



# CCRC

Criminal Cases Review Commission

Annual Report and Accounts

2016/2017

# Criminal Cases Review Commission Annual Report and Accounts 2016/17

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of Schedule 1 to the Criminal Appeal Act 1995.  
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of Schedule 1 to the Criminal Appeal Act 1995.

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## Our vision and purpose:

- to bring justice to the wrongly convicted by referring cases to the appellate courts
- to identify, investigate and correct miscarriages of justice in a timely manner
- to act independently in the interests of justice and to use our unique knowledge and experience to improve the criminal justice system and inspire confidence in the integrity of the criminal justice process

## Our overall aims:

- to investigate cases as efficiently and effectively as possible with thoroughness and care
- to work constructively with our stakeholders and to the highest standards of quality
- to treat applicants, and anyone affected by our work, with courtesy, respect and consideration

## Our values:

- to promote public understanding of the Commission's role
- independence
- integrity
- impartiality
- professionalism
- accountability
- transparency
- timeliness







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Royal Courts of Justice  
The Strand  
London  
WC2A 2LL  
Monday 30 July 2007

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AL

Between  
LORD JUSTICE JILL  
MR JUSTICE JILL

THE COURT OF APPEAL  
IN CIVIL MATTERS

## Section One

## Performance Report

This section is in two parts. The first is the overview section which contains a foreword from our Chair and an introduction to the report from our Chief Executive. It also provides a summary of the Commission's purpose, its powers and performance as well as an outline of the key risks to its performance and the achievement of its aims. This overview is designed so that readers will gain a reasonable understanding of the Commission and its current position without the need to look further into this report unless they want to find further or specific details.

The second part provides more detailed analysis of how the Commission has performed in the last year in specific areas such as the main casework function of the Commission as well as how it has performed financially and in other areas of its work.

### Overview

## Chair's Foreword

This, our 20th anniversary year, has been another extremely busy one for the Commission with continuing high levels of applications to us including a number of high profile cases to deal with, Sergeant Alexander Blackman (Marine A) being the most recent of many.

High profile cases can generate considerable public interest and Commission reviews are often conducted against a background of intense media interest and scrutiny. It is of the essence that in approaching such reviews the Commission brings the same impartial, objective, careful and thorough consideration and analysis to bear as it does in all other cases. This is important. A potential miscarriage is not more-or-less important by virtue of the public interest it generates. In the Commission's experience, some of the worst and most shocking miscarriages are those which have received little if any public attention.

As in other parts of the criminal justice system the combination of high business volumes and funding constraints presents us with significant challenges; not least because similar pressures on other parts of the system have knock-on effects for ourselves. For example, a major cause of miscarriages of justice continues to be non-disclosure, at or before trial, of material which could have been of assistance to the defence.

Sometimes non-disclosure is deliberate. But all too often it is caused by a combination of the sheer volume of material to be considered, which in recent years has grown significantly, and the increasing pressure on the resource available to those whose duty it is to check it, almost invariably the police.

We are aware that this problem has exercised senior practitioners across the criminal justice system in England, Wales and Northern Ireland and has been the subject of much comment in criminal justice inspectorate reports and elsewhere recently. Indeed, on page 34 of this report we discuss how this year we have sought to assist the efforts of the inspectorates to tackle some of the issues in this area. Urgent action is needed to resolve these matters.



The financial costs of doing the necessary work will need to be weighed not only against the terrible human cost that can be wrought by miscarriages of justice, but also against the potentially huge resource costs of rectifying such problems after they have occurred. The costs of funding this Commission represent only a part of the price of resolving matters when justice miscarries.

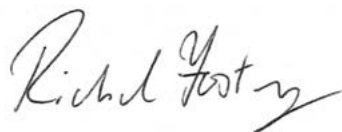
The year just gone has seen fewer referrals from the Commission than usual. But our experience over the past two decades is that the numbers vary considerably from one year to another, and that it is unwise to read too much into a single year's figures. It is important to recognise that, while our purpose is to find and refer appropriate cases for appeal, the money we spend on considering the many cases that should not be referred is money well spent. Those cases where we can see nothing on which to base a referral also provide an assurance that the criminal justice system in those cases has functioned as it should. In a well functioning criminal justice system the overwhelming majority of convictions should be safe and well founded.

The Commission is an independent body and decisions on whether to refer cases back to the courts are decisions which are entrusted to the Commission and to the Commission alone. In reaching its judgments the Commission is required to apply a statutory test – the so called “real possibility test” which requires the Commission to decide whether it has identified grounds sufficient to raise a real possibility that the courts would be minded to quash a conviction (or change a sentence) were the case to be referred. Some have argued that this in some way makes the Commission the handmaiden of, or unduly deferential to, the courts. That is not the Commission's view. Nor when we reflect on the comments made by the judiciary on our referral judgments – which can range from the highly complimentary to the exact opposite – does it seem to be the courts' view either.

