments in non-current assets during the year beyond normal day to day renewals. The amount of cash held at bank has decreased substantially as the Commission continues to exercise sound cash forecasting to ensure that it only draws down Grant in Aid as required. Pension liabilities continue to grow and represent by far the largest item on the Statement of Financial Position. Since last year, Commissioners are being appointed without pensions and so the rate of growth of the liabilities should now begin to slow, and will eventually stabilise when the last pensioned Commissioner retires at the end of their term in 2016. The Statement of Financial Position on page 48 now shows overall net liabilities of £5.12m (2011/12 £4.53m). The net liabilities largely fall due in future years, and will be funded as necessary from future Grant in Aid provided by the Ministry of Justice. As a result, it has been considered appropriate to continue to adopt the going concern basis for the preparation of the accounts. This is discussed further in the Accounting Policies note on page 51.

### **Compliance with public sector payment policy**

The Commission follows the principles of the Better Payment Practice Code. The Commission aims to pay suppliers wherever possible within 10 days. Where this is not possible, the Commission works to targets to pay suppliers in accordance with either the payment terms negotiated with them or with suppliers' standard terms (if specific terms have not been negotiated). The average terms are approximately 30 days, and performance against this target is shown in the table below:

	2012-13		2011-12	
	£000	Number	£000	Number
<b>Total invoices paid in year</b>	<b>1,288</b>	<b>1,684</b>	1,906	1,371
<b>Total invoices paid within target</b>	<b>1,226</b>	<b>1,590</b>	1,785	1,344
<b>Percentage of invoices paid within target</b>	<b>95.2%</b>	<b>94.4%</b>	93.7%	98.0%

Performance has exceeded our 95% target in terms of value, but has narrowly missed the target in terms of number of invoices. The Commission is committed to continuing to strive to meet payment terms.

No interest was paid under the Late Payment of Commercial Debts (Interest) Act 1998.

The average credit period taken for trade purchases is calculated by expressing trade and capital payables as a proportion of the total value of supplier invoices in the year, multiplied by the number of days in the financial year. This period is 12.2 days for the current year (2011/12 1.5 days). Note that the value for the previous year has changed due to the reclassification of certain current liabilities as explained in note 13 to the accounts

### **Applicants advice line**

The Commission operates an advice call rota whereby applicants, potential applicants, their lawyers or supporters, can call the Commission and speak to one of our Case Review Managers about any matters relating to a current or potential application. During 2012/13 the staff taking calls on the rota dealt with some 750 phone calls seeking advice of this kind. While the advice rota represents a significant investment of casework resources, we view it as a valuable service which, among other things, helps potential applicants make the important and sometimes complicated decision about whether or not they should apply to the Commission.

### **Records Management**

Good records management is key to the continuing success of the Commission. Our handling of the thousands of documents and other material that we obtain and use in the course of our work, or that we generate ourselves, is subject to legislation including the Public Records Acts of 1958 and 1967, the Data Protection Act 1998 and the Freedom of Information Act 2000. We act in accordance with the requirements of those acts, and in consultation with the National Archives, in the way we create, manage and preserve or destroy records. We operate a retention and disposal schedule which sets out how we will properly manage all paper and electronic records in our possession. We keep paper casework records for three months after case closure and keep our own electronic casework records for a minimum of ten years. We face a number of challenges over the next few years relating to records management. During 2013/14 the Commission will be developing a strategy to tackle these challenges.

## Section Four

# Corporate

### **The Triennial Review of the Commission**

In 2012/13 the Commission was subject to an independent review of its form and functions by the Ministry of Justice. The triennial review process was established by the Cabinet Office to provide robust challenge to the ongoing need for individual Non-Departmental Public Bodies (NDPBs). Where it is agreed that a particular body should remain, the review will go on to scrutinise the control and governance arrangements in place to ensure that the body is complying with recognised principles of good corporate governance. The reviews are carried out by teams from the organisations' sponsoring departments and the stated aim of Government is to conduct such reviews of NDPBs every three years.

The first triennial review of the Commission was launched by way of a written ministerial statement in both Houses of Parliament on 19th October 2012. At the start of the triennial review of the Commission the Ministry of Justice launched a call for evidence inviting views on the form and function of the Commission. We also published information about this on our own web pages to encourage as many responses as possible. As a result, more than sixty responses were received from a range of individuals and groups including the senior judiciary, senior members of the criminal justice system, members of the legal profession, academics, researchers and campaigners. The Ministry also hosted meetings to gather stakeholder opinion. The Commission's Chief Executive and Deputy Chairman attended one of these and the Commission made its own submissions in response to the call for evidence.

The findings of the triennial review were announced in both Houses of Parliament by way of a written ministerial statement on 6th June 2013. The combined report on stages one and two of the review was published the same day and made available on our web pages at [www.ccrcc.gov.uk](http://www.ccrcc.gov.uk). The triennial review report concludes that there is "exceptionally strong support" for the functions of the Commission to continue, that the Commission should remain in its current form as an independent Non-Departmental Public Body, and that it is a well structured organisation with strong governance in all key areas. The report highlighted several areas of good practice and provided welcome support for an extension of the Commission's powers under section 17 of the Criminal Appeal Act 1995 to allow us to require the provision of material by private sector organisations as well as public bodies. The report also makes several recommendations regarding changes to the governance structure of the Commission; these are matters to which we will turn our attention in 2013/14. The Commission considers the findings to be a significant vote of confidence both in the work we do and in the way that we do it.

### **Communications and Stakeholder relations**

The Commission's communications activity has this year been dominated by our determination to make ourselves accessible to all who need us and by our efforts to reach some specific groups of potential applicants.

Key to both has been the introduction of our Easy Read application form. The form, which uses simple words and pictures to aid understanding by people who struggle with reading and writing, went into service in January 2012. We have promoted it by sending forms and new posters to every

prison in England, Wales and Northern Ireland, and, in May 2012, with the publication of a lengthy article about the Commission in the prison newspaper *Inside Time*.

The Commission has also significantly stepped up its programme of prison visits with staff attending many more prisons this year than in previous years to give presentations designed to raise informed awareness of our work among prisoners and staff. In 2012/13 we visited HMPs Hewell, Peterborough and Risley, as well as HMPs Hydebank, Maghaberry and Magilligan in Northern Ireland. At HMP The Mount we also tested the idea of holding advice sessions for prisoners aimed at helping them to make the right decision about whether or not to apply to the Commission.

We specifically targeted several prisons and other institutions where significant numbers of foreign national prisoners are detained. These visits have included HMPs Canterbury, Bullwood Hall, Holloway, Huntercombe, Eastwood Park and Drake Hall. These visits were part of specific ongoing efforts by the Commission to reach two particular groups of people - victims of human trafficking and asylum seekers and refugees who may have fallen foul of the law in various ways (see page 17).

In support of these efforts we produced two articles for *The Law Society Gazette*. The first, in June 2012, reported the Commission's concerns about the particular dangers of wrongful conviction facing some asylum seekers and refugees. The second, in October of that year, sought to raise awareness of issues relating to the wrongful conviction of people who have fallen victim to human traffickers. In order to target these issues, we produced a special Easy Read leaflet designed to raise awareness of the Commission among groups and individuals working with asylum seekers and refugees and potential victims of human trafficking.

In November 2012 the Commission's Chair Richard Foster took part in the Praxis conference on migrants in the criminal justice system and throughout the year we engaged with dozens of relevant groups and gave presentations to various organisations working in this area including the Howard League for Penal Reform, the Criminal Bar Association, the South East Strategic Partnership for Migration, the Detention Advice Service, Wales Migration Partnership, Women in Prison and the Northern Ireland Law Centre.

During 2012/13 we also used the Easy Read format in the design of a new leaflet providing general basic information about, and contact details for, the Commission. In 2013/14 we aim to add a new complaints form to our Easy Read format material. We continue to be grateful to the Keyring charity's Working for Justice Group for their assistance with our development of Easy Read material. We were pleased to be able to use our own experience in this area to assist the Parole Board in the design of its Easy Read prisoner survey.

In 2012/13 we made significant changes to the guidance and information that we send to potential applicants and make available online. The revised Questions and Answers document now stresses even more strongly that, in most cases, applicants will need to have appealed before applying to the Commission. Furthermore, for the first time we have included, along with our own detailed Q & A material, a copy of guidance on how to appeal in the normal way to the relevant appeal court and the forms needed to seek an appeal. Our aim here is to provide people with the information and the documents that they need in order to make a properly informed decision about who they should approach regarding an appeal in their case. Our own Q & A document is now available in 13 languages.

Visitors to the Commission during 2012/13 included Lord Justice Hughes and Master Egan QC, Registrar of Criminal Appeals, as well as veteran miscarriage of justice campaigner and former MP Chris Mullin and Paul Taylor QC, author of *Taylor on Appeals*. In August we welcomed a delegation from Taiwan, led by Judge Sheau-Pey Chen of the Taiwanese High Court. The delegates were interested in the role of the Commission.

We were particularly pleased to have been visited in September 2012 by Sam Hallam. Mr Hallam's murder conviction was quashed in May of the same year following a referral by the Commission. He accepted the invitation of the Commission to speak to staff alongside his mother Wendy Hallam, and support campaign leader Paul May. It meant a great deal to many people at the Commission to see in the flesh someone whose case we have referred and whose conviction has been quashed.

In June, Commission Chair Richard Foster took part in a public debate in Manchester arranged by the Justice Gap. This was a follow up to an earlier debate attended by Deputy Chair Alastair MacGregor in March 2012.

Mr Foster appeared at a meeting of the All Party Parliamentary Penal Affairs Group at the House of Commons on 23rd October 2012. He spoke to members of the group and those in the audience about the Commission, its role and powers and illustrated these and other issues affecting the Commission by discussing several specific cases. The proceedings of the meeting were circulated to around 200 MPs and members of the House of Lords and have been published on the website of the Prison Reform Trust.

In September 2012 the Commission ran its first ever student placement programme. The scheme was a pilot project involving two students; one was a postgraduate law student from University of Leeds Innocence Project and the other a third year journalism student from Winchester University INUK Innocence Project. With appropriate security safeguards in place, the two-week placement programme offered the participants an insight into various aspects of the Commission including our engagement with applicants and potential applicants, investigations, the application of the law and decision making. The programme went very well from the Commission's point of view and, according to feedback, it was very well received by the participating students. We are grateful to them for their enthusiasm in taking part and we now aim to offer further placements in future.

We reported in last year's Annual Report that we had been working to offer two six-month Commission internships in conjunction with The Kalisher Scholarship Trust, a charity dedicated to helping young people who aspire to join the Criminal Bar. The second of those internships began in April 2012 and, like the first, has proved to be of great benefit to the Commission and, we hope, to the intern. We are working with the Kalisher Trust to make more internships available.

