



**CCRC**  
Criminal • Cases • Review • Commission

# Criminal Cases Review Commission Annual Report and Accounts 2009/10

# Criminal Cases Review Commission Annual Report and Accounts **2009/10**

Annual Report and Accounts of the Criminal Cases Review Commission  
1 April 2009 – 31 March 2010

Presented to Parliament pursuant to paragraphs 8(3) and 9(4) of  
Schedule 1 to the Criminal Appeal Act 1995.

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# Our purpose:

is to review possible miscarriages of justice in the criminal courts of England, Wales and Northern Ireland and the Court Martial and the Service Civilian Court, and refer appropriate cases to the relevant appeal court.

# Our vision:

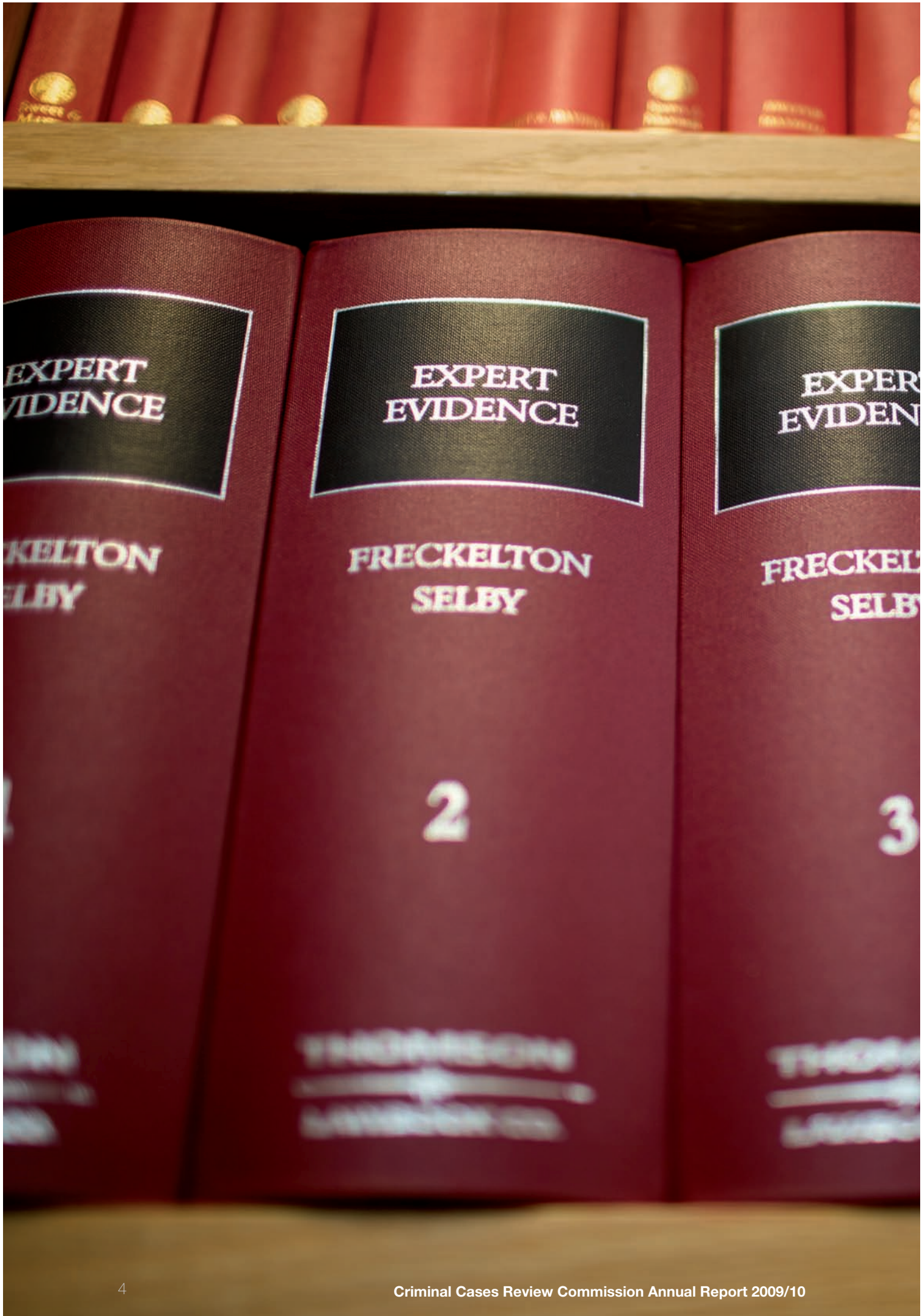
is to enhance confidence in the criminal justice system, to give hope and bring justice to those wrongly convicted, and based on our experience, to contribute to reform of and improvements in the law.

# Our aims:

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

# Our values:

- independence
- integrity
- impartiality
- professionalism
- accountability



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## Chair's Foreword

This is my second year as Chair of the Commission and it has been another busy one for us with a rise in the number of applications and an increase in the investigations we have carried out for the Court of Appeal.

The range of cases covered by the 31 referrals we made in 2009/10, and discussed in this report, demonstrates that our work identifying and dealing with alleged miscarriages of criminal justice in England, Wales and Northern Ireland is as important today as it was when the Commission was created in 1997.

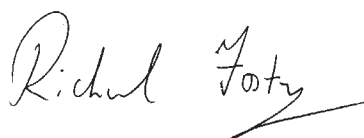
One case recently in the headlines personifies why this work is so important. It is the case of Warren Blackwell. Mr Blackwell spent three years and four months in prison for a crime he did not commit before the Commission's investigation and referral led to his conviction being quashed by the Court of Appeal. A subsequent inquiry by the Independent Police Complaints Commission was highly critical of the original police investigation and the handling of the prosecution.

If it had not been for the work of the Criminal Cases Review Commission, these matters might never have come to light. The lessons of Mr Blackwell's wrongful conviction might have gone unheeded by the criminal justice system. I mention Mr Blackwell because, as I write, his case is prominent in the media, but his was one of our many cases, most of which pass unnoticed by the wider world, where justice miscarried.

We said goodbye with regret to Commissioner Mark Emerton who moved on to become an Employment Judge. Early in 2010/11 Commissioner David Jessel will be standing down after ten years as a Commissioner, the maximum statutory period a Commissioner can serve. David has made a huge contribution to the Commission and to the wider fight against miscarriages of justice. As mentioned elsewhere in this report, we lost Jill Bellingham to cancer in February. Jill was a highly respected Case Review Manager who is sorely missed by all at the Commission.

There can be no doubt that the year ahead will present us with some of the sternest challenges we have had to face. The exceptionally tight public expenditure climate will be a challenge for all publicly funded bodies. This will be particularly so for the Commission because we had already been making tough spending decisions in recent years to account for required cuts in what was our fourth consecutive year of real terms budget reductions.

Come what may, we will not lose sight of the fact that the work we do is of great significance, not just to individuals who have personally been victims of miscarriages of justice, but also as part of our system of constitutional checks and balances.



**Richard Foster CBE** Chair

## Chief Executive's Introduction

This Annual Report comes at the end of my first six months as Chief Executive and therefore presents an ideal opportunity to record some first impressions. The most striking thing about the Commission is the commitment of everyone here to investigating and challenging miscarriages of justice. This shared sense of purpose is one of our great strengths and it will help us to maintain focus when times get tough.

The Commission occupies a unique position in the criminal justice system and it is important that we seek to share our knowledge and our insight into how the system works, and also that we listen carefully to our many and varied stakeholders in order to improve our own work. The successful stakeholder conference we held during 2009/10 provided some valuable feedback that will inform discussions within the Commission about how we operate.

The 2009/10 period was the fourth year of real terms financial cuts for the Commission and we again saw staff numbers fall as a result. Despite this, and much to the credit of staff and Commissioners, we exceeded many of our casework targets.

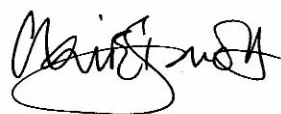
During the year we received 932 applications, slightly more than in 2008/9. At the close of the year, we had 406 cases under review and 256 waiting for a review to begin. The number of cases waiting for more than six months had increased slightly, but the average length of time each case waited had improved since our last annual report. In particular our focus on very long-running cases has had a positive impact.

We referred 31 cases during 2009/10 which was 3.5% of our completed cases, slightly less than the 4% we referred last year. Of the 30 cases heard by the appeal courts, 23 resulted in either a conviction being quashed or a sentence varied.

The Commission also carries out investigations in relation to ongoing appeals whenever the Court of Appeal requires it. The demands of these 'section 15' directions have grown considerably this year in comparison to last. These are often complex and urgent pieces of work and the Court of Appeal has recently expressed its appreciation of the Commission's efforts.

The Commission will, like other public bodies, face serious financial challenges over the coming years. We are anticipating future cuts and have begun planning for these. We will continue to look for efficiencies but will also need to take a fresh look at all the ways we work while safeguarding our recent improvements and the high quality of our casework. We should not underestimate the dramatic impact that further substantial cuts will have on the Commission where we have a relatively small budget and where two thirds of our spending is on staff costs.

Finally, I would like to say how grateful I am for the very warm welcome I received, and continue to receive. It is a privilege to work for the Commission and I am very much looking forward to my future here.



**Claire Bassett** Chief Executive



# The year in numbers:

In 2009/10 there were 932 applications received, compared with 919 last year. This year 892 cases were completed, compared with 941 last year. There were 406 cases under review and 256 cases awaiting review at 31st March 2010, compared with 397 and 225 cases waiting at 31st March 2009. Some 17% (43 cases) of the 256 waiting were applications from Northern Ireland that could not be progressed until the Court of Appeal in Northern Ireland publishes judgments in relation to several CCRC referral cases. Of the remaining 213 cases waiting, 110 had been categorised and were awaiting allocation to a Case Review Manager. The others were in the process of being prepared or had just been received. In 2009/10, 31 cases or 3.5% of cases were referred to the appeal courts. That compares with 4.1% (39 cases) in 2008/9 and with a long term average of 3.9%. A total of 30 Commission referrals were heard by the appeal courts in 2009/10. Of these, 23 resulted in convictions being quashed or sentences varied. Seven other appeals were dismissed.

Section One

# The Work of the Commission

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**Application**

## Introduction

The Criminal Cases Review Commission was the first statutory body in the world created to investigate possible miscarriages of justice and, where necessary, to refer cases back to the appeal courts. We remain one of only three such bodies in the world. The others are in Scotland and Norway.

Created by Parliament in 1997, our role is to look into cases where a miscarriage of justice is alleged or suspected and to decide if there is any new evidence or new argument which raises a real possibility that an appeal court would quash a conviction or reduce a sentence.

The Commission is entirely independent. We do not represent the defence or prosecution, police, judiciary or any other part of the criminal justice system.

## How we work

Anyone convicted in the criminal courts of England, Wales or Northern Ireland, or in the Court Martial or Service Civilian Court, who believes they have been wrongly convicted or sentenced, can apply to have their case reviewed. Applicants usually need to have exhausted the normal appeal process before approaching us. It is our role to review cases and to identify any new factors which might shed light on the safety of the conviction or the correctness of the sentence. The Commission considers cases impartially and employs people with a wide variety of skills and experience, including lawyers and investigators, to carry out this task. In the course of a case review we may interview new witnesses or re-interview people involved in the original case. We may also commission new expert reports or arrange fresh forensic tests such as DNA profiling. The Criminal Appeal Act 1995 which created the Commission provided us with the power

to obtain documents and information from any public body in England, Wales and Northern Ireland. In addition to basic material from court and prosecution files, there are times when we need to obtain other material such as medical records or files from social services or other agencies. Sometimes we also need to look at defence files or obtain material from private companies or individuals and will seek their co-operation in providing their records.

The majority of applications we receive can be dealt with quite quickly, within weeks or months. Other cases, however, can be very complicated and can take months or sometimes even years to review. The Commission receives several new applications every day and there is always a period between the arrival of an application and the start of a review. During this period, staff at the Commission will usually start work on the case by obtaining some of the papers that are required for a review such as the prosecution files and judgments from the trial and the original appeal.

The Commission's casework is carried out by Case Reviewer Managers and Commissioners who are chosen for their experience and skill in relevant areas. When a review is complete we will consider, in light of everything that is known about the case, whether there is anything that raises a "real possibility" that the appeal court would quash the conviction or reduce the sentence if we referred it.

Cases originally dealt with in a Magistrates' Court are appealed in a Crown Court and cases originally dealt with in a Crown Court are appealed in the Court of Appeal. Convictions from the Court Martial are appealed to the Court Martial Appeal Court while convictions from the Service Civilian Court are appealed to the Court Martial in much the same way that an appeal from a

magistrates court lies, by way of a rehearing, at the Crown Court. However, for cases from the Service Civilian Court there can be a further right of appeal onwards to the Court Martial Appeal Court.

Whenever a referral seems possible, a committee made up of three Commissioners will meet to consider the case and decide whether or not to make a referral. A decision not to make a referral can be taken by a single Commissioner (see appendix 2 on pages 80 to 82 for a detailed explanation of the case review process).

When a referral is made, the relevant appeal court must hear the case. It is for the court to decide whether or not the conviction should be quashed or the sentence reduced. The Commission's decision about whether or not to refer a case is communicated to the applicant and his or her legal team or designated representative in a document called a Statement of Reasons. This sets out in detail the Commission's analysis of the case and the reasons for its decision.

When the Commission is minded not to refer a case it will send a provisional Statement of Reasons setting out the reasons why the Commission is currently not minded to refer the case. At this stage the applicant is invited to make any further representations in the light of the provisional statement. The Commission will then consider those representations before making its final decision.

The fact that a review is under way does not automatically mean that the case will be referred. In fact, in the majority of cases, the Commission concludes that there are no grounds to refer the case to the appeal court. In those cases it is usually only the applicant and a small number of people involved in the case who are aware that there has been a

review. The Commission does not publish or actively publicise details of cases where a review has been held but no referral made. Whenever we do make a referral, we issue a press release to the media and publish the release on our own website.

Because most cases we review are not referred to the appeal court, we do not routinely inform victims of the original offences, or the families of victims, that we are reviewing an application from the person who was convicted. We recognise that, in some cases, the fact that the Commission is reviewing a case or has decided to refer a case, can have significant implications for the victim of the original crime and sometimes for others close to the victim.

The Commission will try to inform victims or other relevant people if a referral is imminent or if news of a Commission review is likely to come to their attention or enter the public domain. We try our best to minimise the distress that can be caused to victims and others and we work with other agencies such as the Police, Crown Prosecution Service and the Probation Service to do so. We are committed to the Government's Code of Practice for Victims of Crime. (Our victim notification policy is available on our website at [www.ccrcc.gov.uk](http://www.ccrcc.gov.uk))

## Other duties of the Commission

The Criminal Appeal Act 1995 sets out the Commission's powers and duties. It says that as well as our remit investigating alleged or suspected miscarriages of justice, the Commission can also be called upon by the Court of Appeal to look into cases that have come directly to it, or to find out more information about specific aspects of cases that have been referred by the Commission.

The Commission also has a wider role to inform the development of the criminal justice system and build public confidence in that system.

We have the power to recommend the use of the Royal Prerogative of Mercy and can also be asked for advice on the use of the prerogative by the Secretary of State for Justice.

## Our statutory background

The Commission is an Executive Non-Departmental Public Body financed by Grant in Aid through the Ministry of Justice. The Lord Chancellor and Secretary of State for Justice is 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 Criminal Appeal Act 1995 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 as Chair by the Queen.

## A new responsibility for military cases

From October 2009, the Commission took on the responsibility for reviewing alleged miscarriages of justice arising from the Court Martial and the Service Civilian Court.

The change came with the implementation of the Armed Forces Act 2006 which seeks to create a combined disciplinary system for all the armed forces. This Act inserts new sections and amendments into the Criminal Appeal Act 1995 and the Court Martial Appeals Act 1986.

Section 321 and Schedule 11 of the Armed Forces Act 2006 extend the jurisdiction of the CCRC by adding a new Section 29A to the Court Martial Appeals Act 1986 and new sections 12A and 12B to the Criminal Appeal Act 1995 (there are various consequential amendments to other sections of the 1995 Act). The result of these changes is to extend the jurisdiction of the Commission to cover:

- Uniformed members of the armed forces (and accompanying civilians overseas) convicted at Court Martial from where appeal lies to the Court Martial Appeal Court.
- Civilians accompanying the armed forces overseas convicted at the Service Civilian Court. Here, initial appeal lies, by way of a rehearing, to the Court Martial in much the same way that an appeal from a magistrates court lies, by way of a rehearing, to the Crown Court. However, there are further rights of appeal onwards to the Court Martial Appeal Court.

The Commission does not have jurisdiction to deal with members of the armed forces tried summarily by their Commanding Officers, or dealt with in the Summary Appeal Court.

The change to legislation is not retrospective and the Commission will have no jurisdiction in respect of people convicted or sentenced at a Court Martial or Service Civilian Court before 31st October 2009.

As anticipated, the Commission did not receive any applications in relation to its new responsibilities in 2009/10. It has, however been preparing by training staff and by liaising with the relevant parts of the armed forces. In its preparations the Commission has been fortunate to have at its disposal the expertise of Commissioner John Weeden CB

# Criminal Cases



who served in the rank of Air Vice-Marshal, as Director of Legal Services (RAF), as RAF Prosecuting Authority, as well as sitting as a Judge of the Sovereign Base Areas in Cyprus.

## The transfer of policing and justice functions to the Northern Ireland Assembly

The transfer of policing and justice functions from Westminster to the Northern Ireland Assembly and Executive happened on 12th April 2010. This introduced some relatively minor changes to legislation affecting the Commission. Though the transfer did not take place in the reporting year 2009/10, the Commission considered it expedient to draw attention to the change in this Annual Report.

