



Ministry  
of Justice

# **Government response to the Justice Select Committee's Twelfth Report of Session 2014-15**

Criminal Cases Review Commission

July 2015





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Committee's Twelfth Report of Session 2014-15**

Criminal Cases Review Commission

**Presented to Parliament  
by the Lord Chancellor and Secretary of State for  
Justice  
by Command of Her Majesty**

July 2015



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## Introduction

1. This is the Government response to the Justice Select Committee (JSC) Twelfth Report of the 2014-2015 Session, on the Criminal Cases Review Commission (CCRC), which was published in March 2015. The Government is grateful to the JSC for reviewing the work of the CCRC.

## The recommendations

2. The JSC has made eight recommendations; four to the Ministry of Justice and four to the CCRC.
3. The JSC recommends that **the CCRC be less cautious in its approach to the 'real possibility' test, and reduce the targeted success rate in its Key Performance Indicators accordingly.** (Paragraph 20)
4. We regard this recommendation as primarily a matter for the CCRC, and they concur with this view. The Key Performance Indicator requires 60-80% of referred cases to result in a quashed conviction, which is being achieved. The Ministry of Justice is content with this.
5. The JSC recommends that **the Law Commission review the Court of Appeal's grounds for allowing appeals. The review should include consideration of the benefits and dangers of a statutory change to allow and encourage the Court of Appeal to quash a conviction where it has a serious doubt about the verdict, even without fresh evidence or fresh legal argument. If any such change is made, it should be accompanied by a review of its effects on the CCRC and of the continuing appropriateness of the 'real possibility' test.** (Paragraph 28)
6. The recommendation stems from the JSC's concern that the CCRC is failing to refer cases because the Court of Appeal takes too rigid a view of its powers to overturn convictions. We are considering this recommendation, but it should be noted that the Law Commission started its Twelfth Programme last summer, and will not be planning a new Programme until the second half of 2016.
7. The JSC recommends that **the CCRC should, as a matter of urgency, be granted the additional £1 million of annual funding that it has requested until it has reduced its backlog. Furthermore, the Ministry should engage with the CCRC in longer term budgetary planning so that the Commission can properly plan ahead and recruit efficiently, with a view to restoring it to a level of funding which enables it to eliminate lengthy delays in handling cases.** (Paragraph 35).
8. The CCRC's budget was increased between 2012/13 and 2013/14, and has been maintained at the same level for the last three financial years (13/14, 14/15 and 15/16), while the Ministry of Justice's overall budget has been reduced by approximately 12 % during the same period. The CCRC recently made a range of operational changes to make its processes more efficient, and further improvements are planned. We welcome these changes, and believe that they should be allowed to bed down before any further funding allocation is considered. The CCRC (as is the case with all arm's-length bodies) is managed within the same Spending Review process as the rest of the Ministry of Justice and as such is tied into the wider constraints this process engenders. This process is ongoing.



9. The JSC recommends that **the Ministry of Justice make statutory provision to allow the CCRC a discretion to refuse to investigate cases dealt with summarily, if they deem it not to be in the public interest to investigate, and a discretion to refuse to investigate sentence-only cases.** (Paragraph 39)
10. Whilst the legislation (specifically CPA 1995 s.14(2)) requires the CCRC to consider every application, it does not require them to investigate every case. They may for instance refuse to investigate repeat applications which do not raise anything new. This accords with current CCRC practice (see e.g. the guidance on Stage 1 Decisions on their website). It is for the CCRC to decide how much time to allocate to summary or sentence- only cases. We do not believe it would be appropriate for legislation to single out these types of case. It is also worth noting that cases dealt with summarily can have a very significant impact on the lives of those who are convicted, who may lose their liberty and their livelihood.
11. The JSC recommends that **the Government bring forward legislation to add a time limit for public bodies to comply with a section 17 request, unless there are extenuating circumstances, and an appropriate sanction in case of non-compliance.** (Paragraph 44)
12. We wish to see evidence from the CCRC of the problem which such legislation would seek to solve before deciding whether such action is necessary or proportionate. We recognise the burden delay or non-compliance places on the CCRC, and will be discussing with them, and other Government departments, what steps might be taken across Government to simplify the process.
13. The JSC recommends that **it should be a matter of great urgency and priority for the (next) Government to bring forward legislation to implement the extension of the CCRC's powers so that it can compel material necessary for it to carry out investigations from private bodies through an application to the courts. No new Criminal Justice Bill should be introduced without the inclusion of such a clause. Our successor Committee should monitor the progress of this to ensure that it happens promptly, and should continue to put pressure on the Government if necessary.** (Paragraph 50)
14. This legislative anomaly has occurred because some previously public bodies, such as the Forensic Science Service, are now outside the scope of existing legislation. A Private Member's Bill providing additional powers to the CCRC was laid in Parliament by Mr William Wragg M.P. on 24th June 2015 and is due to have its Second Reading on 4<sup>th</sup> December. The Government supports this Private Member's Bill, and will look for another suitable legislative opportunity if it does not succeed.
15. The JSC recommends that **the Commission take steps to ensure that Case Review Managers consistently engage fully with applicants throughout the investigation in cases which progress past Stage 1 screening. As a matter of course this should include meeting with the applicant in all cases being given a type 3 or type 4 review, unless there are compelling reasons not to. The JSC also recommend that variations in the experience and expertise of Case Review Managers be dealt with by assigning them to investigations more intelligently, so as to utilise fully their differing areas of proficiency and knowledge.** (Paragraph 51)

16. The deployment of, and approach taken by, the Case Review Managers is a matter for the CCRC. We do not believe it appropriate to comment on how staff within an independent body are managed or directed. The CCRC concur with this view.
17. The JSC recommends that **the CCRC should develop a formal system for regularly feeding back into all areas of the criminal justice system, from the police and Crown Prosecution Service through to the courts and the Ministry of Justice, on its understanding of the issues which are continuing to cause miscarriages of justice.** (Paragraph 53)
18. We support this recommendation and, whilst this is primarily a recommendation for the CCRC, we will be happy to work with them to help facilitate this.



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