

Questions and Answers about the CCRC

Who can apply to the CCRC?

Anyone who believes they have been wrongly convicted of a criminal offence can ask the CCRC to review their case, as long as they were convicted in a criminal court in England, Wales or Northern Ireland. You can ask us to look at your conviction, or your sentence, or both. There is no way the courts can increase your sentence because you have applied to us. You can also apply if you were convicted in the Court Martial or a Service Civilian Court of the British armed forces.

Do I need to have appealed before I apply to the CCRC?

Yes. Almost everyone will need to have tried to appeal in the usual way through the courts. We usually tell people who come to us before they have appealed that they need to go back and try to appeal in the normal way. You can still try to appeal even if you think you have missed the deadline for appealing. We have copied and attached at the end of this document some information explaining how the normal appeal process works and how to appeal.

In some unusual cases there are “exceptional circumstances”, or special reasons, that mean we can look at a case even though the person has not tried to appeal before. If you are thinking about applying to us before you have tried to appeal your case, you will need to read the “What are “exceptional circumstances” section at the end of this document.

How do I apply?

Applications need to be made in writing. Most people use the CCRC’s application form to apply. We will post you an application form if you contact us on 0121 233 1473. You can also download a form and other helpful information by going to the CCRC’s web pages at www.ccrcc.gov.uk and clicking “forms and how to apply”.

What will I need to apply?

The CCRC application form asks for some information about your case. It is your first chance to tell us what happened to you and why you think that your conviction or your sentence is wrong. The form is not a test and we have tried to make it as easy as possible. The CCRC will need to find significant new evidence or new legal argument if we are going to be able to refer your case to an appeal court.

What if I am an asylum seeker/refugee convicted of an offence?

You should apply to us if you were convicted of a crime related to your entry into the UK when you arrived as an asylum seeker or refugee. For example, you might have entered the UK with a false passport, failed to produce a genuine passport or used deception to get into the UK or to leave the UK for another country. There is a potential defence to these types of offences which you may not have been told about. This may be the case even if you pleaded guilty.

What if I am a victim of human trafficking?

You should apply to us if you believe there is a connection between your conviction and the fact that you have been the victim of human trafficking: you may have been forced to work as a prostitute, on a cannabis farm, or in some other form of forced labour or exploitation. For the CCRC to be able to help with your case, we will need to find a link between your conviction and the trafficking. For example, you might have used a passport to try and leave the UK because you were trying to escape from your trafficker, or your trafficker may have made you commit an offence such as growing cannabis. We may be able to help you even if you pleaded guilty.

What is “new evidence or legal argument”?

If we are going to be able to refer your case for an appeal we will usually need to find some important new evidence or legal argument. Usually this means something that was not covered at your trial or your appeal. For example it may be new evidence not known about at the time, or something that has changed since your trial, like the appearance of a new witness or a new development in science. We can't usually look again at things that were known about by the jury, the judge or the magistrates, even if you believe that they made the wrong decision in your case. We need to identify something new that wasn't raised back then, and that the judges at your appeal didn't know either, that makes your case look significantly different now.

In some cases it might be a new legal argument, rather than new evidence, that means we can refer a case. New legal argument is usually some significant new point of law that has not been made before, such as a complaint that the judge's summing-up was faulty, or that the prosecution applied the law incorrectly.

What will it cost me?

We do not charge anything so applying to us will not cost you any money. If you apply to us and your case is referred to the appeal court, the court cannot add to your sentence even if they turn down

your appeal.

Do I need a lawyer?

No, you do not have to have a lawyer to apply to the CCRC. If you fill out an application form and send it to us we will look at your case whether or not you are represented by a lawyer. You may want to think about finding a solicitor to help you because the case review process can involve complicated legal issues and a good lawyer can help.

Will I get Legal Aid?

A solicitor may be able to get funding under the Legal Aid scheme to help you with an application to the CCRC. You can get advice about finding a lawyer by contacting Community Legal Advice on 0845 345 4345 or going to their website at www.communitylegaladvice.org.uk

Does the CCRC represent me?

The CCRC does not act as your lawyer. Our job is to look into your case independently. This means that we do not represent you, but it also means that we do not represent the police, the prosecution or anyone else. The CCRC is independent of everyone.

What will you do with my application?

When an application arrives we start work by collecting the papers that we usually need to look at. These are things like the files from the court where you were convicted and the papers from your first appeal (see above: *Do I need to have appealed before I apply to the CCRC?*). The people who do this first stage of work at the CCRC will get things ready so we can have a proper look at the case. They do not review your case. If you speak to anyone at this stage please remember that they are not making decisions about your case.

Once we have the material we need to get started, we will look at your case to see what should happen next. We may need to get other case-related documents before we can decide whether your case should go to a case reviewer to begin an investigation.