The transfer of functions was effected by subordinate legislation at Westminster, the main statutory instrument being the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010.

This legislation means that the Commission retains its statutory function in relation to alleged miscarriages of justice in Northern Ireland. The Sponsorship and Performance unit within Access to Justice at the Ministry of Justice will remain responsible for sponsoring the Commission in relation to its function in Northern Ireland.

Schedule 6 of the 2010 Order provides that the Minister of Justice in Northern Ireland will consider applications for the Royal Prerogative of Mercy in relation to non-terrorist offences. Paragraph 6 of the schedule formalises the duties of the Commission towards the Minister in this regard under section 16 of the Criminal Appeal Act 1995.

Paragraph 8 of the schedule amends Schedule 1 of the 1995 Act and requires the Commission to give the Minister of Justice in Northern Ireland a statement under the newly created section 16(2A)(b) of the Criminal Appeal Act 1995. It also means that the Commission is required from now on to send a copy of its Annual Report to the Department of Justice for Northern Ireland.

Section Two

# Directors' Report



## Commissioners

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

At the end of March 2010, there were ten Commissioners, including the current Chair of the Commission, Mr Richard Foster CBE.

During the year, Commissioner Mark Emerton resigned to become a salaried Employment Judge. Commissioner David Jessel is due to leave in July 2010 after a full ten years of service as a Commissioner.

The Commission therefore asked the Ministry of Justice in late 2009 to begin a recruitment process to find two new Commissioners. However, in light of the newly-elected Government's requirement that organisations including the Commission cut their budgets in 2010/11 and beyond, we recommended that the Ministry of Justice should not make any Commissioner appointments for the time being in order to save money. The Ministry of Justice agreed.

### **During the year 2009/10, the Commissioners were:**

Mr Michael Allen  
 Ms Penelope Barrett  
 Mr Mark Emerton (until December 2009)  
 Mr James England  
 Mr Richard Foster CBE  
 Miss Julie Goulding  
 Mr David Jessel  
 Mr Alastair MacGregor QC (Deputy Chair)  
 Mr Ian Nichol  
 Mr Ewen Smith  
 Mr John Weeden CB

## Directors

Claire Bassett joined the Commission as Chief Executive and Accounting Officer on 9th November 2009. Mrs Bassett and the other directors together comprise the Senior Management Team responsible for the day-to-day running of the Commission. The other directors during 2009/10 were Mr Colin Albert, Director of Finance & IT, and Miss Karen Kneller, Director of Casework. Mr Albert was the Accounting Officer until Mrs Bassett's arrival in November.

## Non-executive directors

The governance of the Commission was strengthened in 2009/10 by the recruitment of two non-executive directors, Dr Maggie Semple OBE, FCGI, and Dame Anne Owers DBE.

Dr Maggie Semple runs a consultancy business. She is a former Civil Service Commissioner and is currently Chair of the Science Museum Advisory Committee. She has worked at board level with Her Majesty's Courts Service and the Children and Family Court Advisory and Support Service. Dr Semple started in January 2010.

Dame Anne is a former director of the law reform and human rights organisation, JUSTICE. At the time of her appointment as a non-executive director to the Commission she was Her Majesty's Chief Inspector of Prisons. Dame Anne did not start at the Commission during this reporting year.

## Code of best practice

The Commission adopted a 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.

## Risks and uncertainties

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

## Audit Committee

This ensures high standards of financial reporting and systems of internal control and reporting procedures. It reviews internal and external financial statements on behalf of the Commission. The Audit Committee's external Chairman is Mr Terry Price.

## Auditor

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

No remuneration was paid to the auditor for non-audit work during the year. As far as the Accounting Officer is aware, there is no relevant audit information of which the Commission's auditor is unaware. The Accounting Officer has taken all the steps which she ought to have taken to make herself aware of any relevant audit information and to establish that the Commission's auditor is aware of that information.

## Personal data related incidents

The Commission takes great care to protect personal data relating to applicants, witnesses, victims and others connected with casework, and section 23 of the Criminal Appeal Act 1995 makes it an offence to disclose any information obtained by the Commission in the exercise of its functions except in very specific circumstances.

There were no personal data related incidents in the year, or in any previous year, which had to be reported to the Information Commissioner or were otherwise recorded as being of significance.

## Expenses of Commission Chair and Chief Executive

Following a request made under the Freedom of Information Act 2000, the Commission decided to publish, in its Annual Reports from 2009/10 onwards, the total expenses claimed in the reporting year by the Chair and the Chief Executive. In 2009/10 Richard Foster claimed a total of £1,113 in expenses while Mrs Claire Bassett claimed a total of £780.



**Claire Bassett** Chief Executive  
20 July 2010

Section Three

# Casework

## Casework in 2009/10

The reporting year 2009/10 presented various challenges for the Commission and we have responded well and maintained, and in some cases built upon, the casework performance improvements of recent years.

The number of case reviewers fell over the course of the reporting year from 40.9 full-time equivalent (FTE) members of staff at 31st March 2009 to just 35.4 FTE at the same point in 2010. That final figure is a snapshot of the situation at year end and includes two new members of staff appointed in the last quarter of the year. We were also stretched by some long-term sickness issues among casework staff. Sadly, one highly respected Case Review Manager, Jill Bellingham, died on 9th February. She is missed by everyone at Commission.

Commissioners are the decision makers in the casework process and so their numbers and availability are a key factor in our ability to progress and close cases across all categories. As discussed earlier (see page 16) Commissioner Mark Emerton left in early December 2009. Although other Commissioners increased their time commitment as they were able, this meant that for the final four months of the year, we were around seven per cent down on Commissioner capacity. It now looks inevitable that, in order to save money, we will be operating with even fewer Commissioners for most of 2010/11 and beyond since we asked, and ministers agreed, not to replace either Mr Emerton or Mr Jessel when he leaves in July.

The reductions in the numbers of casework staff and Commissioners over the year were real reductions in our capacity to carry out casework. It should, therefore, be seen as a

significant achievement that our performance in 2009/10 was broadly comparable with, and in some key areas was actually better than, our performance in the last two years. That it is, is undoubtedly a credit to the commitment and hard work of casework staff and of the organisation as a whole, but we must not underestimate the challenge we will surely face maintaining performance going forward in such an uncertain economic climate for publicly funded bodies.

The Commission's casework performance is monitored by way of a set of Key Performance Indicators, or KPIs. All nine of the Commission's KPIs are set out with the figures for planned performance and actual performance in 2009/10 on pages 77 to 79 of this report.

### **Cases in progress**

Our aim is always to review cases in a thorough and timely fashion. KPI 1 monitors the number of B and C category cases in progress because these are more complex and usually longer running than the simpler A cases. Our aim is that there should be fewer than 20 category B cases taking longer than six months from allocation to a case reviewer to the provisional decision stage and that the average age of these cases should not exceed ten months.

At the end of March 2010, there were 35 B cases which had been in progress for more than six months. The average age of those cases being just over 13.2 months. This compares with the situation at 31st March 2009 when there were 31 B cases in progress for more than six months with the average age of those cases being just over 14 months. So, there has been a slight increase in the number of cases taking more than six months from allocation to provisional decision, but a slight reduction in the average age of those cases. This was not

unexpected given the reduction in staff numbers.

Cases categorised as C are usually the most complex and most demanding to prepare and to review. In spite of resource issues this year, we have seen what must be considered a strong performance in relation to C cases and held onto almost all of the gains we made in this area between 2007/8 and 2008/9.

KPI 1 shows that, at 31st March 2010, there were 39 C cases which had been in progress for longer than 18 months. Our target was to have 30 or fewer C cases taking 18 months or more to reach a provisional decision. With the average age of the 39 cases at 32.6 months, we narrowly missed the average age target of 32 months or less.

#### **Age of next case for allocation**

We also monitor the time between the first arrival of a review case and the date on which it is allocated to a case reviewer so that the review can begin. It should be borne in mind that there will always be some time before a review can begin because the Commission will always need to make an initial assessment of any application and then, if there is to be a review, to obtain the papers we will need from other bodies such as the police and the courts in order to start the review.

KPI 2 measures both the average age of all review cases yet to be allocated to a reviewer and the age in months of the next case due to be allocated. In category B and C cases, the applications of people in custody are prioritised over those of people who are at liberty.

The Commission performed well in this area in 2009/10. For A cases, the oldest unallocated case was five months old while

the average age was 2.6 months. At the same point in 2009, the oldest case was also five months, but the average age was higher at 3.1 months. For B cases in custody at 31st March 2010, the oldest case was six months old and the average age of cases was 3.5 months. That compares with an oldest case of five months and an average age of 3.5 months at 31st March 2009.

For B cases at liberty, the oldest case at 31st March 2010 was 19 months and the average age was 8.6 months. At the same point in 2009, the oldest case was 17 months and average age was 8.9 months.

In this reporting year we achieved a substantial improvement over the previous year in relation to C cases in custody. At 31st March 2010 the oldest case was four months old and the average age was also four months, well within the KPI targets of 16 months for the age of next case allocated and eight months for the average age. For comparison, the next case due for allocation at 31st March 2009 was five months old and the average age was eight months.

For C cases at liberty, the oldest case awaiting allocation was 16 months old and the average age of cases waiting was nine months - both better than target and better than the year before.

#### **Case completion times**

It is important that once a review has begun, cases are completed not only to a high standard, but also in a reasonable time. KPI 3 monitors the time that A, B and C cases take to reach both the provisional and the final decision stage.

The Commission made an important change in 2009/10 to the target for case completion times for A cases expressed in KPI 3. In previous years the target had been that 75% of A cases should reach provisional decision

within ten weeks and 75% should reach final decision within 20. The target was changed after analysis showed that these cases were too complex to be dealt with in these times. The complexity of some A cases was not anticipated when the targets were decided at the introduction of the case categorisation system.

Therefore, to make the case completion targets for A cases challenging but realistic, they were reframed such that: 75% of A cases should reach provisional decision within 15 weeks and 75% should reach final decision within 25 weeks.

In fact, at 31st March 2010, the situation was that 66.7% of A cases had reached provisional decision within 15 weeks and 74.7% had reached final decision within 25 weeks.

In 2009/10 for B cases, 48% reached provisional decision within six months and 48.2% reached final decision within nine months. The B targets were 65% to provisional decision within six months and 65% to final decision within nine.

For C cases, 48.4% reached provisional decision within 18 months and 36.9% reached final decision within 22 months. The C targets were that 50% should reach provisional decision within 18 months and 50% should reach final decision within 22. The overall picture for Bs and Cs is that Bs are slightly better than last year and Cs are, on balance slightly worse. Again, this was not unexpected given the reduction in staff numbers.

### **Caseflow balance**

If we close fewer cases than we receive, the number of cases waiting to be allocated for review will increase and the waiting times to allocation will grow.

The overall picture of caseflow balance is complicated by the need that sometimes arises to reallocate the case loads of staff who leave. Such reallocations inevitably result in some duplication of work when cases are handed over from one Case Review Manager who knows the case well to another who must familiarise himself with the case from scratch. This year there were 60 reallocations, last year there were 50.

Our aim, set out in KPI 4, is to close more cases than we receive over the year. There was a slight increase in the number of applications to the Commission with 932 in 2009/10 compared to 919 in 2008/9. During the year we closed 892 cases compared to 941 closed in the previous 12 months. Overall then, we saw a deficit of 39 between applications received and cases closed whereas during 2008/9 we closed 22 cases more than we received.

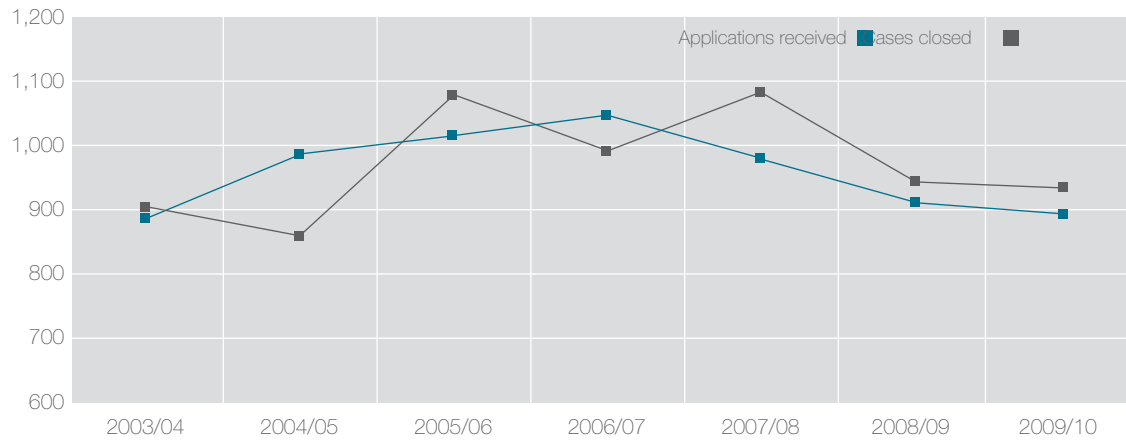
See page 22.

### **Referrals**

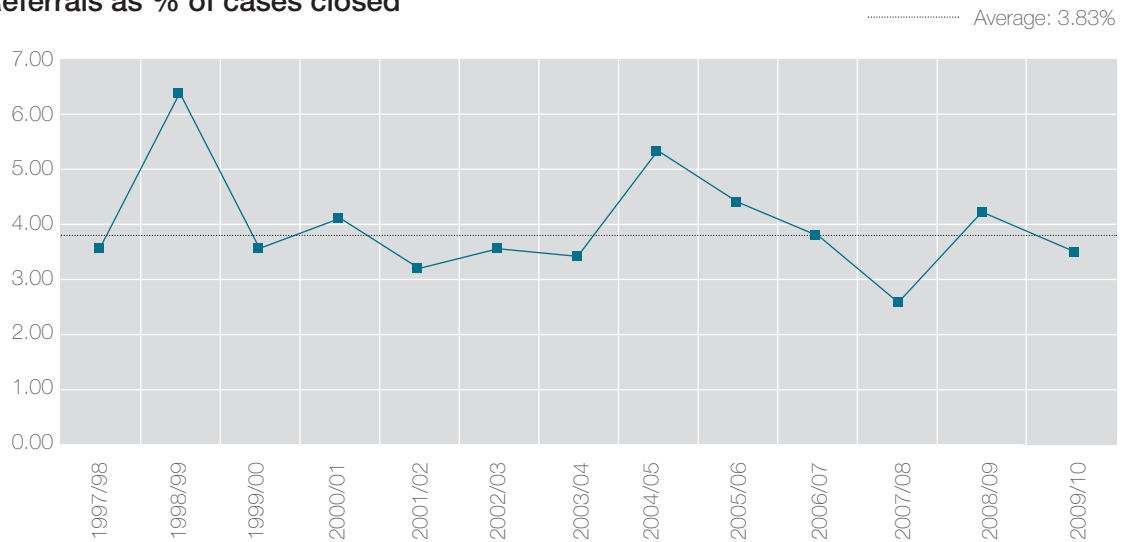
The Commission referred 31 cases to the appeal courts in 2009/10. That means that 3.5 per cent of the 892 cases closed in the year resulted in a referral. See page 22.

Of the 31 referrals in 2009/10, 25 related to convictions and six related only to sentences. One referral was to the Crown Court in England and one, the first in the life of the Commission, was a referral to the Northern Ireland County Court. Of the rest, 27 were to the Court of Appeal for England and Wales and two were to the Court of Appeal in Northern Ireland. This year's 31 referrals mean that the Commission has referred 454 cases out of the 11,871 cases closed between the start of its work in 1997 and the 31st March, 2010. That gives an overall referral rate of 3.8%. See page 22.

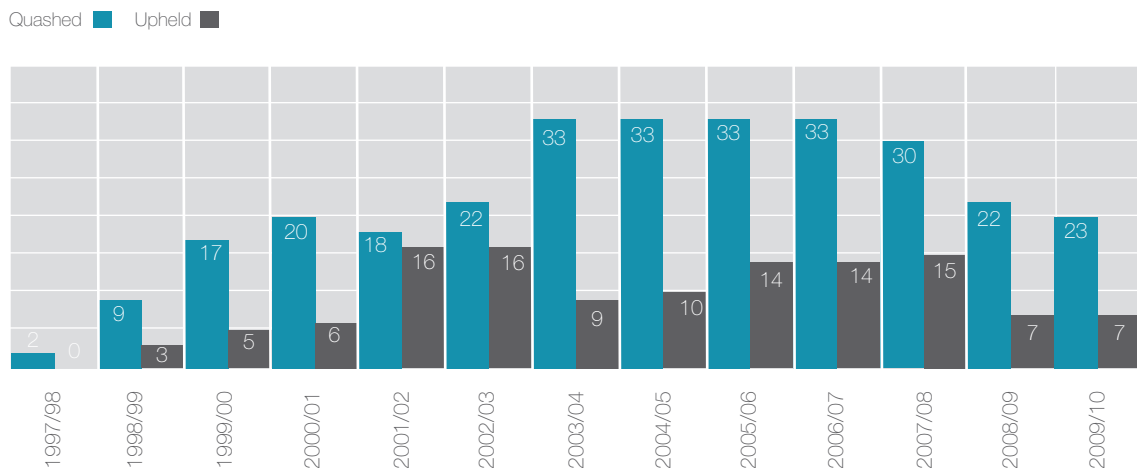
### Applications received v cases closed



### Referrals as % of cases closed



### Outcome of referrals heard



### **Referral conclusions**

During 2009/10 the appeal courts decided 30 appeals on referral from the Commission. Last year the figure was 29. Of the cases heard in appeal courts during the year, 23, or 77%, resulted in convictions being quashed or sentences varied. In the remaining seven the appeals were dismissed.