The centrepieces of the Commission's stakeholder engagement efforts are the stakeholders' conferences that we aim to hold approximately every two years. We consider the most recent event, held on 28th November 2012, to have been a substantial success.

We were fortunate to have been able to attract as our lead speaker the eminent legal academic Professor Michael Zander. Professor Zander was a member of The



Royal Commission on Criminal Justice (also known as the Runciman Commission) whose 1993 recommendations led directly to the creation of the Criminal Cases Review Commission. Professor Zander was followed by: Steve Heaton, Associate Tutor and Staff Director for the Innocence Project at University of East Anglia, whose PhD research involved analysing Commission case files; our own Commissioner, Angela Flower; Mr Andrew Rennison, the Forensic Science Regulator and the Surveillance Camera Commissioner, and Professor Cheryl Thomas, Chair of Judicial Studies at University College London, whose specialist field is jury research.

The 100 or so attendees were drawn from a wide range of stakeholders including miscarriage of justice campaigners, academics, lawyers, members of Innocence Projects, the Court of Appeal and senior police officers. The event, held at our own premises, was generally well received and feedback was very positive with speakers and guests alike agreeing that the event was interesting and well-organised. The Commission intends to continue holding events of this kind and will try to use feedback from attendees to inform decisions about the content, format and organisation of future stakeholders' conferences.

### **Our wider contribution**

The Commission continues to contribute to the development of a post-Forensic Science Service national strategy for forensic science through its membership of the Home Office's Forensic Policy Group. In January 2013 the Commission also provided written submissions to the Science and Technology Select Committee's Forensic Science Service Follow-up inquiry.

During 2012/13 Commissioner Julie Goulding has been a member of the

Forensic Science Advisory Council while Commissioner Ewen Smith has chaired the Forensic Science Regulator's End User Group.

Throughout the year the Chief Executive has attended meetings of the Criminal Justice Council and the Court of Appeal Criminal Division User Group. Members of Commission staff have taken part in the recently formed West Midlands Mental Health Forum which aims to foster an effective working partnership between bodies working in the criminal justice system and NHS partners in the West Midlands.

In July 2012 the Chair and the Chief Executive of the Commission met the Director of Public Prosecutions to discuss the asylum seeker and refugee cases discussed elsewhere in this report. It was agreed that the Commission would assist the Crown Prosecution Service in addressing the issues raised by cases of this kind. The Commission has also sought to engage with many individuals and organisations involved with asylum seekers, refugees and victims of human trafficking.

During 2012/13 the Commission has also contributed to various consultations related to the criminal justice system. These included the Law Commission's consultation on Contempt of Court which looked at contempt by publication; contempt in the new media; contempts committed by jurors; and contempt in the face of the court. As well as contributing written submissions to the consultation on behalf of the Commission, Commissioner Penelope Barrett took part in a panel discussion at the Law Commission symposium on contempt in November 2012 where she drew on our experience of interviewing jurors in relation to section 15 investigations carried out on behalf of the Court of Appeal (see page 21).

During 2012/13 we also played a role in the redrafting of the Code of Practice for Victims of Crime. As well as redrafting those parts of the code that relate to the Commission itself, we assisted in the consequent revision of the NOMS Victim Liaison Policy Guidance Manual and, in early 2013/14, we contributed to the wider public consultation on the revised Code of Practice for Victims of Crime.

### **Academic Research**

In recent years the Commission has, with appropriate security restrictions in place, allowed access to its casework records to a number of academics conducting research in relevant areas of law and criminal justice. Not only do such research projects contribute to the sum of knowledge about miscarriages of justice, but they can also provide a level of independent scrutiny and validation of Commission procedures and decision making.

Several such independent research projects have now been completed including the report, prepared for the Legal Services Commission, by Professor Jacqueline Hodgson and Juliet Horne of the School of Law at University of Warwick, called The extent and impact of legal representation on applications to the Criminal Cases Review Commission. This can be seen at:

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1483721](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1483721)

Dr Malcolm Birdling of Keble College Oxford, who also conducted casework research at the Commission, published his doctoral thesis in 2012. The paper, entitled: Correction of miscarriages of justice in New Zealand and England, can be seen on the Oxford University Research Archive at <http://ora.ox.ac.uk/objects/uuid:2dae4513-4fd2-40cd-bb6a-dbba696d6d7f>

We are also looking forward to the forthcoming publication of separate papers involving extensive casework research at the Commission by Steven Heaton of the University of East Anglia and by William Schmidt of Cambridge University. Ongoing research projects include the work being done by Professor Carolyn Hoyle of the Centre for Criminology at the University of Oxford. We are also pleased to be able to make data available to Professor Cheryl Thomas, Chair of Judicial Studies at University College London, who has started a research project involving the Commission's role interviewing jurors in relation to investigations for the Court of Appeal.

In light of the growing body of academic work that has involved research using Commission casework data, the Commission aims in 2013/14 to make such published research available through its own web pages.

### **Knowledge Management**

The Commission embarked upon a significant knowledge management project in September 2012. An experienced part-time Case Review Manager has been seconded to the project; she will initially dedicate all her working time to it, before eventually splitting her time between casework and knowledge management.

The purpose of the project is to ensure that the Commission is able to make the best possible use of the knowledge, experience and information at its disposal both in the skill and knowhow of its staff and in the data held in IT and other systems. The results so far have been excellent with improvements in the accessibility of information, plans for the creation of an intranet and progress towards further embedding good knowledge-sharing practices in the culture of the Commission.

**Section Five**

# Remuneration Report

**Remuneration policy**

The remuneration of Commissioners is set by the Secretary of State for Justice taking account of the recommendations of the Review Body on Senior Salaries. The Review Body takes account of the evidence it receives about wider economic considerations and the affordability of its recommendations, as well as factors such as the need to recruit, retain and motivate staff and the Government's inflation target.

Further information about the work of the Review Body can be found at

**[www.ome.uk.com](http://www.ome.uk.com)**

Although Commissioners are appointed with different weekly time commitments, all Commissioners, with the exception of the Chairman, are paid salaries at one of two full-time equivalent rates. The full-time rate for Commissioners appointed prior to 2012/13 is £88,836 per annum plus a contributory pension with benefits which are broadly-by-analogy to the Principal Civil Service Pension Scheme. The full-time rate for Commissioners appointed in 2012/13 is £93,796 per annum, with no entitlement to a pension. The full-time rate for the Chairman is £172,753 per annum.

Non-executive directors are paid a daily fee which is reviewed annually in the light of

increases in the Retail Price Index.

Salaries of senior management and advisors are set by the Remuneration Committee.

Membership of the Committee is co-terminous with that of the Finance & Executive Scrutiny Committee. The Committee takes into account Treasury pay growth limits, affordability, and performance in determining annual salary increases.

**Service contracts**

Commissioners are appointed by the Queen on the recommendation of the Prime Minister, one of whom is appointed by the Queen as Chairman. Appointments may be full-time or part-time, and are for a fixed period of not longer than five years. Retiring Commissioners are eligible for re-appointment, provided that no person may hold office for a continuous period which is longer than ten years.

Non-executive directors are office holders appointed for a fixed term of five years, which may be renewed. The posts are non-pensionable.

Senior management are employed on permanent contracts of employment with a notice period of three months. Normal pensionable age under the Principal Civil Service Pension Scheme is 60. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

**Remuneration (salary and payments in kind)**

The following sections provide details of the remuneration and pension interests of Board member ie the Commissioners, non-executive directors and the senior management team. These details have been subject to audit.

	2012-13		2011-12	
	Salary £000	Benefits-in-kind (to nearest £100)	Salary £000	Benefits-in-kind (to nearest £100)
<b>Commissioners</b>				
Mr Richard Foster	100 – 105	-	100 - 105	-
Mr Michael Allen [to 01.09.12]	35 – 40	-	85 - 90	-
Ms Penelope Barrett	85 – 90	-	85 - 90	-
Mr James England	85 – 90	-	85 - 90	-
Ms Angela Flower [from 12.11.12 to 28.02.13]	25 – 30	-	-	-
Miss Julie Goulding	75 – 80	-	85 - 90	-
Ms Celia Hughes [from 12.11.12]	20 – 25	-	-	-
Mr Alastair MacGregor	85 – 90	-	85 - 90	-
Mr Paul Mageean [from 21.01.13]	10 – 15	4,300	-	-
Mr Ian Nichol	60 – 65	-	40 - 45	-
Mr Ewen Smith	75 – 80	-	85 - 90	-
Mr Ranjit Sondhi [from 12.11.12]	20 – 25	-	-	-
Mr John Weeden [to 01.09.12]	30 – 35	-	75 - 80	-
<b>Non-executive directors</b>				
Dame Anne Owers	5 – 10	600	0 - 5	500
Ms Margaret Semple	0 – 5	500	0 – 5	1,200
<b>Senior management</b>				
Mrs Claire Bassett [to 31.03.12]	-	-	85 - 90	-
Miss Karen Kneller	85 – 90	-	65 - 70	-
Mr Colin Albert	65 – 70	-	65 - 70	-
Mr Matthew Humphrey [from 01.04.12]	55 – 60	-	-	-
<b>Band of highest paid Board member's total FTE remuneration [£000]</b>				
	170 – 175		170 – 175	
<b>Median total remuneration</b>	<b>£38,029</b>		<b>£37,731</b>	
<b>Ratio</b>	<b>4.5</b>		<b>4.6</b>	

'Salary' includes gross salary or remuneration.

Details of Commissioner FTE salaries are given on page 34.

No employees (2011/12: none) received remuneration in excess of the highest-paid director.

None of the Commissioners, non-executive directors or senior management was entitled to a bonus in the current or previous year, and there is no performance related component to salaries.

The monetary value of benefits-in-kind covers any benefits provided by the Commission and treated by the Inland Revenue as a taxable emolument. Benefits relate to costs incurred to enable a part-time Commissioner to work in the Commission's office in Birmingham, and for the non-

executive directors to attend meetings in the Commission's office and elsewhere as necessary. These costs are reimbursed to Commissioners and the non-executive directors or incurred on their behalf free of tax and national insurance, and the amounts disclosed above include the income tax and national insurance contributions which are paid by the Commission. The total net costs actually incurred on behalf of the Commissioner and the non-executive directors or reimbursed to them in the year was £2,876 (2011/12 - £920).

## Pension benefits

These details have been subject to audit.

