

Criminal Cases Review Commission  
Annual Report and Accounts **2006/07**

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# Criminal Cases Review Commission Annual Report and Accounts 2006/07

Annual Report and Accounts of the Criminal Cases Review Commission

1 April 2006 - 31 March 2007

Presented to Parliament by the Secretary of State for Justice and Lord Chancellor in pursuance of paragraph 8(3) of Schedule 1 to the Criminal Appeal Act 1995 and by the Comptroller and Auditor General in pursuance of paragraph 9(4) of Schedule 1 to that Act.

Ordered by the House of Commons to be printed on 24th July 2007





## *Our vision*

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

## *Our purpose*

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 values*

Independence, integrity, impartiality, professionalism, accountability, transparency.

## *Our aims*

To investigate cases as quickly as possible and 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.

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## Chairman's Foreword

To: The Rt Hon Jack Straw MP,  
Secretary of State for Justice and Lord Chancellor

**Annual Report and Accounts for the period 1 April 2006 – 31 March 2007:  
Submitted in accordance with Schedule 1 to the Criminal Appeal Act 1995.**

Last year's Foreword fell to be written by Alastair MacGregor QC as Interim Chairman during my five-month absence following major surgery. I returned in the early summer of 2006. To all my colleagues, and in particular to Alastair MacGregor, who assumed the Chairman's duties alongside his normal work as a Commissioner, I owe an enormous debt of gratitude. I am glad that the office of Deputy Chairman has now been created and especially delighted that Mr MacGregor has been appointed to it.

Five Commissioners retired at the end of 2006, having served the maximum period permitted by the Act. Laurie Elks, Tony Foster, Dr Jim MacKeith, Karamjit Singh and Baden Skitt were the last of the original Commissioners. Their contribution to the Commission was immeasurable, not just in the many hundreds of cases on which each of them worked, but in shaping and leading the organisation over a decade and embedding values and principles which endure.

They have been replaced by Jim England (who was a Chief Crown Prosecutor), Julie Goulding (a trained nurse, solicitor and former NHS chief executive) and Ewen Smith (formerly a criminal defence solicitor).

A resounding affirmation of the Commission's independence came from the Divisional Court<sup>1</sup> when it rejected an attempt by the Director of the Revenue and Customs Prosecutions Office, in an unprecedented move by a prosecutor, to seek judicial review of a number of referrals to the Court of Appeal. The Director did not appeal and agreed to pay our costs, but the decision is now being questioned by the Court of Appeal in a later case.

The importance of the case goes beyond the narrow and specific point in issue, since the reputation we have established in the decade of our existence owes much to being utterly independent of every other body, including both the judiciary and the government. Of course, it is government which funds us and we acknowledge our duty to account fully for those funds and how we carry out our duties. But independence is not only about the freedom to decide individual

<sup>1</sup> *R (Director of Revenue and Customs Prosecutions) v CCRC* [2006] EWHC Admin 3064. See page 21

cases without interference or pressure. In that area there has never been any interference or attempts to influence us by government. But our ability to do justice in all cases means that we must also have the freedom to decide how we go about our work, what categories of case we investigate, and how decisions are reached. These responsibilities are cast on us by Parliament, they are critical to the decisions reached in individual cases, they underpin the confidence our stakeholders have in us, and they must be exercised fearlessly. Of course, government can always invite Parliament to amend the Act, but at least that is a public process and we (and others) would be free to join the debate.

It is only because of a number of economies (as well as the extraordinary efforts of our staff) that we have been able to manage our caseload as well as we have. Streamlining the senior management structure and having far fewer Commissioners (the statutory minimum of 11 compared to 16) has enabled us to save over half a million pounds a year. Had we not done this, the reductions in our budget would have inflicted severe damage on our caseworking capacity.

We remain concerned at our level of resourcing, exacerbated by new financial arrangements which distinguish between "near-cash" and "non-cash" controls<sup>2</sup> and which have the effect, whether intended or not, of imposing further spending constraints.

Standard annual across-the-board reductions in budgets for public bodies are mindless. They have no regard to whether the body is adequately funded in the first place, assume that all bodies are in fact over-funded and that further economies must be possible. A more principled and rational process would better serve the public interest even in a climate of fiscal stringency in which public expenditure must be strictly controlled.

Unlike many other bodies, we do not have a variety of different functions, some of which may easily be discontinued or abridged to save money. Of course, we could review cases more cheaply – but not to the same standards. A small increase in funding for a short time would eliminate our backlog. It must not be forgotten that we are dealing with individuals and that current resource levels inescapably cause real delays to those of our applicants who are in prison on the basis of convictions that will ultimately be quashed. This is a further denial of justice – all for the sake of around £500,000 a year.

We have undergone considerable internal reorganisation and reform of our processes, partly with the help of external consultants who carried out at our request a most impressive exercise. A team spent many weeks with us,

<sup>2</sup> See page 39.

working closely with staff and Commissioners, and produced recommendations founded on a careful study of our work. It required much time and effort on our part to work with them and then to implement their recommendations and I pay tribute to all our staff for accommodating the far-reaching changes to their work environment. The Principal Director and Director of Casework have carried particularly heavy burdens. It is still too soon to assess the benefits of these changes, but the early signs are encouraging.

Since then we have been subject to two Home Office reviews covering some of the same ground, in addition to our normal appearance before the Home Affairs Committee (which requires much preparatory work) and the continuous scrutiny of our work by the Sponsor Unit. To say we are suffering seriously from review fatigue would be a mild response.

We welcome our move to the new Ministry of Justice (albeit still within the Office for Criminal Justice Reform) and hope that it will make for a constructive and fruitful relationship, acknowledging the quality, importance and effectiveness of the work we do, at modest cost, in the interests of justice on behalf of the people of England, Wales and Northern Ireland.

A handwritten signature in black ink, appearing to read 'G. Zellick', written in a cursive style.

Graham Zellick



## Introduction

The Commission was established on 1 January 1997 by the Criminal Appeal Act 1995 (hereafter referred to as 'the Act'). It is an independent public body whose role is to review possible miscarriages of criminal justice to decide if they should be referred to an appeal court to be considered again. It can only refer cases where it finds there is a real possibility that the conviction, finding, verdict or sentence will not be upheld. From 31 March 1997, the Commission assumed the responsibilities for reviewing possible miscarriages of justice previously exercised by the Home Office and the Northern Ireland Office.

As at 31 March 2007, the Commission was an Executive Non-Departmental Public Body financed by Grant in Aid through the Home Office Main Estimate. The Secretary of State for the Home Department was answerable to Parliament for the Commission and responsible for making financial provision to meet its needs. The Secretary of State for Northern Ireland has similar responsibilities in respect of Northern Ireland. The Commission transferred with its sponsor unit, the Office for Criminal Justice Reform, to the new Ministry of Justice on 9 May 2007.

The Act provides that the Commission shall have no fewer than 11 Commissioners, appointed by the Queen on the recommendation of the Prime Minister, one of whom is appointed by the Queen as Chairman. The Commission is based in Birmingham.

### Statutory functions

The Commission carries out the statutory functions set out in the Act:

- To refer a conviction, verdict, finding or sentence to an appropriate court of appeal when it considers that there is a real possibility that it would not be upheld (sections 9-12);
- To investigate and report to the Court of Appeal on any matter on which it is directed by the court to investigate and report (section 15);
- To consider any reference from the Secretary of State of any matters in relation to the royal prerogative of mercy, and to give a statement of its conclusions (section 16(1));
- To give reasons for its opinion in any case where it determines that the Secretary of State should consider recommending an exercise of the prerogative of mercy (under section 16(2));
- As soon as possible after the end of each financial year, to send to the Secretary of State an annual report on the discharge of its functions to be laid before each House of Parliament (schedule 1, paragraph 8).





## Commissioners

Commissioners are appointed for up to five years. During the year ended 31 March 2007, the Commissioners were:

Professor Graham Zellick (Chairman)	Mr Alastair MacGregor QC (Deputy Chairman)
Mr Michael Allen	Dr James MacKeith (to 31.12.06)
Ms Penelope Barrett	Mr Ian Nichol
Mr Laurence Elks (to 31.12.06)	Mr Karamjit Singh CBE (to 31.12.06)
Mr Mark Emerton	Mr Baden Skitt CBE, QPM (to 31.12.06)
Mr James England (from 1.11.06)	Mr Ewen Smith (from 1.11.06)
Mr Anthony Foster (to 31.12.06)	Mr John Weeden CB
Ms Julie Goulding (from 1.01.07)	
Mr David Jessel	

## Code of Best Practice

The Commission adopted a model Code of Best Practice for Commissioners at its first meeting in January 1997 and undertook to review it annually. The Commission adopted a revised Code of Best Practice for Commissioners in January 2004.

The Commission's Code of Best Practice includes a register of Commissioners' interests which is available for inspection at the Commission by arrangement.

## Corporate governance

The day-to-day running of the Commission is the responsibility of the Directors, who together comprise the Senior Management Team. The Principal Director meets with the Chairman on a weekly basis. During the year ended 31 March 2007, the Directors were:

Mr Colin Albert Principal Director (from 1.09.06) and Director of Finance & IT (and Accounting Officer)
Miss Karen Kneller Director of Casework
Mr Peter Wilkinson Director of Administration and HR.

Commissioners meet regularly to review and decide on the Commission's policies, performance and other issues of strategic importance. Directors are in attendance at these meetings.

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

There are a number of standing committees which meet regularly and report to the Commission meetings:

**Finance Committee**

Reviews the financial status of the Commission and agrees financial policy. Chairman: Ian Nichol FCA (Commissioner).

**Audit Committee**

Ensures high standards of financial reporting and systems of internal control and reporting procedures. Reviews internal and external financial statements on behalf of the Commission. Chairman: Terry Price (external).

**Remuneration Committee**

Determines and keeps under review salaries of senior staff. Chairman: Professor Graham Zellick (Commission Chairman).

**Casework Operations Group**

Co-ordinates the development of the Commission's operational policies and practices. Chairman: Karen Kneller (Director of Casework).

**Human Resource Group**

Advises on HR management strategy to meet business needs. Chairman: Professor Graham Zellick.

**Auditor**

Arrangements for external audit are provided under paragraph 9 of Schedule 1 to the Act, which requires the Comptroller and Auditor General to examine, certify and report on the statement of accounts. His 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 he ought to have taken to make himself aware of any relevant audit information and to establish that the Commission's auditor is aware of that information.

## Section One Casework



## Summary

2006-07 has been a year of significant change for the Commission. During the previous year the Commission conducted, with the assistance of consultants, an internal review of our structures, processes and procedures with a view to identifying areas of possible improvement. This year we have been implementing changes in light of that review, including significant process changes in the way we now categorise our work and a more consistent approach to how casework then proceeds in the Commission (set out in more detail in the section below). These changes will form the bedrock of performance improvements.

As is to be expected at times of change, this period has been both challenging and unsettling, especially as it coincided with the retirement of five of our most experienced Commissioners. The level of case throughput we have maintained throughout this period is a real testament to the dedication and hard work of our staff.

The Commission closed 990 cases against an intake of 1,051 applications. Whilst a high level Key Performance Indicator was to close at least as many cases as we received, to have been so close to achieving this goal is a significant achievement in light of the programme of change referred to above. The number of cases under review at 31 March 2007 was 464, with 283 cases waiting to be allocated. Whilst this was a slight increase on the cases waiting at this time last year (247 as at 31 March 2006), it was lower than expected in view of the amount of casework resource required to plan and implement process changes. This is considered further under the headings of Caseflow balance and Completion times.

## The case review process

The Commission reviews cases by:

- using its own resources and expertise (for example Case Review Managers and Legal and Investigations Advisers);
- using its powers under section 17 of the Act to obtain relevant material held by public bodies;
- commissioning outside experts to prepare reports;
- requiring the appointment of an Investigating Officer under section 19 of the Act.

At the end of every review, Commissioners decide if cases should be referred to the appeal courts or not. A single Commissioner can decide not to refer a case but (as prescribed in the Act) only a committee of three Commissioners can decide to refer a case.



If a case is referred, the applicant is sent a Statement of Reasons setting out the reasons for the decision. The appeal court and prosecuting authority also receive a copy.

If a provisional view is reached not to refer the case, the applicant is sent a Provisional Statement of Reasons explaining the reasons. Applicants are given time to make further representations if they wish. These are considered before a decision is made and a final Statement of Reasons is issued.

The case review process under our new operating procedures  
Following the review of processes and procedures in 2005-06, the Commission has introduced changes to ensure that casework is carried out more efficiently and effectively. The previous process has been modified by the introduction of a more refined division of the cases that move to the later stages, in order to ensure that they can be more effectively managed through the review process. Final decisions can still be made at any stage. Cases are categorised and assigned to pathways with clear milestones leading to a decision. Case reviewers are now assigned to caseworking groups and Group Leaders have been appointed to monitor the progress of cases and assist case reviewers to achieve the milestones that have been set.

The new ways of working are set out below. They were implemented in October 2006 and the milestones for reaching the decision-making point are being kept under review.

### Stage 1

The existing processes at this stage have remained largely unchanged.

Applications arrive and are assessed for eligibility as before. If the applicant is in the process of appealing the conviction or sentence which he is asking the Commission to review, the application will be closed as the Commission will not review a case where an appeal is pending.

If the applicant has not appealed, a Commissioner will consider whether (i) there is a real possibility that an appeal would succeed or that an investigation might give rise to such a real possibility; and (ii) whether there might be exceptional circumstances (as required by the Act) to justify a referral. If the answers to both (i) and (ii) are yes, the case will be categorised for review in the normal way. Otherwise, the Commissioner will issue a provisional view in letter format to the applicant or representative, allowing 28 days for further submissions. If no further submissions are received or if submissions are received but they do not

alter the Commissioner's opinion, the Commissioner will close the case and issue a final letter to the applicant or representative. If the further submissions persuade the Commissioner that the answers to (i) and (ii) are yes, the case will be categorised for review in the normal way.

If an applicant re-applies to the Commission, a Commissioner who took no part in any previous application will determine whether or not anything new is being raised that justifies a further review. If not, the application will not be accepted.

Cases where there are no reviewable grounds (for example, where the application form is blank, or all of the submissions clearly repeat issues already considered at trial or by the appeal court, or no review is possible owing to the absence of relevant documents) are dealt with by Stage 1 Commissioners who will send a provisional view in letter format. The applicant will be given 28 days to respond after which either the application will be categorised as a review case or a final decision not to refer will be issued.

### Review cases

These cases are allocated to an individual case reviewer who conducts the review. Cases are divided into four categories which follow different pathways to a decision.

#### Category A

Those cases which typically are straightforward or raise issues which can be addressed thoroughly on the available case papers and are unlikely to involve complex points of law. They should normally be capable of being reviewed and passed to the decision-making stage within eight weeks of allocation for a provisional decision to be made. Category A cases should usually be allocated with all necessary materials to allow the case to be reviewed.