The Commission necessarily pays close attention to the decisions of the appeal courts in relation to the cases it has referred. We monitor appeal outcomes to see what proportions succeed and fail. The figure of 77% for 2009/10 falls within the 60 - 80% range anticipated by KPI 6.

Overall, of the 454 referrals made by the Commission since it started work in 1997, 414 appeals have been heard up until 31st March 2010. Of those, 293 have been quashed and 119 upheld while two judgments remain reserved. That means that 70.1% of appeals heard following a referral by the Commission succeeded in court.

## Casework Training

During 2009/2010 the Commission devised and implemented an intensive, structured programme of training workshops for case reviewers and Commissioners. This project was designed to identify, share and record best practice within the case review process. This was intended to promote a more structured and analytical approach to case review, to improve the overall quality of investigative and written work, and to ensure that all applications to the Commission are reviewed to a consistently high standard. The project improved and consolidated our framework of casework guidance. These materials cover all the usual stages of case review, which can be summarised as familiarisation; planning; prioritisation; investigation; analysis and writing-up.

To assist the case review process within these stages the guidance notes outline the legal and practical considerations relevant to particularly challenging issues, such as witness retraction, or public interest immunity.

At the July 2009 meeting of the Commission, it was agreed that these materials now comprise "guidance that is to be followed, unless there is a reason to depart from it". This work will be ongoing and new materials will be updated regularly, both on an *ad hoc* basis and quarterly, by a specific working group. The Commission's Business Plan pledges to embed them - and the approach they recommend - into the case review process by the end of the second quarter of the financial year 2010/11.

Alongside the casework improvement project, the Commission's Formal Memorandum system has been significantly revised and simplified. The Formal Memoranda explain our more significant policies and procedures, and they are published on our website in order to inform the public about how we work. Minor procedural matters, which added many pages of text but little in terms of policy, have now been excised from the Formal Memoranda and relocated with the casework guidance materials. As a result, the Formal Memoranda are now shorter, clearer and therefore more informative for our stakeholders. They will be re-launched with the Commission's new website.



## Analysis of Commission referrals to the appeal courts in 2009/10

A list of all CCRC referrals to the appeal courts can be seen on page 75.

### Types of offence

#### **Convictions**

While previous years have tended to be dominated by referrals arising from convictions for homicide, this year referrals of convictions for sexual offences slightly exceeded those for homicide (eight compared with six).

Seven of those eight arose in one way or another from evidence which might have given the jury a different impression of the complainant's reliability. In three cases this was a consequence of developments in the way medical evidence would have been presented to the jury, following the Royal College of Paediatrics and Child Health report on the Physical Signs of Child Sexual Abuse, published in March 2008. This is a factor which has already resulted in the quashing of a conviction in a previous CCRC referral heard during the year, *R v F (P)* [2009] EWCA Crim 1086.

Three other sexual referrals involved signs that the complainant had made unsubstantiated accusations against others, continuing a theme noted in previous annual reports. One other depended on a congenital characteristic of the convicted person's own appearance, which suggested that the complainant might not have been as intimate with him as had been alleged. The remaining sexual conviction was for 'possessing' prohibited images on a computer from which they had been deleted. The law relating to this matter had been

clarified in the CCRC reference of *R v Rowe* [2008] EWCA Crim 2712, which was mentioned in a previous annual report.

The six homicide referrals do not seem to share any strong themes this year. The offences to which they relate are spread in time from 1972 to 2004. Two referrals arose from fresh expert evidence – fibre analysis in one case and DNA in the other. Three referrals turned on the reliability of witnesses – a pathologist in one case from 2003, and (in two unrelated cases from the 1970s) those who interviewed the suspect and obtained confessions. In contrast to some earlier years, there was only one homicide referral involving the issue of diminished responsibility, arising in this instance from a new diagnosis of Attention Deficit Hyperactivity Disorder (ADHD) in a person who had been 14 years old at the time of the offence.

Drugs convictions accounted for four referrals. Only one of these sprang from the problem of controlled deliveries highlighted in previous cases such as *R v Choudhery and others* [2005] EWCA Crim 1788. Another arose from a suspected abuse of process, while the remaining two both concerned the same defendant convicted on two occasions in the early 1990s on evidence from police officers on whose integrity doubt had subsequently fallen.

The broad category of dishonesty might be used to cover three widely differing referrals. One centred on a lack of disclosure by the prosecution and belonged to the 'London City Bond' group of VAT fraud cases, to which the Court of Appeal had drawn attention some years ago in *R v Villiers and others* [2001] EWCA Crim 2505. In sharp contrast, another dishonesty referral was founded on fresh medical evidence about a young man who had been convicted of exaggerating the effects of a brain injury in

order to claim various financial sums of money. Neurologists consulted by the Commission indicated that he may have been suffering from a degenerative genetic disorder of the brain as well, and that he may not have been fit to stand trial at all. The third dishonesty referral dated back to 1966 and concerned a police officer, now deceased, who had been convicted of keeping some money handed in by a member of the public. The case had attracted considerable notoriety and speculation over the years. Our referral turned on previously undisclosed evidence that might shed doubt on the identification of the officer who received the money. Violence short of homicide has never accounted for a very substantial proportion of Commission referrals. This year there was really only one such case: actual bodily harm in a night club in 2006 alleged to have stemmed from sexual rivalry between two women. A new witness had come forward who claimed to have seen the assault perpetrated by someone other than the convicted woman.

### **Northern Ireland**

Northern Ireland was the origin of three conviction referrals. Two arose from the Troubles in the 1970s and have been discussed on page 28. The third Northern Irish case was very different. It was the first summary conviction we have referred to the County Court in Northern Ireland. The case involved two co-accused men. The prosecution of one was halted by the Director of Public Prosecutions because it was not considered to be in the public interest. However the other defendant, a minor, had already pleaded guilty in a magistrates' court, where he was not legally represented. Reasoning by analogy with cases dealt with in England and Wales, we felt that the guilty plea might be set aside in the unusual circumstances of the particular case, and referred the conviction to Belfast County Court.

### **Sentences only**

Seven cases were referred for reconsideration of the sentences only. Two concerned the imposition of life imprisonment in cases of rape where there was new evidence that detention under the Mental Health Act might have been more appropriate.

Two arose from the complexities of sentence calculation in the current state of sentencing law, which the courts have frequently commented upon unfavourably.

One more was a continuation of the referrals arising from the case of *R v Terrell* [2007] EWCA Crim 3079 (the justification for Imprisonment for Public Protection in the cases of downloading images).

One arose from misinformation about the proportion of active ingredient in MDMA seized during a drugs arrest.

The remaining referral was potentially the most interesting. It concerned the possible misapplication of a Confiscation Order in the light of *R v Chambers* [2008] EWCA Crim 2467, arising from confusion over regulations concerning the duty on tobacco importations, and could prove to have implications for other cases.

## **Analysis of decisions by the appeal courts in 2009/10**

A list of all decisions by the appeal courts can be seen on page 76.

During the year the appeal courts considered 30 appeals from Commission referrals involving 29 individuals. Twenty three appeals (77%) related to convictions. In six of these (26%) the original conviction was upheld while in 17 (74%) the conviction was

quashed. Seven appeals (23% of the total) were 'sentence only' cases, of which only one (14% of the sentence appeals) did not result in some change of sentence.

### **Conviction appeals**

As in previous years, homicide was the dominant category, with four convictions being quashed and four upheld. Four convictions for sexual offences were considered by the court, and all were quashed. Convictions for dishonesty and violence each accounted for three appeal hearings, with two from each category being quashed. There were two appeals relating to drugs offences, both of which were quashed.

A single case of murder and robbery involving three appellants produced two separate hearings (R v Ford [no neutral citation – transcript 8 July 2009] and R v Maxwell and Mansell [2009] EWCA Crim 2552). In giving the court's judgment, Lord Justice Hooper went out of his way to commend the very substantial review carried out by the Commission:

*"The truth has only come into the open following the CCRC's investigation. The CCRC and the North Yorkshire police are to be congratulated on the work that they have done to uncover serious misconduct on the part of police officers. ... All parties have relied heavily on the CCRC report, the findings of which are unchallenged."*

One of the men, who was ordered to face a re-trial, is shortly to challenge that order in the Supreme Court.

R v Lawless [2009] EWCA Crim 1308 formed part of the strand of convictions set aside because they depended on confessions from people whose pathological predisposition to making false admissions

had not been known to the jury.

Psychological reports obtained by the Commission were confirmed by reports prepared for the appeal on the instructions of the Crown.

In one area of the law of manslaughter, the clarity provided by the House of Lords in 2007 as a result of the Commission's earlier referral of Kennedy (R v Kennedy No 2 ([2007] UKHL 38) produced the quashing of the conviction in R v Finlay [2009] EWCA Crim 1493, although the appellant had died before his appeal could be listed.

The three murder convictions that were upheld by the Court of Appeal related to topics that are all currently controversial among those interested in criminal justice: joint enterprise, provocation, and the way a judge should reflect the defence in the course of his summing-up (R v Shale [2009] EWCA Crim 1362, R v Evans [2009] EWCA Crim 2243, and R v Branchflower [2009] EWCA Crim 1239 respectively).

Turning to the convictions for sexual offences, the case which appears in our table on page 76 as S (anonymised) and heard as [2009] EWCA Crim 2291 was quashed because of fresh evidence showing that the complainant, who had reported a 'stranger' rape, was not at all a stranger to the youth who was eventually convicted, and that there were other reasons for doubting aspects of her account. Lord Justice Moses used the judgment to emphasise the benefits that the defence can gain from deploying a defence statement (as required by s.5 of the Criminal Procedure and Investigations Act 1996), and to speak out against the delay that occurred in getting the matter ready for hearing after it had left the hands of the Commission. Doubts as to the reliability of complainants were also the basis for quashing the convictions in C (anonymised)

[2009] EWCA Crim 2909 and D (anonymised) [2010] EWCA Crim 526. R v F (P) [2009] EWCA Crim 1086 drew attention to the significant developments in explaining to juries the inferences that can fairly be drawn from the medical examination of child complainants in sexual cases, following the Royal College of Paediatrics and Child Health report on the Physical Signs of Child Sexual Abuse, published in March 2008.

In the double referral of R v Tierney & Tym [2009] EWCA Crim 2220 (for offences of actual bodily harm) the Lord Chief Justice helpfully made it clear that the authority of R v Coutts [2006] UKHL 36, on which the reference had been based, amounted to a change of law. This means that in future applications based on the Coutts point (that is, a failure to leave to the jury a possible lesser offence) the Commission will need to consider the Court of Appeal's approach to applications based on changes in the law, and the possible application of section 16C of the Criminal Appeal Act 1968 ('Power to dismiss certain appeals following references by the CCRC').

Two cases related to non-disclosure of information that might have affected the verdict: R v Zengeya [2009] EWCA Crim 1369 and R v Giles [2009] EWCA Crim 1388. One concerned a dishonesty offence and the other a drugs offence.

### **Sentence appeals**

Among the six appeals which resulted in sentences being changed were two cases heard together as [2009] EWCA Crim 2707 concerning the appropriateness of imposing Imprisonment for Public Protection in relation to offences of downloading indecent images of children, in the light of Terrell [2007] EWCA Crim 3079. On this occasion, the Court did not find it necessary to decide whether or not

this had been a change of law for the purposes of s.16C of the 1968 Act.

### **Directions for investigation by Court of Appeal**

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

We have been very busy in 2009/10 with directions from the court in relation to 12 individuals. Some work on investigations directed by the court in 2008/9 also carried over into this year.

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

The Court of Appeal expressed its appreciation of the Commission's efforts on its behalf in its most recent Court of Appeal Criminal Division Review of the Legal Year where it says: *"The relationship between the Court and the CCRC is an important one. Not only does the Court deal with cases referred by the CCRC but the Commission also has an essential role as an investigative body for the Court."*

### **Northern Ireland juvenile confession cases**

The Commission had, at 31st March 2010, some 43 Northern Ireland cases which could not be progressed further until the Court of Appeal in Northern Ireland delivers its judgments in the Commission referral cases of Eric Wright, James Henry Brown, Peter Joseph MacDonald and Stephen Paul McCaul.

Messrs Wright, Brown, MacDonald and McCaul are applicants whose cases were referred separately to the Court of Appeal in Northern Ireland during the calendar year 2009. Their cases are of a type sometimes referred to as juvenile confession cases. In each case the applicants were 16 years old or younger when they were interviewed in connection with incidents in Northern Ireland. Each of the applicants was said to have made admissions in interview, which subsequently gave rise to their convictions. The Commission referred all four cases on the basis that it considered that the circumstances under which the alleged admissions were recorded gave rise to a real possibility that the Court may quash the convictions.

These referrals followed the earlier Commission referral cases of Terence Shiels and Joseph Fitzpatrick. The Shiels and Fitzpatrick cases raised similar issues and the Court quashed their convictions in May 2009.

The judgments of the Court in the appeals of Messrs Wright, Brown, MacDonald and McCaul are likely have a significant impact on the prospects of the 43 cases mentioned above which seek to raise similar issues. For that reason the Commission cannot progress beyond a certain point with those cases until the Court's decisions and reasons for them are known. Those 43 cases are counted

among the "cases waiting" at the end of 2009/10 and make up 17% of the total of 256.

### **Royal Prerogative of Mercy (180)**

Section 16 of the Criminal Appeal Act 1995 gives the Commission two areas of responsibility relating to the Royal Prerogative of Mercy. One is to recommend the use of the Royal Prerogative where the Commission sees fit. The other is to respond to requests from the Secretary of State in relation to the use of the Royal Prerogative. The Commission has had no cause to exercise either in 2009/10.

### **Judicial Reviews**

Applications for judicial review are handled by the Administrative Court at the Royal Courts of Justice in London. Following a successful judicial review of a decision taken by the Commission, the Administrative Court can require us to revisit the decision(s) in question.

During the year the Commission was the subject of 22 applications for judicial review of case related decisions. That compares with 21 such applications in 2008/9. As in previous years, the majority of judicial review challenges centred on our decisions not to refer cases to the appeal courts.

### **In 2009/10:**

- Five related to our decision not to accept re-applications on the basis that they raised nothing new.
- One related to the level of interim disclosure we made during a review.
- One related to our decision that a distant relative who sought an application for review of the conviction of a deceased person was not an "approved person" within the meaning of section 44A of the Criminal Appeal Act 1968.

Seven applications were resolved as a result of correspondence within the pre-action protocol (introduced in England and Wales in 2002) in that no proceedings were issued at the Administrative Court. That compared to five in the year before.

At the end of the period under review four applications were still in pre-action correspondence. This can be a complex and lengthy process, but it does operate to reduce the number of claims issued in the Administrative Court, and the costs involved in such litigation. It also provides the Commission with an opportunity to stand back and scrutinise the decision which is subject to criticism.

Each judicial review challenge is taken very seriously at the Commission: any suggestion that we have failed to reach a decision correctly is one that strikes at the very heart of what we do. Every pre-action letter or application for permission generates robust and objective scrutiny of how the original application to us was investigated, how the decision was made and how it was explained in our Statement of Reasons. This work is undertaken by a Legal Adviser who has had no prior involvement in the case. If it appears that there is, or might be, some defect in the decision the matter is referred to the Chair, who may decide to direct that the case be re-opened and reviewed afresh.

The Administrative Court gave permission in 2008/9 for Brian Johnson to proceed to judicial review against the decision not to refer his case. In 2009/10 the case was reopened and a fresh review begun.

In no case during 2009/10 was leave granted to proceed to judicial review. Overall, this tends to suggest that the measures taken to improve the quality and consistency of analysis, reasoning and decisions have been successful. Those measures include

compulsory judicial review training for all staff and Commissioners; additional input by advisory staff; dissemination of learning points from judicial review applications; and the development of practical guidance to encourage thought processes in case review which take full account of the relevant principles of public law.

### **Complaints to the Commission in 2009/10**

The Commission's Customer Service Manager carries out a detailed investigation when a complaint is made. She has the power to decide whether or not to uphold a complaint and can recommend redress for the complainant and remedial action if necessary. In the event that a complainant is not satisfied, there is a second stage to the complaints procedure.

In 2009/10 there was a total of 55 complaints relating to 51 cases (four complainants made more than one complaint). That is a 7% decrease on the 59 complaints received in the previous year.

Of those 55 complaints, nine (16%) were upheld. In 2008/9 three complaints (5%) were upheld. The Commission counts a complaint as upheld if any aspect of its handling of the case was found to be deficient regardless of whether the deficiency had any impact on the case outcome. Seven of the nine complaints counted as upheld related to minor administrative issues. The Commission did not pay any compensation in relation to any upheld complaint.

The number of complaints upheld in this reporting year is high in relation to the previous year. However, the figure for 2008/9 was exceptionally low and, while it may be disappointing to see an increase in the number of complaints upheld, it must be acknowledged that the figure of 16% of complaints upheld means 2009/10 is in line

with the longer term average. As in previous years, the majority of complaints (82%) were made by applicants. Most were received following the Commission's decision not to refer in the case concerned and typically related to the conduct of the review.

There were two particular trends noticeable in the complaints received in 2009/10. Complaints relating to the way in which the Commission communicated with applicants rose in relation to the previous year with 14 such complaints in 2009/10 and 11 in 2008/9. There was also an increase in complaints regarding the refusal of re-applications with 15 in 2009/10 as compared with eight in 2008/9.