	Accrued pension at normal retirement age at 31/3/13 and related lump sum £000	Real increase/ (decrease) in pension and related lump sum at normal retirement age £000	CETV at 31/3/13 £000	CETV at 31/3/12 £000	Real increase /(decrease) in CETV £000
Mr Michael Allen [to 01.09.12]	25-30	0-2.5	496	484	6
Ms Penelope Barrett	10-15	0-2.5	235	203	17
Mr James England	10-15	0-2.5	166	136	17
Miss Julie Goulding	10-15	0-2.5	171	133	27
Mr Alastair MacGregor	15-20	0-2.5	337	313	18
Mr Ian Nichol	5-10	0-2.5	182	156	14
Mr Ewen Smith	10-15 (of which 10-15 and a lump sum of 85-90 is in payment)	(7.5)-(5)	272	367	(100)
Mr John Weeden [to 01.09.12]	5-10 plus a lump sum of 50-55	(5)-(2.5)	187	242	(54)
Miss Karen Kneller – Acting Chief Executive	25-30 plus 80-85 lump sum	5-7.5 plus 20-22.5 lump sum	461	329	112
Mr Colin Albert - Director of Finance & IT	10-15	0-2.5	236	203	18
Mr Matthew Humphrey – Interim Director of Casework	5-10	2.5-5	111	74	32

### Notes

- 1 Mr Richard Foster is entitled to a pension but has not opted-in.
- 2 Ms Margaret Semple and Dame Anne Owers, as non-executive directors, are not entitled to pension benefits.
- 3 Commissioners appointed during the year are not entitled to pension benefits.
- 4 Mr Ewen Smith took partial retirement in the year, and the table above therefore shows a mix of active and pensioner benefits.
- 5 Total accrued pension may include benefits arising from transfers-in from other schemes, and may also be augmented by additional voluntary contributions paid by the individual.
- 6 CETV's are calculated using common market valuation factors for the start and end of the period, which may be different from the factors used in the previous year. Consequently, the CETV at 31/3/12 shown in the table above may differ from the CETV at 31/3/12 as disclosed in the 2011/12 Remuneration Report.

### **Pension arrangements**

Commissioners appointed prior to 2012/13 are entitled to a pension and may choose pension arrangements broadly by analogy with the Principal Civil Service Pension Schemes. They are entitled to receive such benefits from their date of appointment.

Commissioners' pension arrangements are unfunded, and the Commission is responsible for paying retirement benefits as they fall due. Contributions were paid by Commissioners at the rate of 5.9% of pensionable earnings.

Pension benefits for senior management are provided through the Principal Civil Service pension arrangements. Members of senior management paid contributions at the rate of 3.9% and 5.9% of pensionable salary respectively to the Classic and Premium/Classic Plus schemes.

### **Cash equivalent transfer values**

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are members' accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. CETVs are calculated in accordance with The

Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost.

### **Real increase in CETV**

This is the element of the increase in accrued pension that is funded by the employer. It excludes increases due to inflation and contributions paid by the member (including the value of any benefits transferred from another pension scheme or arrangement). It is worked out using common market valuation factors for the start and end of the period.

### **Compensation for loss of office**

None of the Commissioners, non-executive directors or senior management received any compensation for loss of office in the year.



### **Karen Kneller**

Chief Executive and Accounting Officer  
26/06/2013

**Section Six****Accounts****Statement of the  
Commission's and  
Accounting Officer's  
responsibilities**

Under the Criminal Appeal Act 1995, the Secretary of State (with the consent of HM Treasury) has directed the Criminal Cases Review Commission to prepare for each financial year a statement of accounts in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the Criminal Cases Review Commission and of its net expenditure, changes in taxpayers' equity and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual and in particular to:

- observe the Accounts Direction issued by the Secretary of State (with the consent of HM Treasury), including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the accounts; and
- prepare the accounts on a going concern basis.

The Accounting Officer of the Ministry of Justice has designated the Chief Executive as Accounting Officer of the Criminal Cases Review Commission. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the Commission's assets, are set out in Managing Public Money published by HM Treasury.


**Karen Kneller**

Chief Executive and Accounting Officer  
26/06/2013

## Governance Statement 2012/13

### **Governance framework**

The governance framework comprises the systems and processes, culture and values by which the Commission is directed and controlled and its activities through which it accounts to and engages with its sponsor department and other stakeholders. It enables the Commission to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the proper discharge of its functions as defined in its founding legislation, the Criminal Appeal Act 1995, and have provided value for money.

The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the Commission's policies, aims and objectives, to evaluate the likelihood and potential impact of those risks being realised, and to manage them efficiently, effectively and economically. The Commission's internal control framework is based on the review of

regular management information, administrative procedures including the segregation of duties, and a system of delegation and accountability. This is supported by regular meetings of the Board at which the Commission's strategic direction and plans are reviewed, and performance against goals is reported.

The governance framework has been in place at the Commission for the year ended 31 March 2013 and up to the date of approval of the annual report and accounts.

The Commission's founding legislation does not prescribe any particular governance structure. The current structure employed by the Commission was developed as part of a review of its governance arrangements which was completed in 2010.

The Board is made up of all the Commissioners, two non-executive directors and the three members of the senior management team. Details of these posts are given on page eight of the annual report.

There are three Board sub-committees: the Finance & Executive Scrutiny Committee (FESC), the Policy & Casework Committee (PCC) and the Audit & Risk Committee (ARC).



Membership of the committees and the attendance record of members is shown in the table:

	Board			FESC								PCC				ARC		
	26.06.12	23.10.12	29.01.13	30.04.12	22.05.12	24.07.12	25.09.12	27.11.12	18.12.12	26.02.13	26.03.13	22.02.12	24.04.12	28.11.12	01.03.13	26.06.12	23.10.12	29.01.13
<b>Commissioners</b>																		
Michael Allen	X											X	X					
Penelope Barrett	✓	✓	✓											✓	✓			
James England	✓	✓	✓													✓	✓	✓
Angela Flower		†	✓									✓	✓					
Richard Foster	✓	✓	✓	✓	✓	✓	✓	✓	X	✓	✓							
Julie Goulding	✓	✓	✓															
Celia Hughes		†	✓															
Paul Mageean			✓															
Alastair MacGregor	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓							
Ian Nichol	✓	✓	✓			†	✓	✓	✓	✓	✓					✓	✓	
Ewen Smith	✓	✓	✓									✓	✓	✓	✓			
Ranjit Sondhi		†	✓															
John Weeden	✓			✓	✓	✓												
<b>Non-executives</b>																		
Anne Owers	X	✓	✓	✓	✓	✓	✓	✓	X	X	✓	✓	✓	✓	✓			
Maggie Semple	X	✓	✓	X	✓	X	X	✓	✓	✓	✓					✓	✓	✓
<b>Senior management</b>																		
Colin Albert	✓	✓	✓	✓	✓	X	✓	✓	✓	X	✓					≠	≠	≠
Matthew Humphrey	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			
Karen Kneller	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	≠	≠			≠		≠

† Attended as observer    ≠ In attendance

The Board meets quarterly and deals with strategic issues (including the annual business plan and the three-year strategic plan), reviews key management information including key performance indicators, deals with matters of casework policy and approves the annual report and accounts. During the year the pattern of meetings was altered so that the Board meets in the month following the end of each quarter rather than in the last month of the quarter. This change means that the Board only met three times in the year.

The Finance & Executive Scrutiny Committee acts as the standing committee of the Board and usually meets each month when there is no Board meeting. It has delegated powers to carry on the functions of the Board between Board meetings, and specifically deals with the approval of budgets and major expenditure as required by the Commission's procurement and payments procedures, scrutinises the IT strategy and associated spend, and agrees to major changes to HR policies and recruitment proposals.

The Policy & Casework Committee, which meets at least four times each year, develops the Commission's strategic approach to casework and ensures the effectiveness of the Commission's policies and practices. In addition to the membership shown above, the Commission's Legal Advisor is also a member of the Committee.

The Audit & Risk Committee supports the Board and the Accounting Officer in their responsibilities for issues of risk, control and governance. Specifically, it advises the Accounting Officer and the Board on the strategic processes for risk, control and governance; the accounting policies, the accounts, and the annual report; the planned activity and results of both internal and external audit and anti-fraud policies and whistle-blowing processes. The Committee meets quarterly, and regularly reviews the Commission's major risks and the plans for their mitigation. The pattern of meetings was altered in the year to reflect that of the Board, with the result that there were only three meetings of the Committee in the year.

In addition to the Board sub-committees there are a number of other committees and groups that contribute to the wider governance of the Commission. These include the Remuneration Committee, the Internal Communications Group, the Management Information Security Forum and various ad hoc groups formed to discharge specific functions.

### **Board performance**

The Board maintains a number of processes and systems to ensure that it can operate effectively. Recruitment by the sponsor department of new Commissioners and non-executive directors is conducted in accordance with the Office of the Commissioner for Public Appointments' code of practice. New members receive induction

consistent with their experience and knowledge of the public sector and the criminal justice system. Board members are subject to regular personal appraisal.

Meeting agendas and papers are made available to members electronically and as paper copies one week before Board meetings. Papers provide sufficient information and evidence for sound decision-making. Agendas are planned to ensure all areas of the Board's responsibilities are examined during the year.

The Board carried out its first self-evaluation of its performance in the year, using a questionnaire published by the National Audit Office which compares how the Board operates with the recommendations in the Corporate Governance Code. A number of actions were identified to improve the Board's performance which will be discussed at a Board meeting in the subsequent year. It is intended to repeat the self-evaluation on an annual basis.

### **Corporate governance**

The Commission aims to ensure that its governance arrangements follow best practice, and follow the Corporate Governance Code to the extent that it is relevant and meaningful. The Board has identified the following material departures from the provisions of the Code:

- The Board has no nominations and governance committee, as it is considered that the size of the organisation does not warrant it.
- The constitution of the Board does not reflect the optimal balance recommended by the Code, particularly in terms of the number of non-executive directors which is below the recommended minimum of four. However, the Commission's establishing legislation stipulates the

minimum number of Commissioners (who are all Board members), and it has been considered that increasing the number of non-executives would render the Board too big to allow effective discussion. However, as set out below, a recommendation to reduce the size of the Board to address this issue was made in the report of the Triennial Review. This proposal will be considered by the Board in the forthcoming year. As there are only two non-executive directors, it is not considered necessary to designate one of them as the lead non-executive director. Only one of them is on the Audit & Risk Committee to ensure there is an appropriate segregation of duties.

- The majority of Board members are Commissioners. They are selected primarily for their ability to make casework decisions and for their experience of the criminal justice system. The ability of the Board to ensure that it has the necessary mix and balance of skills is therefore somewhat limited, but the opportunity is taken at each recruitment round to ensure that any gaps in the broader skills and experience of members are addressed.
- There is no formal evaluation of the effectiveness of the Finance and Executive Scrutiny Committee or the Policy and Casework Committee. As noted above, the Board carried out its first self-evaluation of its performance during the year.