#### Category B

These are more involved and typically raise issues of some complexity, possibly with extensive material to review or the likely involvement of another agency. They are expected to be ready to go to the decision-making stage within 22 weeks of allocation for a provisional decision to be made. They will normally be allocated with sufficient material to complete the review although some will require further material.

#### Category C

Those cases which are likely to require a more time-consuming review and typically where the issues are extensive and complex, possibly with wide-ranging

off-site enquiries or the input of other agencies required. A Commissioner will be assigned to each category C case at the time of allocation. The role of the Assigned Commissioner is to assist the case reviewer to plan and execute the review. There will be a Case Planning Committee (CPC) in all Category C cases. The CPC will set the target date for the completion of the case.

### **Category D**

These are exceptional cases which are referred to the Director of Casework when received at the Commission. For example, they may be extremely large cases or ones in which the need for a section 19 investigation<sup>3</sup> is evident from the outset. They may be groups of cases that share a single issue which may benefit from being reviewed by the same case reviewer or group of case reviewers. Once the appropriate approach has been decided on, Category D cases will normally be assigned to and follow one of the A, B or C pathways for the review.

It should be noted that the above milestones relate to bringing the review to a point where the case is ready to go to a Commissioner or a committee of Commissioners for a decision to be made. Separate timetables apply to the decision-making phase and these may be subject to external factors such as, in the case of a provisional decision not to refer, the volume, complexity and timeliness of further representations received in response. In the case of a referral for an appeal, factors such as preparation of material for disclosure with the decision, or notifying affected parties, may have an impact on the timetable.

### **Case ordering and priority ranking**

The majority of cases are dealt with in order of receipt. B and C cases, which are more time-consuming, wait in separate queues. Cases where the applicant is in custody are assigned priority over cases where the applicant is at liberty. Factors such as the age and health of applicants and witnesses, and the possibility of deterioration of evidence, are taken into account. Priority may also be assigned to cases of particular significance to the criminal justice system where, for example, public confidence is an issue.

### **Caseflow balance**

The Commission has received a total of 9,698 applications since 1997 and received 1,051 during 2006-07 (compared with 1,011 received in the previous year). 22 of the 1,051 were not accepted (compared with 73 in the previous year) as they were re-applications which raised no new evidence or argument. Whilst monthly case intake is erratic, the long-term trend suggests that there will continue to be a consistent level of applications.

<sup>3</sup> The Commission can appoint an Investigating Officer (to date, always a senior police officer) if an investigation is particularly complex or if it might involve the investigation of other alleged crimes, e.g. perjury. The Investigating Officer's report is submitted to the Commission for consideration and use as part of its review.

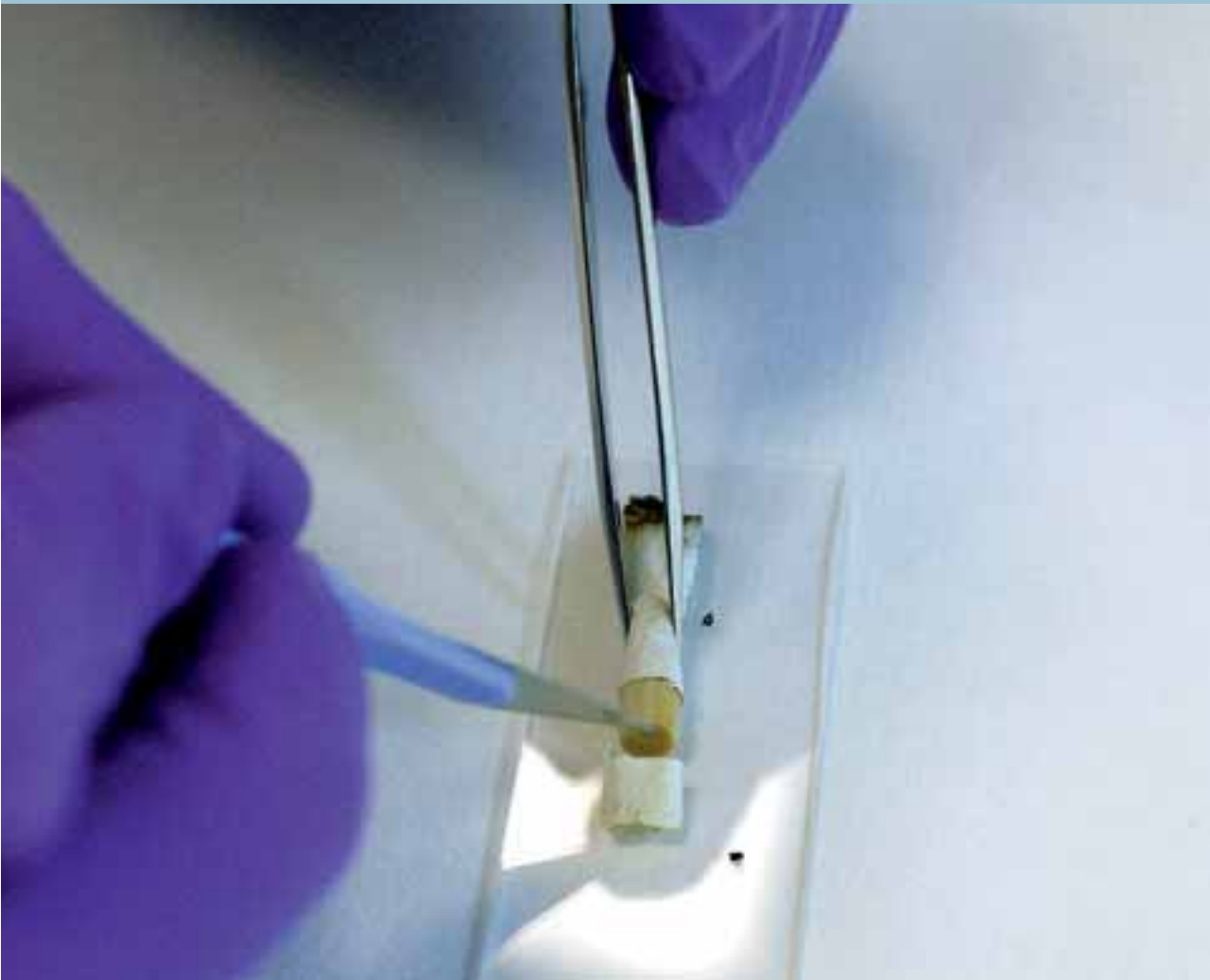
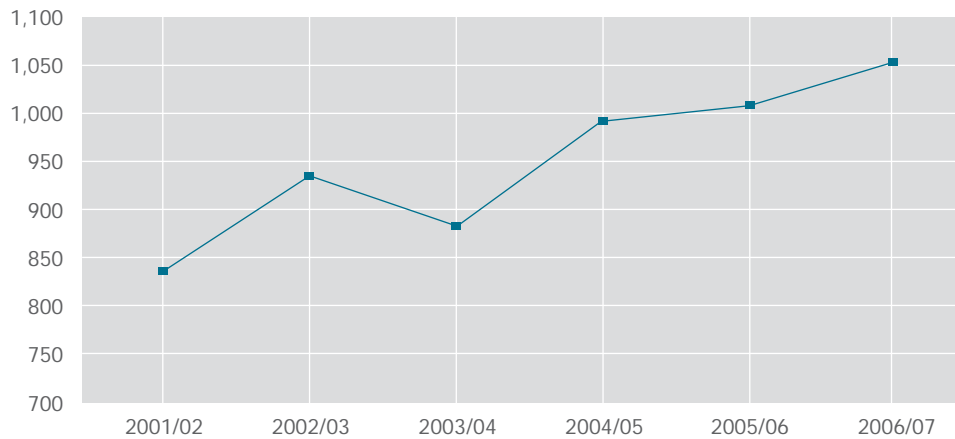


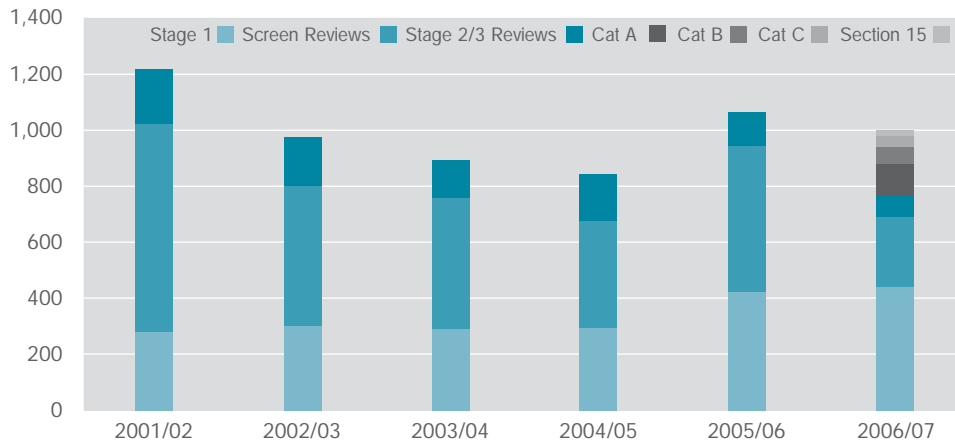


Figure 1: Applications received



Figures adjusted to include refused reapplications.

Figure 2: Cases closed



Figures adjusted to include refused reapplications.

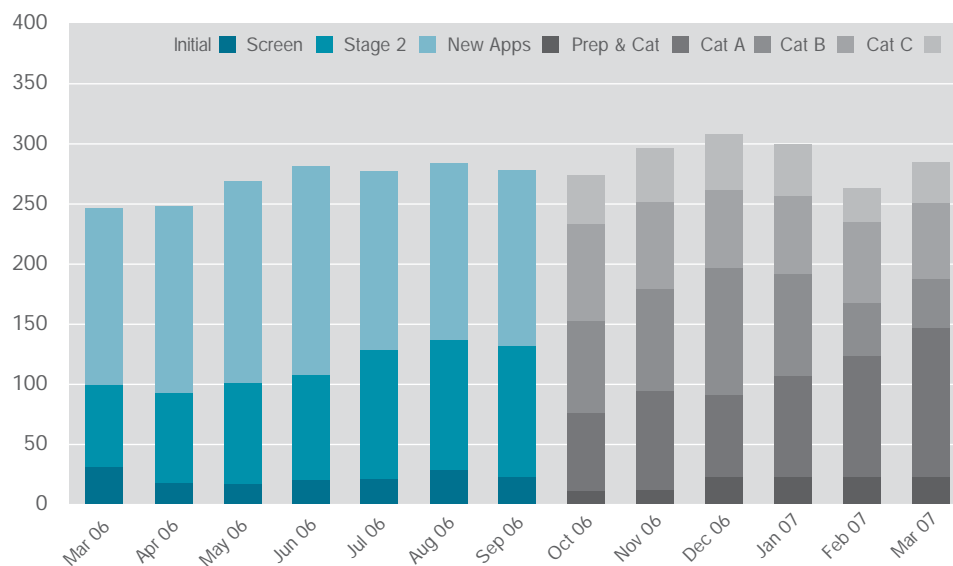
One of our aims this year was to close at least as many cases as we received. This was set out in our **Key Performance Indicator 1** (see page 47) We in fact closed 990 cases against an intake of 1,051 applications, missing our target by only 61 cases.



### Cases awaiting allocation

Figure 3 shows the number of cases awaiting allocation.

Figure 3: Cases awaiting allocation



Our KPIs and targets reflect the change to our processes mid-year. Targets for the number of cases awaiting allocation for the second half of the year, since our new processes were introduced, were that the waiting lists for category A cases would be fewer than 65 cases; for Category B cases, fewer than 125 cases and for Category C cases, fewer than 70 cases. These targets are set out in Key Performance Indicator 2 (see page 47). Our performance, as KPI 2 and Figure 3 above show, was significantly better than these targets, with the number of cases in each of those categories at the end of March 2007 standing at 37 for Category A cases; 65 for Category B cases and 32 for Category C cases.

### Completion times

Our target, as set out in Key Performance Indicator 3 (see page 47) was that for the second half of the year, we would complete:

- 75% of cases within two months for Category A cases
- 75% within six months for Category B cases; and
- 75% within 12 months for Category C cases.

Our performance was below target, with actual figures being

- 56.7% within two months for Category A
- 49% within six months for Category B, and
- 50% within 12 months for Category C.

There has been a recent improvement for Category A cases. The Commission has been working hard to progress our longer-running cases which does have an impact on this KPI, making the average time to sending out the provisional statement of reasons longer. Completion times are defined as the time from allocation of the case to the sending out of the provisional statement of reasons.

### Referrals

Figure 4 shows the number of cases referred to an appeal court by the Commission since 1997.

Figure 4: Cases referred

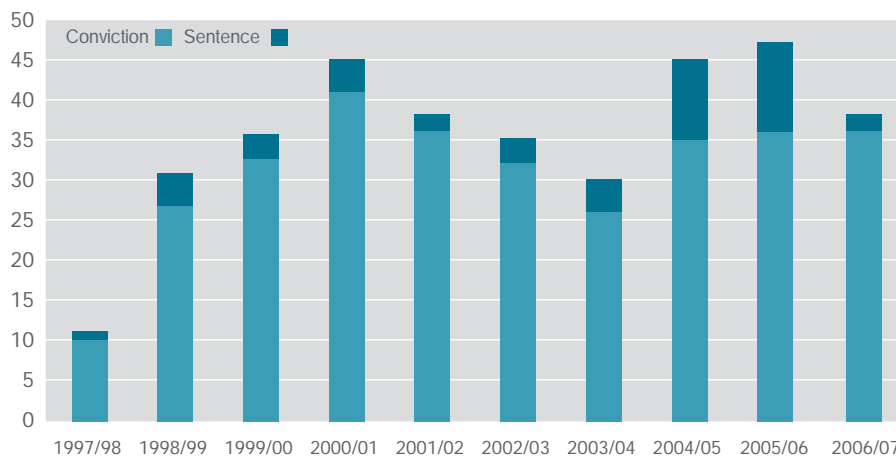
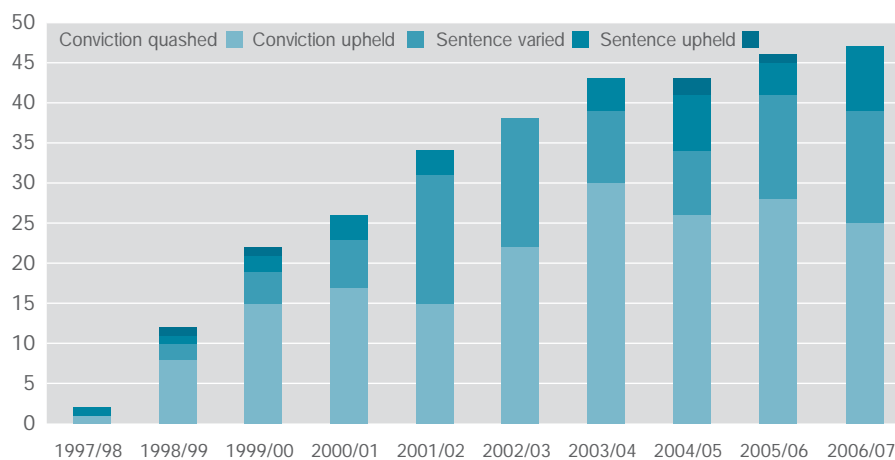


Figure 5 shows the decisions made by the appeal courts.