The Commission is committed to acknowledging complaints within ten working days. In 2009/10 the Commission took on average three working days to acknowledge a complaint compared with two days in 2008/9.

The amount of time needed to adequately investigate a complaint can vary significantly according to the complexity of the case so the Commission sets no immutable time limit for complaint investigations. We do, however, aim to complete those investigations within 20 working days. The average time taken to complete an investigation and send a substantive response in 2009/10 was 18 days compared to 15 days in 2008/9. The increase is accounted for by a growth in the number of complex and demanding complaints.

Any allegation that the Commission has discriminated against an applicant is taken very seriously and recorded separately on the complaints register. In 2009/10, three complainants (6%) alleged that they had been discriminated against by the Commission on grounds of ethnicity. In 2008/9 there were ten such complaints.

As in the previous year, none of these allegations were substantiated.

The Commission reviewed its complaints procedure during 2009/10. This exercise resulted in a significant change to stage two of the complaints procedure which deals with complainants who are dissatisfied with the initial outcome of their complaint. At the start of January 2010, the Chief Executive or one of the Commission's Non-Executive Directors became responsible for reviewing complaints that move to stage two, whereas previously a Commissioner was asked to consider complaints reaching stage two. It is hoped that the involvement of senior staff who do not make casework decisions will provide a stronger demonstration of the impartiality of the complaints process. Stage two of the complaints procedure is seldom required - in 2009/10 only two cases moved to stage two as compared to three cases in 2008/9.

The review of the complaints procedure also led to the revision of the Formal Memorandum which governs the process and to the design of a new complaints leaflet which is sent to all complainants and people who enquire about making a complaint.

In January 2010 the Chief Executive considered a random sample of six complaints, and the responses to those complaints, for the purpose of identifying potential areas for improvement. A similar audit exercise will now take place twice a year.

Next year, the Customer Service Manager will conduct a survey of complainants and their supporters in order to better understand perceptions of the complaints process. The results will be analysed and a report submitted to the Commission and its Management Team.

Section Four

# Resources



## People

For much of the reporting year 2009/10 the Commission operated with fewer Case Review Managers than we had at the end of 2008/9.

We recruited two Case Review Managers (CRMs) in the last half of 2009/10, but at the end of March 2010 there were still two fewer CRMs in post than there were at the end of March 2009 and five fewer than there had been at the same point in 2008.

When this Annual Report was produced, there were 38 Case Review Managers at the Commission. The announcement in June 2010 of a moratorium on recruitment for the Ministry of Justice and arms-length bodies, including the Commission, means that we are now unlikely to be able to fill vacancies in order to bring case review capacity up to strength in the year ahead.

Casework staff at the Commission are organised into casework groups. These groups were reorganised and their number reduced from seven to five to take account of recent changes in the number of case reviewers. In order to accommodate the change, one of the Group Leaders volunteered to return to being a CRM and another took early compulsory retirement.

Proposals from 2008/9 to make the post of caseworker redundant took effect in 2009/10. Three of the four people in the post were made redundant. One was redeployed within the Commission.

The Commission made significant improvements managing sickness absence during 2009/10. At 31st March 2010, the annual average sickness absence was 8.5 days per full-time equivalent (FTE) member of staff - one day per person less than in the

previous year. A large proportion of the sickness absence in the year is accounted for by a small number of staff suffering long-term sickness. The Commission monitors sickness absence with Key Performance Indicator eight (KPI 8). In 2008/9 the target for KPI 8 was nine days per person. The more challenging target of seven days was set for 2009/10 (see KPI 8 on page 79). The target was missed in this reporting period, but with continued commitment, and the introduction in April 2010 of a new absence management policy, we expect to see further improvements in the year ahead.

The Commission introduced an appraisal scheme for all staff during 2009/10. The process started with appraisal training for all staff and line managers. The first round of full appraisals began in April 2010.

A scheme to introduce 360 degree reviews as part of appraisals for Commissioners was also implemented in the reporting year. The scheme involved members of staff from all parts of the organisation providing feedback, via a questionnaire, on all Commissioners, including the Chair. An independent assessor evaluated the responses and provided individual, face-to-face feedback to Commissioners.

The Commission continued throughout 2009/10 to provide a programme of legal training for all staff involved in Case Review. In the last quarter of the year we also embarked on a comprehensive programme of management training to develop and strengthen middle management at the Commission. The programme will continue in 2010. Training for all staff and Commissioners on equality and diversity issues began in March and will continue into 2010. A new human resources software system was installed to provide improved employment statistics. The aim is to provide all employees

with access to their own records enabling a self-service system by the end of 2010/11.

The staff survey of March 2009 gave rise to an away day for all staff and Commissioners. The event, timed to follow the arrival of the new Chief Executive in November 2009, took place in January 2010. The next staff survey is now planned for September 2010.

During 2009/10, the Commission brought its job evaluation exercise to a close. It was decided that, given the current financial climate, no purpose would be served by implementing the changes suggested by the exercise and that the sensible course of action was to retain existing pay scales, albeit in a simplified form.

## Information Technology

A project to move most of the existing servers to a virtualised environment was completed in the year with minimal disruption to the business. The new environment has the benefits of reducing the carbon footprint of the IT installation, making backups faster and more reliable, improving resilience and disaster recovery and reducing maintenance costs. A programme of desktop and laptop upgrades to replace existing seven year old equipment was begun which will be complete in 2010/11. This is to minimise future hardware failures and to prepare for operating systems upgrades which will be needed as existing versions fall out of support. Investment was also made in secure remote access equipment to replace existing equipment and to enable a trial of wider home working to be undertaken. The existing IT strategy will be reviewed in 2010/11 to ensure that the Commission's IT infrastructure will continue to satisfy government security standards and provide the Commission with the necessary tools to enable staff to work effectively and efficiently.

## Financial Resources

The Commission is funded entirely by means of Grant in Aid from the Ministry of Justice, 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 Ministry of Justice. 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.

At the time of writing the Commission has received an indicative budget for 2010/11. However, following the announcement by the Chancellor of emergency budget savings of £6.2billion in 2010/11, the Ministry of Justice has agreed to find savings of £325m, and the Commission's indicative budget may therefore be subject to in-year reductions. Budgets for subsequent years will not be known until after the spending review in the autumn of 2010.

A comparison of DEL figures for current year, the previous four years and the next year is shown on page 34.

The indicative budget for 2010/11 has been used as the basis for the Commission's business plan which maps the detailed activities, success criteria, projections and key performance indicators for 2010/11 which are put in place to deliver the objectives in the revised strategic plan.

	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11
	£000	£000	£000	£000	£000	£000
Near-cash	6,959	6,715	6,761	6,694	6,590	6,490
Non-cash	839	893	513	513	429	350
Resource total	7,798	7,608	7,274	7,207	7,019	6,840
Capital	163	56	95	100	353	200
TOTAL	7,961	7,664	7,369	7,307	7,372	7,040

\* no official indicative budget is available for 2010/11, except that a further £100k money efficiency saving needs to be delivered over 2009/10

The business plan for 2010/11 will be made available on the Commission's web site once approved by Ministers.

During the current spending review period, the Commission has needed to find savings of £100k each year in its near-cash budget. After a rigorous internal review process, it was concluded that some staff losses were unavoidable, and these were commenced in 2007/08. It was necessary to initiate the programme of restructuring and workforce reduction at the start of the spending review period when funds were available to fund severance payments. Since then, staff numbers have remained more or less constant in the knowledge that the staffing complement achieved could continue to be funded in 2010/11. This strategy meant that we planned for underspends in both 2008/09 and 2009/10 in order to achieve a balanced budget for 2010/11, and the financial performance in the year has to be considered in the light of this.

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. This last risk has assumed greater prominence in the light of the current economic conditions and the steps being taken by HM Treasury to reduce the country's deficit. The Statement on Internal Control on pages 50 to 52 describes how these risks and uncertainties are managed.

The cash Grant in Aid received from the Ministry of Justice in the year was £6.78m (2009 £6.04m), consisting of £6.51m for the operating activities of employment and running costs and £0.27m for capital expenditure (2009 £6.00m and £0.04m respectively). In accordance with government accounting rules which require Grant in Aid only to be drawn when needed, the Commission aims to maintain its monthly end of period cash balances below £200k. This is used as an internal indicator to measure the effectiveness of the Commission's cash management. The target was achieved for only six months in the year. However, the average month-end balance was £176,000.

## 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 non-current assets. The Commission's actual expenditure compared with DEL was as follows:

	2009/10			2008/09		
	DEL	Actual	Variance	DEL	Actual	Variance
	£000	£000	£000	£000	£000	£000
Near-cash	6,590	6,423	(167)	6,694	6,496	(198)
Non-cash	429	237	(192)	513	379	(134)
Total revenue	7,019	6,660	(359)	7,207	6,875	(332)
Capital	353	270	(83)	100	38	(62)
<b>TOTAL</b>	<b>7,372</b>	<b>6,930</b>	<b>(442)</b>	<b>7,307</b>	<b>6,913</b>	<b>(394)</b>

Actual expenditure in DEL format is reconciled to net expenditure after cost of capital charge

and interest as shown in the Net Expenditure Account on page 56 as follows:

	2009/10	2008/09
	£000	£000
Actual revenue expenditure in DEL format	6,660	6,875
Unrealised loss on revaluation of non-current assets	-	6
Net expenditure after cost of capital charge and interest	6,660	6,869

Unrealised losses on revaluation of non-current assets are classified as capital DEL. Financial performance as measured by expenditure against DEL is one of our KPIs. The KPI targets are that for each of near-cash, non-cash and capital budgets, expenditure should not exceed budget, nor fall below budget more than a specified amount or % of the budget. Actual expenditure in 2009/10 was below budget in all three categories by more than the target amount. As explained

above, this was planned for near-cash, and in fact we were able to use some of the planned underspend to temporarily increase our caseworking resource. For non-cash, depreciation and provisions for future pensions were both much lower than budgeted. For capital, savings were realised on several projects once we had gone to tender, and another project was cancelled due to time constraints.

	Target				Actual	
	Amount		Budget %		Amount	Budget %
	<	>	<	>		
Resource:						
Near-cash	£0	-£135K	0%	-2%	-£167k	-2.5%
Non-cash	£0	-£15k	0%	-2%	-£192k	-44.8%
Capital	£0	-£15k	0%	-12.5%	-£83k	-23.5%

## Financial statements

The accounts for the year ended 31 March 2010 are set out on pages 48 to 73.

The Net Expenditure Account on page 56 shows net expenditure for the year of £6.58m (2009 - £6.80m). Employment costs show a decrease from £4.87m in 2008/09 to £4.53m in the current year. This is explained in part by the strategy of reducing headcount in preparation for the lower available budget in 2010/11, but also by the resignation of a Commissioner during the year.

There were a number of one-off costs incurred during the year under other expenditure which contributed to an increase from £1.73m in 2008/09 to £1.98m in the current year. These costs relate to work on the revision of the Commission's website and the holding of a stakeholders' conference, office re-ordering, recruitment costs associated with the appointment of the chief executive and two non-executive directors, and a programme of training delivered throughout the organisation.

Investment in non-current assets during the year was mainly in respect of IT hardware, development and software, and totalled £270k. The dilapidations asset in respect of the provision made for returning the offices occupied by the Commission back to their original condition at the end of the lease was

reduced in line with the Commission's policy of reassessing the ultimate liability in the light of building indices. This treatment is explained in note 1 to the accounts under "Operating Leases". The net book value of non-current assets at the end of the year stands at £418k (2009 £275k).

The continued increase in provisions for pensions has resulted in an overall negative balance sheet value at the end of the year of £5.57m (2009 £4.31m). 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 60.

## Compliance with public sector payment policy

The Commission follows the principles of the Better Payment Practice Code. The Commission aims to pay suppliers wherever possible within 10 days. Where this is not possible, the Commission works to targets to pay suppliers in accordance with either the payment terms negotiated with them or with suppliers' standard terms (if specific terms have not been negotiated).

	2009-10		2008-09	
	£000	Number	£000	Number
Total invoices paid in year	2,324	1,991	2,459	2,048
Total invoices paid within target	2,282	1,923	2,397	1,947
Percentage of invoices paid within target	98.2%	96.6%	97.5%	95.1%

Performance has exceeded our 95% target both in terms of value and number of invoices and shows a further improvement on last year.

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

## Legal advice line

Experienced members of the casework staff operate a rota by which free expert advice on Commission matters is offered on the phone to applicants and potential applicants, their supporters and representatives. The legal advice line is a significant draw on staff time, but an important service for applicants and potential applicants. In 2009/10 staff working on the advice line rota logged more than 600 calls. The advice provided ranged from basic information about how to apply or whether to apply to the Commission to complex advice on legal procedures and rules on the admissibility of evidence and so on.

## Environment

The Commission aims to minimise the environmental impact of its operations wherever possible.

Our consumption of electricity fell by 3.5% from 341,523kWh in 2008/9 to 329,700kWh in 2009/10. However, the proportion of electricity we were able to purchase as “green” energy was reduced from 100% to ten per cent by Office for Government Commerce Buying Solutions in order to bring it into line with the Sustainable Operation of Government Estate target of ten percent.

We continue to buy our paper only from recycled and sustainable sources and overall we used less paper in 2009/10 than we did in

2008/9. Where possible we recycle paper, toner cartridges and other materials. In 2009/10 we introduced a trial of glass and aluminium recycling at the Commission.

The Annual Report will this year again be produced principally as an electronic document. A limited number of reports will be produced as hard copies for particular purposes such as laying the report before Parliament as required.

Plans to purchase video-conferencing equipment were dropped as the cost was considered too high while the Commission retains access to nearby facilities which allow us to hold video-conferences when necessary and thereby negate the need to travel in some instances.

We also reduced travel on Commission business during 2009/10. We estimate that collectively Commission staff travelled 170 fewer miles by taxi, 700 fewer miles by private car and 12,000 fewer miles by air than they did in the previous year.

## Records and information management

The proper management of records plays a crucial role in the work of the Commission. Our records are subject to the Public Records Acts of 1958 and 1967 and we act in accordance with the requirements of those acts and in consultation with the National Archives in the way we create, use, manage and preserve or destroy records.

We operate a retention and disposal schedule which sets out a programme for appropriately managing all paper and electronic records in our possession. In 2009/10 we introduced some important changes which meant that we now keep paper casework records for

three months rather than, as before, for five years after case closure. However, we continue to keep our electronic casework records for ten years. In 2010/11 we will investigate the use of a new electronic system to track our records more efficiently.

## Planning and monitoring

Performance at the Commission is monitored by reference to a set of eight Key Performance Indicators (KPIs). The KPIs in use for the reporting year 2009/10 are set out in this report in Appendix 1 at pages 77 to 79. The Senior Management Team monitor these KPIs and they are considered at every meeting of the Commission. Information on performance, including KPIs, is provided as part of the management information pack which is a standing item on the agendas of all management and Commission meetings.

Section Five

# Corporate



The Chief Executive and members of the Senior Management Team meet regularly with representatives from our sponsor unit within Access to Justice at the Ministry of Justice to discuss performance and other management issues.

Performance is discussed with staff at monthly staff briefings as well as between individual members of staff and their managers.

The Commission implemented a new risk management strategy and policy during 2009/10. Training has been provided to managers with responsibility to manage risk in certain areas and we are currently in the process of revising the Commission's risk registers. An exercise to test the Commission's Business Continuity Plan is due to take place in 2010/11.

## Communications

The Commission considers good communication crucial and continues to work hard to ensure potential applicants and those working on their behalf know who we are and how to reach us and to make sure we communicate with them in a clear and straightforward way. In 2009/10 the Commission invested in a redesign of its website ([www.ccr.gov.uk](http://www.ccr.gov.uk)). The contract to carry out the work under the direction of the Head of Communication was awarded to Nomensa - a web design company specialising in accessibility and usability. The new site has been designed to make information easy to locate and understand. The design work was completed in March 2010, but the calling of a General Election for May 6th meant that the launch of the site had to be postponed until after the election.

In this reporting year the Commission has also produced a short information film

designed to promote understanding of the Commission's role and of what applicants and their supporters need to consider when applying to us. The film can be viewed on the new website ([www.ccr.gov.uk](http://www.ccr.gov.uk)) and, during 2010/11, a copy of the film will be sent to all prisons in the UK as part of a drive by the Commission to ensure that all prisons are making information about the Commission appropriately available. A new application form was produced in 2009/10. The form not only reflects the Commission's new jurisdictions in relation to military cases (see pages 12 to 14) but also aims to be more user friendly for all applicants. It was "road tested" by lawyers familiar with making applications to the Commission and was awarded the Plain English Campaign's Crystal Mark before it went into service at the start of 2010/11.

We also aim to promote public awareness and understanding of our role within the criminal justice system. We have continued to issue a press release about every referral made during the year as well as about other important developments at the Commission. We respond to media enquiries and where possible seek to work with the media to provide appropriate information to assist them in reporting accurately on referrals, non-referrals and other Commission matters. Commissioners and members of Commission staff have, as in previous years, spoken at numerous events and given lectures to universities and law schools around the country. In 2009/2010 these included the universities of Birmingham, Kent, Cardiff, Leeds, Northumberland and Plymouth. Members of staff and Commissioners addressed various organisations including the Court of Appeal, CPS Special Crimes Division and the CPS Counter Terrorism Unit. Staff and/or Commissioners also attended various events including the Youth Justice Conference and the Annual Bar Conference.

