
**Disclosure of Privately Held Material to the Criminal Cases
Review Commission
Ministry of Justice
RPC rating: **validated****

Description of proposal

The Criminal Cases Review Commission (CCRC) has the power to refer convictions and sentences to the relevant appeal court for a new appeal in England, Wales and Northern Ireland. Currently, it can require public bodies to provide it with documents relevant to cases, but cannot require private organisations and individuals to do so.

The Department proposes to give the CCRC the statutory power to apply for a court order to force private organisations and individuals to produce documents, when required.

Impacts of proposal

The Department estimates that, based on CCRC data from the last 3 years, the CCRC makes up to 70 applications per year for documents from private organisations or individuals. In approximately 60 of these cases the documents are provided voluntarily. Therefore it expects the CCRC to apply for 10 court orders per year.

The Department estimates that, based on similar changes in Scotland, seven of these court orders will not be contested and each private individual or organisation will incur costs of £730 as a result of obtaining legal advice, preparing the required documents and sending the documents to the CCRC. In the other three cases, the Department expects that the case would go to court and the CCRC would win. In these cases the Department expects that each private individual or organisation will incur costs of £1,030, due to the additional legal representation required. These costs are based on evidence provided by the CCRC and the impacts of a similar change that was recently made in Scotland.

Therefore, the Department estimates an equivalent annual net direct cost to business (EANDCB) of £8,000.

Quality of submission

The RPC commented in its previous opinion, which was red-rated, that the Department should separate out the costs imposed on businesses and civil society organisations from those imposed on private individuals. It is still not clear how much of the EANDCB is derived from costs imposed on private individuals. These costs should be removed from the EANDCB prior to publication.

The technical details of how the EANDCB was calculated have not been explained and should be included before publication. For instance, the Department should include the price base year of the figures used and the present value year the proposal is expected to come into force. The IA would also benefit from including information on the upper and lower boundaries of the costs per court order imposed on businesses.

There may be issues with the Department's estimated EANDCB as a result of the concerns outlined above. However, due to changes in the better regulation framework since the previous submission, the RPC now only validates estimated EANDCBs to the nearest £100,000. Due to the limited impacts of the proposal, none of the issues identified are likely to affect the EANDCB when rounded to the nearest £100,000. Therefore, the RPC validates the proposal's estimated EANDCB of £0.0 million.

Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net direct cost to business (EANDCB)	£8,000
Business net present value	Not provided

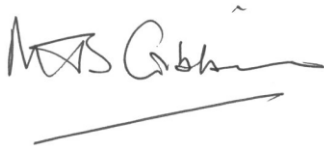
RPC assessment

Classification	Qualifying regulatory provision (IN)
EANDCB – RPC validated ¹	£0.0 million

¹ For reporting purposes, the RPC validates EANCB and BIT score figures to the nearest £100,000.

Opinion: EANCB validation
Origin: domestic
RPC reference number: RPC-3360(1)-MOJ
Date of implementation: not known

Business Impact Target (BIT) Score ¹	£0.0 million
Small and micro business assessment	Not required (fast track low-cost regulation)



Michael Gibbons CBE, Chairman