If your case is going to a case reviewer for further investigation, we will write and tell you about the next steps. However we may decide that your case cannot be reviewed. There are several reasons why this might happen:

- It might be because you have not tried to appeal before and there do not seem to be any special reasons which mean we should review your case before you have tried to appeal in the normal way. (See above *Do I need to have appealed before I apply to the CCRC?*)

- It might be because your application does not raise any significant new points that might allow us to send your case for an appeal.

If we think either of these situations applies in your case, we will write to you to explain why and ask you to tell us about anything which you think might change our minds. We will give at least 28 days for you to get back to us.

If you already have an appeal pending, we cannot review your case and we will write to you to explain this.

If an application is not your first application for a particular offence, we call it a re-application. If all of the points that you make in your re-application have already been considered, whether in an earlier application to us, or at trial or on appeal, we will write to you to explain why we cannot accept the re-application and that decision will be final.

The CCRC can only deal with convictions and sentences from the criminal courts of England, Wales and Northern Ireland and from the Military Court and the Service Civilian Court. This means that we cannot deal with immigration law, civil law and ASBOs. Scotland has its own Commission, the SCCRC.

How long will it take?

How long your case takes will depend on a number of things like how complicated it is. Some cases are quite straightforward and can be dealt with in a few weeks. Other cases are very complicated and can take many months to review.

Do some cases get priority?

We look at cases in the order in which they arrive, but we deal with the cases of people in prison before those of people who are out of prison or who didn't go to prison. If you received a life sentence and are out on licence, we will treat you in the same way that we would treat someone who is in custody.

There may be special reasons why a particular case should be looked at more urgently. These special reasons can be things like concerns about the health of the person applying, a serious illness affecting a potentially important witness, or something affecting how long evidence may last. The time to tell us about any special reasons in your case will usually be after we have written to you to say we will be reviewing your case.

How will the CCRC communicate with me about my case?

Most of the time we will communicate with you or your representative in writing. We always send a letter in the post to acknowledge when an application has arrived. So, if you have applied to us, but have not had a letter from us within ten days of applying, it means we did not receive your application, so please get in touch again. We will usually post a letter to tell you about any developments in your case, so it is important that we have the right address for you. Don't forget to tell us if your address changes or you move prisons.

The rules on communicating with the CCRC from prison are set out in Prison Service Order 4400. If you have trouble with reading or writing we will try to find a suitable way of communicating with you. We will also consider translating material into other languages where necessary.

Can I e-mail you?

You cannot apply by e-mail because we need you to sign the application form. After you have applied in writing, you can contact us by e-mail us about your case.

Will you visit me?

In most cases we can find out everything we need to in writing, or on the phone, without needing to meet the applicant in person. We will come to meet you when we are reviewing your case if we think we need to talk to you face to face. We do not usually receive visitors at the CCRC office.

Can I phone you?

Yes, but we like to have things in writing because it means we have a clear record of everything so that we can go back to it when we are thinking about your case.

What will the CCRC do to investigate my case?

The CCRC was created specially to review cases where someone says they have been the victim of a miscarriage of justice. We have special legal powers under section 17 of the Criminal Appeal Act 1995 which mean we can get any information that we need from any public body in England, Wales and Northern Ireland. This means that we can get sensitive information from organisations like social services, the armed forces and intelligence agencies. We can obtain material that the police and the prosecution did not have to disclose to the defence (including Public Interest Immunity or PII material) and information from the Criminal Injuries Compensation Authority and others.

We will use our special legal powers to get the information we think we need to review a case. We may use any information to investigate a

case, but we will always be very careful about releasing sensitive information to anyone outside the CCRC.

Will the CCRC investigate everything I think it should?

The CCRC will look carefully at all the points made by an applicant or their representative, but in the end we will decide what enquiries we think are needed in each case. We will consider requests for particular investigations, but we will only carry out work if we think it will help the review. Our decisions about what investigations to do are always based on the relevance and potential evidential value of the work in question.

If you refer my case, does that mean my conviction is quashed?

No, the CCRC's job is to review cases and to send them to the appeal courts if we think there is a real possibility that they will quash that conviction or change the sentence. If we refer a case it means that there must be an appeal. It is then the court's job to arrange and hear the appeal and decide whether or not to quash a conviction or change a sentence.

Can I apply to the CCRC more than once?

If necessary you can apply to the CCRC more than once about the same conviction or sentence. However, if you apply to us for another review of a case that we have looked at before, your re-application will need to raise something new that you didn't mention to us in any earlier applications and that was not raised at your trial or appeal. If it does not, we will not review your case again. (See above *What will you do with my application?*)

If the CCRC reviews my case, will that stop my deportation?