## Stakeholders' Conference

In March 2010 the Commission hosted a special stakeholders' conference. The event, held in central Birmingham, was designed to allow the Commission to hear the views and opinions of its many and varied stakeholders and to interact and discuss some of the key issues about the role of the Commission and how it goes about its work.

Five speakers gave presentations and took questions from the floor. They were: Professor Cheryl Thomas, Honorary Professor in the Faculty of Law at University College London, the country's leading expert on juries and author of the groundbreaking study *Are Juries Fair?* which was published in February 2010; Dr Stephanie Roberts, Senior Lecturer at the University of Westminster School of Law and founder of its Innocence Project and author of the study *The Contradictions and Compatibility of Innocence Projects and the CCRC*; Gerard Sinclair, Chief Executive and Principal Solicitor of the Scottish CCRC; Laurie Elks, a former CCRC Commissioner and author of *Righting Miscarriages of Justice? 10 years of the CCRC*; Campbell Malone who is a renowned appeal lawyer, a partner at Stephenson Solicitors and a founding member of the Criminal Appeal Lawyers Association. At the day-long conference there were also two "Question Time" style discussion panels, chaired by Commissioner David Jessel and featuring the aforementioned speakers as well as other guests including: Lord Justice Hooper from the Court of Appeal Criminal Division; Dr Hannah Quirk, former CCRC Case Review Manager and now lecturer in Criminal Law and Justice at the University of Manchester; and Ben Seemarks and David Robinson, both CCRC Case Review Managers.

The event was well attended with delegates coming from organisations such as Falsely Accused Carers and Teachers (FACT), JUSTICE, LIBERTY, the Miscarriage of Justice Organisation (MOJO) and MOJO Scotland and Progressing Prisoners Maintaining Innocence, as well as the Court of Appeal, the Ministry of Justice, prosecuting authorities, solicitors, barristers and academics with a particular interest in the field of miscarriages of justice. There were representatives from student *pro bono* law organisations including several university Innocence Projects from around the country. Places at the conference were made available to students free of the minimal fee asked of others.

The event produced a great deal of interesting discussion some of which posed serious questions for the Commission. Areas of particular interest to the Commission and its stakeholders included: the handling of so-called "lurking doubt" cases, the Commission's and the Court of Appeal's interpretation of the need for evidence to be "fresh" to be admitted; innocence and the issue of dealing appropriately with people who maintain innocence after conviction; whether the Commission's "real possibility" test is the correct one; whether there should be some method of independent "audit" in non-referral cases; communication between the Commission and applicants and their representatives; and whether there should be a change in the Commission's approach to disclosure to applicants.

The Commission recognises the importance of many of the issues raised and the key points were noted and have been discussed at Commission meetings in April and May. More detailed work will be carried out to assess whether there are any changes the Commission might want or need to make in response to the issues raised at this event and elsewhere.

The Commission considers the 2010 Stakeholders' Conference to have been a significant success and a constructive way in which the Commission and its stakeholders can engage on issues of mutual concern. For that reason, the Commission agreed to hold a similar event in 2011. We had also planned to host a further special event in autumn/winter 2010 designed to introduce the Commission, its casework functions and its role in the criminal justice system, to university students with a particular interest in miscarriages of justice. However, plans for these two events have had to be shelved because of an embargo on marketing spend imposed across the Ministry of Justice and arms-length bodies including the Commission. The planned annual tripartite meeting between the Commission and its counterpart organisations in Scotland and Norway, which was due to have been hosted by the Commission in Birmingham in 2010, was cancelled for the same reason.

## Our wider contribution

The Commission has an important role to play bringing its experience to bear within the wider criminal justice system. The Commission contributed to a number of consultations on criminal justice matters in 2009/10. This included input, at the invitation of the Secretary of State for Justice, to a review of arrangements for exercise of the Royal Prerogative of Mercy which followed its use in the case of Michael Shields. Mr Shields was jailed in 2005 in Bulgaria but was serving his sentence in the UK under a prisoner transfer agreement when he was freed in September 2009. The Commission submitted to the Secretary of State remarks on the use of the Royal Prerogative in overseas conviction cases. The Commission's conclusion was that no change was required in order for it to carry out its function in relation to the Royal Prerogative under section 16 of the Criminal Appeal Act 1995.

During 2009/10 the Commission also made substantial data available for research purposes to academic Dr Malcolm Birdling from Keble College Oxford for research for a comparative study of miscarriages of justice in the UK and New Zealand. The results of earlier research access to Commission material appeared during 2009/10 with the publications of *The Extent and Impact of legal Representation on Applications to the Criminal Cases Review Commission* by Professor Jacqueline S. Hodgson and Juliet Home of Warwick University.

The Commission is keen to explore ways to use its knowledge, experience and accumulated casework material in order to make a greater contribution to the wider criminal justice system. To this end, we will in 2010/11 be exploring the merits of several research projects with academics and also considering in-house projects designed to look into specific areas.

A senior member of Commission staff regularly attends and contributes to meetings of the Criminal Justice Council.

FORENSIC SCIENCE SERVICE  
THE NATIONAL ARCHIVE

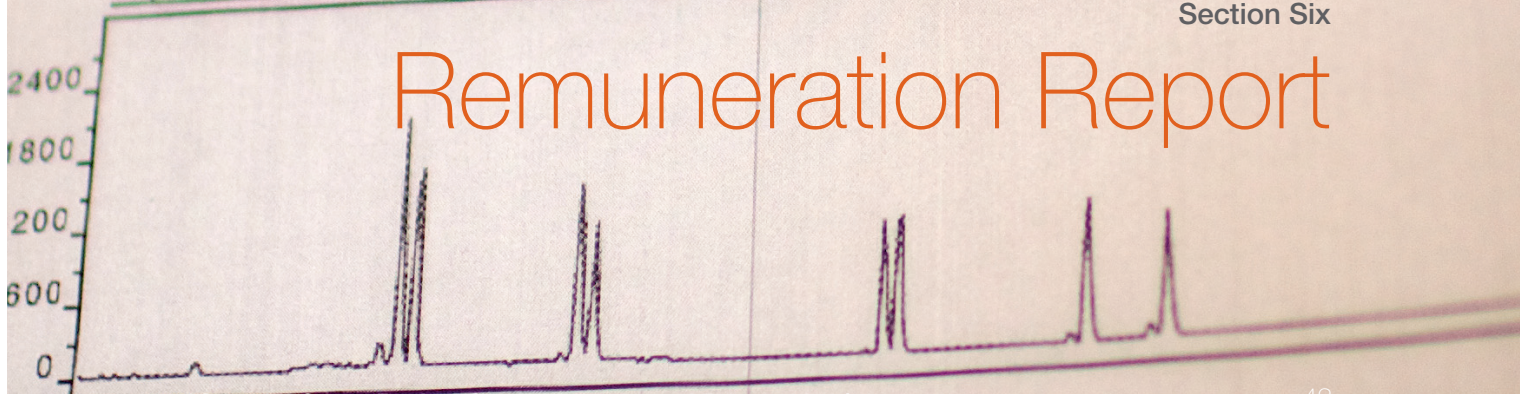
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Section Six

# Remuneration Report

## Remuneration policy

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

Further information about the work of the Review Body can be found at [www.ome.uk.com](http://www.ome.uk.com).

Although Commissioners are appointed with different weekly time commitments, all Commissioners, with the exception of the Chairman, are paid salaries at the same full-time equivalent rate.

Salaries of senior management and advisors are set by the Remuneration Committee, which is made up of the Chair, three other Commissioners and the Chief Executive. The Committee takes into account Treasury pay growth limits, affordability, and performance in determining annual salary increases.

## Service contracts

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

Senior management are employed on permanent contracts of employment. The normal retirement age is 65, although pensionable age remains 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, non-executive directors and the senior management team. These details have been subject to audit.

	2009-10		2008-09	
	Salary £k	Benefits-in-kind to nearest £100	Salary £k	Benefits-in-kind to nearest £100
Mr Richard Foster – Chairman	100 - 105	-	55 – 60	-
Mr Michael Allen	85 - 90	-	85 – 90	-
Ms Penelope Barrett	85 - 90	-	85 – 90	-
Mr Mark Emerton [to 4.12.09]	35 - 40	13,500	50 – 55	18,900
Mr James England	85 - 90	-	85 – 90	-
Miss Julie Goulding	85 - 90	-	85 – 90	-
Mr David Jessel	60 - 65	3,000	60 – 65	3,500
Mr Alastair MacGregor	85 - 90	-	85 – 90	-
Ms Margaret Semple [from 01.01.10]	0 – 5	500	-	-
Mr Ian Nichol	45 - 50	-	40 – 45	-
Mr Ewen Smith	85 - 90	-	85 – 90	-
Mr John Weeden	75 - 80	-	70 – 75	-
Mrs Claire Bassett – Chief Executive [from 9.11.09]	30 - 35	-	-	-
Mr Colin Albert –Director of Finance & IT	70 - 75	-	70 – 75	-
Miss Karen Kneller – Director of Casework	65 - 70	-	60 – 65	-

'Salary' includes gross salary or remuneration.

The monetary value of benefits-in-kind covers any benefits provided by the Commission and treated by the Inland Revenue as a taxable emolument. These relate to costs incurred to enable part-time Commissioners and Non Executive Directors to work in the Commission's office in

Birmingham. These costs are reimbursed or incurred on their behalf free of tax and national insurance and the amounts disclosed above include income tax and national insurance contributions where they are paid by the Commission. The total net cost actually incurred in the year was £8,800 (2008 - £11,900).

## Pension benefits

	Real increase in pension and related lump sum at normal retirement age (bands of £2½k)	Total accrued pension at normal retirement age at 31/3/10 and related lump sum (bands of £2½k)	CETV at 31/3/09 to nearest £k	CETV at 31/3/10 to nearest £k	Real increase in CETV to nearest £k
Mr Michael Allen	0-2½	22½-25	330	390	38
Ms Penelope Barrett	0-2½	7½-10	102	129	21
Mr Mark Emerton	0-2½ plus 0-2½ lump sum	2½-5 plus 12½-15 lump sum*	74	87	9
Mr James England	0-2½	2½-5	51	75	21
Miss Julie Goulding	0-2½	2½-5	48	72	21
Mr David Jessel	0-2½ plus 2½-5 lump sum	7½-10 plus 22½-25 lump sum	148	167	19
Mr Alastair MacGregor	0-2½	7½-10	142	181	32
Mr Ian Nichol	0-2½	5-7½	91	104	8
Mr Ewen Smith	0-2½	15-17½	264	299	22
Mr John Weeden	0-2½	7½-10	154	172	10
Mrs Claire Bassett - Chief Executive	0-2½	0-2½	-	6	5
Mr Colin Albert - Director of Finance & IT	0-2½	5-7½	107	134	19
Miss Karen Kneller - Director of Casework	0-2½ plus 2½-5 lump sum	17½-20 plus 52½-55 lump sum	256	291	17

\* For Mr Mark Emerton, the figures are shown at his date of resignation of 04.12.09

Mr Richard Foster is entitled to a pension but has not opted-in.

Dr Maggie Semple, as a non-executive director, is not entitled to pension benefits.

Total accrued pension may include benefits arising from transfers-in from other schemes, and may also be augmented by additional voluntary contributions paid by the individual.

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. 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 member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The 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 their purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated within the guidelines and

framework prescribed by the Institute and Faculty of Actuaries and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

The real increase in the value of the CETV reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due 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.

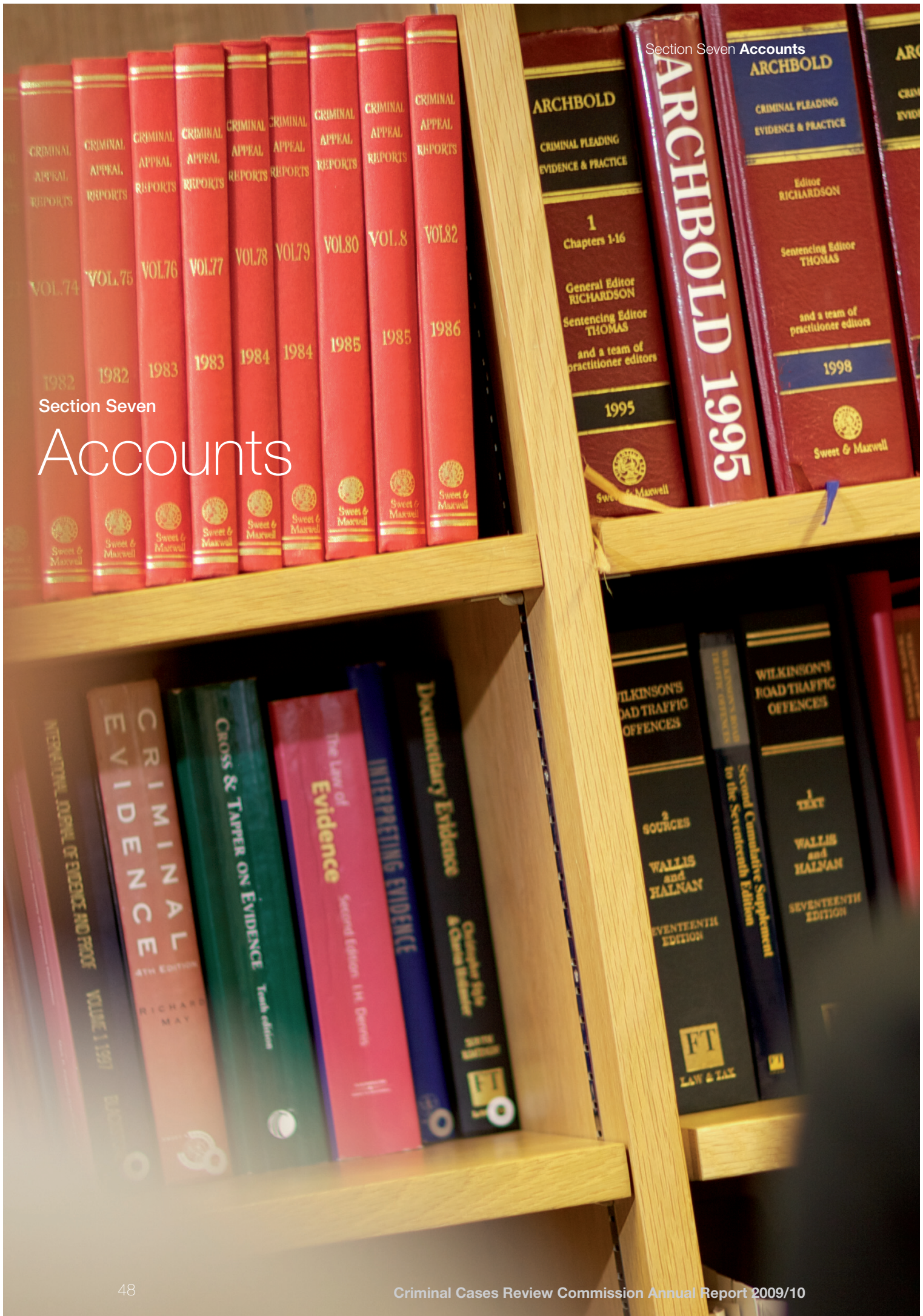


**Claire Bassett** Chief Executive  
20 July 2010



Section Seven

# Accounts



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

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

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

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

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

## 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 departmental assets for which I am personally responsible, in accordance with the responsibilities assigned to me in *Managing Public Money*. The Commission provides information regularly to its sponsoring Department, the Ministry of Justice, on financial and casework performance. Regular meetings are held with the sponsor unit at which performance measured against key performance indicators and progress against the Commission's objectives are discussed.

### The purpose of the system of internal control

The 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 departmental policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of internal control has been in place in the Commission for the year ended 31 March 2010 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 is made annually by the Audit Committee to the Commission. In addition, the assessment and monitoring of risk is embedded in the Commission's project management processes.

### The risk and control framework

During the year, the Commission revised its risk management framework, introducing a new risk strategy and policy. This will ensure that risks to the Commission achieving its business objectives are properly identified, managed and monitored. Risks are assessed in the light of their impact and likelihood using a scale which embeds the Commission's appetite for risk. Risk appetite is determined by reference to the Commission's objectives, the degree to which it is able to absorb financial shock and its need to maintain its reputation in order to continue to command respect and support amongst its stakeholders. Following a risk workshop involving all managers, new risk registers are being drawn up which will include additional action identified as being necessary to mitigate the effect of risks.

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.

During the year, the Commission has taken the necessary steps to ensure that it is managing the risks relating to information security appropriately. Information security and governance arrangements have been broadly in compliance with the ISO 27001 Information Security Management standard for some time, and the Commission strives to make continual improvements. A risk action plan arising from a management audit of the statement of compliance is currently being actioned. Similarly, improvements have been made in response to work undertaken to measure the Commission's compliance with the mandatory requirements of the Security Policy Framework relating to information assurance, including the updating of our protective marking regime to include the "protect" marking.

It is disappointing to note that scheduling problems with external facilitators have delayed the comprehensive testing of the Commission's business continuity plans. The testing will be completed over the next few months once procurement of a fresh facilitator has been completed. Nevertheless, it will now be possible to conduct a disaster recovery test of our new virtualised server environment as part of the overall testing.

The Commission's control 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 Tribal, who operate in accordance with Government Internal Audit Standards, as internal auditors. 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, Tribal 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 report for the year 2009/10, Tribal have given their opinion that the Commission has adequate management and governance processes to manage the achievement of its objectives.