### **Triennial review**

A triennial review of the Commission was undertaken by the Ministry of Justice as part of the triennial review programme overseen by the Cabinet Office. The review is in two stages. The first provides a robust challenge to the continuing need for the Commission, in terms of both its functions and its form. The second reviews the control and governance arrangements in place to ensure the

Commission complies with recognised principles of good corporate governance.

A final report was approved by Ministers in June 2013. The report concludes that the functions of the Commission should be retained unchanged, and that the Commission should continue in its current form. Two recommendations were made to strengthen the Commission's governance arrangements. The first involves developing a more defined leadership role for the Chair, and the second proposes reducing the size of the Board and rebalancing its membership. The Board will consider how to implement these recommendations in the ensuing year.

### **Risk assessment**

The Commission's risk management framework ensures that risks to the Commission achieving its business objectives are identified, managed and monitored. Risks are assessed in the light of their impact and likelihood using a scale which reflects the Commission's appetite for risk. Risk appetite is determined by reference to the Commission's objectives, the degree to which it is able to absorb financial shock and its need to maintain its reputation in order to continue to command respect and support amongst its stakeholders.

Individual risks are assigned to named individuals, and risks are reviewed on a systematic and regular basis. Each review is endorsed by the Audit & Risk Committee and a report is made annually by the Audit & Risk Committee to the Board. A summary of significant risks and progress against mitigating actions is also included in the Board's management information pack for review at each of its meetings. In addition, the assessment and monitoring of risk is embedded in the Commission's project management processes.

During the year a full revision and rationalisation of the risk registers took place. This has resulted in some risks being consolidated where there was perceived to be some duplication, and the removal of risks no longer thought to be relevant.

Internal audit services are provided by Capita Business Solutions Ltd (previously Tribal Assurance) under a three-year contract. Both internal and external audits assist the Commission with the continuous improvement of procedures and controls. Actions are agreed in response to recommendations, and these are followed up to ensure that they are implemented.

During the year, the Commission has continued to ensure that it is managing risks relating to information security appropriately. Information security and governance arrangements broadly comply with the ISO 27001 Information Security Management standard. An internal audit of the statement of compliance was completed during the year with no significant recommendations. Self-evaluation of the Commission's compliance with the mandatory requirements of the Security Policy Framework relating to information assurance was positive. No staff security awareness training was conducted in the year as a result of uncertainties surrounding the introduction of the new Government Security Classification scheme. All staff will receive appropriate training in the following year. There were no data loss incidents during the year.

The major risks to which the Commission is exposed include risks over which the Commission has limited control. These are principally the level of case intake and provision of financial resource. The Commission uses its management information to plan for the uncertainties

associated with these areas of risk. The Commission has experienced a marked increase in the number of new applications over the past year or so, but indicative budgets for 2013/14 include sufficient additional funding to allow the Commission to increase its staffing to ensure that waiting times are kept under control. Nevertheless, the risks remain for the longer term. The Commission mitigates the risk by maintaining a flexible workforce that can be responsive to changes in the level of applications received. Other significant risks current during the year include risks associated with the planned introduction of the new Government Security Classification. Risks arise from the resource needed to plan and implement the changes, and also from the potential for the compromise of personal and other sensitive data arising from any newly introduced procedures not being properly understood. Action is being taken to properly plan the implementation of the new system, to ensure that local processes and guidance are updated accordingly, and all staff given appropriate training. A further set of risks is associated with the project to replace our case management software, which is mission-critical for the Commission. Risks relate mainly to the level of internal resource needed to complete the project and procurement difficulties. The availability of funding from the Ministry of Justice for the completion of the project also remains a concern. These risks are being monitored, and appropriate advice taken to ensure that the procurement takes place within the appropriate rules. A final set of risks deemed significant for the Commission are those concerning the retention and management of sufficiently skilled staff. A full staff development strategy, including succession planning, is being developed to mitigate this risk.

During the year, the Commission updated its business continuity planning documentation, and conducted a successful desktop test with the assistance of an external facilitator. Lessons learned from the exercise will inform a subsequent revision of the plans. In tandem with this, a full IT disaster recovery test was conducted, in which the Commission's entire virtual environment, including all operational applications and data, was successfully re-created from backup tapes. Lessons learned from this exercise have already been implemented.

### **Accounting Officer**

I was appointed acting Accounting Officer with effect from 1 April 2012. I was subsequently confirmed as Accounting Officer with effect from 1 February 2013 following my appointment as Chief Executive with effect from 1 February 2013.

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control, including the risk management framework. My review is informed by the work of the internal auditors and the executive managers within the Commission who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports. In their annual report, our internal auditors have given an overall assurance that the Commission has adequate and effective management and governance processes. I have been advised on the implications of the result of my review by the Board and the Audit & Risk Committee. I am satisfied that a plan to address weaknesses in the system of internal control and ensure continuous improvement of the system is in place. I am also satisfied that all material risks have been identified, and that those risks are being properly managed. Although the indicative

budget we have received for 2013/14 means that we are confident we will be able to maintain or reduce our waiting times in the next business year, the availability of sufficient funding remains a major long term concern.



**Karen Kneller**

Chief Executive and Accounting Officer  
26/06/2013

## The Certificate and Report of The Comptroller and Auditor General to The Houses Of Parliament

I certify that I have audited the financial statements of the Criminal Cases Review Commission for the year ended 31 March 2013 under the Criminal Appeal Act 1995. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

### **Respective responsibilities of the Commission, Accounting Officer and auditor**

As explained more fully in the Statement of the Commission's and Accounting Officer's Responsibilities, the Commission and the Accounting Officer are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Criminal Appeal Act 1995. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Criminal Cases Review Commission's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Criminal Cases Review Commission; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### **Opinion on regularity**

In my opinion, in all material respects the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

**Opinion on financial statements**

In my opinion:

- the financial statements give a true and fair view of the state of the Criminal Cases Review Commission's affairs as at 31 March 2013 and of the net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Criminal Appeal Act 1995 and Secretary of State, with consent of the Treasury, directions issued thereunder.

**Opinion on other matters**

In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with Secretary of State, with the consent of the Treasury, directions made under the Criminal Appeal Act 1995; and
- the information given in the Directors' Report, Casework and Resources sections of the Annual Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

**Matters on which I report by exception**

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the part of the Remuneration Report to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

**Report**

I have no observations to make on these financial statements.

Amyas C E Morse                      4 July 2013  
Comptroller and Auditor General

National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

# Statement of Comprehensive Net Expenditure

for the year ended 31 March 2013

	Note	2012-13 £000	2011-12 £000
<b>Expenditure</b>			
Staff Costs	3	<b>4,360</b>	4,155
Depreciation & Amortisation	9,10	<b>92</b>	85
Other Expenditure	5	<b>1,380</b>	1,810
<b>Total Expenditure</b>		<b>5,832</b>	6,050
<b>Income</b>			
Income from Activities	7	<b>(8)</b>	(4)
<b>Net Expenditure</b>		<b>5,824</b>	6,046
Interest Payable	6	<b>241</b>	271
<b>Net Expenditure after Interest</b>		<b>6,065</b>	6,317
<b>Other Comprehensive Expenditure</b>			
Pensions: actuarial losses/(gains)	4	<b>383</b>	(110)
<b>Total Comprehensive Expenditure</b>		<b>6,448</b>	6,207

The notes on pages 51 to 64 form part of these accounts.



# Statement of Financial Position

as at 31 March 2013

	Note	2013 £000	2012 £000
<b>Non-current assets</b>			
Property, plant & equipment	9	391	431
Intangible assets	10	173	181
Trade & other receivables	11	1	2
<b>Total non-current assets</b>		<b>565</b>	614
<b>Current assets</b>			
Trade & other receivables	11	136	120
Cash	12	42	171
<b>Total current assets</b>		<b>178</b>	291
<b>Total assets</b>		<b>743</b>	905
<b>Current liabilities</b>			
Trade payables & other current liabilities	13	314	373
<b>Non-current assets less net current liabilities</b>		<b>429</b>	532
<b>Non-current liabilities</b>			
Provisions	14	53	42
Pension liabilities	4	5,498	5,020
<b>Total non-current liabilities</b>		<b>5,551</b>	5,062
<b>Assets less total liabilities</b>		<b>(5,122)</b>	(4,530)
<b>Taxpayers' equity</b>			
General reserve		(5,122)	(4,530)
<b>Total taxpayers' equity</b>		<b>(5,122)</b>	(4,530)

The notes on pages 51 to 64 form part of these accounts.

The financial statements on pages 47 to 64 were approved by the Board on 25/06/2013, and were signed on behalf of the Criminal Cases Review Commission by:



**Karen Kneller**

Chief Executive and Accounting Officer  
26/06/2013

# Statement of Cash Flows

for the year ended 31 March 2013

	Note	2013-13 £000	2011-12 £000
<b>Cash flows from operating activities</b>			
<b>Net cash outflow from operating activities</b>	15	<b>(5,317)</b>	(5,145))
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment	9	<b>(28)</b>	(99)
Purchase of intangible assets	10	<b>(19)</b>	(36)
<b>Total cash outflow from investing activities</b>		<b>(47)</b>	(135)
<b>Cash flows from financing activities</b>			
Capital Grant in Aid	2	<b>48</b>	96
Revenue Grant in Aid	2	<b>5,187</b>	5,205
<b>Total financing</b>		<b>5,235</b>	5,301
<b>Net (decrease)/increase in cash</b>	12	<b>(129)</b>	21

The notes on pages 51 to 64 form part of these accounts.

# Statement of Changes in Taxpayers' Equity

for the year ended 31 March 2013

	Note	General reserve £000
<b>Balance at 1 April 2011</b>		(5,014)
<b>Changes in taxpayers' equity for 2011-12</b>		
Total comprehensive expenditure for 2011-12		(6,207)
Grant from sponsor department	2	5,301
Reversal of notional transactions: notional expenditure	18	912
notional funding	18	478
<b>Balance at 31 March 2012</b>		<b>(4,530)</b>
<b>Changes in taxpayers' equity for 2012-13</b>		
Total comprehensive expenditure for 2012-13		(6,448)
Grant from sponsor department	2	5,235
Reversal of notional transactions: notional expenditure	18	621
<b>Balance at 31 March 2013</b>		<b>(5,122)</b>

The notes on pages 51 to 64 form part of these accounts.

# NOTES TO THE ACCOUNTS

## 1 ACCOUNTING POLICIES

### **Basis of Accounts**

These financial statements have been prepared in accordance with the Accounts Direction given by the Secretary of State for the Ministry of Justice with the consent of the Treasury in accordance with paragraph 9(2) of Schedule 1 to the Criminal Appeal Act 1995. The Accounts Direction requires the financial statements to be prepared in accordance with the 2012-13 Government Financial Reporting Manual (FRoM) issued by HM Treasury. The accounting policies contained in the FRoM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FRoM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the Commission for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Commission are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

These financial statements have been prepared under the historical cost convention.