In one recent case the Lord Chief Justice personally voiced very direct criticism of our referral decision and went so far as to wonder whether it should be judicially reviewed. He was sure we would wish to reflect on the judgment we had reached in this particular instance. The Commission's approach to any criticism is to reflect carefully on points raised to see if there are lessons it should learn. Having done so in this particular context, the Commission does not have any plans to change its approach. Nor, at the date of writing, have the parties concerned made any move to pursue judicial review.

I must pay tribute to three highly experienced Commissioners who left us during the year. Jim England, Julie Goulding and Ewen Smith all served at the Commission for ten years having joined together in 2006. All three made a huge impression on the Commission and will be hard to replace and very much missed.

Finally, I would like to say a word about Alastair MacGregor QC. Alastair served as acting Chairman long before my arrival at the Commission and, as well as being a gifted and hard working Commissioner, was my deputy Chair until he left the Commission in November 2013 after very nearly ten years to serve the public as the first Biometrics Commissioner. As I said in my foreword the year he moved on, he was a tower of strength at the Commission and his wisdom and experience were a particular help to me. Sadly, having retired as Biometrics Commissioner just a few weeks earlier, Alastair died suddenly after a short illness in September last year. His death was a great shock to his many friends here at the Commission and he is sadly missed.



**Richard Foster CBE,**  
Chair



# Introduction from the Chief Executive

This year, 2016/17, was the 20th year of operation for the Commission; and like every year of our existence, it was full of challenges.

We have continued to experience high levels of demand with almost 1,400 applications this year. I am pleased to report that our ability to cope with this sustained high level of case intake has been reinforced this year as we have begun to reap the benefits of significant changes we have made to the way we work.

Those changes, discussed in detail in last year's report, were largely aimed at helping us to deal properly but in a more timely way, with all applications when they arrive so that we can identify and focus our resources on those that require the most work. As those changes have bedded in we have seen significant reductions in the time it takes us to start those reviews. Whilst tackling queues has rightly been the focus of our corporate strategy, we are conscious that the improvement in waiting times has contributed to some lengthening of average review times. This is considered further on page 14.

We set ourselves the goal that by March 2018 we would essentially eliminate an applicant's wait by starting work on a case requiring a detailed review as soon as practically possible after the arrival of the application. We think it will always take up to three months to assess an application and then to obtain and put together all the material we think we need to start a review. Our goal therefore is to allocate cases for review as soon as our initial assessment tells us that significant work is needed and to obtain what we need and begin the review within three months of the case arriving.

It is an ambitious target but we have made real progress towards it during 2016/17 and we remain on track to reach it in March 2018. When we do it will be a significant achievement for the Commission and very much to the benefit of our applicants. We are not complacent and know that we will only continue making progress with the timeliness and quality of our work if we maintain our focus and continue to attract and retain talented and committed people.

Perhaps the most striking feature about our work this year is that, while the number of applications received, and the number of cases completed, has been comparable with recent years, the number of cases in which we have found reasons to refer a case for appeal has fallen markedly. With only 12 cases referred for appeal during 2016/17 we are well below the historic average of 33 referrals a year. Indeed it is the lowest number of cases we have referred in any year. We are of course keen to understand why this may be, but as we have said in previous years when the number of referrals has been particularly low, or unusually high, the reasons are not entirely clear.

As discussed later in this report, part of the reason is undoubtedly that we have not this year seen any of the batches of referrals linked by theme (such as the recent asylum and immigration cases or the strings of historic cases like those involving the West Midlands Serious Crime Squad and others). It is also notable that we have not seen, as we have become used to seeing, multiple referrals relating to the Troubles in Northern Ireland.

Notwithstanding such absences, the number of referrals is below what we have come to expect. I certainly do not think that we can infer there has been an actual drop in the number of cases that need the unique scrutiny that the Commission provides. It may be that the number of referrals will return to higher levels next year. In the meantime we will be doing all we can to make sure that we are reaching those people who may need us and to ensure that we are doing all we can to identify and refer miscarriages of justice to the appeal courts.

We know from experience that a single issue can, and often has, contributed a high proportion of Criminal Case Review Commission (CCRC) referrals in any given year. Indeed, early on in 2016/17 it looked as though the Supreme Court's decision in *R v Jogee* (see page 15) might well generate a number of referrals. In the wake of that decision we looked into more than 100 cases involving joint enterprise murder convictions; some were old cases we looked at again, some were current cases and others were brand new post-Jogee applications.

When the Court of Appeal's judgment came in the first Jogee-related applications for leave to appeal, it was apparent that the decision of the Court not to grant leave narrowed the applicability of Jogee. As a result, the number of cases where Jogee might have provided a reason to refer a case has been reduced.