There is no automatic right for you to have deportation proceedings suspended because you have applied to the CCRC. If we refer your case for an appeal, then your deportation may be stopped until the appeal is finished. If you are deported after you have applied to the CCRC, we can review your case even if you are in another country. If that happens, we will try to contact you in the country to which you have been deported.

Who will review my case?

Your case will go through several stages to decide whether there will be a full review (see above: *What will you do with my application?*). If there is to be a review, the case will be given to a case reviewer. Their job will be to look into points raised in your application and to investigate anything else that the CCRC decides needs to be looked into. The case reviewer will deal with you and/or your lawyer or another

representative chosen by you. The case reviewer will have the help of a range of experts who work for the CCRC. When they think their investigations are coming to an end, they will set out the case to be considered by a single Commissioner or a committee of Commissioners.

Who will decide my case?

The final decision about whether or not to refer a case is always taken by one or more Commissioners.

What qualifications do your case reviewers have?

Many of our case reviewers are qualified solicitors or barristers. Some are former police officers, and others come from a range of professional backgrounds. All have relevant skills and experience and all are specially trained to review cases in a fair and independent way.

What qualifications do your Commissioners have?

Our Commissioners come from a range of professional backgrounds. Most are legally qualified and all have been chosen because of their experience and ability to make important decisions in complicated matters. Commissioners are appointed by The Queen on advice of the Prime Minister.

What are “exceptional circumstances”?

Most people need to have at least tried to appeal their case before the CCRC can look at it. This means that they have either had an appeal and lost, or that they asked to appeal but the Court did not give them permission to do so. Sometimes the CCRC can review a case even if the person has not even tried to appeal. For this to happen there needs to be what we call “exceptional circumstances”. These are special reasons that allow us to look at a case even when someone has not even tried to appeal before.

There is no simple definition of “exceptional circumstances”, but it basically means that there has to be a very strong argument about why the person did not appeal and why they cannot appeal now. Things like forgetting to appeal, not realising that you could appeal or missing the deadline to appeal, will not usually be seen as exceptional circumstances by the CCRC. In all of those situations, the person can still ask the court for an appeal. Even if the court’s normal deadline for appealing is long passed, you can still ask to appeal anyway. This is called appealing “out of time”.

There is no list of what does or does not count as “exceptional circumstances”, but there are examples of what the CCRC has accepted as exceptional circumstances in cases in the past. We have agreed that there were “exceptional circumstances” where people

could not get the information they needed to launch an appeal without the help of the CCRC's special powers to get information and investigate cases. We have also agreed in some cases that "exceptional circumstances" applied where a person was ill and might not survive long enough to try to appeal in the usual way, or where an important witness was ill and may not survive very long.

There are no automatic "exceptional circumstances". We look at each case by itself and decide on the facts of the case. We accept very few cases where people apply to us before they have tried to appeal in the normal way. So, if you are thinking about applying to the CCRC before you have tried to appeal, you should know that if you cannot explain real "exceptional circumstances" in your application, it will probably be quicker and easier for you if you approach the courts for an appeal. When someone does apply to us before they have appealed, but can't provide "exceptional circumstances", we usually advise them to try to appeal in the normal way through the courts and tell them they can apply to the CCRC afterwards if they need to.

Where can I find out about appealing in the normal way?

The CCRC can usually only look at cases where someone has already approached the court for an appeal in the normal way and has been turned down by the court. We have copied and attached to this document some information explaining how the normal appeal process works.

You will find a lot of useful information in a book called *How to Appeal*. It is published by the charity Justice. You might be able to get a copy in the prison library and it can be found on the internet at www.justice.org.uk/resources.php/274/how-to-appeal

Where can I find more information about the CCRC and how it works?

There is detailed information about the CCRC in a series of formal memoranda that can be downloaded from the internet by going to www.ccrcc.gov.uk and clicking on "casework". You can also get them by writing to us at Criminal Cases Review Commission, 5 St Philip's Place, Birmingham, B3 2PW.

Appealing through the courts in the normal way if you were convicted in a Crown Court

This guidance is from the 'gov.uk' website. The CCRC has added some information.

If you disagree with a Crown Court verdict, you may be able to appeal against the decision at the Court of Appeal. There are several things you need to know beforehand, so you should try to get legal advice. Find out how to appeal to the Court of Appeal.

Verdicts, convictions and sentences – what they mean

A verdict is the decision a court makes on whether you are guilty or not guilty of a crime.

A conviction is when you are found guilty of the crime.

A sentence is the punishment a court thinks is necessary based on what crime you committed - for example, a fine or prison sentence.

When you can appeal to the Court of Appeal

You may be able to appeal to the Court of Appeal if you were convicted in a Crown Court and disagree with its verdict.

What you can appeal against

If you're appealing against your conviction you normally need new evidence

If you pleaded 'not guilty' at your trial, you can appeal against your conviction and/or your sentence.