Figure 5: Decisions on cases referred



At 31 March 2007, the Commission had referred 356 (4%) out of 8,951 cases completed. The appeal courts, including the House of Lords, had determined a total of 313 referrals, quashing 187 convictions (68% of those referred) and upholding 88 (32%). In the same period, 33 sentences (87% of those referred) were varied and 5 (13%) upheld. The remaining 43 cases were still to be heard at 31 March 2007. The combined rate of convictions quashed and sentences varied was 70%.

### Northern Ireland

The casework statistics presented so far combine England, Wales and Northern Ireland. Cases from Northern Ireland for the period 31 March 1997 to 31 March 2007 show a different pattern from those in England and Wales, with higher referral and quashing rates. Of the 131 applications by 31 March 2007, 113 had been closed, resulting in 16 referrals (14%). 13 convictions had been quashed (87%) and two (13%) upheld, with one case still to be heard at 31 March 2007.

### Directions for investigation by the Court of Appeal

The Commission can be directed to investigate and report on matters referred to it by the Court of Appeal under section 23A of the Criminal Appeal Act 1968 and section 15 of the Criminal Appeal Act 1995. Since 1 September 2004, this legislation has applied to applications for leave to appeal as well as to actual appeal proceedings. As a consequence, directions from the Court have grown

steadily. Because they relate to live proceedings, they are always given priority by the Commission, and have begun to occupy a significant amount of investigation time. During 2006-07, the Commission received 11 such directions from the Court, compared with only 17 over the previous nine years of the Commission's existence.

We see this as an indication of the Court's growing confidence in the way these matters are handled by the Commission. Enquiries calling for an especially delicate touch are those relating to jury contamination or bias, and the Commission has now built up an unrivalled body of experience in the sensitive art of interviewing jurors without breaching section 8 of the Contempt of Court Act 1981.

Judgments from 2006-07 illustrating this aspect of the Commission's work include *R v Adams* [2007] EWCA Crim 1, *R v George* [2006] EWCA Crim 3284 and *R v Quinn* [2006] EWCA Crim 2598.

### The prerogative of mercy

The Home Secretary's power, under section 16 of the Act, to seek the Commission's advice in relation to recommendations concerning the prerogative of mercy has never been used; nor has the Commission exercised its own power under the section to make any such recommendations to the Home Secretary.

### Complaints

The Commission's Complaints Manager attempts to redress legitimate grievances within the complaints procedure. Dissatisfied complainants can ask for the Chairman or his nominee to review the handling of a complaint.<sup>4</sup> Most complaints relate to decisions and the conduct of reviews in non-referral cases.

In 2006-07, the Commission received 39 complaints (61 in 2005-06). Our target, as set out in **Key Performance Indicator 4** (see page 47) was that less than 10 complaints should be upheld over the year and that the number of complaints upheld should be less than 15% of the number of complaints resolved. Our performance was better than our target for complaints upheld, with seven complaints requiring remedial action and/or an apology. This represented 15.2% of the 46 complaints resolved over the year, narrowly missing the target of less than 15%.

<sup>4</sup> The Commission's complaints procedure is set out in a leaflet, *In Case of Complaint* (available on request).



### Judicial reviews

During the year, the Commission was the subject of 27 separate applications for judicial review of its case-related decisions. The vast majority of these challenges focused on the Commission's conclusion that there was no real possibility that the conviction would be quashed. One challenge was conceded at the pre-action stage. The Commission agreed to conduct a further short review, although this did not result in referral.

The Administrative Court refused permission to proceed in all but one of the other 26 applications. This one was the significant challenge made to the Commission's powers in *R (Director of Revenue and Customs Prosecutions) v CCRC* [2006] EWHC Admin 3064. The Director of the RCPO issued proceedings for judicial review of the Commission's decision to refer a number of money-laundering convictions to the Court of Appeal. The referrals were based on a change in the common law following the House of Lords' decision in *Saiki* [2006] UKHL 18.

The RCPO asserted that the Commission was obliged to adopt the Court of Appeal's practice in relation to applications for an extension of time in which to appeal based on a change in the law. The Court asks itself whether the applicant has suffered "substantial injustice" and, if not, leave to appeal will normally be refused, even though such appeals, if heard, would have to be allowed.

In deciding whether to make a reference, the Act requires the Commission to consider only whether there is a "real possibility" (section 13) that the Court would quash the conviction on appeal. A referral by the Commission must thereafter be treated as an appeal; no grant of leave is required (section 9). The application of a test of "substantial injustice" where there has been a change in the common law would require the Commission, after finding a "real possibility", to apply an additional test to any conviction falling into this category. The Commission asserted that this could not have been what Parliament intended, or it would have appeared in the Act.

The Divisional Court accepted the Commission's argument that it was not bound to follow the internal practice of the Court of Appeal, which was not, in any event, applied consistently. The Director chose not to appeal and paid the Commission's costs.



Our target, as set out in Key Performance Indicator 5 (see page 47) was that there would be less than 10 judicial reviews for which leave was granted over the year and that this figure would be less than 15% of all completed judicial reviews and pre-protocol letters. Our performance was much better than the target, with leave being granted for only two judicial reviews, equalling 11.8% of the 17 judicial reviews and pre protocol letters completed.

#### Future developments

2006-07 has been a challenging year for the Commission, implementing new processes and introducing new ways of working whilst at the same time continuing to conduct high quality casework. We see 2007-08 as a year of consolidation, allowing the new processes to settle in. Our main priority is to reduce waiting times to allocation and we are optimistic that as a result of our process changes and the dedication of staff the waiting times for our more complex cases will start to fall.

We are, however, a demand-led service and it can be difficult to predict how many new applications we may receive in any given period. That said, there does now appear to be an upward trend in new applications. In 2006-07, we received 1,051 applications compared to 1,011 the year before. Whilst that may not seem a significant increase it does in fact present serious resource challenges for the Commission as we continue to try to do more each year on a reducing budget.

The Commission has also seen a growth in directions from the Court of Appeal under section 23A of the Criminal Appeal Act 1968. During 2006-07, the Commission received 11 directions, a huge increase compared with previous years (the Commission received 17 over the previous nine years of our existence). We anticipate that the number of these directions will grow. This presents further challenges for us as the work must be accomplished within existing resources.

We talk above about being a demand-led service. Nowhere is that more true than in the area of judicial review. Whilst the Commission plans financially for a number of potential judicial reviews in each financial year, we are susceptible always to significant challenge by way of judicial review of our work which can, even when they are totally devoid of merit, be both disruptive to our casework as well as a huge drain on resources.

In last year's Annual Report, we commented on proposed amendments to the Armed Forces Bill which was progressing through Parliament. This Bill has now been passed and the Armed Forces Act 2006 contains provisions which are expected to be brought into force in early 2009. This will give the Commission jurisdiction over court-martial convictions and sentences. We understand that



the Commencement Order which will bring the Act into force in 2009 is unlikely to give it any retrospective effect and we do not anticipate a significant impact on the number of new applications.

Information is vital to criminal investigations, criminal proceedings and reviews of potential miscarriages of justice. The process of obtaining information from third parties – i.e. parties other than the suspect, the police and the prosecution team – is known as “third party disclosure” and is governed by statute.

The Commission already has powers under section 17 to obtain material from third parties, but they are limited to public bodies in England, Wales and Northern Ireland. We have recommended that our powers under section 17 should be extended (as is the case for the Scottish Commission) to the private sector (which would involve making an application to the courts) and to Scotland. The absence of such powers has hindered the Commission’s reviews.

Sir Robin Auld’s *Review of the Criminal Courts of England and Wales* (2001) recommended that the Government consider “a new statutory scheme for third party disclosure”. In 2005, the Office of Criminal Justice Reform established an interdepartmental working group to take forward work on this recommendation. The Commission headed the sub-group considering issues arising in the post-trial period. The group reported in spring 2006 and news of progress is awaited.





This section provides analysis of the decisions made by the appeal courts in 2006-07 on the Commission referrals listed in Table 1 (on page 32). The second half of the section discusses referrals made by the Commission in 2006-07. They are listed in Table 2 (on page 33).

### Decisions of the appeal courts in 2006-07

The appeal courts decided the cases of 47 individuals referred by the Commission, 44 were heard by the Court of Appeal in London, two in the Northern Ireland Court of Appeal and one by Guildford Crown Court.

Fifteen of the references related to homicides; 11 to sexual offences; nine involved supplying or importing drugs; three concerned dishonesty; three involved non-fatal violence; and two were for money-laundering. The remaining four involved possessing an imitation firearm, keeping a disorderly house, criminal damage, and failing to comply with a planning enforcement notice. The appeal courts decided that 25 of the 39 convictions referred by the Commission were unsafe, 13 of the referrals were dismissed and one was abandoned by the applicant. Of the eight sentences referred, all were reduced.

### Themes

Some of the themes that appeared frequently in the earlier years of the Commission's work are now becoming less common. Only one of the cases decided this year was dominated by non-disclosure, for example, and only two involved false confessions (both pre-dating the implementation of the Police and Criminal Evidence Act 1984). One appeal arose from the work of a pathologist whose techniques had been impugned in other cases, but the theme of flawed expertise was otherwise not represented in the judgments of 2006-07.

Other familiar themes did remain significant, however. The Court of Appeal dismissed all four of the references that had been based on the way in which juries had been directed to consider adverse inferences from the silence of an accused, and the limitations of this issue as a ground of appeal seem now to have been mapped quite firmly. The complex issue of provocation as a partial defence to murder has also been resolved, and two references, which had been made before the clarification of the law, were dismissed.

Another theme continuing from previous years was the undue technicality of modern sentencing legislation, which lay at the heart of nearly all the sentence references. The Court of Appeal itself has remarked on the problems caused to judges in this respect on several recent occasions and the Commission's own experience bears out this view of the present position.

The batch of cases relating to flaws in the handling of drugs informants abroad continued with an appeal heard in January 2007 (*R v Nawaz and others* [2007] EWCA Crim 307), when all the convictions were quashed.

Some newer themes began to emerge. One which attracted a good deal of press attention was that of convictions based on sexual allegations made by complainants who later proved to be less reliable than had been apparent at trial. Four cases, involving five appellants, can be identified as falling into this category.

A new group of judgments arose out of the House of Lords decision in *R v Saik* [2006] UKHL 18 concerning the legal test for intention in conspiracies to launder the proceeds of crime. The judicial review, by the Revenue and Customs Prosecutions Office, which grew out of the Commission's reference of such cases is discussed elsewhere in this report (see page 21).

One theme which seems certain to generate further development of the law stems from references based on procedural or technical arguments. The Court of Appeal explored this subject on two occasions during the year. In May, they heard the appeal of *R v Clarke & McDaid* [2006] EWCA Crim 1196, which revolved around an unsigned indictment. Previous case law had stated firmly that the signing of an indictment by a suitable official was not an empty formality but an indispensable step in criminal procedure without which a valid conviction could not take place. The Court took the opportunity of the CCRC reference to apply to this area of procedure the 'sea-change' in approach taken in the post-reference case of *Ashton & Ors* [2006] EWCA Crim 794, and to declare that, in the absence of any actual prejudice to the defence, an unsigned indictment was no obstacle to a safe conviction.

The second of these 'procedural' issues concerned judges who direct juries that they must, as a matter of law, convict the defendant. *R v Caley-Knowles*; *R v Jones* [2006] EWCA Crim 1611 came from two references of convictions which had originated many years previously. Both were relatively minor matters - a simple assault and a criminal damage. In both cases, the defendant had raised nothing that the trial judge could identify as being capable in law of



amounting to a defence. Without giving the juries an opportunity to retire, the judges had directed them to respond immediately to the clerk's question by returning a verdict of guilty. Clarifying some uncertainty as to how the House of Lords' decision in *R v Wang* [2005] UKHL 9 affected the Court of Appeal decision in *R v Kelleher* [2003] EWCA Crim. 3525, the Court of Appeal pointed to the lack of any opportunity for the jury to discuss the case in retirement as being a crucial irregularity which rendered these convictions unsafe. The sovereignty of the jury is clearly compromised by a direction to convict and the result is an unsafe conviction.

With the government currently considering whether the Court of Appeal's test for unsafety should be changed in order to prevent the Court from overturning convictions on 'technical' grounds (*Quashing Convictions: a report of a review by the Home Secretary, Lord Chancellor and Attorney General, Office for Criminal Justice Reform Consultation Paper, September 2006*) cases of this kind provide interesting illustrations of the Court's existing approach. The Commission's opposition to the Government's proposals was forcefully expressed in two responses to the consultation.

In terms of public comment, the judgments which have attracted most attention during the year were on the theme of rape convictions arising from unreliable complaints. *R v Siddall and Brooke* [2006] EWCA Crim 1353 in June 2006, *R v Blackwell* [2006] EWCA Crim 2185 in September 2006, *R v B* [2006] EWCA Crim 3249 in December 2006, and *R v P* [2007] EWCA Crim 275 in January 2007 all turned in one way or another on sexual complaints that were not as reliable as the jury had been led to believe.

Finally, another recurring theme was continued: *R v Boreman, Byrne and Byrne* [2006] EWCA Crim 2265 provided another reminder of the critical importance of maintaining the highest professional standards in relation to the scientific evidence presented to juries. In this case, crucial evidence had been given by a pathologist whose work had later been criticised by a disciplinary tribunal. To ensure that it had an independent view from outside the small British community of pathologists, the Commission obtained a report from a senior Australian professor on which the Court and the parties agreed to rely during the appeal.

#### Commission references to the Appeal Courts in 2006-07

During the period covered by this report, the Commission referred to the Court of Appeal a total of 38 cases: 36 of these were convictions, two of which included referral of sentence, and two were sentences.

As at 31 March 2007, one of the sentences referred to the Court of Appeal had been reduced, two convictions for conspiracy to supply Class A drugs, one conviction for sexual offences and one conviction for conspiracy to launder money had been quashed and one conviction for conspiracy to supply controlled drugs had been upheld; but none of the remaining references had yet been heard. It is clear that there are still considerable delays, for numerous reasons, in listing appeals in the Court of Appeal following Commission references.

Of the convictions referred, 15 concerned the importation and supply of controlled drugs and 10 concerned sexual offences, two were for murder, one for infanticide, six involved money-laundering, one involved offences connected with terrorism and one robbery.

Of the two convictions for murder referred (compared to 10 last year), one was referred on the basis of fresh psychiatric evidence which suggested the applicant's responsibility for the offence was substantially impaired by mental illness at the relevant time (*Diamond*); the other was based on fresh factual and expert evidence (*Kennedy*).

The single conviction for infanticide referred (*Gore*) originated from the Attorney-General's interdepartmental working group review of sudden infant deaths, established in the wake of the "cot death" cases in January 2004.