Another notable feature of the year has been the number and proportion of cases where applicants won their appeal following a CCRC referral. We have become used to seeing close to 70% of our referrals being successful in this way. That dropped to 53% in 2015/16 and dropped further still in this reporting year to 46%. Whilst we do not have a target "success" rate we do of course pay very close attention to what happens to our referrals to see what we may be able to learn.

In terms of our finances we fared reasonably well in 2016/17. A standstill budget for the year enabled us to keep on top of a continued high level of applications allowing us to maintain a steady state and to continue implementing refinements and improvements to our casework function. We have also been able to continue with the vital modernisation of our IT systems to make us fit for the years ahead and which will help support effective and efficient case review.

Finally, we have seen some significant changes to our personnel during the year. As well as the departure of several Commissioners as mentioned in the Chair's foreword, we have seen a number of staff come and go. Our Human Resources and Facilities Manager, Brenda Pugh, left in April this year having been with the Commission since the very start in 1997. It is hard to over-estimate her role in making the Commission a well run organisation and a good place to work. Her experience and her input will be much missed.



**Karen Kneller,**  
Chief Executive

# The Criminal Cases Review Commission in 2016/17

The creation of an independent Commission to look into alleged miscarriages of justice was a key recommendation of the Royal Commission on Criminal Justice in 1994. The Royal Commission was established in response to a series of shocking miscarriages of justice that came to light in the 1980s and 1990s and which included the Guildford Four (1974), the Birmingham Six (1975) and the Maguire Seven (1976). These cases featured a mixture of false confessions, police misconduct, non-disclosure and issues about the reliability of expert forensic testimony.

The Criminal Appeal Act 1995 established the Criminal Cases Review Commission (CCRC) to independently investigate alleged miscarriages of justice in England, Wales and Northern Ireland<sup>1</sup> and where necessary to send cases back to the courts for a fresh appeal to be heard. We started work 20 years ago on 31st March 1997.

In the intervening two decades the CCRC has sent 631 cases back to the appeal courts at an average rate of 33 cases a year. This means that, overall, we have so far referred one in every 30 applications. Of the cases we have referred, 69% have succeeded on appeal.

This year, as in all previous years, the cases with which we have dealt have come generally from the most serious end of the criminal spectrum; around one quarter of all CCRC referrals have been for homicides, around 12% have been for rape convictions, and eight per cent have been for robberies. The rest relate to a mixture of other mostly serious and mostly indictable only offences including terrorist offences.

Cases usually come to the Commission by way of written applications from the people convicted of the offences in question, or from someone representing them. The vast majority of people use our application form which is specially designed to be easy to use. During 2016/17 we received 1,397 applications. This is comparable with the number of applications we have been receiving in recent years.

We consider applications in relation to convictions at the Crown Court and the magistrates' courts. Around 90% of all our applications and 95% of all our referrals, have related to Crown Court cases. We can also consider applications in relation to the sentence handed down by either court.

The Commission is a post appeal organisation created to review cases where a person has been convicted of an offence, and has exhausted their normal rights of appeal, but maintains that they have been wrongly convicted or incorrectly sentenced. The Criminal Appeal Act 1995 stipulates that the Commission cannot refer a case for appeal if the applicant has their normal appeal rights remaining, unless there are "exceptional circumstances" that mean we should do so.

<sup>1</sup> Scotland has a separate legal system and separate CCRC see: [www.sccrc.org.uk](http://www.sccrc.org.uk)