If you're appealing against your conviction, you normally need new evidence or facts. For example, you may have a witness who was not at the original trial who could help support your case.

It may also be possible to appeal because something went 'wrong' at the trial. This normally means an important court procedure was not followed properly.

If you pleaded 'guilty' at your hearing...it may be possible to appeal against your conviction – you should try to get legal advice if you're thinking about doing this...

Getting legal advice before you appeal

You should get legal advice before you appeal. Your legal adviser will discuss the case and advise you whether or not you have good reason to appeal.

You do not have to have legal advice - you can appeal by yourself.

How to appeal

You have the right to ask for an appeal but this doesn't necessarily mean you will be allowed to appeal. The basic process is as follows.

- 1. You contact the Crown Court.** You must apply in writing to the Crown Court by completing Form NG (Notice and Grounds).

You state why you think the conviction and/or sentence is wrong.

This should be done within 28 days of the date you were convicted. If you're appealing against your conviction, this should be done within 28 days of the date of your conviction – even if you were sentenced at a later date.

If you only want to appeal against your sentence, the 28-day period starts from the date you were sentenced.

If you miss the 28-day cut-off date you *can* still apply for an appeal, but you need to explain why you are appealing late.

(We have included the form NG at the end of this section. You can also find it at: www.gov.uk/appeal-against-sentence-conviction/crown-court-verdict)

2. The Criminal Appeal Office gets the form. The Crown Court sends the form to the Criminal Appeal Office. This is part of the Court of Appeal, based at the Royal Courts of Justice in London.

One judge (a 'single' judge) decides if you can appeal based on the details in the form. You can stop your appeal at any stage.

3. You find out if you can appeal or not. The single judge may:

- refuse to give you 'leave' (permission) to appeal
- give you permission to appeal and send your case to the 'full' Court of Appeal
- not make a decision and send your case to the full Court of Appeal

The full Court of Appeal is made up of three judges.

4. If the single judge refuses you permission to appeal. The single judge's decision will be sent to you in writing.

If you're not given permission to appeal you can 'renew' your application. This means you can ask the full court to give you permission to appeal. You must do this within 14 days of getting the single judge's decision.

You can choose to make an application to the Criminal Cases Review Commission (CCRC) if your application for leave to appeal is turned down by the single judge, or by the full court.

5. If you are given permission to appeal. Your case is dealt with at the full Appeal Court if :

- the single judge gives you permission to appeal, or
- you renew your application and the full court gives you permission to appeal

6. A new hearing date is set. You will be told in writing when the appeal hearing date is. The full court looks at your case and decides whether your original conviction was:

- 'unsafe' - you win your appeal
- the right decision - you lose your appeal and the process ends

If you win your appeal. If you win your appeal against your conviction it will be 'quashed'. This means that you're treated as innocent of the crime you

were tried for and your sentence will no longer apply.

If you win your appeal against your sentence, it will be reduced – for example, a shorter prison sentence.

You usually have any legal costs paid back and you may be able to apply for compensation...

If the court decides on a re-trial. Even if a conviction is quashed, the Court of Appeal sometimes decides that the person should have a re-trial. For example, it thinks that some evidence was allowed at the previous trial which may have caused the person to be found guilty.

The Court of Appeal may decide that the same evidence should be allowed to be heard by a jury.

If you lose, or are not given permission to appeal

If you lose your appeal, your original conviction will 'stand' (not change). You may have to pay extra court costs.

If the full court refused you permission to appeal, the process normally ends.

If new evidence is found. It's possible that new evidence is found which was not raised during the appeal hearing or at the time you were refused permission to appeal. This is the point at which you should consider contacting the Criminal Cases Review Commission (CCRC).

NOTICE and GROUNDS of appeal or application for permission to appeal against conviction or sentence to THE COURT OF APPEAL CRIMINAL DIVISION (*Criminal Procedure Rules, rr 68.3(1),(2)*)

Please ensure that you have read the notes for guidance attached **before** completing this form. Write in **BLACK INK** and use **BLOCK CAPITALS**

The Appellant	Surname	_____	Prison Index No	_____
	Forenames	_____ _____	Prison	_____ _____ _____
	Address (if not in custody)	_____ _____ _____		
	postcode	_____	Date of birth	_____

The Court where tried Or sentenced	The Crown Court at _____		Name of Judge _____	
	Date Trial started _____		Date of conviction _____	
	Date of sentence _____			
	Total period of remand in custody prior to sentence _____			

The Conviction(s) and/or sentence(s)	Crown Court Case number(s)	Count No.	Offence(s)	Sentence
				Total sentence