The six money-laundering convictions (*Rizvi and others*) were referred following the House of Lords' decision in *Saik* [2006] UKHL 18 which represented a change in the common law.<sup>5</sup> Two convictions have been quashed and retrials ordered.

A 1979 conviction for offences connected with terrorism was referred to the Court of Appeal in Northern Ireland on the basis of non-disclosure. The applicant was 16 years of age at the time of his arrest (*McMenamin*). A 1982 conviction for robbery was referred (*McCloy*). The original investigation into the case was led by the discredited West Midlands Serious Crime Squad.

<sup>5</sup> *Saik* held that, where a conspiracy to commit money-laundering offences was charged, it was necessary to prove that a defendant either knew of the illicit origins of the money concerned or, where no money had yet been identified, that he intended the money should be of illicit origin. This is in contrast to the *mens rea* necessary for proof of the relevant substantive offence, which in many cases can be established on proof of suspicion.

The convictions of two co-defendants had already been quashed by the Court of Appeal.<sup>6</sup>

### Themes

Despite the fact that the Commission celebrates its 10th anniversary this year, applicants convicted in the 1970s and 1980s still continue to apply for review of their convictions and referrals still occur (*McCloy, McMenamin*).

Convictions stemming from 'controlled deliveries' of drugs in Customs prosecutions continue to represent a high proportion of cases referred to the Court of Appeal: a further 11 such convictions have been referred this year.

The reasons for referral of convictions for serious sexual offences have been many and varied, and have included complainant retraction, complainant credibility, fresh factual and expert evidence, changes in the common law and misdirection by the trial judge. Sexual offences represent a challenging category for case review, as often there is little or no evidence available other than what the complainant and defendant have said at trial. Behind each referral in this area lies the thoroughness of the Commission's investigative and analytical work. The Commission continues to work closely with the Historic Abuse Appeals Panel (HAAP) in this area.

Fresh expert evidence continues to shed light on flaws in expert evidence at trial and to provide significant new information upon which referral can be based.

The number of murder convictions referred has been far fewer this year.

No references of summary convictions were made to the Crown Court.

<sup>6</sup> When a confession that was admitted at trial has now become inadmissible, it may affect the safety of the convictions of any co-defendants implicated by that confession.





Table 1: Commission referrals heard by the appeal courts 2006-07

Name	Date of referral	Offence	Court of Appeal decision and date
MAGUIRE, Christopher	24 Nov 98	Burglary (S)	Q 04 Apr 06*
WEBB, Michael	09 Jun 05	Murder, conspiracy to burgle	U 11 Apr 06
WHITEHEAD, Ian	08 Mar 05	Indecent assault	U 09 May 06
KINSELLA, Christopher	20 Jun 05	Conspiracy to rob	U 09 May 06
ASHTON, Clifford	16 Sep 04	Murder	Q 15 May 06
CLARKE, Ronald	04 May 05	GBH, conspiracy to pervert course of justice	U 25 May 06
McDAID, James	04 May 05	GBH, criminal damage	U 25 May 06
WILLIAMS, John	26 Aug 05	Possessing imitation firearm with intent	U 07 Jun 06
SIDDALL, John	08 Dec 04	Indecent assault, indecency with a child	Q 15 Jun 06
BROOKE, Ian	08 Dec 04	Indecent assault, rape, buggery	Q 15 Jun 06
BOREMAN, Victor	09 Jun 05	Murder	Q 19 Jun 06
BYRNE, Malcolm	09 Jun 05	Murder	Q 19 Jun 06
BYRNE, Michael	09 Jun 05	Murder	Q 19 Jun 06
CALEY-KNOWLES, Edward	04 Nov 05	ABH	Q 20 Jun 06
JONES, Iorwerth	04 Nov 05	Criminal damage	Q 20 Jun 06
MOSES, Barrington	24 Mar 05	Murder	U 28 Jun 06
JARVIS, Mark	10 Aug 05	Rape, robbery, kidnapping (S)	Q 04 Jul 06
RAMZAN, Amer	19 Aug 05	Conspiracy to launder proceeds	Q 18 Jul 06
BOYLE, Christopher	10 Aug 04	Murder	U 25 Aug 06
FORD, David	21 Oct 06	Murder	U 25 Aug 06
BLACKWELL, Warren	02 Feb 06	Indecent assault	Q 12 Sep 06
QUINN, Michael	31 Mar 05	Murder, robbery	Appeal abandoned 13 Oct 06
M	22 Mar 03	Robbery (S)	Q 19 Oct 06
BEATTY, David	10 Jun 05	Rape, kidnapping, threats to kill (S)	Q 22 Oct 06
MORPHY, Sandra	10 Jan 06	Keeping a disorderly house (S)	Q 26 Oct 06
HEMPSTON, David	27 Jan 06	Common assault, burglary, rape, ABH (S)	Q 30 Oct 06
LAY, Andrew	14 Aug 06	Indecent assault, USI, gross indecency, indecent photo of child (S)	Q 07 Nov 06
ADETORO, David	29 Jun 05	Murder	U 09 Nov 06
NOLAN, Patrick	29 Jun 05	Murder	Q 09 Nov 06
K	28 Nov 05	Conspiracy to supply controlled drugs (S)	Q 17 Nov 06
WILKINSON, David	07 Sep 05	Summary – failure to comply with planning enforcement notice	Q 28 Nov 06 Guildford Crown Court
SERRANO, Raymond	07 Feb 06	Murder	U 01 Dec 06
B	08 May 06	Rape, buggery, indecency with child	Q 14 Dec 06
ADAMS, Andrew	27 Sep 05	Murder	Q 12 Jan 07
OSMAN, Mohammed	05 Sep 05	Drug importation	Q 18 Jan 07
SHAHZAD, Mohammed	05 Sep 05	Drug importation	Q 18 Jan 07
LATIF, Khalid	05 Sep 05	Drug importation	Q 18 Jan 07
NAWAZ, Shah	08 Aug 05	Drug importation	Q 18 Jan 07
RASOOL, Ghulam	05 Sep 05	Drug importation	Q 18 Jan 07
P	22 Mar 06	Indecent assault	Q 24 Jan 07
GOREN, Mert	24 Jan 07	Conspiracy to supply controlled drugs	Q 25 Jan 07
HARRISON, Sean	24 Jan 07	Conspiracy to supply controlled drugs	Q 25 Jan 07
McCARTNEY, Raymond	18 Jan 06	Murder; belonging to proscribed organisation	Q 01 Feb 07 NICA
MacDERMOTT, Eamonn	18 Jan 06	Murder; belonging to proscribed organisation, conspiracy to collect information, attempted murder, possessing firearm	Q 01 Feb 07 NICA
AHMED, Mumtaz	31 May 06	Conspiracy to launder proceeds	Q 14 Feb 07
R	13 Feb 06	Rape, indecent assault	U 15 Feb 07
LOWE, Paul	30 Jun 06	Conspiracy to supply controlled drugs	U 12 Mar 07

NICA - Northern Ireland Court of Appeal Q - Quashed U - Upheld (S) - Sentence

\*This appeal was taken out of the court's listing system in 1999 because the appellant had absconded. It was eventually heard in the appellant's absence.

Table 2: Commission referrals to the appeal courts 2006-07

Name	Date of referral	Offence	Court of Appeal decision and date
HUSSAIN, Altaf	13 Apr 06	Conspiracy to import heroin	
MASUD, Umar	27 Apr 06	Conspiracy to import heroin	
B	02 May 06	Rape [x2]; buggery [x2]; indecency with a child	Q 14 Dec 06
RAMZAN, Mohammed	25 May 06	Conspiracy relating to the importation and supply of heroin	
AHMED, Mumtaz	31 May 06	Conspiracy to launder money	Q 14 Feb 07
RIZVI, Zafar	31 May 06	Conspiracy to launder money	
EL-KURD, Ussama	31 May 06	Conspiracy to launder money	
SINGH, Gulbir	31 May 06	Conspiracy to launder money	
REICHWALD, Stephen	31 May 06	Conspiracy to launder money	
SAKAVICKAS, Rolandas	31 May 06	Conspiracy to launder money	
MCCLOY, John	01 Jun 06	Robbery	
LOWE, Paul	30 Jun 06	Conspiracy to supply controlled drugs	U 12 Mar 07
VERNETT-SHOWERS, Michael	10 Jul 06	Conspiracy to import heroin; conspiracy to supply heroin	
AHMED, Nisar	10 Jul 06	Conspiracy to import heroin	
AHMED, Rizwan	10 Jul 06	Conspiracy to import heroin	
RYAN, John	10 Jul 06	Conspiracy to supply heroin	
AHMED, Mumtaz	10 Jul 06	Importation of heroin	
ALLEN, Stewart	20 Jul 06	Indecent assault	
H	25 Jul 06	Conspiracy	
BEG, Mohammed	10 Aug 06	Being knowingly concerned in the fraudulent evasion of the prohibition on the importation of a class A drug; conspiracy to supply a class A drug	
LAY, Andrew	14 Aug 06	Indecent assault [x2]; unlawful sexual intercourse with a girl under 16 [x2]; gross indecency with a child; making an indecent photograph of a child [x25] (S)	Q 7 Nov 07
MCMENAMIN, Charles	22 Aug 06	Belonging to a proscribed organisation (x2); having a firearm with intent (x2); conspiracy to murder; possession of a firearm and ammunition with intent; possession of a firearm; collecting unlawful information; communicating unlawful information;	
HESMER, Alan	19 Sep 06	Attempted indecent assault; indecent assault [x2]	
S	28 Sep 06	Indecent assault (x4); rape (x4)	
GORE, Lisa	24 Oct 06	Infanticide	
DIAMOND, Stewart	28 Nov 06	Murder	
DEAN, Solomon	18 Dec 06	Rape [x2]; indecent assault; buggery; attempted buggery	
MCELWEE, Mark	21 Dec 06	Burglary [x2]; breach of licence (S)	
AHMED, Bakhitiar	19 Jan 07	Conspiracy to evade the prohibition on the importation of a Class A drug; conspiracy to supply a Class A drug	
SABIR, Mohammed	19 Jan 07	Conspiracy to evade the prohibition on the importation of a Class A drug; conspiracy to supply a Class A drug	
ROBOTHAM, John	19 Jan 07	Indecent assault on a male	
HARRISON, Sean	24 Jan 07	Conspiracy to supply Class A controlled drugs	Q 25 Jan 07
GOREN, Mert	24 Jan 07	Conspiracy to supply Class A controlled drugs	Q 25 Jan 07
TUNBRIDGE, Justin	08 Feb 07	Indecent assault [x2]	
B	14 Feb 07	Rape; indecent assault	
G	20 Feb 07	Indecent assault [x5]	
KENNEDY, Robert	21 Feb 07	Murder	
F	22 Feb 07	Indecent assault	

## Section Three Communication



The Commission recognises that good communication is vital to achieving its aims, particularly in promoting public understanding of its role and working constructively with stakeholders. This year saw the development of the Commission's first stakeholder relations strategy which set out a framework to engage constructively and openly with all those interested in its work and make it easier for stakeholders to communicate with the Commission.

Those with an interest in the Commission's work are diverse and include applicants, potential applicants and their representatives and campaigning groups; agencies within the criminal justice system such as the police and judiciary; those with a direct interest in the Commission's work because of its statutory role, such as MPs, government departments and the media; and victims and victims' organisations.

The Commission engaged with stakeholders over the year by:

- Rolling-out a successful pilot project (started in 2005) of visits to prisons to raise awareness of the Commission's role and remit amongst both staff and inmates. In 2006-07, visits were made to Bristol, Cookham Wood, Dovegate and Stafford prisons.
- Continuing a forum with key stakeholders. A second stakeholders' meeting was held in November 2006 with representatives from the Criminal Appeal Lawyers' Association, the Miscarriages of Justice Organisation and South Wales Against Wrongful Conviction.
- Hosting visits from various parties over the course of the year, including the Rt Hon Sir Igor Judge, President of the Queen's Bench Division and Head of Criminal Justice, a number of senior police officers, and an MP from New Zealand.
- Speaking about its work at a number of conferences and events.

The Commission continued to explain its role in the regional and national media, dealing with 409 media enquiries over the year (compared with 365 enquiries the previous year) and issuing press releases for each case referred. Information was provided for answers to seven parliamentary questions during 2006-07 (compared with 30 for the previous year). 11 applications were made under the Freedom of Information Act during the year (compared to 12 in the previous year).

### Feedback and evaluation

Measurement of the impact of the Commission's efforts to raise awareness of its role remains difficult. However, the number of applications rose slightly to 1,051, up from 1011 applications in 2005-06. All applicants are sent a feedback questionnaire and 390 completed forms were received over the year. In response to the question 'Was it easy to find out about us?' 68% stated it was either 'very easy' or 'easy'. Applicants are also asked for suggestions on how to make it easier for people to find out about the Commission and this feedback is used to improve our communication.

Internally, it was another year of change for the Commission, as the implementation of the organisational change programme continued. A staff survey was carried out in November 2006 and the results will be used to look at ways of improving internal communications over the coming year. A communications working group of staff from across the organisation continued to provide ideas over the year.

## Section Four Our people and resources



This was a year of change as the Commission introduced improvements to casework processes and organisational structure. This is already bringing benefits and gives us the support mechanisms to continue to focus more effectively on the performance of both our people and processes.

### People

The recruitment and retention of high calibre staff remains a priority. Three Case Review Managers (CRMs) left during the year. We were able to recruit four new CRMs at the end of 2006/7, ending the year with a total of 47.

Two new IT Helpdesk support staff were appointed in March 2007 in readiness to support the new IT arrangements starting in April 2007 following completion of a major procurement of a new IT managed service. This was conducted using the OGC (Office of Government Commerce) Catalyst framework, and we are pleased that our existing IT partner, Steria, will be continuing with the new contract.

Five Commissioners retired from the Commission in December 2006 on completion of their terms of office. Three new Commissioners were appointed – two started in November 2006 and the other in January 2007. Details are given on page 8.

The Commission continued in its commitment to supporting staff in maintaining an appropriate work-life balance. During the year a flexitime scheme was introduced which enables staff to shape their work patterns to their individual circumstances.

Our target for staff absence, as set out in **Key Performance Indicator 9** (see page 48), was that absences other than for normal annual leave and public holidays should be less than nine days per full-time equivalent for the year. The actual figure was higher than this at 15.8 days per full-time equivalent, but of this sickness absence accounted for only 9.9 days per person per annum. This is a significant improvement on 11.2 days sickness absence the previous year and about the same figure as for the public sector as a whole.

Our target for staff turnover (excluding Commissioners), as set out in **Key Performance Indicator 10** (see page 48) was that the percentage of employees leaving the Commission should be between 5% and 12%. Despite the organisational and process changes made during the year, staff turnover was comfortably within the target, at 7.9%.