### **Going concern**

The Statement of Financial Position at 31 March 2013 shows negative total taxpayers' equity of £5,122,000. This reflects the inclusion of liabilities falling due in future years which, to the extent that they are not to be met from the Commission's other sources of income, may only be met by future Grants-in-Aid from the Commission's sponsoring department, the Ministry of Justice. This is because, under the normal conventions applying to parliamentary control over income and expenditure, such grants may not be issued in advance of need.

Grant in Aid for 2013-14, taking into account the amounts required to meet the Commission's liabilities falling due in that year, has already been included in the sponsor department's Main Estimates for that year, which have been approved by Parliament, and there is no reason to believe that the department's sponsorship and future parliamentary approval will not be forthcoming.

The Commission underwent a triennial review during the year. This was conducted by the Ministry of Justice as part of the programme overseen by the Cabinet Office. The outcome of stage 1 of the review was that the functions of the Commission should be retained unchanged, and that the Commission should continue in its current form. It has accordingly been considered appropriate to adopt a going concern basis for the preparation of these financial statements.

### **Grant in Aid**

Grant in Aid received is credited direct to the General Reserve in accordance with the FRoM.

### **Income**

Income is recognised on an accruals basis.

### **Notional expenditure**

Accommodation costs are borne by the Ministry of Justice on the Commission's behalf. To enable the accounts to show a true and fair view, and to comply with the FRoM, such expenditure is included in the Statement of Comprehensive Net Expenditure as notional expenditure under the appropriate expense heads, with a full analysis shown in note 18 to the accounts. An equivalent credit entry to finance the notional expenditure is recognised in the Statement of Changes in Taxpayers' Equity.

Certain expenditure related to the Commission's move to new offices in the previous year were also borne by the Ministry of Justice on the Commission's behalf, and some non-current assets were transferred from the Department of Communities and Local Government to the Commission for no consideration as part of the move. This expenditure was included in the prior year's Statement of Comprehensive Net Expenditure as notional expenditure, or was capitalised if appropriate in accordance with the policy on non-current assets.

### **Non-current Assets**

Assets are capitalised as non-current assets if they are intended for use on a continuing basis and their original purchase cost, on an individual or grouped basis, is £500 or more.

Depreciated historical cost is used as a proxy for fair value of all non-current assets due to short lives and/or low values.

### Depreciation and Amortisation

Depreciation or amortisation is provided on all non-current assets on a straight-line basis to write off the cost or valuation evenly over the asset's estimated useful life as follows:

IT hardware / development	eight years
Software systems and licences	eight years
Furniture and fittings	10 years
Office equipment	10 years
Refurbishment costs	over the remaining term of the lease
Dilapidations	over the remaining term of the lease

### Pensions

#### (i) Staff pensions

Staff are members of the Principal Civil Service Pension Scheme (PCSPS). The PCSPS is an unfunded multi-employer defined benefit scheme, and the Commission is unable to identify its share of the underlying liabilities. In accordance with IAS 19 (Employee benefits), the Statement of Comprehensive Net Expenditure is charged with contributions made in the year.

#### (ii) Commissioners' pensions

Commissioners are provided with individual defined benefit schemes which are broadly by analogy with the PCSPS. These schemes are unfunded, and the Commission is liable for the future payment of pensions. The cost of benefits accruing during the year is charged against staff costs in the Statement of Comprehensive Net Expenditure. The increase in the present value of the schemes' liabilities arising from the passage of time is charged as interest payable to the Statement of Comprehensive Net Expenditure after operating expenditure. Actuarial gains and losses are recognised as Other Comprehensive Expenditure in the Statement of Comprehensive Net Expenditure.

The Statement of Financial Position includes the actuarially calculated scheme liabilities, discounted at the pensions discount rate as prescribed by HM Treasury to reflect expected long term returns.

### Operating Leases

Payments made under operating leases are charged to expenditure as incurred.

### Provisions

Provision is made for the estimated costs of returning the office premises occupied under a Memorandum of Terms of Occupation (MOTO) to an appropriate condition. The estimated amount is adjusted to take account of inflation to the date when the cash flow is expected to occur (i.e. the end of the period of occupation), and then discounted to the present value. The rates used are the short and medium term official inflation and nominal discount rates for general provisions advised by HM Treasury. This is a change from previous years, when the rate used was the official Government discount rate for long term liabilities. The estimated effect of this change is an additional increase in the provision of £9,000 in the current year. There is no material impact on future years.

As the building alterations concerned give access to future economic benefits, a non-current asset has also been created corresponding to the amount of the provision, in accordance with IAS 37 (Provisions, contingent assets and contingent liabilities). This non-current asset is amortised over the period of the MOTO on a straight line basis, and the amortisation charged to Statement of Comprehensive Net Expenditure. The interest cost arising from the unwinding of the discount is also charged each year as interest payable to the Statement of Comprehensive Net Expenditure.

### Contingent liabilities

Contingent liabilities are not recognised in the financial statements, but disclosure is made in the notes in accordance with IAS 37 unless the possibility of an outflow of funds is remote.

### Taxation

The Commission is not eligible to register for VAT and all costs are shown inclusive of VAT. The Commission is registered with HM Revenue & Customs for corporation tax. There was no taxable income in the year ended 31 March 2013.

### Standards in issue but not yet effective

The Commission has reviewed the IFRSs in issue but not yet effective, to determine if it needs to make any disclosures in respect of those new IFRSs that are or will be applicable. References to 'new IFRSs' includes new interpretations and any new amendments to IFRSs and interpretations. In June 2011 the IASB issued a revised IAS19 Employee Benefits. The revised standard comes into effect for accounting periods beginning on or after 1 January 2013, with early adoption permitted. The changes in this revised standard are therefore mandatory for the 2013/14 accounting period, and have not been incorporated into the current year's accounts. The impact on the Commission's accounts are primarily in terms of disclosure, and it is not believed that implementing the revised standard will have a material affect on the financial statements.

**2 GRANT IN AID**

	<b>2012-13</b>	2011-12
	<b>£000</b>	£000
Received for revenue expenditure	<b>5,187</b>	5,205
Received for capital expenditure	<b>48</b>	96
<b>Total</b>	<b>5,235</b>	5,301

Grant in Aid has been received in accordance with the Ministry of Justice main estimate Part III note E as adjusted by the supplementary estimate.

**3 STAFF COSTS**

	<b>2012-13</b>	2011-12
	<b>£000</b>	£000
<b>Commissioners</b>		
Salaries and emoluments	<b>745</b>	751
Social security contributions	<b>85</b>	85
Pension costs	<b>150</b>	190
<b>Total Commissioners cost</b>	<b>980</b>	1,026
<b>Non-executive directors</b>		
Salaries and emoluments	<b>12</b>	8
Social security contributions	<b>1</b>	-
Pension costs	<b>-</b>	-
<b>Total Non-executive directors cost</b>	<b>13</b>	8
<b>Staff</b>		
Staff with permanent employment contracts		
Salaries and emoluments	<b>2,511</b>	2,451
Social security contributions	<b>196</b>	169
Pension costs	<b>427</b>	440
Other staff (contract, agency/ temporary)		
Salaries and emoluments	<b>233</b>	61
Social security contributions	<b>-</b>	-
Pension costs	<b>-</b>	-
<b>Total Staff cost</b>	<b>3,367</b>	3,121
<b>Total</b>	<b>4,360</b>	4,155

At 31 March 2013, the Commission employed 81 staff (2012 74). The average number of employees, expressed as full time equivalents, during the period 1 April 2012 to 31 March 2013 was:

	<b>2012-13</b>	2011-12
Staff with permanent employment contracts	<b>76</b>	68
Other staff (contract, agency/temporary)	<b>6</b>	2
<b>Total</b>	<b>82</b>	70

Reporting of Civil Service & other compensation schemes – exit packages:

Exit package cost band	No. of compulsory redundancies	No. of other departures agreed	Total
< £10,000	0 (0)	0 (0)	0 (0)
£10,000 - £25,000	0 (0)	0 (0)	0 (0)
£25,000 - £50,000	0 (0)	0 (1)	0 (1)
£50,000 - £100,000	0 (0)	1 (1)	1 (1)
<b>Total no. of exit packages</b>	<b>0 (0)</b>	<b>1 (2)</b>	<b>1 (2)</b>
<b>Total resource cost - £000</b>	<b>0 (0)</b>	<b>56 (99)</b>	<b>56 (99)</b>

2011-12 comparative figures are shown in brackets.

During the year, compensation payments totalling £57,000 (2011/12 £113,000) were payable to staff. Payments were in respect of entitlements under the Civil Service Compensation Scheme and other compensation schemes of £56,000 (2011/12 £99,000) and adjustments to exit costs committed in previous years of £1,000 (2011/12 £1,000). In 2011/12, an extra-contractual payment of £13,000 was made in lieu of notice. This constituted a special payment, and was made with the prior consent of the sponsor department.

Redundancy and other departure costs have been paid in accordance with the provisions of the Civil Service Compensation Scheme, a statutory scheme made up under the Superannuation Act 1972. Exit costs are accounted for in full at the point at which an irrevocable commitment to pay the exit cost is made. Where the department has agreed early retirements, the additional costs are met by the Commission and not by the Civil Service pension scheme.

#### 4 PENSIONS

##### (i) Staff

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme but the Commission is unable to identify its share of the underlying assets and liabilities. The scheme actuary valued the scheme as at 31 March 2007. Details can be found in the resource accounts of the Cabinet Office: Civil Superannuation ([www.civilservice.gov.uk/pensions](http://www.civilservice.gov.uk/pensions)).

The cost of the Commission's pension contributions to the Principal Civil Service Pension Schemes is included in employment costs. For 2012-13, employers' contributions of £398,000 (2011/12 £424,000) were payable to the PCSPS at one of four rates in the range 16.7% to 24.3% (2011/12 16.7% to 24.3%) of pensionable pay, based on salary bands. The Scheme Actuary reviews employer contributions usually every four years following a full scheme valuation. The contribution rates are set to meet the cost of the benefits accruing during 2012/13 to be paid when the member retires and not the benefits paid during this period to existing pensioners.

Employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. Employers' contributions of £27,000 (2011/12 £15,000) were paid to one or more of the panel of three appointed stakeholder pension providers. Employer contributions are age-related and range from 3% to 12.5% of pensionable pay. Employers also match employee contributions up to 3% of pensionable pay. In addition, employer contributions of £2,000 (2011/12 £1,000), 0.8% of pensionable pay, were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees.