Applications The appellant is applying for:	<input type="checkbox"/>	Extension of time in which to make any of the following application(s) (not to be applied for separately – see Note 7))	
	<input type="checkbox"/>	Permission to appeal against conviction	<input type="checkbox"/> Representation Order
	<input type="checkbox"/>	Permission to appeal against sentence	<input type="checkbox"/> Bail
	<input type="checkbox"/>	Permission to appeal against a confiscation order	<input type="checkbox"/> Permission to call witness

Legal Representation (please use BLOCK CAPITALS)	Name of Counsel _____ Address _____ Post Code _____ DX No _____ Telephone No _____ Reference _____
	Name of Solicitor _____ Address _____ Post Code _____ DX No _____ Telephone No _____ Reference _____
	Prosecuting Authority _____ Address _____ Post Code _____ DX _____ No _____ Telephone No _____ Reference _____

IMPORTANT NOTES

Grounds of Appeal (r.68.3 (2)) Please also see the attached guidance notes, particularly note 8	<p>The grounds of appeal must be attached to this notice of application, and should be listed separately for conviction, sentence, or other order, under appropriate headings.</p> <p>The grounds of appeal must:</p> <ol style="list-style-type: none"> 1) Identify each ground of appeal on which the appellant relies, numbering them consecutively (if there is more than one) and concisely outlining each argument in support; 2) Identify the transcript that the appellant thinks the court will need, if the appellant wants to appeal against conviction (see notes on Transcripts below); 3) Identify the relevant sentencing powers of the Crown Court, if sentence is in issue; 4) Where the Criminal Cases Review Commission has referred a case to the court, explain how each ground of appeal relates (if it does) to the reasons for the reference; 5) Summarise the relevant facts; 6) Identify any relevant authorities; 7) Identify any other document or thing that the appellant thinks the court will need to decide the appeal (Please Note: any report relied upon and which was not retained by the Crown Court must be copied and attached to this application form). <p>NB:</p> <ol style="list-style-type: none"> (1) Where grounds have been settled by counsel they must be signed by counsel with the name of counsel printed underneath. (2) If an extension of time is needed, the detailed reasons for the delay must be attached to the grounds of appeal, preferably under a separate heading – grounds for extension of time.
Other Applications (r.68.3(2)(h))	Any other application must be made in accordance with rule 68.3(2)(h) of the Criminal Procedure Rules, and be attached, together with reasons, preferably under a separate heading for each such application, together with Form B (Bail) or Form W (Witness) duly completed if appropriate. (Please also see the attached guidance notes, particularly note 7).

Transcripts On an application for **permission to appeal against conviction** a transcript of the trial judge's summing up is obtained by the Registrar as a matter of course. On an application for **permission to appeal against sentence** the Registrar will obtain a transcript of the sentencing judge's remarks, and on a plea of Guilty, the prosecution opening of facts.

If ADDITIONAL transcript is sought, this **must** be specified within the grounds of appeal, **giving specific dates and times** of the part of the proceedings for which the transcript is requested. **Failure to give such details could result in unnecessary delay and prejudice the appellant.**

Please note that transcript obtained by means other than through the Registrar may result in the cost of the transcript not being allowed upon taxation in cases subject to a Representation Order.

Reminder

Have You:

*delete as appropriate

- | | | |
|----|--|---------|
| a) | included reasons in support of any application for extension of time? | Yes/No* |
| b) | included Form B if applying for bail? | Yes/No* |
| c) | included Form W and witness statement (conviction cases only) if seeking to call a witness | Yes/No* |
| d) | (i) attached your grounds of appeal? | Yes/No* |
| | (ii) are the grounds of appeal signed by counsel/solicitor? | Yes/No* |
| e) | (i) attached your request for additional transcript? | Yes/No* |
| | (ii) specified the dates and times of transcript requested? | Yes/No* |

Signature

APPELLANTS IN CUSTODY ONLY

I understand that if the single judge and/or the Court is of the opinion that the application for permission to appeal is plainly without merit, an order may be made that time spent in custody as an appellant shall not count towards sentence.

ALL APPELLANTS

I understand that if the court dismisses my appeal or application it may make an order for payment of costs against me, including the cost of any transcript obtained.

[This form should be signed by the appellant but may be signed by his/her legal representative provided the WARNINGS set out above have been explained to him/her. NB if signed by a legal representative, the appellant will be given the opportunity to request a copy of the form.]

Signature

Date

(of appellant or legal representative signing on *behalf* of the appellant)

NOW PLEASE SEND THIS FORM TO THE CROWN COURT WHERE TRIED OR SENTENCED UNLESS IT RELATES TO A REFERENCE BY THE CRIMINAL CASES REVIEW COMMISSION, IN WHICH CASE IT SHOULD BE SENT TO THE REGISTRAR OF CRIMINAL APPEALS DIRECTLY.

For Prison Use

This notice was handed to me by appellant today.