### Training and development

Training and development activity remains important to ensure that our staff continuously refresh their skills and knowledge. We continued to run a programme of legal updates for our CRMs and to provide a development programme for managers. Staff are also supported in studying for relevant qualifications and attending seminars and conferences.

### Accommodation and facilities

The Commission occupies floors 20 to 22 of Alpha Tower in central Birmingham. The leases expired in August 2006 and an exercise was conducted to review the availability and cost of alternative accommodation in central Birmingham. It was concluded that the existing accommodation remained suitable and cost-effective, and consequently new leases were negotiated. To help contain overall costs and in line with our commitment to the environment, car parking spaces were relinquished.

There is a continuing review of facility contracts to ensure that we obtain best value for money. This exercise has already yielded savings and improved services. A new telephone system was also procured during the year to replace the original ageing system which was no longer supported by the manufacturer. As well as improving ease of use, it is anticipated that there will also be savings on maintenance costs.

### Environment

The Commission takes its environmental responsibilities seriously and has adopted an environmental policy. The policy sets out the Commission's commitment to minimising its impact on the environment wherever possible. The Commission has already improved its practices to achieve this, and will continue to look for ways to improve its environmental procedures. During the year, the Commission switched to a renewable energy provider.

### Financial resources

The Commission is funded entirely by means of Grant in Aid from the Home Office, which is a cash grant. However, financial control is exercised by means of delegated Departmental Expenditure Limits (DELs) which are calculated on a resource accounting basis and therefore include non-cash items such as depreciation and provisions. Resource and capital DELs are separate and cannot be vired except from resource to capital with the consent of the Home Office. Resource DEL is also split between near-cash and non-cash. Near-cash items are those items of expenditure which normally result in cash flows in the immediate short-term. Non-cash expenditure includes provisions and depreciation. When provisions become payable, a transfer is required from non-



cash to near-cash. Near-cash became a principal budget control during the year. No capital DEL has been made available as part of the normal budget delegation process, and therefore resource DEL must be sacrificed each year to fund normal capital replacement activity.

The DEL is normally notified to the Commission by the Office for Criminal Justice Reform (OCJR) at the beginning of each year, although indicative budgets are given for at least one year forward. At the time of writing, the Commission has not received a delegation for 2007/08 and was operating under an interim authority to spend. The amounts shown in the table below are estimates based on previously advised indicative DELs.

A comparison of DEL figures for the two previous years, the current year and the next year is shown below:

	Delegated DEL 2004/05 £'000	Delegated DEL 2005/06 £'000	Delegated DEL 2006/07 £'000	Indicative DEL 2007/08 £'000
Near-cash	6,872	6,959	6,715	6,761
Non-cash	970	839	893	513
Resource total	7,842	7,798	7,608	7,274
Capital	620	163	56	95
<b>TOTAL</b>	<b>8,462</b>	<b>7,961</b>	<b>7,664</b>	<b>7,369</b>

The delegated budget for 2007/08, the indicative budget for 2008/09 and an estimate for 2009/10 will be used as the basis for the Commission's business and corporate plans which map the strategic direction of the Commission for the next three years, and the detailed activities, success criteria, projections and key performance indicators for 2007/08. The plans will be made available on the Commission's website once approved. 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. The Statement on Internal Control on pages 57-59 describes how these risks and uncertainties are managed.

The cash Grant in Aid received from the Home Office in the year was £6.74m (2006, £6.83m), consisting of £6.66m for the operating activities of employment and running costs and £0.08m for capital expenditure (2006, £6.68m and



£0.15m respectively). In accordance with government accounting rules which require Grant in Aid only to be drawn when needed, our target was to maintain cash deposits below £200k, as set out in **Key Performance Indicator 7** (see page 48). This was achieved, with the end-of-period cash balance being £36k.

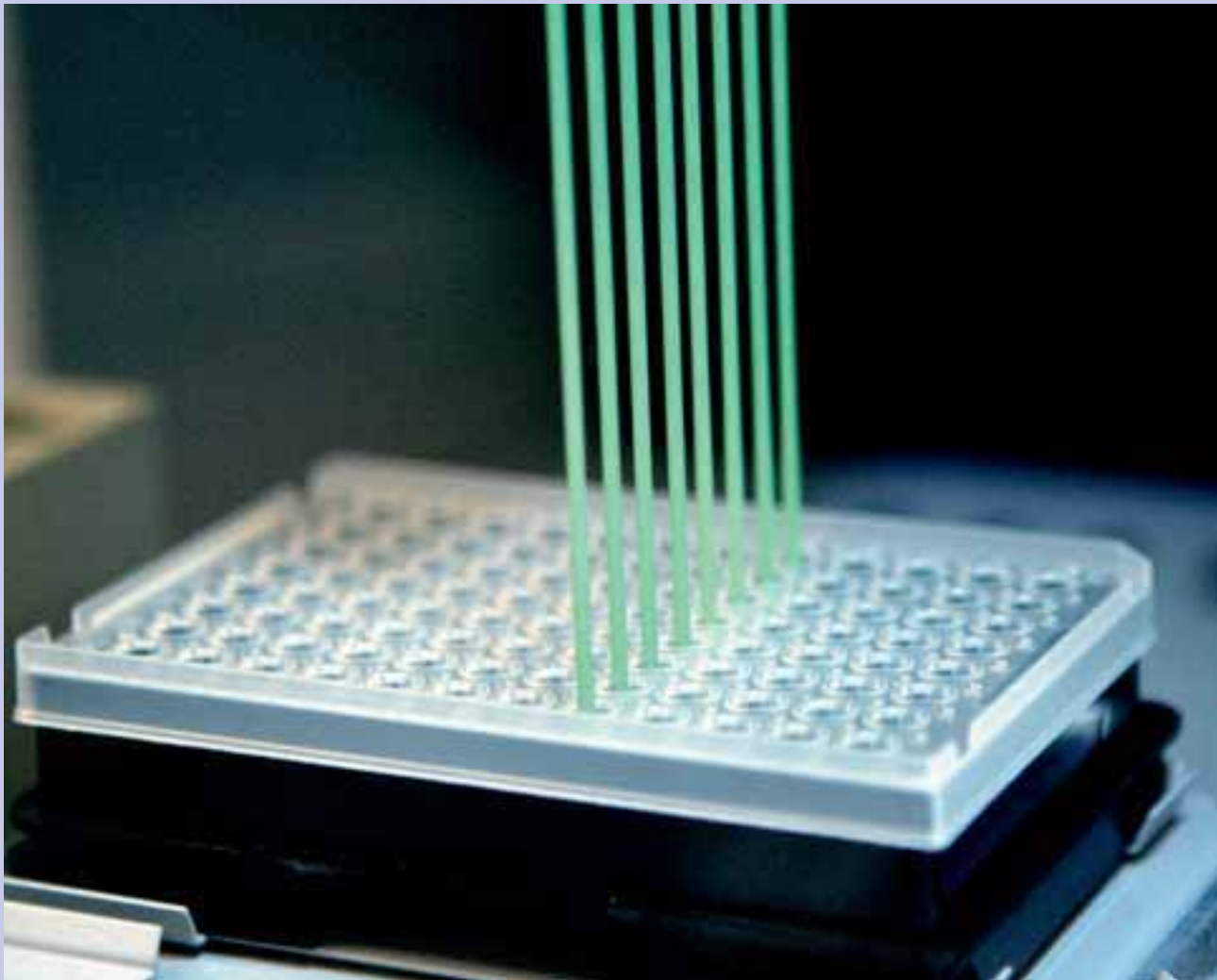
### Financial performance

The primary indicator of financial performance is expenditure measured against the delegated Departmental Expenditure Limits (DEL).

Revenue DEL is made up of operating expenditure and cost of capital, including the interest element of the increase in the pension provision, but excludes the unrealised loss on revaluation of fixed assets. The Commission's actual expenditure compared with DEL was as follows:

	2006/07			2005/06		
	DEL £'000	Actual £'000	Variance £'000	DEL £'000	Actual £'000	Variance £'000
Near-cash	6,715	6,957	242	6,959	6,866	(93)
Non-cash	893	478	(415)	839	890	51
Total revenue	7,608	7,435	(173)	7,798	7,756	(42)
Capital	56	81	25	163	152	(11)
<b>TOTAL</b>	<b>7,664</b>	<b>7,516</b>	<b>(148)</b>	<b>7,961</b>	<b>7,908</b>	<b>(53)</b>

The Commission had planned its expenditure for the year according to its normal practice based on the total revenue DEL. Notification was received during the year that near-cash was to be used as a budget control, but it was too late to adjust expenditure to avoid an overspend.





Actual expenditure in DEL format is reconciled to total operating expenditure as shown in the Income and Expenditure Account on page 62 as follows:

	2006/07	2005/06
	£'000	£'000
Actual revenue expenditure in DEL format	7,435	7,756
Unrealised loss on revaluation of fixed assets	30	118
Interest on pension scheme liabilities and dilapidations provision	(162)	(125)
Cost of capital	94	50
<b>Operating expenditure per I&amp;E Account</b>	<b>7,397</b>	<b>7,799</b>

The Commission's capital DEL for the year was £56k. Actual capital expenditure for the year was £81k, an overspend of £25k. Most of this overspend relates to an unplanned update of our document management system, and a need to begin work on creating a robust development environment to prevent problems occurring with future software updates.

Our target for expenditure against budget, as set out in **Key Performance Indicator 6** (see page 48), was that total resource spend less delegated budget should be within £0 and -£150k, and expressed as a percentage of the budget, between 0 and -2%. The actual figures were just outside the targets, at -£173k and -2.27%. Similarly, our targets for expenditure against budget for capital spend less delegated budget were between £0 and -£15k and between 0 and -12.5%. The actual figures were outside the targets, at +£25k and +44.64%. The reasons are as outlined above.

### Financial statements

The accounts for the year ended 31 March 2007 are set out on pages 55-76.

The Income and Expenditure Account on page 62 shows operating expenditure for the year of £7.40m (2006, £7.80m). A change in accounting policy this year, following changes to the Financial Reporting Manual (FRM), means that Grant in Aid is no longer treated as income in the Income and Expenditure Account, but is treated as funding and taken direct to reserves. Comparatives have been adjusted accordingly. Details are given in the Accounting Policies note on page 65.

Employment costs have shown a decrease from £4.93m in 2005/06 to £4.85m in the current year, largely as a result of the fall in the number of Commissioners. As detailed on page 8, there were five outgoing Commissioners at the end of 2006, and three new Commissioners appointed. There was also a saving in Commissioners' pension costs as a consequence of

the writing-off of balances with the Home Office – further detail is given on page 69.

Running costs for the year were £2.108m (2006, £2.211m). Despite an overall increase in accommodation costs as a result of the office lease renewal, savings in other areas have resulted in an overall decrease in running costs. IT costs have been contained as the number of projects has been reduced, and our legal fees in respect of judicial reviews are considerably lower than in the previous year following the award of costs in our favour in the major action brought by the Revenue and Customs Prosecutions Office.

During the year, leases on the office accommodation were renewed. As a result, the dilapidations provision was reviewed. In accordance with FRS12, the cost of reinstating the building to its original state was estimated as at the date of the first break opportunity after five years, and this value discounted back to the year-end. The difference between this amount and the existing dilapidations provision is represented by an asset and shown as an addition of £49k to the office refurbishment costs. This asset is amortised over the five-year period and charged to Income and Expenditure, together with the cost of unwinding the discount. Details are given in the Accounting Policies note on pages 65 and 66.

Investment in fixed assets during the year was mainly in respect of IT hardware, development and software, and totalled £81k. The net book value of fixed assets at the end of the year stands at £614k (2006, £922k).

This reduction in the book value of fixed assets, combined with the continued increase in provisions for pensions and dilapidations, has resulted in an overall negative balance sheet value at the end of the year of £3.355m (2006, £2.010m). 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 a going-concern basis for the preparation of the accounts. This is discussed further in the Accounting Policies note on page 66.

#### Compliance with public sector payment policy

The Commission follows the principles of the Better Payment Practice Code. We aim 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), provided that the relevant invoice is properly presented and is not subject to dispute.



	2006-07		2005-06	
	£'000	Number	£'000	Number
Total invoices paid in year	2,218	1,859	2,614	2,485
Total invoices paid within target	2,140	1,756	2,502	2,276
Percentage of invoices paid within target	96.5%	94.5%	95.7%	91.3%

Our targets for prompt payment of invoices, as set out in **Key Performance Indicator 8** (see page 48), were that over the year 95% of invoices and 95% of the value of invoices should be paid within suppliers' payment terms, or within 30 days where these terms were not specified. The actual figures were just outside the target for numbers of invoices, at 94.5% paid within these terms, and better than the target for the value of invoices, at 96.5%. This represents an improvement on last year (see table above). The reason we were still slightly outside our target was due largely to a small number of suppliers with unrealistically short payment terms (as little as one week). Efforts will be made during 2007/08 to amend suppliers' terms to reduce this problem.

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

#### Other reportable matters

In respect of the year ended 31 March 2007:

- No research and development was undertaken
- No donations to charity were made
- There are no post-balance sheet events to report

As reported in the Statement on Internal Control on pages 57-59, payments were made during the year in respect of the staff pay settlement effective from January 2006 without ministerial approval having been obtained. This arose from a misunderstanding of the authorisation procedures required. The approval has subsequently been granted. There was also a breach of procurement authority in connection with the procurement of an IT managed service. Appropriate steps have been taken to ensure similar incidents do not recur.

## Definition of Key Performance Indicators

### KPI 1 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" includes Section 15 directions from the Court of Appeal.

**Calculation** Recorded for the current period and for the last 12 months.

**Frequency** Monthly

**Data source** Case statistics compiled from the case management system.

**Target** Monthly target: nil; 12 month: positive

**Actual** Positive in 3 months; 12 month: -61

sending of the provisional statement of reasons. Cases involving an Investigating Officer and section 15 orders are excluded. Calculation: Recorded for the current period and for the year to date.

**Frequency** Quarterly

**Data source** Reports taken from Vectus.

**Target A** Quarterly target: 75% of stage 2 cases completed within 18 months

**Actual A** Apr-Sep: 63.5%

**Target B** Quarterly target: 75% of cases completed within time frame-

\*category A – 2 months

\*category B – 6 months

\*category C – 12 months

**Actual B** Oct-Mar:

\*category A – 56.7%

\*category B – 49.0%

\*category C – 50.0%

### KPI 2 Cases waiting

**Purpose** In order to provide an optimum service to applicants, the number of cases waiting should be at a level that minimises waiting times whilst allowing a small buffer to ensure that workflows can be maintained.

**Definition** The number of applications waiting to be allocated for review.

**Calculation** Recorded for the current period and for the last 12 months.

**Frequency** Monthly

**Data source** Case statistics compiled from the case management system.

**Target A** Monthly/annual: screen - <85  
stage 2 - <160

**Actual A** End of year: screen – 107;  
stage 2 - 148

**Target B** Monthly/annual: category A - <65  
category B - <125  
category C - <70

**Actual B** End of year: category A - 38  
category B - 65  
category C - 32

### KPI 4 Number of upheld complaints

**Purpose** The number of complaints serves as a measure of the quality of service provided. However, the nature of the Commission's work means that applicants may complain simply because their case is not referred, rather than as a result of unsatisfactory service. The measure is therefore limited to complaints upheld.