## How we work

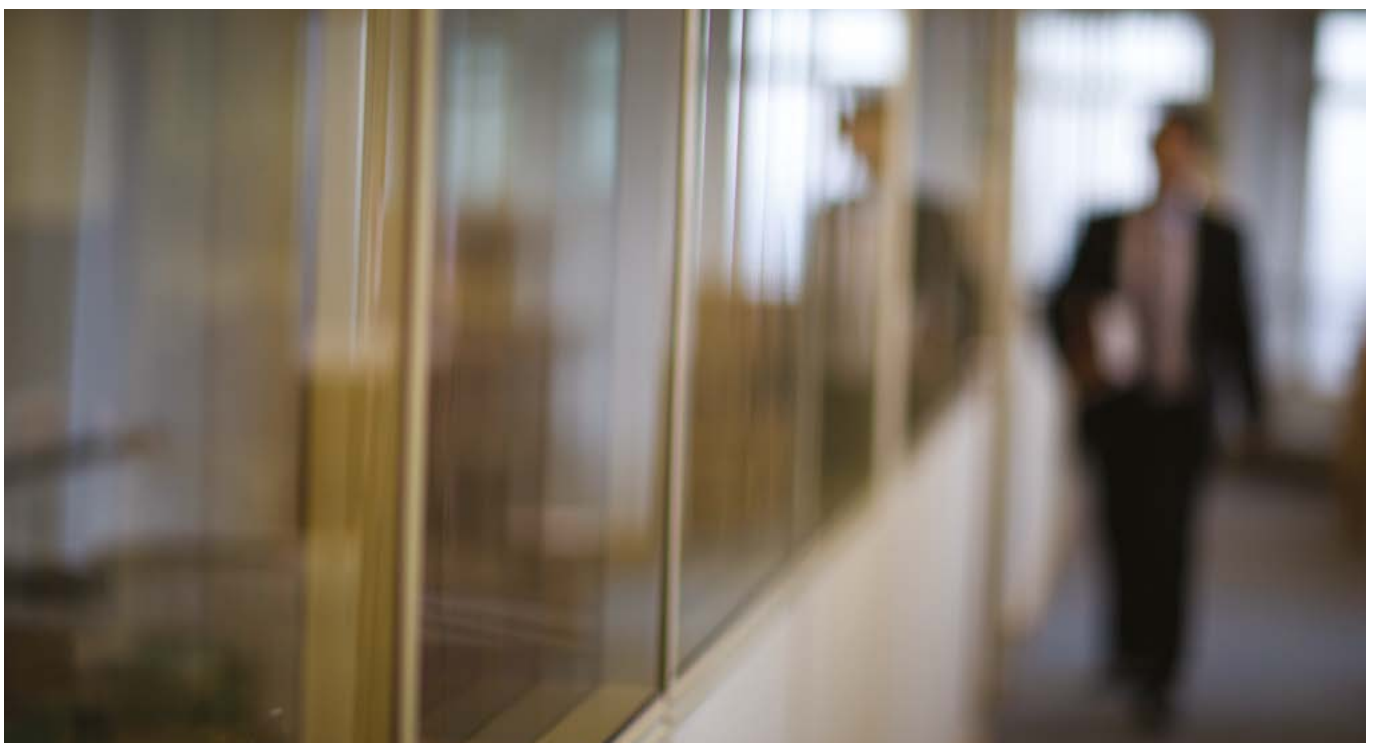
In order to be able to refer a case to the appeal courts, the Commission generally needs to be able to point to some potentially important new evidence or new legal argument that makes the case look sufficiently different to how it looked at trial or at an earlier appeal. The evidence or argument usually needs to be new in the sense that it was not available at the time of the conviction or the appeal. If the evidence in question was available but not used at the time of the trial or appeal, there will need to be good reasons why it should now be treated as new.

When we come to decide whether or not we can refer a case for appeal, we are obliged to apply a threshold test, known as the “real possibility test”. The test was set out by Parliament in section 13 of the Criminal Appeal Act 1995. Essentially it says that the Commission can only refer a case where it is satisfied there is a real possibility that the conviction would be quashed (or in the case of a sentence referral, that the sentence would be changed) if the referral were made.

Decisions about whether or not cases can be referred are always taken by one or more of our Commissioners. For most of 2016/17 there were 12 Commissioners, including the Chair of the Commission (see page 38 of the Directors’ Report for changes to Commissioner numbers during the year). Commissioners are chosen for their professional experience and ability to make important decisions in complicated matters. They are appointed by the Queen on the recommendation of the Prime Minister.

The Commission looks carefully at every single application that arrives. What it does in each case depends on a number of things.

If the application is from someone who has been convicted but still has the right to appeal in the normal way through the courts, we will usually advise them that the Commission is a post-appeal body and that they can and should try to appeal via the relevant court. Historically more than 40% of all our applications have related to such “no appeal” cases (see page 13). The Commission can review “no appeal” cases but only where it can identify exceptional circumstances that mean we should review the case in spite of the fact that the person applying still has the right to appeal direct to the courts. During 2016/17, some 536 applications were no appeal cases (that is 38% of all applications received in the year) and we accepted 99 such cases for review because there were potential exceptional circumstances.



We also receive a number of applications each year that are “ineligible” because the cases are not within our jurisdiction and we cannot review those cases. In some other cases, applications arrive that simply do not present any issues that we can review or investigate. It is not unusual for applications to simply restate the points that have already been made, unsuccessfully, at trial and/or at appeal. In such cases, if we are unable to see in the case any new issues, or potential new issues that we can work on, we will explain the position to the applicant and close the case.

Around half of all the applications we receive relate to cases that are eligible, where there has been a previous appeal (or there are potential exceptional circumstances), and where the application makes us think that there are, or there maybe, aspects of the case that require further scrutiny by the Commission.

All of these cases are allocated to one of our Case Review Managers so that a review can be conducted.