There were no outstanding contributions due to the partnership pension providers at the Statement of Financial Position date, nor any prepaid amounts.

##### (ii) Commissioners

Commissioners may choose pension arrangements broadly by analogy with the Principal Civil Service Pension Schemes and are entitled to receive such benefits from their date of appointment.

Commissioners' pension arrangements are unfunded, and the Commission is responsible for paying retirement benefits as they fall due. Contributions are paid by Commissioners at the rate of 5.9% of pensionable earnings.

The value of the scheme liabilities for the current and four previous years are as follows:

	<b>2012-13</b>	2011-12	2010-11	2009-10	2008-09
	<b>£000</b>	£000	£000	£000	£000
<b>Liability in respect of</b>					
Active members	<b>1,241</b>	2,030	1,965	2,297	1,476
Deferred pensioners	<b>530</b>	132	110	117	-
Current pensioners	<b>3,727</b>	2,858	2,723	3,070	2,494
<b>Total present value of scheme liabilities</b>	<b>5,498</b>	5,020	4,798	5,484	3,970

The scheme liabilities have been valued by the Government Actuary's Department using the Projected Unit Method. The main actuarial assumptions are as follows:

	<b>2012-13</b>	2011-12	2010-11	2009-10	2008-09
Discount rate	<b>4.10%</b>	4.85%	5.60%	4.60%	6.04%
Rate of increase in salaries	<b>3.95%</b>	4.25%	4.90%	4.29%	4.30%
Price inflation	<b>1.70%</b>	2.00%	2.65%	2.75%	2.75%
Rate of increase in pensions (deferred and in payment)	<b>1.70%</b>	2.00%	2.65%	2.75%	2.75%

The following amounts have been recognised in the Statement of Comprehensive Net Expenditure for the year:

	<b>2012-13</b>	2011-12
	<b>£000</b>	£000
Current service cost	<b>183</b>	213
Commissioners' contributions retained	<b>(33)</b>	(23)
<b>Total charge to Staff Costs</b>	<b>150</b>	190
Interest on pension scheme liabilities	<b>239</b>	270
<b>Total charge to Interest Payable</b>	<b>239</b>	270

Actuarial gains and losses recognised in the Statement of Comprehensive Net Expenditure for the year and the previous four years are set out below, shown as an amount and as a percentage of the present value of the scheme liabilities at the Statement of Financial Position date:

		<b>2012-13</b>	2011-12	2010-11	2009-10	2008-09
Experience (gains)/losses	£000	<b>159</b>	(67)	(92)	(186)	122
on pension liabilities	%	<b>2.9%</b>	-1.3%	-1.9%	-3.4%	3.1%
Changes in demographic	£000	<b>224</b>	(43)	(326)	1,399	(422)
and financial assumptions	%	<b>4.1%</b>	-0.9%	-6.8%	25.5%	-10.6%
<b>Net actuarial losses/(gains)</b>	£000	<b>383</b>	(110)	(418)	1,213	(300)



The movement in scheme liabilities is analysed as follows:

	2012-13	2011-12
	£000	£000
Present value of scheme liabilities at start of year	5,020	4,798
Current service cost	183	213
Interest cost	239	270
Actuarial losses/(gains)	383	(110)
Benefits paid	(327)	(151)
Present value of scheme liabilities at end of year	5,498	5,020

## 5 OTHER EXPENDITURE

	2012-13	2011-12
	£000	£000
Accommodation - operating lease	621	665
Travel, subsistence and external case-related costs	166	147
IT costs	163	642
Office supplies	91	89
Training and other HR	72	41
Library and reference materials	50	45
Legal and professional costs	43	71
Information and publications	39	46
Case storage	29	33
Office services	28	40
Audit fee - external	26	27
Telephones	19	22
Payroll and pension costs	10	13
Recruitment	9	16
Audit fee - internal	9	9
Loss on disposal of non-current assets	7	40
Equipment rental under operating lease	6	8
Dilapidations provision released	-	(151)
Accommodation costs - general	(8)	7
Total	1,380	1,810

Other Expenditure includes notional expenditure – details are given in notes 1 and 18.

## 6 INTEREST PAYABLE

	2012-13	2011-12
	£000	£000
Interest on Pension Scheme Liabilities	239	270
Interest on Dilapidations Provision	2	1
Total	241	271

**7 INCOME FROM ACTIVITIES**

	<b>2012-13</b>	2011-12
	<b>£000</b>	£000
FSR income	-	2
Kalisher Trust internships	<b>8</b>	2
<b>Total</b>	<b>8</b>	4

During 2011/12 the Commission created two short-term internship posts, which are partially funded by the Kalisher Trust. These ended in October 2012.

In 2011/12 income was also received in relation to an office sharing arrangement with the Forensic Science Regulator (FSR), whereby the Commission received from FSR a contribution towards the accommodation costs in return for occupation of office space and use of services. This arrangement ended in April 2011.

**8 ANALYSIS OF NET EXPENDITURE BY PROGRAMME & ADMINISTRATION BUDGET****2012-2013**

	<b>Programme</b>	<b>Administration</b>	<b>Total</b>
	<b>£000</b>	<b>£000</b>	<b>£000</b>
<b>Expenditure</b>			
Staff costs	3,513	847	<b>4,360</b>
Depreciation & amortisation	92	-	<b>92</b>
Accommodation – operating lease	621	-	<b>621</b>
Other running costs	535	224	<b>759</b>
<b>Total Expenditure</b>	<b>4,761</b>	<b>1,071</b>	<b>5,832</b>
<b>Income</b>			
Income from activities	(8)	-	<b>(8)</b>
<b>Net Expenditure</b>	<b>4,753</b>	<b>1,071</b>	<b>5 824</b>
Interest Payable	241	-	<b>241</b>
<b>Net Expenditure after Interest</b>	<b>4,994</b>	<b>1,071</b>	<b>6,065</b>

**2011-2012**

	<b>Programme</b>	<b>Administration</b>	<b>Total</b>
	<b>£000</b>	<b>£000</b>	<b>£000</b>
<b>Expenditure</b>			
Staff costs	3,463	692	<b>4,155</b>
Depreciation & amortisation	85	-	<b>85</b>
Accommodation – operating lease	665	-	<b>665</b>
Other running costs	935	210	<b>1,145</b>
<b>Total Expenditure</b>	<b>5,148</b>	<b>902</b>	<b>6,050</b>
<b>Income</b>			
Income from activities	(4)	-	<b>(4)</b>
<b>Net Expenditure</b>	<b>5,144</b>	<b>902</b>	<b>6,046</b>
Interest Payable	271	-	<b>271</b>
<b>Net Expenditure after Interest</b>	<b>5,415</b>	<b>902</b>	<b>6,317</b>

## 9 PROPERTY, PLANT &amp; EQUIPMENT

	Refurbishment Costs £000	Plant and Equipment £000	Furniture and Fittings £000	IT Hardware £000	Total £000
Cost/valuation at 1 April 2012	98	128	138	619	<b>983</b>
Additions	9	3	5	14	<b>31</b>
Disposals	-	(11)	-	(23)	<b>(34)</b>
Reclassification	-	(1)	1	-	-
Cost/valuation at 31 March 2013	<b>107</b>	<b>119</b>	<b>144</b>	<b>610</b>	<b>980</b>
Depreciation at 1 April 2012	9	85	41	417	<b>552</b>
Charged during the year	12	7	13	32	<b>64</b>
Depreciation on disposals	-	(4)	-	(23)	<b>(27)</b>
Reclassification	-	(1)	1	-	-
Depreciation at 31 March 2013	<b>21</b>	<b>87</b>	<b>55</b>	<b>426</b>	<b>589</b>
<b>Carrying amount at 31 March 2013</b>	<b>86</b>	<b>32</b>	<b>89</b>	<b>184</b>	<b>391</b>
Carrying amount at 31 March 2012	89	43	97	202	431
Cost/valuation at 1 April 2011	856	177	291	565	<b>1,889</b>
Additions	98	23	95	42	<b>258</b>
Disposals	(856)	(72)	(248)	(3)	<b>(1,179)</b>
Reclassification	-	-	-	15	<b>15</b>
Cost/valuation at 31 March 2012	98	128	138	619	<b>983</b>
Depreciation at 1 April 2011	856	150	273	385	<b>1,664</b>
Charged during the year	9	7	11	28	<b>55</b>
Depreciation on disposals	(856)	(72)	(243)	-	<b>(1,171)</b>
Reclassification	-	-	-	4	<b>4</b>
Depreciation at 31 March 2012	9	85	41	417	<b>552</b>
Carrying amount at 31 March 2012	89	43	97	202	<b>431</b>
Carrying amount at 31 March 2011	-	27	18	180	<b>225</b>

All assets are owned by the Commission.

2011/12 additions totalling £149,000 represent assets paid for by the Department of Justice or acquired from the Department for Communities and Local Government for no consideration. Details are given in notes 1 and 18.

**10 INTANGIBLE NON-CURRENT ASSETS**

	IT Development £000	Software Licences £000	Total £000
Cost/valuation at 1 April 2012	349	431	780
Additions	-	20	20
Disposals	(1)	(17)	(18)
Cost/valuation at 31 March 2013	<b>348</b>	<b>434</b>	<b>782</b>
Amortisation at 1 April 2012	316	283	599
Charged during the year	5	23	28
Amortisation on disposals	(1)	(17)	(18)
Amortisation at 31 March 2013	<b>320</b>	<b>289</b>	<b>609</b>
<b>Carrying amount at 31 March 2013</b>	<b>28</b>	<b>145</b>	<b>173</b>
Carrying amount at 31 March 2012	33	148	181
Cost/valuation at 1 April 2011	349	464	813
Additions	-	10	10
Disposals	-	(28)	(28)
Reclassification	-	(15)	(15)
Cost/valuation at 31 March 2012	349	431	780
Amortisation at 1 April 2011	311	270	581
Charged during the year	5	25	30
Amortisation on disposals	-	(8)	(8)
Reclassification	-	(4)	(4)
Amortisation at 31 March 2012	316	283	599
Carrying amount at 31 March 2012	33	148	181
Carrying amount at 31 March 2011	38	194	232

All assets are owned by the Commission.

**11 TRADE & OTHER RECEIVABLES**

	31 March 2013 £000	31 March 2012 £000
<b>Amounts falling due within one year</b>		
Intra-government balances:		
Local authorities	3	-
Travel loans to staff	13	22
Prepayments	120	98
Total	<b>136</b>	120
<b>Amounts falling due after more than one year</b>		
Prepayments	1	2
Total	<b>1</b>	2

**12 CASH & CASH EQUIVALENTS**

	<b>31 March</b>	31 March
	<b>2013</b>	2012
	<b>£000</b>	£000
Balance at 1 April	171	150
Net change in cash balances	(129)	21
Balance at 31 March	<b>42</b>	171

The following balances at 31 March were held at:

Government Banking Service	4	-
Commercial banks and cash in hand	38	171
Balance at 31 March	<b>42</b>	171

No cash equivalents were held at any time.