**Definition** The absolute number of complaints resolved in the period which were upheld, and the number of complaints upheld expressed as a percentage 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 Complaints Manager.

**Target** Upheld complaints: <10 in number and <15% of resolved complaints

**Actual** Whole year: 7 in number; 15.2% of resolved complaints

### KPI 3 Case completion times

**Purpose** In order to provide an optimum service to applicants, cases need to be completed within a reasonable time taking into account the circumstances of the case. The time taken to complete cases will of course vary widely.

**Definition A** The elapsed time in months between allocation at Stage 2 and the sending of the final statement of reasons.

**Definition B** The elapsed time in months between allocation for each category and the

### KPI 5 Number of judicial reviews

**Purpose** The number of judicial reviews serves as a measure of the quality of service provided. However, the nature of the Commission's work means that applicants may apply for judicial review simply because their case is not referred, rather than as a result of legal errors. The measure is therefore limited to judicial reviews which proceed beyond the leave stage.

**Definition** The absolute number of judicial



reviews for which leave granted; and the number of judicial reviews for which leave granted expressed as a percentage of judicial reviews and 'pre action protocol' letters received

**Calculation** Recorded for the current period and for the last 12 months.

**Frequency** Quarterly

**Data source** Records of judicial reviews maintained by the Legal Advisors.

**Target** Judicial reviews for which leave granted: <10 and <15% of all judicial reviews/ pre-protocol letters

**Actual** Whole year: 2 and 11.8% of all judicial reviews/ pre-protocol letters

#### KPI 6 Expenditure against budget

**Purpose** The Commission is required to operate within its delegated budget. A key indicator of financial management is the extent to which expenditure in the period is aligned with the delegated budget. Whilst overspends are not permitted, efficient use of resources requires that the budget available is fully utilised.

**Definition** Total expenditure less delegated budget, based on DEL and measured separately for resource and capital, expressed as an amount and as a percentage of budget.

**Calculation** Forecast for the year to date.

**Frequency** Monthly

**Data source** Management accounts

**Target** Resource: <0 and > -£150k / < 0 and > -2%

**Capital** < £0 and > -£15k / < 0 and >12.5%

**Actual** End of year: Resource: -£174k / -2.3%

**Capital** +£25k / +35.7%

#### KPI 7 Cash deposits held

**Purpose** Treasury rules provide that Grant In-Aid may not be drawn in advance of need. A key indicator of financial management is the extent to which cash flow is managed to ensure that cash balances are maintained within the limits agreed with the sponsoring body.

**Definition** Total cash held at the end of each month.

**Calculation** Recorded for the current period.

**Frequency** Monthly

**Data source** Management accounts/ financial statements.

**Target** <£200K

**Actual** End of year - £36K

#### KPI 8 Prompt payment

**Purpose** The Commission is required to comply with the Better Payment Practice Code.

**Definition** The number and value of invoices paid in the period within suppliers' payment terms, or within 30 days where these are not specified, expressed as a percentage of the total.

**Calculation** Recorded for the current period and for the year to date.

**Frequency** Monthly

**Data source** Internally generated data based on payment runs.

**Target** 95%

**Actual** Whole year: number – 93.5%; value – 96.0%

#### KPI 9 Staff absence

**Purpose** The extent to which staff are absent affects the productivity of the Commission and its ability to achieve its casework targets.

**Definition** The aggregate number of days of employee absence (other than for normal annual leave and public holidays), divided by the full-time equivalent number of employees.

**Calculation** Recorded for the current period and for the year to date.

**Frequency** Monthly

**Data source** Internally generated data based on personnel records.

**Target** < 9 days per annum

**Actual** Whole year: 22.6 days per annum

#### KPI 10 Staff turnover

**Purpose** The recruitment and retention of high calibre staff is critical to the Commission's achieving its casework targets.

**Definition** Number of employees leaving the Commission during the period, expressed as a percentage of all employees (using FTE)

**Calculation** Recorded for the current period and for the year to date.

**Frequency** Quarterly

**Data source** Internally generated data based on personnel records.

**Target** < 12% and >5%

**Actual** Whole year 7.9%



## Remuneration report

### Remuneration policy

The remuneration of Commissioners is set by the Secretary of State taking account of the recommendations of the Review Body on Senior Salaries with respect to the salaries of the judiciary.

In reaching its recommendations, the Review Body has regard to the following considerations:

- the need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities;
- regional/local variations in labour markets and their effects on the recruitment and retention of staff;
- Government policies for improving the public services including the requirement on departments to meet the output targets for the delivery of departmental services;
- the funds available to departments as set out in the Government's departmental expenditure limits;
- the Government's inflation target

The Review Body takes account of the evidence it receives about wider economic considerations and the affordability of its recommendations.

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 the same full-time equivalent rate. In the year ended 31 March 2007, the full-time equivalent rate was £81,592 per annum to 31 July 2006, £83,387 to 31 December 2006 and £85,388 from 1 January 2007 (2006, £80,784 to 31 December 2005 and £81,592 from 1 January 2006).

Salaries of senior management and advisors are set by the Remuneration Committee, which is made up of the Chairman and three Commissioners. The Committee takes into account Home Office pay growth limits, affordability, comparability and performance in determining annual salary increases.

The Chairman's salary is linked to that of a High Court Judge.

### Terms of appointment

Commissioners are appointed by the Queen on the recommendation of the Prime Minister, as is the 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, subject to a maximum term of office of 10 years

Senior management are employed on permanent contracts of employment. The normal retirement age was increased from 60 to 65 during the year to comply with age discrimination legislation, although pensionable age remains as 60. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

## Salary and pension entitlements

The following sections provide details of the remuneration and pension interests of the Commissioners and the senior management team. These details have been subject to audit.

	2006-07		2005-06	
	Salary £k	Benefits- in-kind to nearest £100	Salary £k	Benefits- in-kind to nearest £100
Professor Graham Zellick <sup>1</sup> – Chairman	140 – 145	-	155 – 160	-
Mr Michael Allen	80 – 85	-	80 – 85	-
Ms Penelope Barrett	80 – 85	8,600	80 – 85	-
Mr Barry Capon [to 31.08.05]	-	-	15 – 20	4,200
Mr Laurence Elks [to 31.12.06]	40 – 45	8,200	55 – 60	11,300
Mr Mark Emerton	45 – 50	17,000	45 – 50	18,800
Mr James England [from 01.11.06]	35 – 40	-	-	-
Mr Anthony Foster [to 31.12.06]	65 – 70	-	80 – 85	-
Ms Julie Goulding [from 01.01.07]	20 – 25	-	-	-
Mr David Jessel	55 – 60	15,500	55 – 60	14,500
Mr David Kyle [to 09.08.05]	-	-	25 – 30	-
Professor Leonard Leigh [to 30.09.05]	-	-	25 – 30	-
Mr Alastair MacGregor	80 – 85	-	80 – 85	1,100
Dr James MacKeith [to 31.12.06]	25 – 30	6,000	45 – 50	16,800
Mr Ian Nichol <sup>2</sup>	60 – 65	-	65 – 70	-
Mr Karamjit Singh [to 31.12.06]	30 – 35	-	45 – 50	-
Mr Baden Skitt [to 31.12.06]	60 – 65	14,000	80 – 85	15,900
Mr Ewen Smith [from 01.11.06]	35 – 40	-	-	-
Mr John Weeden	65 – 70	-	65 – 70	-
Mr Colin Albert – Principal Director and Director of Finance & IT	65 – 70	-	60 – 65	-
Miss Karen Kneller – Director of Casework [from 12.09.05]	60 – 65	-	30 – 35	-
Mr Peter Wilkinson – Director of Administration & HR	45 – 50	-	50 – 55	-

<sup>1</sup> Prof Zellick became part-time (0.6 FTE) from 01.01.07

<sup>2</sup> Mr Nichol reduced his hours from 0.8 FTE to 0.5FTE from 01.01.07

'Salary' includes gross salary or remuneration.

The monetary value of benefits-in-kind covers any benefits provided by the Commission and treated by HM Revenue and Customs as a taxable emolument. Benefits received by Commissioners relate to relocation expenses and costs incurred to enable part-time Commissioners to work in the Commission's office in Birmingham.

### Pension benefits

	Real increase in pension and related lump sum at age 60 (bands of £2½k)	Total accrued pension at age 60 at 31/3/07 and related lump sum (bands of £2½k)	CETV at 31/3/06 to nearest £k	CETV at 31/3/07 to nearest £k	Real increase in CETV to nearest £k
Prof Graham Zellick Chairman	0-2.5	5-7.5	83	117	27
Mr Michael Allen	0-2.5	5-7.5	73	95	17
Ms Penelope Barrett	0-2.5	2.5-5	35	55	16
Mr Laurence Elks <sup>1</sup>	0-2.5	5-7.5 + 20-22.5 lump sum	144	153	8
Mr Mark Emerton	0-2.5 + 0-2.5 lump sum	2.5-5 + 7.5-10 lump sum	36	46	8
Mr James England	0-2.5	0-2.5	-	8	7
Mr Anthony Foster <sup>1</sup>	0-2.5 + 0-2.5 lump sum	7.5-10 + 27.5-30 lump sum	188	200	15
Ms Julie Goulding	0-2.5	0-2.5	-	5	4
Mr David Jessel	0-2.5 + 0-2.5 lump sum	2.5-5 + 12.5-15 lump sum	97	112	14
Mr Alastair MacGregor	2.5-5.0	5-7.5	44	94	38
Dr James MacKeith <sup>1</sup>	0-2.5	5-7.5	88	94	5
Mr Ian Nichol	0-2.5	2.5-5	42	59	13

	Real increase in pension and related lump sum at age 60 (bands of £2½k)	Total accrued pension at age 60 at 31/3/07 and related lump sum (bands of £2½k)	CETV at 31/3/06 to nearest £k	CETV at 31/3/07 to nearest £k	Real increase in CETV to nearest £k
Mr Karamjit Singh <sup>1</sup>	0-2.5 + 0-2.5 lump sum	12.5-15 + 37.5-40 lump sum	269	275	7
Mr Baden Skitt <sup>1</sup>	0-2.5	12.5-15	216	226	15
Mr Ewen Smith	0-2.5	0-2.5	-	11	9
Mr John Weeden	0-2.5	5-7.5	75	99	18
Mr Colin Albert - Principal Director and Director of Finance & IT	0-2.5	2.5-5	30	52	19
Miss Karen Kneller - Director of Casework	0-2.5 + 0-2.5 lump sum	12.5-15 + 42.5-45 lump sum	207	212	3
Mr Peter Wilkinson - Director of Adminstration & HR	0-2.5	2.5-5	29	47	15

<sup>1</sup>Closing values quoted at date of leaving 31.12.06

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 1.5% and 3.5% of pensionable earnings respectively depending on whether the individual's scheme is by analogy to the classic or premium/classic plus PCSPS schemes.

Pension benefits to staff are provided through the Principal Civil Service pension arrangements. On 1 October 2002, a new Principal Civil Service Scheme (premium) was established and staff were requested to choose of which scheme they wished to be members (classic, premium or classic plus). Scheme members contribute 1.5% of salary to classic and 3.5% of salary to premium and to classic plus.

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 his/her former scheme. The CETV figures include the value of any pension benefit in another scheme or arrangement which the individual has transferred and for which a transfer payment commensurate with the additional pension liabilities being assumed has been received. They also include any additional pension benefit accrued to the member as a result of his/her purchasing additional years of pension service in the scheme at his/her own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

The real increase in the CETV reflects the increase in CETV effectively funded by the Commission. It takes account of the increase in accrued pension owing to inflation, contributions paid by the member (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

## Section Five Statement of accounts





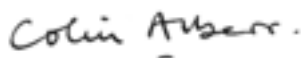
## Statement of the Commission's and Accounting Officer's responsibilities

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 income and expenditure, recognised gains and losses and cash flows for the financial year.

In preparing the accounts, the Commission and the Accounting Officer are 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 judgments 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 Home Office has designated the Principal Director 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 the Non-Departmental Public Bodies' Accounting Officers' Memorandum issued by HM Treasury and published in *Government Accounting*.



Colin Albert  
Principal Director and Accounting Officer  
5 July 2007

## Statement on internal control

### Scope of Responsibility

As Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of the Commission's policies, aims and objectives, whilst safeguarding the public funds and assets for which I am personally responsible, in accordance with the responsibilities assigned to me in *Government Accounting*.

The Commission provides information regularly to its sponsoring Department, the Home Office, on financial and casework performance. Monthly meetings are held with the sponsor unit at which performance is discussed, and in the year ended 31 March 2007 the Commission was involved in two Departmental meetings at which progress against the Commission's objectives was discussed, including risks and their management.

### The purpose of the system of internal control

The Commission's system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it 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 of those risks being realised, and the impact should they be realised and to manage them effectively, efficiently and economically. The system of internal control has been in place in the Commission for the year ended 31 March 2007 and up to the date of approval of the *Annual Report and Accounts*, and accords with Treasury guidance.

### Capacity to handle risk

The lead on risk management is taken by me as Accounting Officer. Individual risks are assigned to named individuals, and I ensure that risks are reviewed on a systematic and regular basis in conjunction with the relevant groups and committees. Each review is endorsed by the Audit Committee and a report made annually to the Commission. In addition, the assessment and monitoring of risk is embedded in the Commission's project management processes.

### The risks and control framework

The Commission has established a risk management framework which ensures its risks are properly identified, managed and monitored. Risks are identified for each of the Commission's key processes, for major projects being undertaken and for the Commission as a corporate entity. Risks are assessed in the light of their financial, operational and reputational impact and likelihood on the organisation. This assessment includes an indication of both the risks inherent in the Commission's work and the residual risk actually faced by the Commission after taking into account the measures which have been put in place to manage the inherent risks. Where additional action is identified as being necessary to mitigate the effect of risks, this is fed into the planning process.

The Commission's 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 Commission at which the Commission's strategic direction and plans are reviewed and performance against goals is reported.

A review of major risks during the year has again identified the need for further work to improve the Commission's business continuity planning processes, and this will be reflected in objectives for 2007-08. A further risk relates to the Commission's casework management software, where there is some uncertainty over the supplier's commitment to its long-term future. As this software is business critical, steps will be taken in the forthcoming year to ensure that we continue to have appropriately supported systems for casework management. The framework also continues to identify those 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 appointed Grant Thornton as internal auditors who operate in accordance with Government Internal Audit Standards. Their work is informed by an analysis of the risks to which the Commission is exposed, and annual internal audit plans are based on this analysis. The analysis of risks and the internal audit plans are endorsed by the Commission's Audit Committee and approved by me. At least annually, Grant Thornton provide me with a report on the internal audit activity in the Commission. Their reports include their independent opinion on the adequacy and effectiveness of the Commission's system of internal control based on the work undertaken together with appropriate recommendations for improvement. In their opinion, the risk management, control and governance processes within the areas covered by their reviews in the year ended 31 March 2007 were adequate, effective and sufficient to enable the Commission to rely on the internal control system.