A Case Review Manager’s job is to review the case and to conduct whatever investigations may be necessary to decide whether or not there are grounds upon which we could refer that case for appeal.

In doing so they can draw upon all of the Commission’s resources; they will obtain and consider whatever material we need, interview anyone we need to speak to and obtain independent expert evidence if necessary. In some complex cases a Commissioner will be assigned at an early stage of the review to oversee the inquiry and make investigative decisions.

When, towards the end of the investigative stages, the time comes to decide whether there is any new evidence or argument that could mean there is a “real possibility”, the Case Review Manager will put the results of their review to a committee of three Commissioners if it seems that a referral to the appeal courts is possible. If there is no prospect of the case being referred, the Case Review Manager will put it before a single Commissioner.

If the committee of three Commissioners decides that there is a real possibility the appeal court will quash the conviction (or in the case of a sentence referral, amend the sentence), the committee will normally refer that case so that an appeal must be heard at the appropriate appeal court. (Crown Court cases are appealed at the Court of Appeal whereas magistrates’ court cases are appealed at the Crown Court).

If a committee, or a single Commissioner, decide that there is no prospect of a referral, a document explaining the position, and the reasons for it, will be sent to the applicant. Where necessary the applicant and their representative (if they have one), are invited to respond to that initial decision. This is an opportunity for them to persuade the Commission that its provisional decision not to refer was incorrect. The Commissioner or committee of Commissioners will consider the response before making a final decision in the case.

### **Our performance in 2016/17**

The casework section of this report at pages 12 to 26 sets out in detail how the Commission has performed in its core task as a caseworking organisation. It explains how we have performed against a range of targets such as how long it takes us to review applicants’ cases.

The casework section shows that we have made significant progress in our aims to reduce the time that applicants have to wait before a review of their case begins. We have set ourselves the target of bringing this down to the point at which the allocation of the case to the Case Review Manager who will conduct the review coincides with the decision that the application needs a substantive review.

Sections 17 and 18A mean that the Commission should always be able to pursue and obtain material relevant to our investigations.

The casework section of this report also discusses the relatively low level of referrals that we have made during the year. We referred 12 cases for appeal during 2016/17. This is the lowest ever annual total and represents a significant decrease compared with recent years and with the long term average of 33 referrals a year. The drop in referrals and possible reasons for it are analysed in more detail on pages 14 to 15 and are addressed by the Chief Executive in her introduction on pages five and six.

Needless to say, one year's figures do not constitute a trend and we have no reason to suppose that the drop in referrals will be a permanent feature of CCRC casework.

Another notable feature of 2016/17 is the proportion of our referrals that have resulted in appeals being dismissed by the Court of Appeal. In 2016/17, only 46% of CCRC referrals succeeded on appeal. This compares with a historical average of 69%.

### Our Powers and Investigations

During 2016/17, after many years in which the Commission has pursued a change in legislation, Parliament amended the Criminal Appeal Act 1995 to create section 18A which provides us with a new power to obtain material from private sector organisations and private individuals. The arrival of the new power, which can only be exercised with the agreement of a Crown Court Judge, is discussed in detail on pages 16 and 17.

This new power now sits alongside our pre-existing power under section 17 to obtain any material we believe necessary for our work from any public body. Section 17 covers everything from the normal case materials in the hands of the police and the CPS to the secret products of covert human intelligence sources, government papers and material held by any other public entity. Together, sections 17 and 18A mean that the Commission should always be able to pursue and obtain material relevant to our investigations as long as it is reasonable for us to require it.

The Commission can also require a police force to carry out investigations on its behalf. This power comes from section 19 of the Act. Section 19 means that where it considers it necessary to do so the Commission can require the Chief Officer of a police force to appoint an investigating officer to work with the Commission and carry out investigations under its instructions and guidance. This means that the investigations can be carried out with the use of police powers such as conducting interviews under caution. The Commission usually, but not always, requires the appointment of a section 19 investigating officer from a force other than that involved in the case under investigation. We tend to use this power sparingly and usually only when we think there may be an advantage in using police powers (such as interviewing under caution) or where an investigation is simply too large for a body of our size.

Although the Commission's main function is to consider the cases of individuals who apply to us, we also have a lesser known but significant role investigating on behalf of the Court of Appeal Criminal Division when the court is considering a first appeal or an application for leave to appeal.

The Court of Appeal can direct the Commission to investigate and report on matters related to ongoing appeals under section 23A of the Criminal Appeal Act 1968 and section 15 of the Criminal Appeal Act 1995. Such investigations usually involve the Commission looking into allegations of irregularity or misconduct relating to jurors. During 2016/17 we completed one such investigation for the Court (see page 25).

### **Our aims and the threats to them**

The Commission sets itself a number of goals that it wants as an organisation to achieve. Those goals are set out in the Business Plan we publish each year (see the publications section at [www.ccrcc.gov.uk](http://www.ccrcc.gov.uk)).