**13 TRADE PAYABLES AND OTHER CURRENT LIABILITIES**

	<b>31 March</b>	31 March
	<b>2013</b>	2012
	<b>£000</b>	£000
		Restated
<b>Amounts falling due within one year</b>		
Intra-government balances:		
UK taxation & social security	102	90
Trade payables	42	8
Capital payables	1	-
Other payables	27	8
Capital accruals	-	6
Other accruals	142	253
Deferred income	-	8
Total	<b>314</b>	373
<b>Amounts falling due after more than one year</b>		
Accruals & other payables	-	-
Total	-	-

During the year, the classification between accruals and payables was revised. 2011/12 balances have been restated accordingly.

**14 PROVISIONS**

The movements in the provisions are analysed as follows:

	<b>2012-13</b>	<b>2012-13</b>	2011-12
	<b>Dilapidations</b>	<b>Total</b>	Total
	<b>£000</b>	<b>£000</b>	£000
Balance at 1 April	42	42	629
Provided in year	9	9	41
Provision released – credited to expenses	-	-	(151)
Utilised in year (notional)	-	-	(478)
Unwinding of discount	2	2	1
Balance at 31 March	<b>53</b>	<b>53</b>	42

The expected timing of discounted cash flows is as follows:

	<b>31 March</b>
	<b>2013</b>
	<b>£000</b>
Dilapidations:	
Not later than one year	-
Later than one year and not later than five years	-
Later than five years	<b>53</b>
Balance at 31 March	<b>53</b>

The notional utilisation of provision in 2011/12 relates to obligations under the lease for the Commission's previous premises at Alpha Tower, Birmingham, which were settled on the Commission's behalf by the Ministry of Justice.

**15 RECONCILIATION OF NET EXPENDITURE TO NET CASH OUTFLOW FROM OPERATING ACTIVITIES**

	Note	<b>2012-13</b>	2011-12
		<b>£000</b>	£000
Net expenditure after interest		<b>(6,065)</b>	(6,317)
Interest payable	6	<b>241</b>	271
Depreciation and amortisation	9,10	<b>92</b>	85
Loss on disposal of tangible non-current assets		<b>7</b>	28
(Increase) / decrease in receivables	11	<b>(15)</b>	132
Decrease in payables	13	<b>(54)</b>	(18)
Pension provision:			
Current service cost	4	<b>183</b>	213
Benefits paid	4	<b>(327)</b>	(151)
Release of dilapidations provision	14	-	(151)
Notional expenditure	18	<b>621</b>	763
Net cash outflow from operating activities		<b>(5,317)</b>	(5,145)

The decrease in payables shown above excludes capital payables and accruals decrease of £5,000 (2012 £57,000).

In 2011/12, the total loss on disposal of tangible non-current assets was £40,000. This included notional expenditure of £12,000.

## 16 CAPITAL COMMITMENTS

Capital commitments contracted for at 31 March 2013 were £nil (2012 £nil).

## 17 COMMITMENTS UNDER OPERATING LEASES

At 31 March 2013 the Commission had the following total future minimum lease payments under non-cancellable operating leases for each of the following periods:

	<b>31 March 2013 Total £000</b>	31 March 2012 Total £000
Buildings		
Not later than one year	<b>621</b>	620
Later than one year and not later than five years	<b>2,482</b>	2,482
Later than five years	<b>1,706</b>	2,327
<b>Total buildings</b>	<b>4,809</b>	5,429
Equipment		
Not later than one year	<b>4</b>	7
Later than one year and not later than five years	<b>1</b>	5
<b>Total equipment</b>	<b>5</b>	12
<b>Total commitments under operating leases</b>	<b>4,814</b>	5,441

The above commitment in respect of building leases relates to the Commission's current office accommodation at St Philip's Place, Birmingham. This is occupied under a Memorandum of Terms of Occupation (MOTO) issued in accordance with the Departmental Estate Occupancy Agreement for Crown Bodies. The MOTO is between the Ministry of Justice on behalf of the Commission and the Department for Communities and Local Government. The costs of occupation are payable by the Ministry of Justice, but are included in the Commission's accounts as notional expenditure. Accordingly, the commitment shown above is also notional.

**18 NOTIONAL EXPENDITURE**

The Ministry of Justice incurred costs in respect of accommodation on behalf of the Commission. During 2011/12, the Ministry of Justice also incurred costs in respect of the move from Alpha Tower to St Philip's Place, Birmingham on behalf of the Commission. In addition during 2011/12 the Commission acquired from the Department for Communities and Local Government (DCLG) office furniture at no charge, which was capitalised at estimated fair value.

	<b>2012-13</b>	2011-12
	<b>£000</b>	£000
<b>Notional expenditure</b>		
Other expenditure – incurred by MoJ:		
Accommodation costs – operating leases	<b>621</b>	665
IT costs	-	22
Legal & professional	-	38
Accommodation costs - general	-	16
Office services	-	8
Loss on disposal of non-current assets	-	12
Telephones	-	2
<b>Total notional other expenditure</b>	<b>621</b>	763
Non-current asset expenditure – incurred by MoJ:		
Refurbishment	-	46
Plant & equipment	-	17
Non-current asset acquisition – from DCLG:		
Furniture & fittings	-	86
<b>Total notional non-current asset expenditure</b>	<b>-</b>	149
<b>Total notional expenditure</b>	<b>621</b>	912
<b>Notional funding</b>		
Utilisation of provisions:		
Onerous contract settlement	-	189
Dilapidations settlement	-	289
<b>Total notional funding</b>	<b>-</b>	478
<b>Total notional transactions</b>	<b>621</b>	1,390

Items shown as notional expenditure are items of expenditure which would otherwise have been recognised in the financial statements in the current year if they had been incurred by the Commission.

Items shown as notional funding are in respect of payments made by the MoJ which represent the utilisation of provisions. These provisions were established in previous years, when a charge was made to the financial statements. The utilisation of the provisions is therefore simply a cash transaction made directly by the MoJ instead of additional Grant in Aid being provided, and is therefore shown as notional funding.



**19 CONTINGENT LIABILITIES DISCLOSED UNDER IAS 37**

There were no contingent liabilities at the Statement of Financial Position date (2012 none).

**20 RELATED PARTY TRANSACTIONS**

The Ministry of Justice is a related party to the Commission. During the period 1 April 2012 to 31 March 2013, the Ministry of Justice provided the Commission with Grant in Aid and made certain payments on behalf of the Commission disclosed in these financial statements and notes as notional expenditure.

In addition, the Commission has had a small number of transactions with other government departments and other central government bodies.

During the period 1 April 2012 to 31 March 2013, none of the Commissioners, key managerial staff or other related parties undertook any material transactions with the Commission.

**21 FINANCIAL INSTRUMENTS**

IFRS 7 (Financial Instruments: Disclosures) requires disclosure of the significance of financial instruments for the entity's financial position and performance, and the nature and extent of risks arising from financial instruments to which the entity is exposed, and how the entity manages those risks. Because of the largely non-trading nature of its activities and the way it is financed, the Commission is not exposed to the degree of financial risk faced by business entities. Moreover, financial instruments play a much more limited role in creating or changing risk than would be typical of the listed companies to which IAS 32 (Financial Instruments: Presentation), IAS 39 (Financial Instruments: Recognition and Measurement) and IFRS 7 mainly apply. The Commission has limited powers to borrow or invest funds and financial assets and liabilities are generated by day-to-day operational activities and are not held to change the risks facing the Commission in undertaking its activities.

The Commission is not therefore exposed to significant liquidity risks, interest rate risk or foreign currency risk.

**22 EVENTS AFTER THE REPORTING PERIOD**

In accordance with the requirements of IAS 10 (Events After the Reporting Period), events after the reporting period are considered up to the date the accounts are authorised for issue. This is interpreted as the date of the audit certificate of the Comptroller and Auditor General

## Section seven:

## Tables and Appendices

## Commission referrals to the appeal courts during 2012/2013

Name	Ref	Referral Date	Offences	Sentence only
LOGAN, Sharon	00703/2009	03.04.12	Arson being reckless as to whether life is endangered	•
LIVINGSTONE, Patrick	00360/2007	04.04.12	Murder Possession of firearm and ammunition with intent	
COLE, Kevin	00148/2008	19.04.12	Murder Wounding with Intent to cause Grievous Bodily Harm	
E	00496/2007	21.05.12	Indecent Assault x9 Attempted buggery x2	
MULDOON, James	00326/1212	22.05.12	Robbery Failure to surrender to bail Breach of suspended sentence	•
NEALON, Victor	00482/2010	16.07.12	Attempted Rape	
WILLIAMS, Dean	00732/2011	20.09.12	Murder	
DIXON, Hainsley	00556/2011	15.10.12	Possession of a firearm	•
HACKETT, David	00386/2012	20.11.12	Being knowingly concerned in the fraudulent evasion of duty chargeable on goods x2 Breach of suspended sentence	•
G	00559/2010	22.11.12	Indecent assault x11 Indecency with a child x3	
F	286/2010	23.11.12	Wounding with intent	•
H	00864/2010	23.11.12	Sexual Assault	
BENGUIT, Omar	00303/2010	19.12.12	Murder	
FORAN, Martin	00449/2011	19.12.12	Robbery Conspiracy to Rob	
TAHERY, Ali	00471/2012	20.12.12	Wounding with intent Attempting to pervert the course of justice	
McCAULEY, Martin	00910/2005	25.01.13	Possession of firearms (3 rifles)	
J	01391/2012	22.03.13	Production of cannabis	
K	01186/2012	28.03.13	Using a false instrument with intent Attempting to obtain services by deception	
ESTIFANOS	00924/2012	28.03.13	Failure to produce a document contrary to section 2 Immigration and Asylum (Treatment of Claimants) Act 2004	
BASHIR	00540/2012	28.03.13	Possession of a false identity document contrary to section 25 (1) of the Identity Cards Act 2006.	
L	933/2012	28.03.12	Possession of a false identity document with intent, contrary to section 25 (1) of the Identity Cards Act 2006	