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

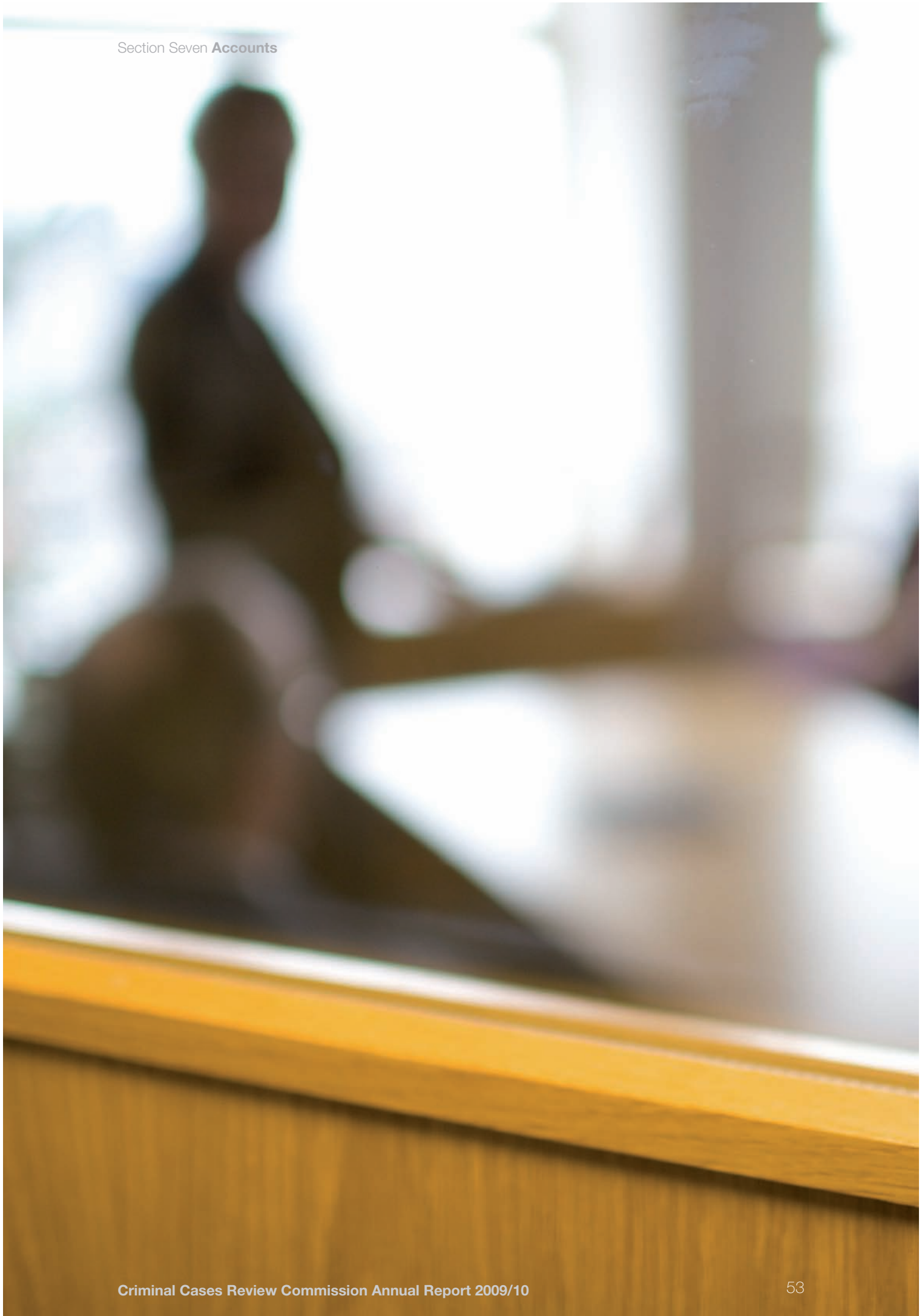
As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and the executive managers within the department who have responsibility for 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 the result of my review of the effectiveness of the system of internal control by the Commission and the Audit Committee and a plan to address weaknesses and ensure continuous improvement of the system is in place.

My appointment as Chief Executive represents one of a number of steps taken to strengthen the Commission's governance, and resolves the inherent risks which existed under the previous arrangements in which the Director of Finance and the Principal Director were the same person. Further steps include the appointment of two non-executive directors, who will

introduce an outside perspective and improve the balance of expertise of the Board. A wide-ranging review of governance was commenced in the year, covering issues such as the make-up of the Board and the committee structure, with reporting and implementation planned before the next year-end.

A handwritten signature in black ink, appearing to read 'Claire Bassett', with a large, stylized flourish at the end.

Claire Bassett  
Chief Executive  
20 July 2010



## The certificate of the Comptroller and Auditor General to the Houses of Parliament

I have audited the financial statements of Criminal Cases Review Commission for the year ended 31 March 2010 under the Criminal Appeal Act 1995. These comprise the Net Expenditure Account, the Statement of Financial Position, the Statement of Cash Flows, the Statement of Changes in Taxpayers' Equity and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

### Respective responsibilities of the Accounting Officer and auditor

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

### Scope of the Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Criminal Cases Review Commission's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Criminal Cases Review Commission; and the overall presentation of the financial statements.

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

### 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.

## Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of Criminal Cases Review Commission's affairs as at 31 March 2010 and its net expenditure, changes in taxpayers' equity and cash flows for the year then ended; and
- the financial statements 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.

## Opinion on other matters

In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with directions made thereunder by the Secretary of State with the consent of HM Treasury under by Criminal Appeal Act 1995; and
- the information comprising the Director's Report and Resources and Corporate sections, included in the Annual Report, for the financial year for which the Financial Statements are prepared, is consistent with the Financial Statements.

## Matters on which I report by exception

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

- adequate accounting records have not been kept; or
- the financial statements are not in agreement with the accounting records or returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Statement on Internal Control does not reflect compliance with HM Treasury's guidance.

## Report

I have no observations to make on these financial statements.

Amyas C E Morse  
Comptroller and Auditor General  
National Audit Office  
157 - 197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP  
22 July 2010



# Net Expenditure Account

for the year ended 31 March 2010

	Note	2009-10 £000	Restated 2008-09 £000
<b>Expenditure</b>			
Staff Costs	4	4,530	4,874
Depreciation & Amortisation	9, 10	98	189
Other Expenditure	6	1,976	1,732
		6,604	6,795
<b>Income</b>			
Income from Activities	8	(24)	-
Net Expenditure		6,580	6,795
Cost of Capital		(173)	(139)
Interest Payable	7	253	213
Net Expenditure after Cost of Capital Charge and Interest		6,660	6,869

The notes on pages 60 to 73 form part of these accounts.

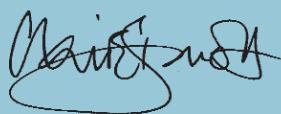
# Statement of Financial Position

as at 31 March 2010

	Note	2010 £000	Restated 2009 £000	Restated 2008 £000
<b>Non-current assets</b>				
Property, plant & equipment	9	253	203	250
Intangible assets	10	165	72	163
<b>Total non-current assets</b>		<b>418</b>	<b>275</b>	<b>413</b>
<b>Current assets</b>				
Trade & other receivables	11	236	324	246
Cash	12	200	85	95
<b>Total current assets</b>		<b>436</b>	<b>409</b>	<b>341</b>
<b>Total assets</b>		<b>854</b>	<b>684</b>	<b>754</b>
<b>Current liabilities</b>				
Trade & other payables	13	434	490	359
<b>Total current liabilities</b>		<b>434</b>	<b>490</b>	<b>359</b>
<b>Non-current assets less net current liabilities</b>		<b>420</b>	<b>194</b>	<b>395</b>
<b>Non-current liabilities</b>				
Provisions	14	491	510	476
Pension liabilities	5	5,484	3,970	3,562
Other payables	13	18	22	-
<b>Total non-current liabilities</b>		<b>5,993</b>	<b>4,502</b>	<b>4,038</b>
<b>Assets less total liabilities</b>		<b>(5,573)</b>	<b>(4,308)</b>	<b>(3,643)</b>
<b>Taxpayers' equity</b>				
General reserve		(5,573)	(4,319)	(3,650)
Revaluations surplus		-	11	7
<b>Total taxpayers' equity</b>		<b>(5,573)</b>	<b>(4,308)</b>	<b>(3,643)</b>

The notes on pages 60 to 73 form part of these accounts.

The financial statements on pages 56 to 73 were approved by the Board on 15 June 2010, and were signed on behalf of the Criminal Cases Review Commission by:



Claire Bassett  
Chief Executive and Accounting Officer  
20 July 2010

# Statement of Cash Flows

for the year ended 31 March 2010

	Note	2009-10 £000	2008-09 £000
<b>Cash flows from operating activities</b>			
Net cash outflow from operating activities	15	(6,452)	(6,012)
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment		(123)	(30)
Purchase of intangible assets		(91)	(8)
Proceeds of disposal of property, plant and equipment		0	1
Net cash outflow from investing activities		(214)	(37)
<b>Cash flows from financing activities</b>			
Capital Grant in Aid	3	270	37
Revenue Grant in Aid	3	6,511	6,002
Net financing		6,781	6,039
Net increase in cash		115	(10)
Cash at beginning of year	12	85	95
Cash at end of year		200	85

The notes on pages 60 to 73 form part of these accounts.

# Statement of Change in Taxpayers' Equity

for the year ended 31 March 2010

	Note	General reserve £000	Govt grant reserve £000	I&E reserve £000	Total reserve £000
Balance at 31 March 2008 per published accounts		-	381	(3,932)	(3,551)
Prior period adjustment	22	(3,551)	(381)	3,932	-
<b>Restated balance as at</b>					
<b>31 March 2008</b>	22	(3,551)	-	-	(3,551)
Changes in accounting policy	2	(92)	-	-	(92)
<b>Restated balance as at</b>					
<b>1 April 2008</b>		(3,643)	-	-	(3,643)
<b>Changes in taxpayers' equity for 2008-09</b>					
Gain on revaluation of property, plant & equipment	9	4	-	-	4
Pensions: actuarial gains/(losses)	5	300	-	-	300
Non-cash charges - reversal of cost of capital		(139)	-	-	(139)
Net income (expenditure) after cost of capital charge & interest		(6,869)	-	-	(6,869)
<b>Retained deficit for 2008-09</b>					
		(6,704)	-	-	(6,704)
Grant from Parent	3	6,039	-	-	6,039
<b>Balance at 31 March 2009</b>					
		(4,308)	-	-	(4,308)
<b>Changes in taxpayers' equity for 2009-10</b>					
Pensions: actuarial gains/(losses)	5	(1,213)	-	-	(1,213)
Non-cash charges - reversal of cost of capital		(173)	-	-	(173)
Net income (expenditure) after cost of capital charge & interest		(6,660)	-	-	(6,660)
<b>Retained deficit for 2009-10</b>					
		(8,046)	-	-	(8,046)
Grant from Parent	3	6,781	-	-	6,781
<b>Balance at 31 March 2010</b>					
		(5,573)	-	-	(5,573)

The notes on pages 60 to 73 form part of these accounts.

# NOTES TO THE ACCOUNTS

## 1 ACCOUNTING POLICIES

### **Basis of Accounts**

These financial statements have been prepared in accordance with the Accounts Direction given by the Secretary of State for the Ministry of Justice with the consent of the Treasury in accordance with paragraph 9(2) of Schedule 1 to the Criminal Appeal Act 1995. The Accounts Direction requires the financial statements to be prepared in accordance with the *2009-10 Government Financial Reporting Manual* (FReM) issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the Commission for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Commission are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

These financial statements have been prepared under the historical cost convention modified to account for the revaluation of property, plant and equipment, and intangible assets, excluding short life assets.

### **Going concern**

The Statement of Financial Position at 31 March 2010 shows negative total taxpayers' equity of £5,573,000. This reflects the inclusion of liabilities falling due in future years which, to the extent that they are not to be met from the Commission's other sources of income, may only be met by future grants-in-aid from the Commission's sponsoring department, the Ministry of Justice. This is because, under the normal conventions applying to parliamentary control over income and expenditure, such grants may not be issued in advance of need.

Grant in Aid for 2010-11, 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 is credited direct to the General Reserve in accordance with the Financial Reporting Manual.

### **Non-current Assets**

In 2009-10 the capitalisation threshold was increased from £100 to £500. Assets are capitalised as non-current assets if they are intended for use on a continuing basis and their original purchase cost, on an individual or grouped basis, is £500 or more. There has been no retrospective adjustment made regarding assets purchased before 1st April 2009.

The expected benefits of this increase will be to reduce the administrative burden of capitalising, depreciating, revaluing and tracking large numbers of low-cost items, and thus to allow more attention and effort to be given to monitoring higher valued items.

In prior years the Commission had adopted the policy of valuing non-current assets at current replacement cost by using the Price Index Numbers for Current Cost Accounting, as published by the Office for National Statistics, with any surplus on revaluation credited to the appropriate reserves, and deficits debited to the Net Expenditure Account, where the balance exceeded that of related upwards revaluation previously credited to the relevant reserve.

The Commission's non-current assets are short-life assets that are low in value. The effect of revaluations in previous years has resulted in minimal changes in the value of the assets in question. In accordance with IFRS 1, the Commission has elected to cease revaluation as at 31 March 2009, in accordance with the rules relating to first-time adoption of International Accounting Standards, which allows the cessation of revaluation without requirement for prior-period adjustments, and the use of the closing net book values as the deemed

cost. Depreciation charges will be applied to this deemed cost of the assets in accordance with the depreciation policy.

The Commission recognises this to be a departure from the FReM and as such will continue to monitor the non-current assets, through periodic review, to ensure that the current policy of non-revaluation remains appropriate.

#### **Depreciation and Amortisation**

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

#### **Capital 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 Net Expenditure Account. An equivalent reversing notional income to finance the charge is included in the Statement of Changes in Taxpayers' Equity. The charge for the period is calculated using the Treasury's discount rate of 3½% (2009 3½%) applied to the average carrying value of all assets less liabilities. 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 IAS 19 (Employee Benefits), the Net 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 Net Expenditure Account. The increase in the present value of the schemes' liabilities arising from the passage of time is charged to the Net Expenditure Account after operating expenditure. Actuarial gains and losses are recognised in the Statement of Changes in Taxpayers' Equity, and taken direct to reserves.

The Statement of Financial Position 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 original lease expired in August 2006, and the provision has been charged over the period of that lease to net 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 IAS 37 (Provisions, contingent assets and contingent liabilities). 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 net expenditure account. The interest cost arising from the unwinding of the discount is also charged each year to the net expenditure account.

**Taxation**

The Commission is not eligible to register for VAT and all costs are shown inclusive of VAT. The Commission has registered with HM Revenue & Customs for corporation tax. During this year, the only income that would be subject to corporation tax is bank interest, which is nil.

**2 FIRST-TIME ADOPTION OF IFRS**

The Commission has adopted International Financial Reporting Standards (IFRS) for the first time in 2009-10. This transition required the restating of the 2008-09 statements to provide valid comparative figures. The only material change was the effect of IAS 19 – Employee Benefits. The effect of the restatement is shown below.

**2.1 Reconciliation of UK GAAP reported taxpayers' equity to IFRS at the date of transition 1 April 2008.**

	General reserve £000
Taxpayers' equity as at 31 March under UK GAAP ( restated)	(3,551)
Adjustments for IAS 19 employee benefits	(92)
Taxpayers equity as at 1 April 2008 under IFRS	(3,643)

**2.2 Reconciliation of UK GAAP reported taxpayer's equity to IFRS at the end of final UK GAAP reporting period 1 April 2009.**

	General reserve £000
Taxpayers' equity at 31 March 2009 under UK GAAP (restated)	(4,219)
Adjustments for:	
IAS 19 – Employee Benefits	(89)
Taxpayers' equity at 1 April 2009 under IFRS	(4,308)

Net Expenditure for 2008-09 under UK GAAP	6,875
Adjustments for:	
IAS 19 – Employee Benefits	(6)
Net Expenditure for 2008-09 under IFRS	6,869

**3 GRANT IN AID**

	2009-10 £000	2008-09 £000
Received for revenue expenditure		
Ministry of Justice main estimate (Request for Resource 1, Subhead R)	6,511	6,002
Received for capital expenditure		
Ministry of Justice main estimate (Request for Resource 1, Subhead R)	270	37
Total	6,781	6,039

**4 STAFF COSTS**

	2009-10 £000	2008-09 £000
<b>Commissioners</b>		
Salaries and emoluments	887	892
Social security contributions	91	100
Pension costs	173	245
<b>Total</b>	<b>1,151</b>	<b>1,237</b>
<b>Non-Executive Directors</b>		
Salaries and emoluments	2	-
Social security contributions	-	-
Pension costs	-	-
<b>Total</b>	<b>2</b>	<b>-</b>
<b>Staff</b>		
- Staff with permanent employment contracts		
Salaries and emoluments	2,640	2,866
Social security contributions	185	179
Pension costs	478	513
- Other staff (contract, agency/ temporary)		
Salaries and emoluments	74	79
Social security contributions	-	-
Pension costs	-	-
<b>Total</b>	<b>3,377</b>	<b>3,637</b>
<b>Total Staff Costs</b>	<b>4,530</b>	<b>4,874</b>

At 31 March 2010, the Commission employed 79 staff (2009 86). The average number of employees, expressed as full time equivalents, during the year to 31 March 2010 by category of employment and status was:

	2009-10	2008-09
<b>Category of employment:</b>		
Executive	12	11
Case Review Managers	36	38
Administrative support staff	28	34
	<b>76</b>	<b>83</b>
<b>Status:</b>		
Staff with permanent employment contracts	74	81
Other staff (contract, agency/temporary)	2	2
	<b>76</b>	<b>83</b>



**5 PENSIONS****(i) Staff**

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme but the Commission is unable to identify its share of the underlying assets and liabilities. The scheme actuary valued the scheme as at 31 March 2007. You can find details in the Resource Accounts Cabinet Office:

Civil Superannuation:

[www.civilservice.gov.uk/my-civil-service/pensions/governance-and-rules/resource-accounts.aspx](http://www.civilservice.gov.uk/my-civil-service/pensions/governance-and-rules/resource-accounts.aspx)

The cost of the Commission's pension contributions to the Principal Civil Service Pension Schemes is included in employment costs. For 2009-10, employers' contributions of £461,582 (2008-09 £509,405) were payable to the PCSPS at one of four rates in the range 16.7% to 24.3% (2009 17.1% to 25.5%) of pensionable pay, based on salary bands. The scheme's Actuary reviews employer contributions usually every four years following a full scheme valuation. The contribution rates are set to meet the cost of the benefits accruing during 2009-10 to be paid when the member retires and not the benefits paid during this period to existing pensioners.

Employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. Employers' contributions of £15,466 (2009 £13,483) were paid to one or more of the panel of three appointed stakeholder pension providers. Employer contributions are age-related and range from 3% to 12.5% of pensionable pay. Employers also match employee contributions up to 3% of pensionable pay. In addition, employer contributions of £979 (2009 £892), 0.8% of pensionable pay, were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service and ill health retirement of these employees.

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

**(ii) Commissioners**

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

Commissioners' pension arrangements are unfunded, and the Commission is responsible for paying retirement benefits as they fall due. Contributions are paid by Commissioners at the rate of 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/nuvos PCSPS schemes.

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

	2009-10	2008-09	2007-08	2006-07	2005-06
<b>Liability in respect of</b>					
Active members	<b>2,297</b>	1,476	1,102	862	1,298
Deferred pensioners	<b>117</b>	-	38	576	30
Current pensioners	<b>3,070</b>	2,494	2,422	1,999	1,358
<b>Total present value of scheme liabilities</b>	<b>5,484</b>	3,970	3,562	3,437	2,686

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

	2009-10	2008-09	2007-08	2006-07	2005-06
Discount rate	<b>4.60%</b>	6.04%	5.30%	4.60%	5.40%
Rate of increase in salaries	<b>4.29%</b>	4.30%	4.30%	4.30%	4.00%
Price inflation	<b>2.75%</b>	2.75%	2.75%	2.75%	2.50%
Rate of increase in pensions (deferred and in payment)	<b>2.75%</b>	2.75%	2.75%	2.75%	2.50%

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

	<b>2009-10</b> £000	2008-09 £000
Current service cost	<b>199</b>	283
Settlements and curtailments	-	-
Commissioners' contributions retained	<b>(26)</b>	(38)
<b>Total charge to operating expenses</b>	<b>173</b>	245
Interest on pension scheme liabilities	<b>242</b>	203
<b>Total charge to finance and other costs</b>	<b>242</b>	203

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

	<b>2009-10</b>	2008-09	2007-08	2006-07	2005-06
Experience (gains)/losses on pension liabilities	<b>(186)</b> <b>-3.4%</b>	122 3.1%	3 0.1%	72 2.1%	83 3.1%
Changes in demographic and financial assumptions	<b>1,399</b> <b>25.5%</b>	(422) -10.6%	(130) -3.7%	470 13.7%	198 7.4%
<b>Net actuarial (gains)/losses</b>	<b>1,213</b>	(300)	(127)	542	281

The movement in scheme liabilities is analysed as follows:

	<b>2009-10</b> £000	2008-09 £000
Present value of scheme liabilities at start of year	<b>3,970</b>	3,562
Current service cost	<b>199</b>	283
Interest cost	<b>242</b>	203
Actuarial losses/ (gains)	<b>1,213</b>	(300)
Transfers in	-	398
Benefits paid	<b>(140)</b>	(176)
<b>Present value of scheme liabilities at end of year</b>	<b>5,484</b>	3,970

**6 OTHER EXPENDITURE**

	2009-10 £000	2008-09 £000
Accommodation costs - general	219	200
Accommodation - operating lease	398	404
Audit fee – external	27	21
Audit fee – internal	12	10
Case storage	15	17
Equipment rental under operating lease	5	3
Information and publications	108	47
IT costs	529	505
Legal and professional costs	26	27
Library and reference materials	43	43
Loss on disposal of non-current assets	-	2
Office services	142	90
Office supplies	75	80
Payroll & pension costs	12	16
Recruitment	68	12
Telephones	30	24
Training and other HR	105	54
Travel, subsistence and external case-related costs	162	171
Unrealised loss on revaluation of non-current assets	-	6
<b>Total</b>	<b>1,976</b>	<b>1,732</b>

The amount shown under 'Audit fee - external' includes £4,500 (2009 £3,000) which relates to work done towards the transition to International Financial Reporting Standards.

**7 INTEREST PAYABLE**

	2009-10 £000	2008-09 £000
Interest Receivable	-	(6)
Interest on Pension Scheme Liabilities	242	203
Interest on Dilapidations Provision	11	16
<b>Net interest payable</b>	<b>253</b>	<b>213</b>

**8 INCOME FROM ACTIVITIES**

	2009-10 £000	2008-09 £000
FSR Income	24	-
<b>Total</b>	<b>24</b>	<b>-</b>

During the year the Commission entered into an office sharing arrangement with the Forensic Science Regulator (FSR), whereby the Commission receives from FSR a contribution towards the accommodation costs in return for occupation of office space and use of services.

**9 PROPERTY, PLANT & EQUIPMENT**

	Refurbishment Costs £000	Furniture and Office Equipment £000	IT Hardware £000	Total £000
Cost/valuation at 1 April 2009	894	452	434	<b>1,780</b>
Additions	-	6	134	<b>140</b>
Disposals	(29)	(4)	-	<b>(33)</b>
Cost/valuation at 31 March 2010	865	454	568	<b>1,887</b>
Depreciation at 1 April 2009	860	346	371	<b>1,577</b>
Charged during the year	(4)	35	30	<b>61</b>
Depreciation on disposals	-	(4)	-	<b>(4)</b>
Depreciation at 31 March 2010	856	377	401	<b>1,634</b>
Net Book Value at 31 March 2010	9	77	167	<b>253</b>
Net Book Value at 31 March 2009	34	106	63	<b>203</b>
Asset Financing:				
Owned	9	77	167	<b>253</b>
Net Book Value at 31 March 2010	9	77	167	<b>253</b>
Cost/valuation at 1 April 2008	856	465	451	<b>1,772</b>
Additions	18	9	21	<b>48</b>
Disposals	-	(39)	(23)	<b>(62)</b>
Revaluation	20	17	(15)	<b>22</b>
Cost/valuation at 31 March 2009	894	452	434	<b>1,780</b>
Depreciation at 1 April 2008	825	329	368	<b>1,522</b>
Charged during the year	15	40	39	<b>94</b>
Depreciation on disposals	-	(36)	(23)	<b>(59)</b>
Revaluation	20	13	(13)	<b>20</b>
Depreciation at 31 March 2009	860	346	371	<b>1,577</b>
Net Book Value at 31 March 2009	34	106	63	<b>203</b>
Net Book Value at 31 March 2008	31	136	83	<b>250</b>
Asset Financing:				
Owned	34	106	63	<b>203</b>
Net Book Value at 31 March 2009	34	106	63	<b>203</b>

**10 INTANGIBLE NON-CURRENT ASSETS**

	IT Development £000	Software Licences £000	<b>Total £000</b>
Cost / valuation at 1 April 2009	805	321	<b>1,126</b>
Additions	32	98	<b>130</b>
Disposals	-	-	<b>-</b>
<b>Cost / valuation at 31 March 2010</b>	<b>837</b>	<b>419</b>	<b>1,256</b>
Amortisation at 1 April 2009	761	293	<b>1,054</b>
Charged during the year	23	14	<b>37</b>
Disposals	-	-	<b>-</b>
<b>Amortisation at 31 March 2010</b>	<b>784</b>	<b>307</b>	<b>1,091</b>
<b>Net Book Value at 31 March 2010</b>	<b>53</b>	<b>112</b>	<b>165</b>
<b>Net Book Value at 31 March 2009</b>	<b>44</b>	<b>28</b>	<b>72</b>

Asset Financing:			
Owned	53	112	<b>165</b>
<b>Net Book Value at 31 March 2010</b>	<b>53</b>	<b>112</b>	<b>165</b>

Cost / valuation at 1 April 2008	833	333	<b>1,166</b>
Additions	-	8	<b>8</b>
Disposals	-	(9)	<b>(9)</b>
Revaluation	(28)	(11)	<b>(39)</b>
<b>Cost / valuation at 31 March 2009</b>	<b>805</b>	<b>321</b>	<b>1,126</b>
Amortisation at 1 April 2008	723	280	<b>1,003</b>
Charged during the year	63	32	<b>95</b>
Disposals	-	(9)	<b>(9)</b>
Revaluation	(25)	(10)	<b>(35)</b>
<b>Amortisation at 31 March 2009</b>	<b>761</b>	<b>293</b>	<b>1,054</b>
<b>Net Book Value at 31 March 2009</b>	<b>44</b>	<b>28</b>	<b>72</b>
<b>Net Book Value at 31 March 2008</b>	<b>110</b>	<b>53</b>	<b>163</b>

Asset Financing:			
Owned	44	28	<b>72</b>
<b>Net Book Value at 31 March 2009</b>	<b>44</b>	<b>28</b>	<b>72</b>

**11 TRADE & OTHER RECEIVABLES**

	<b>31 March 2010 £000</b>	31 March 2009 £000	1 April 2008 £000
<b>Amounts falling due within one year</b>			
Intra-government balances:			
Central government bodies	-	-	41
Local authorities	26	26	25
	<b>26</b>	<b>26</b>	<b>66</b>
Receivables	-	-	2
Travel loans to staff	24	24	11
Other prepayments	181	274	165
	<b>231</b>	<b>324</b>	<b>244</b>
<b>Amounts falling due after one year</b>			
Other prepayments	5	-	2
<b>Total</b>	<b>236</b>	<b>324</b>	<b>246</b>

**12 CASH & CASH EQUIVALENTS**

	<b>31 March 2010 £000</b>	31 March 2009 £000	1 April 2008 £000
Balance at 1 April 2009	85	95	36
Net change in cash and cash equivalent balances	115	(10)	59
<b>Balance at 31 March 2010</b>	<b>200</b>	<b>85</b>	<b>95</b>

The entire balance was held at commercial banks and as cash in hand.  
No cash equivalents were held at any time.

**13 TRADE & OTHER PAYABLES**

	<b>31 March 2010 £000</b>	31 March 2009 £000	1 April 2008 £000
<b>Amounts falling due within one year</b>			
Intra-government balances:			
Central government bodies :	-	-	-
UK taxation & social security	111	116	132
	<b>111</b>	<b>116</b>	<b>132</b>
Trade payables	94	76	75
Accruals & other payables	172	298	140
Capital payables	57	-	12
<b>Total</b>	<b>434</b>	<b>490</b>	<b>359</b>
<b>Amounts falling due after one year</b>			
Accruals & other payables	18	22	-
<b>Total</b>	<b>452</b>	<b>512</b>	<b>359</b>

**14 DILAPIDATIONS PROVISION**

The movement in the provision is analysed as follows:

	<b>2009-10</b>	2008-09	2007-08
	<b>£000</b>	£000	£000
Balance at 1 April 2009	<b>510</b>	476	459
Provided in year: (impairment)/creation of tangible asset	<b>(29)</b>	18	-
	<b>481</b>	494	459
Unwinding of discount	<b>10</b>	16	17
Balance at 31 March 2010	<b>491</b>	510	476

The level of the provision is reviewed at the end of each year by reference to the estimated final dilapidations costs at the next lease break point. The estimate is revised using building indices to project forward current costs. The indices used have increased at a lower rate than previously forecast, and the provision has therefore been reduced accordingly.

Analysis of expected timing of dilapidations discounted flows:

	<b>£000</b>
In the remainder of the Spending Review period (to 2011/2012)	<b>505</b>
Between 2012/13 and 2016/17	-
Between 2017/18 and 2021/22	-
Thereafter	-
Balance at 31 March 2010	<b>505</b>

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

	Note	2009-10 £000	2008-09 £000
Net expenditure after cost of capital charge and interest		<b>(6,660)</b>	(6,869)
Interest payable		<b>253</b>	219
Notional cost of capital		<b>(173)</b>	(139)
<b>Operating expenditure</b>		<b>(6,580)</b>	(6,789)
Depreciation and amortisation	9, 10	<b>98</b>	189
Net unrealised loss on revaluation of non-current assets		-	6
Loss on disposal of tangible non-current assets		-	2
Decrease / (increase) in receivables	11	<b>88</b>	(78)
(Decrease) / increase in payables	13, 14	<b>(117)</b>	153
Pension provision - current service cost	5	<b>199</b>	283
Pension transfers-in	5	-	398
Pensions in payment	5	<b>(140)</b>	(176)
<b>Net cash (outflow) from operating activities</b>		<b>(6,452)</b>	(6,012)

The increase in payables shown above excludes capital payables increase of £57,225 (2009 £0).

**16 CAPITAL COMMITMENTS**

At 31 March 2010, capital commitments contracted for were £55,076 (2009 £0).

**17 COMMITMENTS UNDER OPERATING LEASES**

At 31 March 2010 the Commission had annual commitments under non-cancellable operating leases as set out below.

	Building £000	Equipment £000	31 March 2010 Total £000	31 March 2009 Total £000
Payable under operating leases:-				
Not later than one year	543	3	<b>546</b>	408
Later than one year and not later than five years	226	1	<b>227</b>	529
Later than five years	-	-	-	-

**18 CONTINGENT LIABILITIES DISCLOSED UNDER IAS 37**

There were no contingent liabilities at the reporting date.



## 19 RELATED PARTY TRANSACTIONS

The Ministry of Justice is a related party to the Commission. During the year ended 31 March 2010, the Ministry of Justice provided the Commission with Grant in Aid as disclosed in the financial statements.

During the year ended 31 March 2010, none of the Commissioners, key managerial staff or other related parties undertook any material transactions with the Commission.

## 20 LOSSES AND SPECIAL PAYMENTS

During the year, severance payments totalling £44,724 (2009 £279,300) were payable to staff as part of a programme of restructuring and workforce reduction. 2009-10 payments, which are included in staff costs shown in note 5, were in respect of entitlements under the Civil Service Compensation Scheme and payment in lieu of notice. As these amounts were extra-contractual they constitute special payments, and were made with the prior consent of HM Treasury.

## 21 FINANCIAL INSTRUMENTS

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

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

## 22 PRIOR PERIOD ADJUSTMENT

The previous accounting treatment was to credit grant-in-aid for capital expenditure to a government grant reserve. Each year, an amount equal to the depreciation and amortisation charge on non-current assets acquired through grant-in-aid, and any deficit on their revaluation in excess of the balance previously credited to the reserve, was released from the government grant reserve to the income and expenditure reserve. This treatment was found not to be in accordance with the FReM, which requires grant-in-aid for general capital purposes to be treated as financing, and credited direct to the general reserve. It was therefore necessary to revise the policy, make corresponding changes to the structure of reserves, and make appropriate adjustments to reflect the correct position. This involved:

- (i) creation of a General Reserve;
- (ii) transfer of balance from the Income & Expenditure Reserve to the General Reserve;
- (iii) transfer of balance from the Government Grant reserve to the General Reserve;
- (iv) elimination of the Government Grant and Income and Expenditure Reserves;

The restated balances are therefore as follows:

	General reserve £000	Donated asset reserve £000	Govt grant reserve £000	I&E reserve £000	TOTAL £000
B/f at 1 Apr 2008 per accounts	-	-	381	(3,932)	<b>(3,551)</b>
Transfer I&E balance	(3,932)	-	-	3,932	-
<b>Non-current assets:</b>					
Accumulated revaluation	(31)	-	31	-	-
GBV (cost)	412	-	(412)	-	-
Restated at 1 Apr 2008	(3,551)	-	-	-	<b>(3,551)</b>

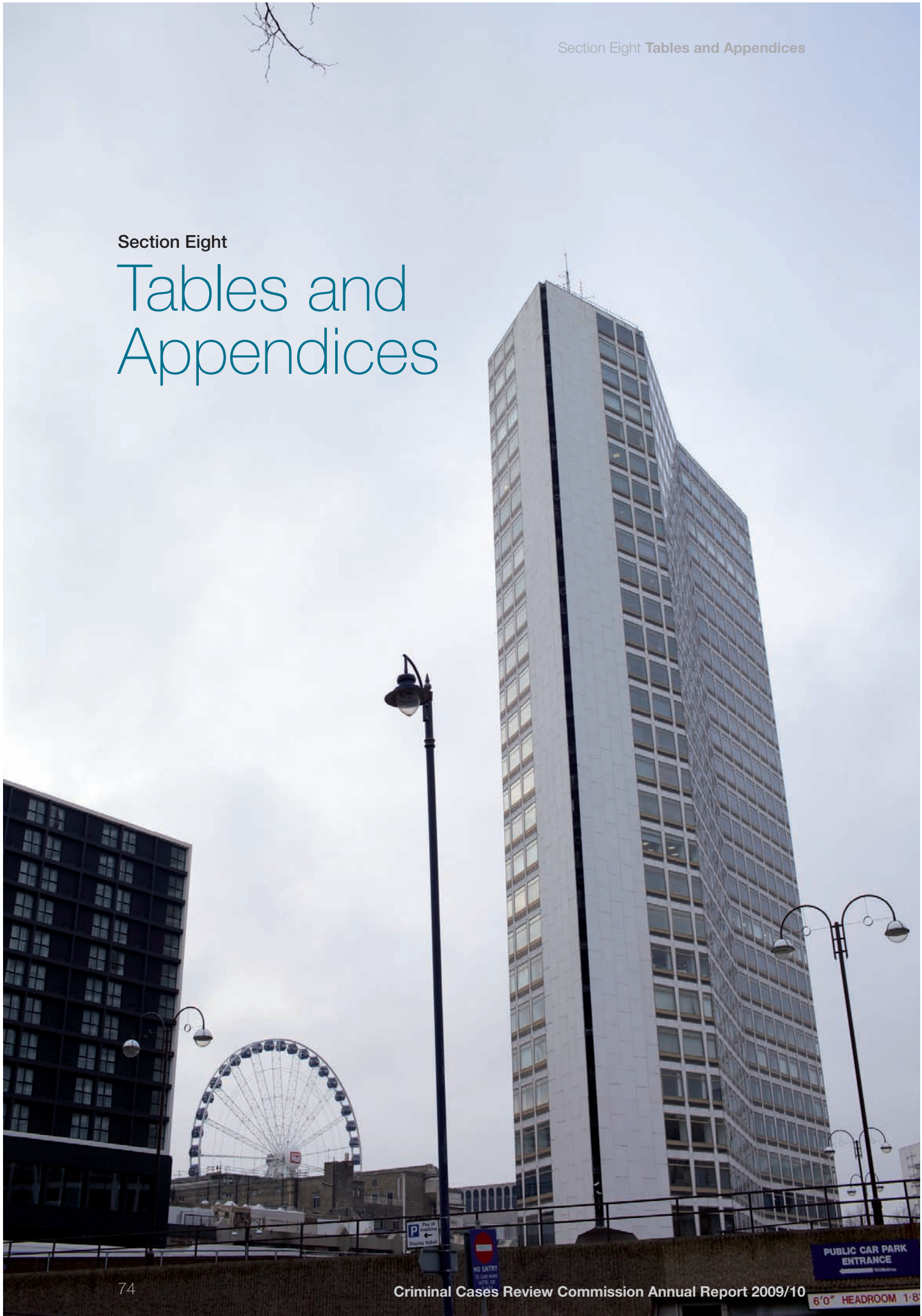
**23 EVENTS AFTER THE REPORTING PERIOD**

It was announced in the Budget on 22 June 2010 that the Government intends to adopt the Consumer Price Index (CPI) for the indexation of public service pensions from April 2011. This will have an impact upon the future operation of the pension schemes that the Commission provides to Commissioners and employees.