Our Business Plan for 2016/17 set out our core aims: to eliminate queues whilst maintaining the quality of our casework, to increase public confidence in us and the wider justice system by explaining ourselves and engaging more with stakeholders, and delivering a professional and accountable service to our applicants and to the criminal justice system.

Having received sufficient resource and capital funding to maintain our staffing levels and improve IT systems, the principal risk to the achievement of our aims in 2016/17 was the loss of our three most experienced Commissioners during the second half of the year and our ability to maintain our throughput and quality of casework. As regards more general business risk factors to the Commission, we regularly review risk management through the Audit and Risk Assurance Committee which is chaired by one of our non-executive directors and at the board.

### **The Commission as a going concern**

The Commission is an independent NDPB (Non-Departmental Public Body) funded by way of a cash grant – a Grant in Aid – from the Ministry of Justice. The funding mechanism allows us to maintain our independence from the Government and from other parts of the criminal justice system including the courts, the police and the prosecution.

For the financial year 2016/17 the delegated cash budget allocation we received was £5.43 million, including £0.31 million for capital – that is almost identical to the previous year when it was £5.40 million. In 2016/17 we spent our allocated grant to within one per cent of the total which is a good outcome demonstrating sound financial management.

The Statement of Financial Position at 31st March 2017 (on page 60) shows a negative total taxpayers' equity of £6.634 million. This reflects the inclusion of liabilities falling due in future years which, to the extent that they are not to be met from the Commission's other sources of income, may only be met by future Grants in Aid from the Commission's sponsoring department, the Ministry of Justice. This is because, under the normal conventions applying to parliamentary control over income and expenditure, such grants may not be issued in advance of need.

Grant in Aid for 2017/18, taking into account the amounts required to meet the Commission's liabilities falling due in that year, has already been included in the Ministry of Justice overall estimates for the year and has been approved by Parliament. There is no reason to believe that the Commission will not continue to receive departmental sponsorship and future parliamentary approval and there is no reason to suppose that the Commission will not continue in its current form. On that basis, it is considered appropriate to adopt a "going concern" basis for the preparation of these financial statements.



**Karen Kneller,**

Chief Executive and Accounting Officer  
4th July 2017



Some of our reviews take too long and we have been focusing increasingly on timeliness, whilst seeking to protect the quality of the review.

## Analysis of Performance

### Casework

During 2016/17 we received 1,397 applications. This is in line with the higher level of applications received over the last three years.

#### Our challenge

Our challenge continues to be that of dealing with a high number of cases, to reduce the time taken from application to decision making by increasing the efficiency and effectiveness of our review and decision making processes whilst maintaining the quality of our work. During 2016/17 we reduced the waiting time for a substantive review to commence (from application to allocation) from 55 weeks to 48 weeks for liberty cases and from 30 weeks to 22 weeks for those in custody. Whilst those waiting times are still too long, we remain on track to meet our Corporate Plan aim for all applicants to wait a maximum of three months (or 13 weeks) for a substantive review to start by the end of March 2018.

We made major changes to the manner in which we carry out our casework through 2014/15 and 2015/16. During 2016/17 we have been engaged in consolidation of those alterations, with particular focus on the associated culture changes and on our longer-running reviews. Amongst other things, led by the long running cases sub-committee, we have increasingly asked ourselves what we can learn from those longer-running reviews to further our potential to carry out efficient high-quality reviews in the most challenging cases. Some of our reviews take too long and we have been focusing increasingly on timeliness, whilst seeking to protect the quality of the review. We have also improved our approach in taking a formal 'stock take' of progress in cases that have been under review for 12 months.

On the topic of learning, throughout the history of the Commission's existence, we have been interested in the outcomes of our referrals and in any observations that are made by the courts in the process. In 2016/17, we have enhanced our approach by introducing post-judgment meetings between the Director of Casework Operations, case committee and relevant Case Review Manager to reflect on the case, with any learning being highlighted subsequently at board level. That approach is supplemented by a regular Commissioner-led 'round up' of relevant themes emanating from Court of Appeal judgments.

With a slight reduction to Commissioner resource level in casework, we have managed to complete 1,563 case reviews. This compares with 1,797 cases closed in 2015/16, 1,632 cases closed in 2014/15 and 1,131 cases closed in 2013/14.

We have reduced the number of cases awaiting allocation from 397 at the end of March 2016 to 302 at the end of March 2017. We have had another extremely productive year, but we remain committed to reducing further the time that applicants spend waiting for us to begin our review of their case and for us then to make a decision at the end of our review.