Both internal and external audits provide a service to the Commission by assisting with the continuous improvement of procedures and controls. Actions are agreed in response to recommendations made, and these are followed up to ensure that they are implemented.

#### **Review of Effectiveness**

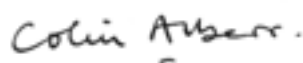
As Accounting Officer I have responsibility for reviewing the effectiveness of the systems of internal control. My review of the effectiveness of the systems of internal control is informed by the work of the internal auditors and staff within the Commission who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports. I have been advised on the implications of my review of the effectiveness of the systems of internal control by the Commission and the Audit Committee and a plan to address weaknesses and ensure continuous improvement of the systems is in place.

I previously reported that the Commission was unusual for an executive non-departmental public body in not having a chief executive, who would normally also be the Accounting Officer. A review conducted by the Audit & Assurance Unit of the Home Office in February 2006 concluded that the arrangements existing at that time, in which I had a dual role as both Accounting Officer and Director of Finance & IT, had significant inherent risks that the Accounting Officer may not be in a position fully to discharge his role. Although the Commission did not agree with that conclusion, discussions took place with the Home Office as a result of which I was appointed Principal Director with line management responsibility for the other two directors and changes were made to the purchasing authority procedures to ensure that there was no conflict between my role as Director of Finance & IT and my role as Accounting Officer. My appointment as Principal Director was approved at a meeting of the Commission in February 2007. These measures have strengthened the management arrangements of the Commission and significantly reduced the risk identified in the previous arrangements.

An NDPB review carried out by the Home Office as part of its Reform programme concluded that the governance arrangements of the Commission were less than ideal in that the 'board' (which currently comprises the Commissioners) lacked any independent members who could bring an outside perspective from which to challenge executive management and take a strategic view on the needs of the organisation as a whole. Independent members, it was argued, would also improve the balance of expertise across areas such as business planning, finance, risk and performance management. The Commission will be working with its sponsor unit over the next few months to agree appropriate changes to the structure of the 'board' to strengthen the governance arrangements.

The need for an independent perspective had already been recognised, and a first step towards addressing this was the appointment at the beginning of January 2007 of an independent chair of the Audit Committee. We are pleased to welcome Mr Terry Price to this role. He brings a wealth of experience in local and central government, and of audit committees in particular, to this position.

Two control failures need to be reported. The first involved the payment of revised salaries to staff from 1 January 2006 without having first obtained proper authorisation from ministers as required under our founding statute. This arose from a misunderstanding of the authorisation procedures required for pay awards which fell within the Treasury thresholds. Authorisation has subsequently been given. The second was a breach of procurement authority relating to the procurement of a new IT managed service. This arose from failing to obtain approval for a procurement already in progress when procurement delegations were first issued in October 2005. The procurement was conducted through the new OGC Catalist framework and complied with normal procurement rules. Steps have been taken to ensure that the authorisation procedures and procurement authorities are better understood and complied with in future.



Colin Albert  
Principal Director and Accounting Officer  
5 July 2007

### **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 2007 under the Criminal Appeal Act 1995. These comprise the Income and Expenditure Account, the Balance Sheet, the Cashflow Statement and Statement of Total Recognised Gains and Losses 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**

The Commission and Accounting Officer are responsible for preparing the Annual Report, the Remuneration Report and the financial statements in accordance with the Criminal Appeal Act 1995 and directions made thereunder by the Secretary of State with the consent of HM Treasury, and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of the Commission's and Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the remuneration report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Criminal Appeal Act 1995 and directions made thereunder by the Secretary of State with the consent of HM Treasury. I report to you whether, in my opinion, certain information given in the Annual Report, which comprises the management commentary and remuneration report, is consistent with the financial statements. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In addition, I report to you if the Criminal Cases Review Commission has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal Control reflects the Commission's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the Commission's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

### Basis of audit opinion

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Commission and Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Commission's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

### Opinions

#### Audit opinion

In my opinion:

- the financial statements give a true and fair view, in accordance with the Criminal Appeal Act 1995 and directions made thereunder by the Secretary of State with the consent of HM Treasury, of the state of Commission's affairs as at 31 March 2007 and of its net expenditure for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Criminal Appeal Act 1995 and directions made thereunder by the Secretary of State with the consent of HM Treasury; and
- information given within the Annual Report, which comprises the management commentary and the remuneration report, is consistent with the financial statements.

#### Audit opinion on regularity

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

### Report

I have no observations to make on these financial statements.



**John Bourn**  
Comptroller & Auditor General  
6 July 2007

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

The maintenance and integrity of the Commission's website is the responsibility of the Accounting Officer; the work carried out by the auditors does not involve consideration of these matters and accordingly the auditors accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website.

**Income and expenditure account**

For the year ended 31 March 2007

	Note	2006-07 £	Restated 2005-06 £
Employment costs	3	(4,849,382)	(4,930,439)
Running costs	5	(2,108,426)	(2,211,606)
Depreciation & amortisation	6, 7	(408,437)	(539,245)
Unrealised loss on revaluation of fixed assets	6, 7	(30,403)	(117,727)
<b>Operating expenditure</b>		<b>(7,396,648)</b>	<b>(7,799,017)</b>
Interest receivable		12,288	14,982
Interest on pension scheme liabilities	4	(147,000)	(125,000)
Interest on dilapidations provision	10	(15,533)	-
Notional cost of capital		94,005	47,003
<b>Net expenditure on ordinary activities</b>		<b>(7,452,888)</b>	<b>(7,862,032)</b>
Transfers from reserves	12	429,607	677,208
Notional cost of capital reversal		(94,005)	(47,003)
<b>Net expenditure for the year</b>		<b>(7,117,286)</b>	<b>(7,231,827)</b>

All activities arise from continuing operations

**Statement of total recognised gains and losses**

For the year ended 31 March 2007

	Note	2006-07 £	Restated 2005-06 £
Revenue grant in aid	2	6,662,845	6,682,774
Net expenditure for the year		(7,117,286)	(7,231,827)
Unrealised surplus on revaluation of fixed assets		-	4,718
Grant in aid for capital expenditure	2	81,155	151,854
Actuarial losses on pension scheme liabilities	4	(542,000)	(281,000)
Transfers to income and expenditure account	12	(429,607)	(677,208)
<b>Total recognised losses for the year</b>		<b>(1,344,893)</b>	<b>(1,350,689)</b>

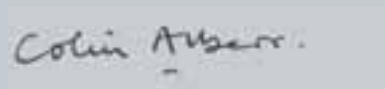
The notes on pages 65 to 67 form part of these accounts.

**Balance sheet**

As at 31 March 2007

	Note	31 March 2007 £	31 March 2006 £
Fixed assets			
Intangible fixed assets	6	83,509	134,620
Tangible fixed assets	7	530,061	787,125
		<b>613,570</b>	<b>921,745</b>
Current assets			
Debtors	8	286,694	317,918
Cash at bank & in hand	15	36,278	201,347
		<b>322,972</b>	<b>519,265</b>
Creditors: amounts falling due within one year	9	(395,483)	(371,164)
Net current (liabilities) / assets		<b>(72,511)</b>	<b>148,101</b>
Total assets less current liabilities		<b>541,059</b>	<b>1,069,846</b>
Provisions for liabilities and charges			
Pension provision	4	(3,437,000)	(2,686,000)
Dilapidations provision	10	(459,328)	(394,222)
Total liabilities		<b>(3,355,269)</b>	<b>(2,010,376)</b>
Income and expenditure account	11	(3,928,562)	(2,932,121)
Other reserves	12	573,293	921,745
Total Government funds		<b>(3,355,269)</b>	<b>(2,010,376)</b>

Signed on behalf of the Criminal Cases Review Commission


**Colin Albert**

Principal Director and Accounting Officer

5 July 2007



**Cash flow statement**

For the year ended 31 March 2007

	Note	2006-07 £	Restated 2005-06 £
Operating activities			
Net cash outflow from operating activities	14	(6,801,712)	(6,867,248)
Returns on investments and servicing of finance			
Interest received		12,209	16,503
Capital expenditure and financial investment			
Payment to acquire fixed assets		(119,716)	(125,340)
Proceeds / (cost) of disposal of fixed assets		150	(173)
		<b>(119,566)</b>	<b>(125,513)</b>
<b>Net cash outflow before financing</b>		<b>(6,909,069)</b>	<b>(6,976,258)</b>
Financing			
Capital Grant in Aid	2	81,155	151,854
Revenue Grant in Aid	2	6,662,845	6,682,774
<b>Decrease in cash</b>	15	<b>(165,069)</b>	<b>(141,630)</b>

The Notes on pages 65 to 67 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 Home Office 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 2006–07 Government Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in the FReM follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to the public sector.

The financial statements have been prepared under the historical cost convention modified to account for the revaluation of fixed assets.

A summary of the Commission's principal accounting policies is set out below. These have been applied consistently throughout the year.

#### **Going concern**

The Balance sheet at 31 March 2007 shows net liabilities of £3,355,269. 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 Home Office. 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 2007-08, taking into account the amounts required to meet the Commission's liabilities falling due in that year, have already been included in the department's Estimates for that year, which have been approved by Parliament, and there is no reason to believe that the department's future sponsorship and future parliamentary approval will not be forthcoming. 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 for revenue expenditure is regarded as funding and is credited direct to the Income and Expenditure Reserve in accordance with the revised Financial Reporting Manual. Previously, revenue Grant in Aid received was recognised as income in the Income and Expenditure Account. This represents a change of accounting policy and prior year figures have been adjusted accordingly. Details are in note 23 to the accounts. Grant in Aid for capital expenditure is credited to a Government Grant Reserve. Each year, an amount equal to the depreciation and amortisation charge on fixed assets acquired through Grant in Aid, and any deficit on their revaluation in excess of the balance on the Revaluation Reserve, will be released from the Government Grant Reserve to the Income and Expenditure Account.

#### **Fixed assets**

Assets are capitalised as fixed assets if they are intended for use on a continuing basis and their original purchase cost, on an individual or grouped basis, is £100 or more. Fixed Assets are valued at current replacement cost by using the Price Index Numbers for Current Cost Accounting published by the Office for National Statistics, except in their year of acquisition when their current and historical cost will not be materially different.

Any surplus on revaluation is credited to the Revaluation Reserve. A deficit on revaluation is debited to the Income and Expenditure Account if the deficit exceeds the balance on the Revaluation Reserve.

**Depreciation and amortisation**

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

IT hardware / development	four years
Software systems and licences	four years
Furniture and office equipment	up to 10 years
Refurbishment costs	over the remaining term of the lease
Dilapidations	over the period remaining to the next break-point of the lease

**Donated assets**

Donated fixed assets are capitalised at their fair valuation on receipt. Their value is credited to a Donated Asset Reserve. Each year, an amount equal to the depreciation charge on donated assets, and any deficit on their revaluation in excess of the balance on the Revaluation Reserve, will be released from the Donated Asset Reserve to the Income and Expenditure Account.

**Notional charges**

In accordance with the Financial Reporting Manual published by HM Treasury, a notional charge for the cost of capital employed in the period is included in the Income and Expenditure Account along with an equivalent reversing notional income to finance the charge. The charge for the period is calculated using the Treasury's discount rate of 3½% (2006 3½%) applied to the mean value of capital employed during the period. The value of capital employed excludes the value of assets donated to the Commission.

**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 assets and liabilities. In accordance with FRS17, the Income and Expenditure Account 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 Income and Expenditure Account. The increase in the present value of the schemes' liabilities arising from the passage of time is charged to the Income and Expenditure Account after operating expenditure. Actuarial gains and losses are recognised in the statement of total recognised gains and losses, and taken direct to reserves.

The balance sheet includes the actuarially calculated scheme liabilities, discounted at an appropriate rate to reflect expected long term returns.

**Operating leases**

Payments made under operating leases on Land and Buildings and Equipment are charged to expenditure as incurred.

Provision is made for the estimated costs of returning the leased office premises to an appropriate condition. The lease expired in August 2006, and the provision has been charged over the period of that lease to income and expenditure. On renewal of the lease, the estimated cost was revalued to the amount required at the first break point in the lease in August 2011. This revalued amount was discounted to the present value using the official Government discount rate for long term liabilities (GDP deflator - 3½%). The provision held at 1 April 2006 was increased to this amount. As the building alterations concerned give access to future economic benefits, a tangible asset was also created corresponding to the amount by which the provision was increased, in accordance with FRS12 "Provisions, contingent liabilities and assets". This tangible asset is amortised over the period to the first break point in the lease on a straight line basis, and the amortisation charged to income and expenditure account. The interest cost arising from the unwinding of the discount is also charged each year to income and expenditure account.

**Taxation**

The Commission is not eligible to register for VAT and all costs are shown inclusive of VAT. The Commission has no trading income and is therefore not subject to corporation tax.

**2**

	2006-07 £	2005-06
Received for revenue expenditure		
Home Office main estimate Request for Resource 1 Subhead AE	<b>6,662,845</b>	6,682,777
Received for capital expenditure		
Home Office main estimate Request for Resource 1 Subhead AE	<b>81,155</b>	1,118
<b>Total</b>	<b>6,744,000</b>	6,831,628

	2006-07 £	2005-06
<b>Commissioners</b>		
Salaries and emoluments	<b>984,271</b>	1,230,028
Social security contributions	<b>127,869</b>	131,313
Pension costs	<b>161,883</b>	211,083
	<b>1,274,023</b>	1,452,424
<b>Staff</b>		
Salaries and emoluments	<b>2,753,710</b>	2,620,022
Seconded-in, agency, temporary and contract staff	<b>63,320</b>	52,828
Social security contributions	<b>209,987</b>	195,418
Pension contributions	<b>548,342</b>	481,706
	<b>3,575,359</b>	3,349,974
<b>Total employment costs</b>		
Salaries and emoluments	<b>3,737,981</b>	3,850,050
Seconded-in, agency, temporary and contract staff	<b>63,320</b>	52,828
Social security contributions	<b>337,856</b>	334,772
Pension costs	<b>710,225</b>	692,789
<b>Total</b>	<b>4,849,382</b>	4,930,439

At 31 March 2007, the Commission employed 94 staff (2006: 97). The average number of employees, expressed as full time equivalents, during the year to 31 March 2007 by category of employment was:

	2006-07	2005-06
Executive	<b>10</b>	11
Case Review Managers	<b>41</b>	41
Administrative support staff	<b>37</b>	37
	<b>88</b>	89

## (i) Staff

Pension benefits to staff are provided through the Principal Civil Service pension arrangements. On 1 October 2002, a new Principal Civil Service Scheme (premium) was established and staff were requested to choose of which scheme they wished to be members (classic, premium or classic plus). Scheme members contribute 1.5% of salary to classic and 3.5% of salary to premium and to classic plus.