Appellant's Index No _____

Signed _____
Prison Officer

EDR _____

Date _____

PED _____

For Crown Court Use

Immediately upon receipt of Form NG the Crown Court must complete and send tear-off slips 1-3 overleaf as applicable. These tear-off slips **must** be used so that the correct notifications are sent out.

1 (Acknowledgement)

Sent to _____ Date sent _____

Slip 2 (Notification to Prosecution / Statements)Sent to _____
(Prosecuting Authority (e.g CPS, RCPO, H&S Executive))Address _____

_____ DX Number _____

Date sent _____

Slip 3 (Monetary penalty / order)

Sent to _____ Mag. Court Date sent _____

Form NG received in Crown Court:

Signed _____

Date Received _____

Sent to the Criminal Appeal Office

Signed _____

Date Sent _____

**Slip 3 Notification to Magistrates of appeal in cases involving monetary penalty or order
(to be sent in all cases involving monetary penalty or order)**

To: Clerk to the Justices
Magistrates Court

From: Court Manager
Crown Court at

Dear Sir / Madam,

Date

R -v- Crown Court Ref:

I write to inform you that in this case, in which you are responsible for enforcing the monetary penalty or order, the above-named has lodged notice of appeal to the Court of Appeal Criminal Division.

Yours faithfully,

**Slip 2 Notification from the Crown Court to Prosecuting Authority of receipt of
Application for permission to appeal to the Court of Appeal (to be sent in all cases)**

To: From: Crown Court at

Date:

Dear Sir / Madam,

R -v- Crown Court Ref:

Please note that an application for permission to appeal has been received in the above matter. All exhibits must be retained in safe custody pending the determination of the appeal. Please ensure you are aware of the location of your case file since you will be contacted if this matter is to proceed to a hearing by the full Court of Appeal and if, therefore, any victim or their family needs to be informed about the appeal. If the matter involves a committal for sentence, please forward forthwith witness statements / statements of facts, enclosing this slip for reference purposes to:

The Registrar, Criminal Appeal Office
Royal Courts of Justice
Strand, London WC2A 2LL

Telephone 020 7947 6011/6014
DX: RCJ 44451 STRAND
FAX: 020 7947 6900

Yours faithfully

Slip 1 Acknowledgement of Form NG (to be sent in all cases to sender of Form NG)

From: Court Manager
Crown Court at
Crown Court Ref:
Date:

To Your Ref:

R -v-

Dear Sir / Madam,

I acknowledge receipt of form(s) NG (B* W*) which have been forwarded to the Registrar of Criminal Appeals for attention. All further communications should be addressed to:

The Registrar, Criminal Appeal Office
Royal Courts of Justice
Strand, London WC2A 2LL
(Tel: 020 7947 6011/6014: DX: RCJ 44451 Strand: Fax: 020 7947 6900)

Yours faithfully,

*Delete as appropriate

Notes for guidance on the completion of this form

1. Everyone who has had the benefit of a representation order for trial or sentence in the Crown Court is entitled to advice and assistance on appeal as part of the trial representation order.
2. Solicitors and Counsel are expected to be familiar with "A Guide to Commencing Proceedings in the Court of Appeal Criminal Division" copies of which are available from any Crown Court Centre. The Guide is also available on the Justice website (www.justice.gov.uk), as are all necessary forms.
3. Separate application forms should be submitted for convictions or sentences that do not arise in the same proceedings.
4. This notice will be treated as a notice of appeal where permission to appeal is not required.
5. **In the initial stages the Court is reliant upon the information that you provide. It is in your own interests to assist by providing accurate and complete information in the form. Please indicate if you or your legal advisers have already been in correspondence with this office.**
6. Please give details of the appellant's full name; if in custody give the prison index number and address where detained. If not in custody give details of address at which residing and which correspondence should be sent.

7. Applications

This application form should be served on the appropriate Crown Court Officer, not more than 28 days after the conviction, sentence, verdict or finding appealed against. If the appellant is in custody the form should be handed to the prison authority (or other person having custody) for forwarding to the Crown Court, and the date of handing in should be recorded on the form.