The accounts were authorised for issue by the Accounting Officer on the same day that the Comptroller and Auditor General certified the accounts.

Section Eight

# Tables and Appendices



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**Table 1: Commission referrals to the appeal courts 2009/10.**

Name	Reference	Referral date	Offences Referred	Sentence only
TONNER, christopher	78/09	28-Apr-09	Robbery. Assault with intent to resist arrest.	•
FRANCIS, Devon Lloyd	823/06	05-May-09	Possession of Class A drugs (cocaine) with intent (x3). Being concerned in the production of Class A drugs (cocaine).	
B	714/08	20-May-09	22 Counts of making an indecent photograph or pseudo-photograph of children.	•
ROWBOTHAM, John	262/09	03-Jun-09	Being knowingly concerned in the keeping and carrying of dutiable goods with intent to defraud.	•
D	745/07	10-Jun-09	Rape. Assault by penetration.	
C	14/07	15-Jun-09	Rape and indecent assault	
O	145/07	25-Jun-09	Rape	•
WRIGHT, Eric	124/09	08-Jul-09	Conspiracy to communicate prohibited information (x3); unlawful possession of ammunition and possession without a licence; belonging to a proscribed organisation; causing GBH and attempting to cause GBH	
E	261/06	13-Jul-09	Rape, Indecent Assault and indecency with a child	
HOLDEN, Liam	676/02	17-Jul-09	Murder. Possession of a firearm and ammunition with intent	
DELUCCA, Rahuel	753/08	22-Jul-09	Possession of a firearm with intent to cause fear of violence, possession of a shotgun and possession of ammunition	•
F	794/08	23-Jul-09	Rape (anal); indecent assault (3)	
WALLA, Sophie	386/07	28-Jul-09	Assault occasioning actual bodily harm	
G	412/08	30-Jul-09	Rape, 5 counts of indecent assault, wounding with intent and robbery	•
McCURRY, Stephen	497/09	12-Aug-09	Supplying a controlled class A drug to another	•
H	725/07	19-Aug-09	Murder	
SHAH, Sultan	859/05	25-Aug-09	Conspiracy to import heroin	
HALL, Simon	385/05	14-Oct-09	Murder	
LUCKHURST, Frederick	198/06	22-Oct-09	Larceny (theft)	
FRANCIS, Devon Lloyd	22/99	04-Dec-09	Concerned in the production of cocaine; possession of cocaine with intent to supply and of conspiring to supply cocaine	
MILLER, David	557/09	15-Dec-09	Possession of indecent pseudo photographs of a child (x4)	
QEMA Besnik	839/06	11-Jan-10	Supply of Class A drug (Cocaine); possession of Class A Drug with intent to supply (cocaine); possession of a false instrument (French passport) with intent to supply	
LOWEN, Donald	431/09	03-Feb-10	Cheating Her Majesty's Revenue, contrary to common law	
J	95/07	24-Feb-10	Indecent assault x8, rape x4, incest, buggery and attempted rape	
HEIBNER, Errol	798/07	04-Mar-10	Murder	
L	874/06	12-Mar-10	Rape (x2); attempted rape, gross indecency with a child and indecent assault	
AHMED, Mushtaq	748/08	16-Mar-10	Murder	
K	745/08	16-Mar-10	Wilful interference with the comfort and convenience of passengers in contravention of a bye law of the Transport Undertaking pursuant to s.57 of the Transport Act (Northern Ireland) 1967	
EARLE, John	949/07	18-Mar-10	Murder	
M	482/08	23-Mar-10	Sexual assault of a child under 13 contrary to section 7(1) of the Sexual Offences Act 2003 x 2; Failure to comply with a notification requirement under Sexual Offences Act 2003	
SHARIF, Mohammed	331/01	31-Mar-10	Conspiracy to defraud	

**Table 2: Commission referrals heard by the appeal courts 2009/10.**

Name	Date of referral	Offence	Sentence only	C of A decision	Decision
TONNER, christopher	28-Apr-09	Robbery. Assault with intent to resist arrest.	•	Q	19-May-09
A	27-Mar-09	Rape	•	Q	23-Jul-09
ROWBOTHAM, John	03-Jun-09	Being knowingly concerned in the keeping and carrying of dutiable goods with intent to defraud.	•	Q	22-Oct-09
McCURRY, Stephen	12-Aug-09	Supplying a controlled class A drug to another	•	Q	22-Oct-09
HOWE, Paul	02-Feb-09	Making indecent photographs or pseudo photographs of children	•	Q	03-Dec-09
B	20-May-09	22 Counts of making an indecent photograph or pseudo-photograph of children.	•	Q	03-Dec-09
ZENGEYA, Patrick	17-Jul-08	2 counts of attempting to obtain services by deception		Q	06-May-09
GILES, Jason	27-Oct-08	Producing a class A drug. Possessing a class A drug with intent to supply.		Q	12-May-09
F	01-Oct-08	Indecency with a child (x7); indecent assault (x2); Rape (per anum) (x1)		Q	13-May-09
LAWLESS, Ian	06-Oct-08	Murder		Q	16-Jun-09
FINLAY, Paul Anthony (deceased)	25-Mar-09	Manslaughter		Q	01-Jul-09
FORD, Gary	25-Nov-08	Burglary x12, Robbery x6, Attempted Robbery x1		Q	08-Jul-09
FRANCIS, Devon Lloyd	05-May-09	Possession of Class A drugs (cocaine) with intent (x3). Being concerned in the production of Class A drugs (cocaine).		Q	10-Sep-09
S	04-Sep-08	Rape		Q	13-Oct-09
TIERNEY, Stephen	11-Dec-08	Assault occasioning actual bodily harm		Q	15-Oct-09
TYM, Jonathan	11-Dec-08	Assault occasioning actual bodily harm		Q	15-Oct-09
MAXWELL, Paul	25-Nov-08	Robbery x2. Murder		Q	01-Dec-09
MANSELL, Daniel	25-Nov-08	Robbery x2. Murder		Q	01-Dec-09
C	15-Jun-09	Rape and indecent assault		Q	15-Dec-09
D	10-Jun-09	Rape. Assault by penetration.		Q	05-Mar-10
DELUCCA, Rahuel	22-Jul-09	Possession of a firearm with intent to cause fear of violence, possession of a shotgun and possession of ammunition	•	U	31-Mar-10
SHALE, David Colin	07-Apr-09	Murder		U	06-Apr-09
FITZPATRICK, Joseph	19-Sep-08	Conspiracy to provide information to terrorists		Q	1 May 09
FITZPATRICK, Joseph	19-Sep-08	Arson/belonging to a proscribed organization		Q	1 May 09
SHIELS, Terence	15 Sep 08	Belonging to a proscribed organisation/possession of a firearm		Q	1 May 09
BRANCHFLOWER, Paul	02-Apr-08	Murder		U	20-May-09
T	01-Sep-08	GBH with intent		U	28-Jul-09
PINFOLD Terence	08-Sep-08	Robbery of a motor car		U	20-Oct-09
EVANS, John	16-Aug-07	Murder		U	04-Nov-09
H	19-Aug-09	Murder		U	24-Mar-10

## Appendix 1: Key Performance Indicators

### KPI 1 Cases in progress

**Purpose:** Case reviews should be completed within a reasonable time. This KPI measures how many cases in progress are in excess of the benchmark completion time. **Definition:** The number of category B and C cases which were allocated more than 6 and 18 months ago respectively, and which have not yet reached the provisional decision stage, and the average age of these cases in months. **Calculation:** Recorded for the current period and for the last 12 months. **Frequency:** Monthly. **Data source:** Case statistics compiled from the case management system.

#### Plan and performance:

	Target number	Actual number	Target avge age (months)	Actual avge age
Category B	<20	35	<10	13.2
Category C	<30	39	<32	32.6

### KPI 2 Age of next case for allocation

**Purpose:** Of considerable concern to applicants is the length of time they must wait before their case is allocated for review. This measure gives an indication of these delays. **Definition:** The average age (in months) of all cases not yet allocated, and the age in months of the next case to be allocated (shown separately for in-custody and at-liberty cases for categories B and C). **Calculation:** Recorded for the current period and for the last 12 months. **Frequency:** Monthly **Data source:** Case statistics compiled from the case management system.

#### Plan and performance:

[months]	Target age of next case	Actual	Avge age of cases waiting	Actual
Category A	<5	5	<3	2.6
Category B custody	<9	6	<5	3.5
Category B liberty	<21	19	<11	8.6
Category C custody	<16	4	<8	4.0
Category C liberty	<28	16	<14	9.0

**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, although benchmarks have been set for each category. **Definition:** The elapsed time in months between allocation and the sending of the Statement of Reasons. The calculation is made twice, once to the sending of the provisional, and again to the sending of the final, Statement of Reasons. Cases involving an Investigating Officer and section 15 orders (investigations on behalf of the Court of Appeal) are excluded.

**Calculation:** Recorded for the current period and for the year to date. **Frequency:** Quarterly and annually

**Data source:** Reports generated from the case management system.

**Plan and performance:** Cases completed within time frame for 2008/09:

	Target to provisional SOR	Actual to provisional SOR	Target to final SOR	Actual to final SOR
Cat A	75% within 15 weeks	43.5%	75% within 25 weeks	57%
Category B	65% within 6 months	48%	65% within 9 months	48.2%
Category C	50% within 18 mths	48.4%	50% within 22 mths	36.8%

**KPI 4 Caseflow balance**

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

**Plan:** Monthly: > -20, full year: >0. **Actual:** Monthly: positive 3 out of 12 months, full year: negative by 39 cases.

**KPI 5 Complaints and judicial reviews**

**Purpose:** The number of complaints and judicial reviews may provide a crude measure of the quality of service provided. However, the nature of the Commission's work means that applicants may complain or apply for judicial review simply because their case is not referred, rather than as a result of unsatisfactory service.

**Definition:** 1 The number of cases re-opened as a proportion of complaints and pre-action protocol letters resolved and judicial reviews heard. 2 The number of complaints otherwise upheld as a proportion of complaints resolved. **Calculation:** Recorded for the current period and for the last 12 months. **Frequency:** Quarterly

**Data source:** Records of official complaints maintained by the Complaints Manager and of judicial reviews maintained by the Legal Advisors.

**Plan and performance:**

	Target number	Actual number	Target rate	Actual rate
Cases re-opened	<3	1	<4%	1.9%
Other	<7	7	<9.5%	15.2%

**KPI 6 Referral conclusions**

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

**Plan:** >60% and <80%. **Actual:** 76.9% for the 12 months with a cumulative figure of 70.7%.

**KPI 7 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 near-cash, resource non-cash 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.

**Plan and performance:**

	Amount £000		Budget %	
	Target Range	Actual	Target Range	Actual
Resource:				
Near-cash	0 to -135	-167	0 to -2	-2.5
Non-cash	0 to -15	-192	0 to -2	-44.8
Capital	0 to -15	-83	0 to -12½	-23.5

**KPI 8 Staff absence**

**Purpose:** The extent to which staff and Commissioners are absent affects the Commission's productivity and its ability to achieve its casework targets. **Definition:** The aggregate number of days of employee and Commissioner absence (other than for normal annual leave, public holidays, unpaid leave and sabbaticals), divided by the full-time equivalent number of employees and Commissioners, recorded separately for sickness absence and other causes of absence. **Calculation:** Recorded for the current period and for the year to date.

**Frequency:** Monthly **Data source:** Internally generated data based on personnel records.

**Plan:** Sickness absence: < 9 days per annum Other: <3 days per annum

**Actual:** Sickness absence: 8.25 days per annum Other: 5.66 days per annum.



## Appendix 2: The Case Review Process in detail

The Commission reviews cases by:

- Using its own resources and expertise (for example, case reviewers and Legal and Investigations Advisers)
- Using its powers under section 17 of the Criminal Appeal 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 the case should be referred to the relevant appeal court or not. A single Commissioner can decide not to refer a case but (as prescribed in the Act) only a committee of at least 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.

Where the Commission is minded not to refer a case, the applicant is sent a Provisional Statement of Reasons setting out the reasons for the provisional decision and the applicant is invited to make further representations to the Commission if they wish. These are considered before a decision is made and a final Statement of Reasons is issued.

### The process of a review

Upon arrival all applications are assessed for eligibility. The Commission does not review cases where the applicant is still in the

process of appealing their sentence or conviction. Applications from people still in an ongoing appeal process are closed. Applicants will usually have exhausted the normal appeal process before applying to the Commission. If an applicant has not appealed before applying, 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 to justify a referral where there has been no previous appeal (the Criminal Appeal Act 1995 requires there be “exceptional circumstances” before the Commission can refer a case where there has been no previous appeal). 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 will determine whether or not anything new is being raised that justifies a further review. Wherever possible, the job of looking at a reapplication will be assigned to a Commissioner who took no part in any previous applications from the individual concerned. If the reapplication raises nothing that can justify a further review, the application will not be accepted.

Some cases are categorised as No Reviewable Grounds (NRG) cases. This can

happen when an application clearly only repeats issues already considered at trial or appeal, when an application simply does not contain any submissions or when an application does not present any plausible basis for referring the case. A case can also be categorised as NRG when a review is not possible because the evidence upon which the conviction was based and/or the facts upon which the sentence was based cannot be determined because key documents and relevant files are missing and there is no reasonable prospect of establishing these matters by other means.

The decision that a case should be categorised as an NRG case is made by a Commissioner at the categorisation stage where the Commissioner is satisfied that one or more of the above circumstances prevails and that there are no reasonable lines of enquiry that the Commission could pursue that could give rise to a real possibility of the Court of Appeal not upholding either the conviction or sentence. The Commissioner will send a provisional view explaining why the Commission has arrived at this conclusion. When a provisional view is given, an applicant will be given 28 days to respond. After those 28 days the application will either be categorised as a review case in light of the applicant's response to the provisional view, or a final decision not to refer will be issued. For cases accepted for review, the Commissioner at Stage 1 will categorise the case according to its complexity and work content. Initial consideration by a Commissioner, for the purpose of case categorisation, will include an assessment of the application having regard to the submissions and all relevant documents.

## Review cases

Each case is allocated to a case reviewer. Cases are divided into four categories:

### **Category A**

These are typically 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.

### **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.

### **Category C**

These are likely to require a more time-consuming review and typically the issues are extensive and complex, possibly requiring wide-ranging off-site enquiries or the input of other agencies. A Commissioner will be assigned to each C case to help the case reviewer plan and execute the review. There will be a Case Planning Committee in all C cases, which will usually set the target date for completion.

### **Category D**

These are exceptional cases which are referred to the Director of Casework when received. For example, they may be extremely large cases or ones in which the need for a section 19 investigation is evident from the outset. Once the appropriate approach has been decided, Category D cases will normally be assigned to and follow one of the A, B or C pathways for the review.

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 affected by 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, factors such as preparation of material for disclosure with the decision, or notifying affected parties, may affect the timetable.

## Case ordering and priority ranking

Most cases are dealt with in order of receipt. Category B and C cases, which are more time-consuming, wait in separate queues. B and C cases where the applicant is in custody are prioritised over cases where the applicant is at liberty.

Prioritisation 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.



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