#### Casework resources

Once again, we were relieved to have received what was virtually a 'stand still' budget for 2016/17, following our submissions to the Ministry of Justice of a business case in light of the continuing process changes that we have been making to help us to work more efficiently. Over the course of 2016/17, our Commissioner resource decreased slightly with three experienced Commissioners coming to the end of their terms in the Autumn/Winter of 2016. A recruitment campaign was run to recruit new Commissioners, but that process was not completed in year. The level of Case Review Manager, Casework Administrator and specialist support resource has remained almost constant. Our complement of interns has been lower than we would have liked and has fluctuated between one and four over the course of 2016/17.

During the course of 2016/17, we have further benefited from our arrangement with the Advocacy Unit of the Public Defenders Service (PDS), whereby that Unit has provided us with legal advice on specific casework issues and training. We are grateful to the PDS for that assistance.

### **No appeal cases**

Applications to the Commission should not be seen, or used, as a mechanism by which applicants can by-pass conventional appeal processes.

For the last four years, around 40% of all new applications received by the Commission were “no appeal” cases; these are applications where there has been no previous appeal and no previous application for leave to appeal.

In no appeal cases, the Commission can refer the case for appeal only if, in addition to the test that applies to every case, we find that there are exceptional circumstances for doing so. Where no exceptional circumstances are suggested by the applicant, and where none are apparent to the Commission, the applicant is advised to seek an appeal in the conventional way.

We deal with these cases to determine whether there are potential exceptional circumstances as efficiently as possible so that we can inform applicants quickly if their most appropriate route to appeal is to directly approach the relevant court. That also enables us to focus more of our resources on cases where the applicant has no alternative avenue, which is our core purpose.

Although we have taken steps to try to minimise the number of inappropriate no appeal applications to us, the continued high proportion of no appeal cases remains a concern as it detracts from our ability to deal more quickly with those who have no other route to appeal.

### **Casework**

From March 2016 to March 2017 we have managed to reduce maximum waiting times to allocation:

- From six months to five months for custody cases
- From 19 months to 11 months for liberty cases

We have met the interim milestones that we set for ourselves for the reduction of maximum waiting times and we remain on track to achieve our Corporate Plan objective to have done away altogether with the waiting times for both custody and liberty cases by the end of March 2018.

A proportion of our reviews involve complex cases and those cannot properly be undertaken quickly. Many months of painstaking work can be involved, including examining relevant files, instructing experts, interviewing applicants or witnesses and forensic testing. We are often heavily reliant on being supplied with the necessary information by organisations and individuals. Many of them, especially public bodies such as the police, courts and Crown Prosecution Service (CPS), continue to be under substantial resource pressure themselves. The largest and most complex cases bring their own challenges, but all ultimately need to be concluded. The work of the Long Running Cases Sub-Committee has continued in 2016/17, bringing additional scrutiny to timeliness in cases that take us more than two years to review.

The Commission’s casework performance is monitored using a set of Key Performance Indicators, or KPIs. The KPIs are discussed below and are set out on pages 81 to 83 of this report.

### **Time from receipt to allocation**

We appreciate how important it is for applicants to know how quickly we are commencing our review of their case. KPI 1 monitors the average time taken for an application to be allocated to a Case Review Manager (CRM) so that a case review can begin. We prioritise applications from people in custody over those from

people who are at liberty; during 2016/17, 68% of applications which merited a review were from people in custody and 32% from people at liberty.

Our target for KPI 1 in 2016/17 was to allocate custody cases in, on average, less than 22 weeks from receipt of application. Where the applicant is at liberty, we aim for an average of less than 48 weeks. In 2016/17 we exceeded those targets with an actual average time of 18 weeks for custody cases and 39 weeks for liberty cases.

### **Duration of review – time to decision from allocation**

We aim to review cases with both speed and thoroughness. KPI 2A monitors the average time taken for an application to be reviewed. In 2016/17, the time taken for review cases to reach the point where an initial decision was issued was 40 weeks, against our KPI 2A target of less than 28 weeks of being allocated to a CRM. Therefore, we did not meet our target. However because this average includes some very long running cases, we also track the average excluding the complex cases that take over two years to review. On that basis the average sits at 29.5 weeks.

### **Duration of review – cases closed within 12 months from application**

For applicants the key issue is not the time taken at different stages but how long the Commission takes from receipt of their application to completion of their case. So KPI 2B measures the proportion of cases closed within 12 months of the application being made. Our target is 70%.

For 2016/17 we actually achieved 70.6%.

### **Long Running Cases**

KPI 3 records the number of applicants whose cases are over two years since the case was allocated for review. Our target was to reduce to 30 the number of applicants whose cases have been under review for more than two years. At the end of March 2017, the actual number of applicants was 75.