**Commission referrals heard by appeal courts during 2012/2013**

<b>Name</b>	<b>Date of referral</b>	<b>Conviction</b>	<b>Sentence only</b>	<b>Decision</b>	<b>Decision date</b>
SHUALE-MONGOUE, Alphonse	29.03.12	Possession of a false instrument with intent; Attempting to obtain air services by deception		Q	30.04.12
DJEUMENI, Nadine	30.03.12	Possession of a false instrument with intent; Attempting to obtain air services by deception		Q	30.04.12
HALLAM, Sam	28.07.11	Murder Conspiracy to commit GBH Violent Disorder		Q	17.05.12
WRIGHT, Eric	08.07.09	Conspiracy to communicate prohibited information (x3); unlawful possession of ammunition possession without a licence; belonging to a proscribed organisation; causing GBH and attempting to cause GBH		U	23.05.12
McCAUL, Stephen Paul	30.03.09	Hijacking (x2), Carrying a firearm with intent (x3), Arson, Burglary (x2), Possession of firearms (x2)		Q	23.05.12
McDONALD, Peter Joseph	09.03.09	Conspiracy to discharge a firearm; conspiracy to communicate prohibited information; belonging to a proscribed organisation & conspiracy to cause an explosion		Q	23.05.12
BROWN, James H	27.01.09	Conspiracy to communicate prohibited information x2 GBH Belonging to a proscribed organisation Attempting to cause GBH		U	23.05.12
ADAN, Mahad	29.03.12	Failure to produce a document contrary to section 2 Immigration and Asylum Act 2004		Q	01.06.12
CHAKWANE, Tonderai	02.03.12	Rape		Q	14.06.12
TRESFAGABIR, Fissaha	20.03.12	Failure to produce a document contrary to section 2 Immigration and Asylum Act 2004		Q	18.06.12
Z	11.11.11	Sexual Assault x3		U	19.06.12
HOLDEN, Liam	17.07.09	Murder Possession of a firearm and ammunition with intent		Q	21.06.12
U	23.03.11	Rape		U	28.06.12

LOGAN, Sharon	03.04.12	Arson being reckless as to whether life is endangered		Q	14.11.12
B	14.02.12	Rape		U	15.11.12
AKANBI-AKINLADE, Adekunle	27.03.12	Being knowingly concerned in the fraudulent evasion of the prohibition on the importation of goods		Q	15.11.12
PLEASANTS David	29.03.12	Commission of an offence whilst on licence Possession of a class A drug Attempting to escape custody	•	Q	20.11.12
BAHMANZADEH Manochehr	25.01.12	Permitting premises to be used for supplying a controlled class A drug		Q	30.11.12
D	19.03.12	Indecent Assault x4 Indecent Assault on a child x2		Q	13.12.12
A	22.02.12	Assault of a Child under 13 Rape x2		U	21.02.13
MULDOON, James	22.05.12	Robbery; Failure to surrender to bail; Breach of suspended sentence		U	21.09.12
YUSUF, Jawid	20.03.12	False accounting (x5)		Q	17.10.12
DIXON, Hainsley	15.10.12	Possession of a firearm without the authority		U	21.02.13
X	19.07.11	Indecent assault (x2), Attempted rape Rape		Q	28.06.12
V	26.07.11	Rape, Indecency with a child, Indecent assault		Q	28.06.12
Y*	26.07.11	Attempted rape, Indecent assault	•	Q	24.11.11

The case of Y was referred in July 2011 and the conviction quashed in November 2011.  
The outcome of the case was omitted in error from last year's annual report

## Key Performance Indicators

### KPI 1 Time from receipt to allocation

Purpose: This KPI records the average time taken for an application to be allocated to a CRM for review, and gives an indication of how long applicants wait before their case is started.

Definition: The time from the date of receipt of the application to the date of allocation to a CRM for review, averaged for all applications in the reporting period for which an allocation date has been recorded. Re-allocations are not included. Calculation: Recorded for each month and the rolling 12 month period, calculated separately for at liberty and in custody cases. Frequency: Monthly. Data source: Case statistics compiled from the case management system.

#### Plan: for the average time to allocation to be six months for custody cases and 18 months for at liberty cases.

Actual average time for custody cases (months):

<b>Apr:</b>	<b>5.7</b>	<b>May:</b>	<b>6.3</b>	<b>Jun:</b>	<b>5.4</b>	<b>Jul:</b>	<b>6.5</b>	<b>Aug:</b>	<b>6.8</b>	<b>Sep:</b>	<b>6.8</b>
<b>Oct:</b>	<b>6.9</b>	<b>Nov:</b>	<b>5.4</b>	<b>Dec:</b>	<b>6.5</b>	<b>Jan:</b>	<b>5.9</b>	<b>Feb:</b>	<b>7.5</b>	<b>Mar:</b>	<b>8.0</b>

Rolling 12 months average time for custody cases: 6.4 months.

Actual average time for at liberty cases (months):

<b>Apr:</b>	<b>15.5</b>	<b>May:</b>	<b>9.4</b>	<b>Jun:</b>	<b>13.7</b>	<b>Jul:</b>	<b>9.2</b>	<b>Aug:</b>	<b>3.0</b>	<b>Sep:</b>	<b>9.4</b>
<b>Oct:</b>	<b>9.8</b>	<b>Nov:</b>	<b>11.9</b>	<b>Dec:</b>	<b>13.1</b>	<b>Jan:</b>	<b>1.9</b>	<b>Feb:</b>	<b>4.9</b>	<b>Mar:</b>	<b>8.4</b>

Rolling 12 months average time for at liberty cases: 9.0 months.

### KPI 2 Time from allocation to decision

Purpose: This KPI records the average time taken for an application to be reviewed.

Definition: For review cases, the time from the date of allocation to the issue of an initial decision, and for no appeal and fast track review cases, the time from receipt to initial decision, averaged for all applications in which an initial decision has been issued.

Calculation: Recorded for each month and for the rolling 12 month period, calculated separately for review cases and no appeal/fast track cases. Frequency: Monthly. Data Source: Case statistics compiled from the case management system.

#### Plan: For the average duration of review in review cases to be less that 40 weeks, and in no appeal and fast track cases to be less than 15 weeks.

Actual average time for review cases (weeks):

<b>Apr:</b>	<b>42.49</b>	<b>May:</b>	<b>28.48</b>	<b>Jun:</b>	<b>35.7</b>	<b>Jul:</b>	<b>50.03</b>	<b>Aug:</b>	<b>34.97</b>	<b>Sep:</b>	<b>16.95</b>
<b>Oct:</b>	<b>41.76</b>	<b>Nov:</b>	<b>26.78</b>	<b>Dec:</b>	<b>57.79</b>	<b>Jan:</b>	<b>43.76</b>	<b>Feb:</b>	<b>38.99</b>	<b>Mar:</b>	<b>28.71</b>

Rolling 12 months average time for custody cases: 37.58 weeks.

Actual average time for no appeal / fast track cases (weeks):

<b>Apr:</b>	<b>13.83</b>	<b>May:</b>	<b>13.36</b>	<b>Jun:</b>	<b>20.82</b>	<b>Jul:</b>	<b>17.44</b>	<b>Aug:</b>	<b>12.11</b>	<b>Sep:</b>	<b>15.06</b>
<b>Oct:</b>	<b>17.83</b>	<b>Nov:</b>	<b>16.23</b>	<b>Dec:</b>	<b>15.99</b>	<b>Jan:</b>	<b>15.64</b>	<b>Feb:</b>	<b>18.26</b>	<b>Mar:</b>	<b>18.29</b>

Rolling 12 months average time for no appeal / fast track cases: 16.29 weeks.

**KPI 3 Caseflow balance**

Purpose: A high-level measure of the time it takes to process cases efficiently is whether overall case closures exceed case intake. If they do, then backlogs will be eroded. If they do not, then cases will begin to accumulate and waiting-times will be extended. Definition: The total number of cases closed at all stages minus the number of applications received.

Applications include s15 directions from the Court of Appeal. Calculation:

Recorded for each month and the rolling 12 month period. Frequency: Monthly. Data source: Case statistics compiled from the case management system.

**Plan: Monthly: > -20, full year: >0. Actual: We met the target in 6 months of the year. Over the whole year we closed 351 fewer cases than we received.**

**KPI 4 Complaints and judicial reviews**

Purpose: The number of complaints and judicial reviews serves as a measure of the quality of service provided. Definition: 1. The number of cases re-opened as a proportion of complaints and pre-action protocol letters resolved and judicial reviews heard. 2. The number of complaints otherwise upheld as a proportion of complaints resolved. Calculation: Recorded for the current period and for the last 12 months. Frequency: Quarterly. Data source: Records of official complaints maintained by the Customer Service Manager and of judicial reviews maintained by a Legal Advisor.

**Plan and performance:**

	Target	Actual	Target rate	Actual rate
Cases re-opened	<3	1 Incorrect	<4%	2.9%
Other	<7	4	<9.5%	9%

**KPI 5 Quality Assurance**

Purpose: A measure of the quality of review work as measured by the Commission's own quality assurance systems. Definition: The number of cases examined in the QA sample for which additional work is undertaken, expressed as a percentage of all cases examined. Calculation: Quarterly and for the last 12 months. Frequency: Quarterly. Data Source: QA system records.

**Plan: That cases requiring further work should be less than 4% of the sampled cases. Actual: 1.7%.**

**KPI 6 Referral conclusions**

Purpose: The proportion of referrals which result in a conviction being quashed or a sentence varied is a measure of our interpretation of the 'real possibility' test. Definition: The number of referrals on which judgment has been given in the period which have resulted in a quashed conviction or varied sentence as a proportion of the total number of referrals heard in the period. Calculation: Recorded for the 12 months to date and cumulatively over the life of the Commission. Frequency: Quarterly. Data source: Judgments delivered by appeal courts.

**Plan: >60% and <80%. Actual: 69.2% for the 12 months with a cumulative figure of 70.2%.**

**KPI 7 Sickness absence**

Purpose: The extent to which staff and Commissioners are absent affects the productivity of the Commission and its ability to meet its casework targets. Definition: The aggregate number of days of employee and Commissioner absence through sickness, divided by the full time equivalent number of employees and Commissioners. Calculation: Recorded for the current period and for the year to date. Frequency: Monthly. Data source: Internally generated data based on personnel records.

**Plan: Sickness absence: <7.5 days per annum.**

**Actual: Sickness absence: 7 days per annum.**

**KPI 8 Expenditure against budget**

Purpose: A key indicator of financial management is the extent to which expenditure in the period is aligned to the delegated budget, with neither overspends nor significant underspends. Definition: Total expenditure less delegated budget, measured separately for resource and capital, expressed as a % of budget. Calculation: Forecast for the year. Frequency: Monthly. Data source: Management accounts.

	Target		Actual
	Budget %		Budget %
	<	>	
Resource (RDEL)	0%	-2.5%	-8.8%
Capital (CDEL)	0%	-12.5%	-2.3%







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