The schemes are unfunded multi-employer statutory defined benefit schemes. The Commission's contributions are not affected by any surplus or deficit in the schemes relating to the past service of Commission staff or of any other members of the schemes. The Commission's contributions are set in relation to each financial year only and the Commission is unable to identify its share of the schemes' underlying assets and liabilities. A full actuarial valuation of the Principal Civil Service Pension Schemes was carried out at 31 March 2003. Details of this valuation and the benefits provided by each scheme are provided in the Cabinet Office: Civil Superannuation Resource Accounts available at [www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk).

The cost of the Commission's pension contributions to the Principal Civil Service Pension Schemes is included in employment costs. For the year ended 31 March 2007, contributions (excluding £9,505 (2006 £9,143) paid to a stakeholder pension) of £538,837 (2006 £472,563) were payable to the Principal Civil Service Pension Schemes. These were paid at one of four rates in the range 17.1% to 25.5% of pensionable pay, based upon salary bands (2006 16.2% to 24.6%). The salary bands to which these rates apply are revalued each year. The Government Actuary reviews employer contributions every four years following a full scheme valuation and sets contribution rates to reflect past experience and benefits when they are accrued, not when costs are actually incurred. The next valuation will be made as at 31 March 2007.

Staff joining the Commission after 1 October 2002 could opt to open a partnership pension account - a stakeholder pension with an employer contribution. In the year ended 31 March 2007 one staff member had a stakeholder pension. The total amount contributed was £9,505 (2006 £9,143).

## (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 1.5% and 3.5% of pensionable earnings respectively depending on whether the individual's scheme is by analogy to the classic or premium/classic plus PCSPS schemes.

The scheme liabilities have been calculated by the Government Actuary's Department using the following financial assumptions:

	2006-07	2005-06	2004-05	2003-04	2002-03
Discount rate	4.60%	5.40%	6.10%	6.10%	7.00%
Rate of increase in salaries	4.30%	4.00%	4.00%	4.00%	4.90%
Price inflation	2.75%	2.50%	2.50%	2.50%	3.40%
Rate of increase in pensions (deferred and in payment)	2.75%	2.50%	2.50%	2.50%	3.40%

The following amounts have been recognised in the Income and Expenditure Account for the year:

	2006-07 £	2005-06 £
Current service cost	252,683	2 28
Settlements and curtailments	(60,944)	
Commissioners' contributions retained	(29,856)	38 3
<b>Total charge to operating expenses</b>	<b>161,883</b>	<b>211 083</b>
Interest on pension scheme liabilities	147,000	12 000
<b>Total charge to finance and other costs</b>	<b>147,000</b>	<b>12 000</b>

Net balances due to the Home Office of £60,944 were written off during the year with the agreement of the Home Office. These balances were in respect of pension payments made by the Home Office on behalf of the Commission in 2003/04. The writing off of these balances reduces the Commission's costs for pensions, and is therefore disclosed as a settlement.

Actuarial gains and losses recognised in the Statement of Total Recognised Gains and Losses 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 balance sheet date:

	2006-07	2005-06	2004-05	2003-04	2002-03
Experience gains/(losses) on pension liabilities	72,000 2.09%	83,000 3.09%	(97,000) -4.95%	(107,000) -5.90%	23,000 1.56%
Changes in demographic and financial assumptions	470,000 13.67%	198,000 7.37%	(96,000) -4.89%	197,000 10.85%	- -
<b>Net actuarial losses</b>	<b>542,000</b>	<b>281,000</b>	<b>(193,000)</b>	<b>90,000</b>	<b>23,000</b>

The movement in scheme liabilities is analysed as follows:

	2006-07 £	2005-06 £
Present value of scheme liabilities at start of year	2,686,000	1,965,000
Current service cost	252,683	249,428
Interest cost	147,000	125,000
Actuarial losses	542,000	281,000
Transfers in	-	322,551
Benefits paid	(190,683)	(256,979)
<b>Present value of scheme liabilities at end of year</b>	<b>3,437,000</b>	<b>2,686,000</b>

## Statement of accounts

	2006-07	2005-06
	£	
Accommodation costs – general	605,405	7,30
Accommodation costs – dilapidations provision	-	0,868
Audit fee – external	15,000	1,000
Audit fee – internal	11,147	8,230
Information and publications	76,929	73,12
IT costs	670,860	7,378
Legal and professional costs	90,322	188,800
Library and reference materials	41,190	3,21
Loss on disposal of tangible fixed assets	63	20,0
Office Services	121,418	80,120
Office Supplies	86,800	087
Case Storage	9,063	6,773
Operating lease payment for equipment	12,165	10,28
Payroll – pension costs	16,026	11,81
Recruitment	29,384	2,208
Relocation	22,274	7,03
Telephones	29,103	33,8
Training and other – R	67,000	
Travel – subsistence and external case related costs	204,277	217,30
<b>Total</b>	<b>2,108,426</b>	<b>2,211,606</b>

Accommodation costs include rent of £428,079 (2006 £327,016) on the premises held under an operating lease.

Accommodation costs in 2005/06 included the cost of providing for dilapidations under the lease held for office accommodation. On renewal of the lease, the increase in the dilapidations provision is treated differently and is now charged to income and expenditure as amortisation and an interest cost. Details are given in note 1 to the accounts.

## 6

	IT Software Licences
	£
Cost / valuation at 1 April 2006	343,844
Additions	9,418
Revaluation	(14,097)
<b>Cost / valuation at 31 March 2007</b>	<b>339,165</b>
Amortisation at 1 April 2006	209,224
Provided during the year	56,206
Revaluation	(9,774)
<b>Amortisation at 31 March 2007</b>	<b>255,656</b>
<b>Net Book Value at 31 March 2007</b>	<b>83,509</b>
<b>Net Book Value at 31 March 2006</b>	<b>134,620</b>

## 7

	Refurbishment Costs	Furniture and office Equipment	IT hardware/ development	Total £
Cost/valuation at 1 April 2006	738 032	08 888	1 36 136	<b>2,512,056</b>
Additions	73	31 76	0 311	<b>121,460</b>
Disposals		66	12 060	<b>(12,724)</b>
Revaluation	1 860	21 016	636	<b>(61,792)</b>
Cost/valuation at 31 March 2007	802 6	18 78	1 337 7 1	<b>2,559,000</b>
Depreciation at 1 April 2006	702 888	237 1 8	78 8	<b>1,724,931</b>
Provided during the year	3	0 818	266 7	<b>352,231</b>
Depreciation on disposals		2	11 6	<b>(12,511)</b>
Revaluation	1 860	12 701	37 871	<b>(35,712)</b>
Depreciation at 31 March 2007	762 187	26 723	1 002 02	<b>2,028,939</b>
Net Book Value at 31 March 2007	0 278	1 061	33 722	<b>530,061</b>
Net Book Value at 31 March 2006	3 1	171 7 0	80 2 1	<b>787,125</b>

The Home Office provided the Commission with its initial furniture, office equipment and computer equipment at an historical cost of £696,816. The Commission had the use of these assets during 1997-98 and they were transferred to the Commission free of charge on 1 April 1998 at their net book value of £582,746. Their net book value at 31 March 2007 of £nil is reflected in the balance on the Donated Asset Reserve shown in note 12.

	31 March 2007 £	31 March 2006
Intra government balances:		
Central government bodies	40,850	1 81
Local authorities	22,866	22 300
	<b>63,716</b>	36 781
Debtors	1,022	23
Travel loans to staff	20,617	11 123
Other prepayments	201,339	26 1
Total	<b>286,694</b>	317 18



## Statement of accounts

	31 March 2007 £	31 March 2006
Intra government balances:		
Central government bodies:		
Home Office	-	7 2
Taxation / social security	142,697	1 778
	<b>142,697</b>	230 203
Trade creditors	211,200	7 03
Accruals / other creditors	40,422	3 883
Capital creditors	1,164	3 7
<b>Total</b>	<b>395,483</b>	371 16

**0**

The movement in the provision is analysed as follows:

	2006-07 £	200 06
Provision at start of year	394,222	3 3 3
Provided in year: charged to expenditure	-	0 868
creation of tangible asset	49,573	
	<b>443,795</b>	3 222
Unwinding of discount	15,533	
<b>Provision at end of year</b>	<b>459,328</b>	3 222

	2006-07 £	Restated 200 06
Income and Expenditure Account at 1 April 2006	(2,932,121)	2 102 068
Revenue / Grant in Aid	6,662,845	6 682 77
Net expenditure for the financial year	(7,117,286)	7 231 827
Actuarial losses on pension scheme liabilities	(542,000)	281 000
<b>Income and Expenditure Account at 31 March 2007</b>	<b>(3,928,562)</b>	2 32 121

2

	note	31 March 2007 £	31 March 2006
Government Grant Reserve			
Balance at 1 April 2006		1 6 7	1 336 0
Capital grant in aid	2	81 1	1 1 8
Depreciation transferred to Income and Expenditure Account		3 3 263	31 1
Unrealised surplus on revaluation of fixed assets			718
Unrealised loss on revaluation of fixed assets		30 233	117 727
Transfer from Revaluation Reserve			1 738
Disposed assets – B less proceeds		63	20 236
<b>Balance at 31 March 2007</b>		<b>73 2 3</b>	<b>1 6 7</b>
Revaluation Reserve			
Balance at 1 April 2006			6 0
Transfer to Government Grant and Donated Asset Reserves			6 0
<b>Balance at 31 March 2007</b>			
Donated Asset Reserve			
Balance at 1 April 2006		6 0 8	773
Depreciation / amortisation transferred to Income and Expenditure Account		87	8 086
Unrealised loss on revaluation of fixed assets		16	
Transfer from Revaluation Reserve			361
<b>Balance at 31 March 2007</b>			<b>6 0 8</b>
<b>Total</b>		<b>73 2 3</b>	<b>21 7</b>
		<b>2006-07 £</b>	<b>200 06</b>
<b>Transferred to Income and Expenditure Account</b>			
Depreciation / amortisation			
Transferred from Government Grant Reserve		<b>393,263</b>	31 1
Transferred from Donated Asset Reserve		<b>5,879</b>	8 086
		<b>399,142</b>	3 2
Unrealised loss on revaluation of fixed assets			
Transferred from Government Grant Reserve		<b>30,233</b>	117 727
Transferred from Donated Asset Reserve		<b>169</b>	
		<b>30,402</b>	117 727
Cost of disposed assets less depreciation / amortisation			
Transferred from Government Grant Reserve		<b>63</b>	20 236
		<b>63</b>	20 236
<b>Total</b>		<b>429,607</b>	<b>677 208</b>

## Statement of accounts

	note	2006-07 £	Restated 200 06
Reserves at 1 April 2006	12	921,745	1 2 381
Reserves at 31 March 2007	12	573,293	21 7
Decrease in reserves		(348,452)	20 636
Net expenditure for the financial year	11	(7,117,286)	7 231 827
Revenue Grant in Aid	2	6,662,845	6 682 77
Actuarial losses on pension scheme liabilities		(542,000)	281 000
Decrease in government funds		(1,344,893)	1 3 0 68

	note	2006-07 £	Restated 200 06
Operating expenditure		(7,396,648)	7 7 017
Depreciation and amortisation	6 7	408,437	3 2
Realised loss on revaluation of fixed assets	6 7	30,403	117 727
Loss on disposal of tangible fixed assets		63	20 0
Decrease / increase in debtors		16,822	3 22
Increase / decrease in creditors		138,155	67 2 6
Pension provision		252,683	2 28
Pension transfers in		-	322 1
Pensions in payment		(190,683)	2 6 7
Pension settlements		(60,944)	
Impairment provision		-	0 868
Net cash outflow from operating activities		(6,801,712)	6 867 2 8

The decrease in debtors shown above excludes a debtor of £502 for bank interest receivable (2006 £423) as interest receivable is shown after operating expenditure in the Income and Expenditure Account, and also a pension debtor of £nil (2006 £14,481).

The increase in creditors shown above excludes capital creditors of £1,164 (2006 £39,575) and pension creditors of £nil (2006 £75,425).

	2006-07 £	200 06
Balance at 1 April 2006	201,347	3 2 77
Decrease in cash	(165,069)	1 1 630
Balance at 31 March 2007	36,278	201 3 7

## 6

At 31 March 2007, capital commitments contracted for were £nil (2006 £18,931).

**7**

At 31 March 2007 the Commission had annual commitments under non-cancellable operating leases as set out below.

	Building	Equipment	31 Mar 2007 Total	31 Mar 2006 Total
Operating leases which expire:			£	
Within one year		1,168	<b>1,168</b>	7,161
Between one and five years		6,166	<b>6,146</b>	16,666
More than five years	31,837		<b>531,837</b>	

Certain commissioners with broadly by analogy pensions wished to transfer in existing pension benefits from other occupational pension schemes on joining the Commission. Because of uncertainties surrounding the rules on transfers, and inconsistencies in information provided by the Commission's agents, these transfers have not yet been completed. Depending on the resolution of the uncertainties, the additional pension liability at the balance sheet date is estimated to range between £269,000 and £682,000 (2006 £212,000 and £519,000). Any cash consideration for the transfer would be surrendered to the Home Office and would not be reflected in the balance sheet.

There are no post balance sheet events to report.

The accounts were authorised for issue by the Accounting Officer on 5 July 2007.

**20**

The Home Office is a related party to the Commission. During the year ended 31 March 2007, the Home Office provided the Commission with Grant in Aid as disclosed in the financial statements.

The Revenue and Customs Prosecutions Office (RCPO) is an independent government department prosecuting major drug trafficking and tax fraud cases in the UK. As at 31 March 2007, a debtor is shown representing the recovery of costs in a judicial review brought by the RCPO against the Commission. This debtor is disclosed as an amount due from central government bodies in note 8 above.

During the year ended 31 March 2007, none of the Commissioners, key managerial staff or other related parties undertook any material transactions with the Commission.

**2**

There were no reportable losses or special payments made during the financial year.

## 22

FRS 13, Derivatives and other Financial Instruments, requires disclosure of the role which financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. 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 FRS 13 mainly applies. 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.

## 2

To reflect the change in accounting policy regarding the reporting of Grant in Aid (see note 1 for details), the Income and Expenditure Account and the Statement of Total Recognised Gains and Losses for the year ended 31 March 2006 have been restated. Revenue Grant in Aid of £6,682,774 has been removed from the Income and Expenditure Account, resulting in a Net Expenditure for the Year of £7,231,827 (previously a Retained Deficit for the Year of £549,053). In the Statement of Total Recognised Gains and Losses, revenue Grant in Aid of £6,682,774 and Net Expenditure for the Year of £7,231,827 (previously Retained Deficit for the Year of £549,053) are now included.

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Alpha Tower  
Suffolk Street Queensway  
Birmingham B1 1TT

Tel: 0121 633 1800  
Fax: 0121 633 1823  
Email: [ccrc@gtnet.gov.uk](mailto:ccrc@gtnet.gov.uk)  
Web: [www.ccrc.gov.uk](http://www.ccrc.gov.uk)

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