- **Extension of time** The period of 28 days cannot be extended except with permission of the Court of Appeal Criminal Division and detailed reasons for the delay must be attached to this form. **An application for an extension of time will not be considered before an application for permission to appeal conviction or sentence has been lodged on Form NG, whether or not the 28 day period has already expired.**
Please Note: the time for applying for permission to appeal runs from the date of verdict, finding or order. For permission to appeal against conviction, time runs from the **date of conviction** even where sentence is passed on a later date.
 - **Permission to appeal against conviction.**
 - **Permission to appeal against sentence.**
- } See Note 8 below
- **Representation Order** (ie. legal assistance) A Representation Order made in the Crown Court does not provide for oral argument before the Court of Appeal. If a Representation Order is sought for this purpose it should be applied for.
 - **Bail** Where bail is applied for Form B (CAO) must also be completed. If Form B (CAO) accompanies Form NG it should be submitted to the Crown Court but if submitted later should be sent to:- *The Registrar, Criminal Appeal Office, Royal Courts of Justice, Strand, London WC2A 2LL.*
 - **Permission to call a witness (conviction cases only)** Where permission is sought to call a witness in support of an application for permission to appeal against **conviction** an application should be made on **Form W (CAO)**. A separate form is required for each witness. A signed statement from the witness should be appended to Form W (CAO) and, if it is said that the witness was not available at trial, an affidavit, sworn by the appellant's solicitor, should also be lodged, describing the circumstances in which the witness came forward and the circumstances in which the statement was made. If Form W (CAO) accompanies Form NG it should be sent to the Crown Court but if submitted later should be sent to:- *The Registrar* at the address given above.

8. Grounds of appeal If a positive advice on appeal is given it should always be incorporated into the same document as the grounds of appeal, as a single document. **Grounds must be settled in accordance with the requirements of r.68.3(2) as set out on page 2.** Wording such as "the conviction is unsafe" or "the sentence is in all the circumstances too severe" will be ineffective as grounds unless accompanied by detailed reasons. Ineffective applications will be rejected, thus causing delay and possibly making it necessary for an extension of time to be sought (see note 7 above). Unsigned grounds will be returned, again with resulting delay to the application.

An appeal against **conviction** is not another trial which looks again at the facts of the case in the way the jury did to decide if the appellant is guilty or innocent. The Court of Appeal will only be concerned with whether the conviction is unsafe and will consider issues such as: whether the trial as a whole was fair; whether the trial Judge made the correct legal rulings during the course of the trial (for example, in relation to disclosure of evidence, the admissibility of evidence or a submission of no case to answer); whether the trial Judge fairly summed up the case to the jury with the appropriate legal directions; “fresh evidence” that was not presented at trial.

An appeal against **sentence** will only succeed if the sentence was “**manifestly excessive**” (i.e. the sentence was too high given the facts of the offence or in light of any available personal mitigation) and/or “**wrong in principle**” (i.e. the sentencing Judge made some mistake when imposing the sentence. For example, there was no power to pass the particular sentence imposed or the sentence was passed on some incorrect factual or legal basis). Grounds should therefore explain why the sentence was “manifestly excessive” and/or “wrong in principle”.

9. Where a certificate that the case is fit for appeal is granted by the trial judge this should be stated (and see generally paragraph 17 of “A Guide to proceedings in the Court of Appeal Criminal Division”).

10. Where an appellant has been **granted** permission to appeal s/he is entitled to be present on the hearing of the appeal only. If the appellant is in custody and wishes to be present at any hearing for which permission to be present is required s/he must apply for permission in writing.

11. Where the Criminal Cases Review Commission refers a case to the Court, the Court must treat that reference as the appeal notice if the appellant does not serve such a notice of appeal under rule 68.2 of the Criminal Procedure Rules.

Update January 2012

The Criminal Procedure Rules and related forms are available on line at:

<http://www.justice.gov.uk/guidance/courts-and-tribunals/courts/procedure-rules/criminal/rulesmenu.htm> and

<http://www.justice.gov.uk/guidance/courts-and-tribunals/courts/procedure-rules/criminal/forms/formspage.htm>

Appealing through the courts in the normal way if you were convicted in a Magistrates' Court

This guidance is from the 'gov.uk' website. The Commission has added some information.

If you disagree with a magistrates' court verdict, you can appeal against the decision. There are several things you need to know before you appeal, so you should try to get legal advice. Find out how to appeal and what to do if there is an appeal hearing.

Verdicts, convictions and sentences – what they mean

A verdict is the decision a court makes on whether you are guilty or not guilty of a crime.

A conviction is when you are found guilty of the crime.

A sentence is the punishment a court thinks is necessary based on what crime you committed - for example, a fine or prison sentence.

You can appeal against your conviction, sentence or both.

Your conviction must have been made in a magistrates' court in England, Wales, or a county court in Northern Ireland.

What you can appeal against

You should try to get legal advice if you are thinking about appealing

If you pleaded 'not guilty' at your original trial, you can appeal against your conviction and/or your sentence.

If you pleaded 'guilty' at your original hearing, you can appeal against your sentence. It may be possible to appeal against your conviction - you should get legal advice if you are thinking about doing this.

Getting legal advice before you appeal

It is a good idea to get legal advice before you appeal. A legal adviser will discuss the case and advise you whether or not you have good reason to appeal.

If you are on a low income (for instance, if you are unemployed and claiming benefits), this advice may be free.

It is not necessary to have legal advice to appeal. You can appeal by yourself.

