



NON-COOPERATION CASES, ABSCONSION AND WITHDRAWN APPLICATIONS

CASEWORK POLICY

Table of Contents

Introduction 1
 The Commission is unable to trace the applicant..... 1
 Applicants who have absconded from prison..... 2
 Non-cooperation with the Commission 2
 Withdrawn applications 2

Introduction

1. This document sets out the Commission’s approach to cases in which:
 - (i) The Commission is unable to trace the applicant;
 - (ii) The applicant has absconded from prison;
 - (iii) The applicant is not co-operating with the Commission;
 - (iv) The applicant wishes to withdraw his application.

The Commission is unable to trace the applicant

2. If correspondence is returned to the Commission marked “gone away” and there is no up-to-date information as to how the applicant can be contacted, the Commission will take reasonable steps to obtain a forwarding address.
3. If the Commission ascertains a new address for the applicant, a letter will be sent, requesting confirmation that the applicant wishes the review to continue. If no response is received within 20 working days, the case will be closed.

4. If the Commission is unable to trace the applicant, the case will be closed. If the applicant contacts the Commission subsequently, s/he will generally be advised to make a further application.

Applicants who have absconded from prison

5. The Commission will not generally attempt to ascertain the whereabouts of an applicant who has absconded from prison. If, however, the Commission becomes aware of the applicant's whereabouts, the matter may be reported to the Police: see [Reporting Crimes and Other Professional Misconduct](#).
6. If an applicant is represented and the lawyers are instructed sufficiently well to conduct any appeal, it will generally be appropriate for the Commission to continue with the review: [*R v Charles and Tucker* [2001] 2 Cr App R 15]. If the applicant is not represented, then application will generally be closed.
7. When the applicant is apprehended, s/he will generally be advised to make a further application.

Non-cooperation with the Commission

8. If the applicant fails to co-operate with the review by failing to provide information or authority reasonably requested by the Commission, having rejected the appropriateness of meeting with the applicant (or having met with the applicant), the Commission will seek written confirmation of the decision not to accede to the request. In the absence of exceptional circumstances, that request will include a statement to indicate that absent the relevant co-operation from the applicant the Commission will proceed to close the case without further investigation. 20 working days will be allowed for the response. The applicant should provide the information sought by the Commission, or reasons why it is not possible to do so, within that timescale. Any application for further time will be considered in line with the Commission's policy on [Extensions for further representations](#).
9. Where there is no response or confirmation of the decision not to co-operate, in the absence of exceptional circumstances the Commission will close the case.

Withdrawn applications

10. If an applicant makes a written request to withdraw an application, the Commission will consider whether it appears that the request is being made

NON-COOPERATION, ABSCONSION AND WITHDRAWAL

2

This document will be reviewed and updated when necessary.

This current version was reviewed on 31 July 2017

#1288728

on an informed basis. If it appears that any improper pressure is being applied to the applicant then the Commission will make appropriate enquiries. If the capacity of the applicant to make informed decisions is in doubt then the Commission will contact the applicant's representative or encourage legal representation to be sought. Where appropriate, the Commission will seek medical or other advice.

11. The Commission does have the power to review in the absence of an application: see section 14(1) Criminal Appeal Act 1995. In principle, therefore, a review may proceed even when the applicant has indicated that s/he would prefer to withdraw. Before proceeding on that basis in respect of a withdrawn application, however, the Commission would consider (i) its own available casework resources; and (ii) any significant legal or public interest issues raised by the application. The Commission would only proceed with a review where the applicant has made an informed decision to withdraw their application in exceptional circumstances and where there is a clear public interest in so doing.
12. Where the Commission is satisfied that the applicant would fail to pursue an appeal even if the case were to be referred, the review will be closed.

Decision making

13. A decision to close a case in any of the circumstances addressed by this policy can be made by the Director of Casework Operations, the Chief Executive or a Commissioner.