

insideinformation – fact sheet

CCRC – Quality Appeals

Information courtesy of Dr Andrew Green of Innocent

Dr Andrew Green, of INNOCENT, advises those considering taking their cases to the Criminal Cases Review Commission (CCRC) to ‘take control’ and to leave no stone unturned in ensuring the application is complete in every detail

If you're a genuinely innocent person, imprisoned for a crime you did not commit, and you've lost your appeal, then your whole future may depend on an application to the CCRC. We aim to help you take control of your application, to ensure that nothing is left out and that everything is said that needs to be said. We are the organisations that make up United Against Injustice, including INNOCENT, Merseyside Against Injustice, Convicted but Innocent and Yorkshire and Humberside Against Injustice. The members of these organisations are people who have been wrongly convicted and their families and friends. Over the last decade we have helped with many appeals and CCRC applications, and we have pooled the knowledge we have gained in workshops. From this we have compiled our advice to people applying to the CCRC. We are often critical of the CCRC, but we hope our criticisms are constructive. We aim to help wrongly convicted prisoners make better applications.

The CCRC can only welcome good quality applications. In the end, we all have the same interests. Firstly, we should stress that we are not lawyers and we do not give legal advice. You will need a lawyer to present your application to the CCRC. Although direct applications from prisoners will be considered, in practice the CCRC clearly takes applications supported by a lawyer more seriously. But remember you might not be where you are now if the lawyers had done their job properly. We strongly advise you not to simply pass your case over to a lawyer and rely on her or him to deal with it. Check the application and make sure it is complete. If you find that your lawyer has not included everything, then you can write direct to the person who is reviewing your case at the CCRC. She or he will consider seriously everything you write. You might also want one of our organisations or one of the new university-based innocence projects to help you. We can send you a list of contacts. We can also send you (free) a full version of our Guide to Making Applications to the CCRC. Contact details at the end of this article. If you have not yet appealed, you are asked on the application form to give reasons why. You need to persuade the CCRC to treat your case as exceptional. For example, if your barrister advised you that there were no grounds for appeal, and if you have asked solicitors to prepare an appeal for you but they have refused (probably because you can't afford to pay them), then say so. On page 4 of the form is a box covering half a page for you to explain your case. You cannot possibly explain your case in half a page. We advise that you write in this box 'please see separate submission (enclosed)', and write all that you need to tell the CCRC on separate sheets of paper. Everything you send the CCRC will be read carefully and all your points will be considered.

The CCRC has a legal power to see any records held by any public body. Tell them which public organisations (police, social services, health service etc) are likely to have records relating to your case. When your application is received, the CCRC should write to these organisations and tell them to preserve these records. If these organisations reply that they don't have the records, demand that the CCRC go and look for them.

Your application should include everything that you think might be important. Don't assume that the CCRC will investigate anything unless you tell them to. And explain in detail precisely how each point of your application could make a real difference to your case. Tell them what difference it would have made to the jury's decision if the fresh evidence you expect the CCRC to find had been heard in court.

CCRC – Quality Applications

You are likely to need fresh evidence, so tell the CCRC precisely where you think it can be obtained. But if the fresh evidence was actually available when you were tried, but not used, the CCRC will not consider it because they say the appeal court will not want to hear it. But this is not a hard and fast rule. The appeal court often rejects evidence available at the trial, but it can hear any evidence it likes if it thinks that is in the interests of justice. So you may have to argue with the CCRC about this. The CCRC has to assess whether any case they refer for an appeal is likely to succeed. The key case that should guide them when assessing fresh evidence is that of Pendleton, in which the House of Lords stated that the Court of Appeal should ask itself 'whether the evidence, if given at the trial, might reasonably have affected the decision of the trial jury to convict. If it might, the conviction must be thought to be unsafe.' Ask for this test to be applied to any fresh evidence in your case. When you receive the final decision from the CCRC, if you don't agree with it then tell them exactly why, in detail. They may still not have understood why your fresh evidence really is important. Make sure your reasoning is crystal clear and logical. Find someone to help argue in support of the points you wish to make. And if the CCRC still doesn't seem to understand, or remains unwilling to investigate fresh evidence, ask your lawyer to consider a judicial review of their decision.

This is only a very brief summary of our Guide to Making Applications to the CCRC.
The full version can be downloaded from our website www.unitedagainstinjustice.org.uk
If you don't know anyone who can send you a copy, then write to:
INNOCENT, PO Box 282, Oldham OL1
3FY, marking your envelope 'UAI Advice'.

IMPORTANT NOTICE

Information is given on a strictly 'without-liability' basis, and should be considered for use as guidance only. If you propose taking further action based upon this information you are strongly advised to take further and more specific legal advice before doing so.

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