How to appeal a magistrates' court decision

If you are appealing a decision by a magistrates' court your appeal will be dealt with by a 'higher court' called the Crown Court.

The decision whether or not to agree with (uphold) the original verdict will be made by a judge and usually at least two magistrates. Appeal hearings are normally in public without a jury.

The process is as follows:

1. You send an appeal form to the magistrates' court. You complete and send an appeal notice form to the magistrates' court where the original trial

took place.

If you are appealing against your sentence, this should be done within 21 days of the date you were sentenced.

If you are appealing against your conviction, this should be done within 21 days of the date of your sentence. The 'date of your sentence' is either the actual date or the date your sentence was deferred, whichever is earlier. If you miss the 21-day cut-off date, you *can* still apply for an appeal, but you will need to explain on your form why you are appealing late.

(We have included the appeal notice form at the end of this section. You can also find it at: www.gov.uk/appeal-against-sentence-conviction/magistrates-court-verdict)

2. The court process begins. The magistrates' court will record that you want to appeal. A 'Notice of appeal' is sent to the local Crown Court.

3. The Crown Court contacts you about the appeal hearing. The Crown Court makes plans to consider your appeal. You will get a letter within a few weeks telling you where and when it will take place - normally your nearest Crown Court. At this point you can decide to stop your appeal if you do not wish to continue. If you do, you must tell the magistrates' court where your original trial was held.

4. Starting the appeal hearing. Appeal hearings vary in length, and normally last between one to three days.

If you are appealing against your conviction, the same evidence from the original trial can be used. Alternatively, if you have new evidence - such as a witness who was not at the original trial - this could be used to support your case. If you appeal against your sentence, you have the chance to tell the court why you think the sentence is wrong.

If you win your appeal

If you win your appeal against your conviction it will be 'quashed' (dropped) and your sentence will no longer apply.

If you win your appeal against your sentence, it will be reduced - for example, a smaller fine or shorter prison sentence.

You will usually have any legal costs paid back and you may be entitled to apply for compensation.

If you lose your appeal

If you lose your appeal, your original conviction will 'stand' (not change). You may have to pay extra court costs.

If your appeal fails and new evidence is found

It is possible that following your rejected Crown Court appeal, new evidence is found which was not raised during the re-hearing. This is the point at which you should consider contacting the Criminal Cases Review Commission (CCRC).

<p style="text-align: center;">Appeal Notice (Criminal Procedure Rules, rule 63.3)</p>	
<p>Appellant</p> <p>Name:</p> <p>Address:</p>	
<p>Details of appeal</p>	
Appeal from	Magistrates' Court
Case number:	
Appeal to the Crown Court at:	
Crown Court case number:	
<p>This is an appeal against the following decision: (specify the conviction or finding of guilt, the sentence or other order against which you want to appeal, and give its date)</p>	
<p style="text-align: center;">HOW TO USE THIS FORM</p> <p>You must:</p> <p>8) Fill in the boxes above, and give the information required in the boxes below. If you use an electronic version of this form, the boxes will expand. If you use a paper version and need more space, you may attach extra sheets.</p> <p>9) Sign and date the completed form in the space below.</p> <p>10) Send or give copies of the completed form to</p> <ul style="list-style-type: none"> • the magistrates' court office and • the other party to the case (e.g. the prosecutor), <p>so they receive it <u>not more than 21 days after</u>:</p> <p>(3) the date you were sentenced or your sentence was deferred (whichever was earlier), if your appeal is against conviction or against a finding of guilt,</p> <p>(4) the date you were sentenced, if your appeal is against sentence,</p> <p>(5) in any other case, the date of the order or failure to make an order about which you want to appeal.</p> <p>The Crown Court may extend that time limit, but if your appeal is late you must</p>	

explain why.	
The issues in this case are: <i>(summarise the matters of fact or law, or the reasons for sentence or other order, that are in dispute)</i>	
<i>Only fill in this box if your appeal is against a conviction or a finding of guilt.</i> Which of the prosecution witnesses in the magistrates' court do you want to ask questions if they are witnesses in the Crown Court? <i>(Name them)</i>	
In the magistrates' court, the trial lasted hours. In the Crown Court, I expect the appeal to take about hours.	
<i>Under section 142 of the Magistrates' Courts Act 1980, in some cases a magistrates' court can re-open a conviction, sentence or other order and make a fresh decision.</i> Have you asked the magistrates' court to reconsider your case?	
<i>In this box list the other parties to whom you have sent or given copies of this form.</i> I have sent or given copies of this appeal notice to:	
If your appeal is against a finding that you insulted someone, or interrupted proceedings, in the magistrates' court: 12. ask for and attach the magistrates' court's written findings of fact, and 13. attach your reply to those findings.	
Signed:	Appellant / Appellant's solicitor
Date:	