The Long Running Cases Sub-committee (see page 43) exists to track and scrutinise any cases review that have not been completed after two years. Despite the work of the sub-committee, the number of cases which have taken us more than two years to review has increased, although the longest review time has now decreased substantially. There are two main factors which have led to this outcome: the sheer quantity of review work being managed and the transformation of our approach to case review necessarily taking time to have maximum effect.

### **Referrals**

In 2016/17 the Commission referred 12 cases to the appeal courts. This means that we referred 0.77% of the 1,563 cases concluded this year. In the previous year the referral rate was 1.8% and in 2014/15 it was 2.2%. The Commission's long-term referral rate stands at 3.30%.

We do not think that this unusually low percentage is a long term reduction in the number of miscarriages of justice or the Commission's ability to detect and refer them. We think it is explained as follows:

In the past, we have very often experienced 'batches' of miscarriages of justice that involve multiple co-defendants and/or a particular theme, such as:

- inappropriate legal advice given to those charged with (and then convicted of) offences relating to the applicants' entry to the UK where the applicant was a refugee;
- failures to make appropriate enquiries or disclosure of matters relevant to the credibility of a key witness in a sex offence case;

Of note this year are the facts that all of our referrals have involved single individuals (as opposed to any “multi-handed” cases) and that no theme appears to link any of the cases.

- changed understanding of the significance of medical findings in specific types of cases (such as sex offence cases and some infant death cases);
- misuse of participating informants/controlled deliveries in drug importation cases;
- misconduct by a specific group of officers (such as in West Midlands Police Serious Crime Squad, Rigg Approach and some Northern Ireland Troubles-related confession cases).

Of note this year are the facts that all of our referrals have involved single individuals (as opposed to any “multi-handed” cases) and that no theme appears to link any of the cases.

The Commission has always reported its referral rate as a percentage of the total number of cases closed. However, it is perhaps worth providing here some context for that calculation. The total number of cases closed includes every application received regardless of whether it comes under the statutory remit defined for the Commission by the Criminal Appeal Act 1995. This means that the total cases figure includes applications relating to civil matters or other proceedings outside of our jurisdiction, cases where applicants have appeals pending and No Appeal cases where there are no exceptional circumstances (discussed above) that the Commission could not refer in any event. If cases of this type were removed from the calculation, along with reapplications that raise no new grounds, the Commission’s long-term referral rate would stand at something approaching seven per cent.

### Joint Enterprise

Inevitably, in light of the Supreme Court’s decision in *R v Jogee and others* [2016] UKSC 8 and the Court of Appeal’s subsequent judgment in *R v Johnson and others* [2016] EWCA Crim 1613, a significant number of applications (67) to us this year have concerned the judge’s direction to the jury on joint enterprise. A number of cases already under review with us have also required expansion to consider the judge’s joint enterprise direction and its context in the case. Given the tight framework for these cases established by the Supreme Court and Court of Appeal, we had not yet, at the time of writing, identified a case where a real possibility exists on the basis of the joint enterprise direction.

### Randox

We are concerned about the impact of an issue that came to light towards the end of 2016/17 regarding data integrity issues affecting some the results of drug tests on blood samples. We have been liaising with the Crown Prosecution Service and the Forensic Science Regulator in relation to this issue with our interest being in detecting any convictions that might be unsafe. We will continue with that communication in 2017/18.

### Special Demonstration Squad

In 2014/15 we reported that we had been involved in Mark Ellison QC’s review, for the Home Secretary, into cases where the activity of the Metropolitan Police Special Demonstration Squad may have caused miscarriages of justice. The Inquiry into Undercover Policing, led by Lord Justice Pitchford, opened in July 2015<sup>2</sup>.

In 2016/17, the Crown Prosecution Service completed its review of cases where the safety of convictions might be affected by the practices adopted by the Special Demonstration Squad. The CPS provided the outcome of that review to us at the end of February 2017. We are now considering our own approach to that group of cases (19 ‘cases’, involving 84 convicted individuals).

<sup>2</sup> In June 2017 it was announced that Sir John Mitting would eventually take over the inquiry from, Lord Justice Pitchford who is retiring because of poor health.



### Post Office 'Horizon Computer' cases

We previously reported that in March 2015 we received 15 applications from former Postmasters/mistresses convicted of offences such as theft and false accounting having been prosecuted by the Post Office. The theme relevant to those applications is a suggestion that difficulties with the 'Horizon' computer system and/or with the training and support provided in using the system were the cause of the facts that led to the convictions. To date, we have received a total of 27 applications of this type and we are taking a co-ordinated approach to those reviews.

### A new power under section 18A of the Criminal Appeal Act 1995

Since its inception, the Criminal Cases Review Commission has had the power to compel a public body to provide documents or materials within its control to the Commission if it may assist in the exercise of any of the Commission's functions. Contained within section 17 of the Criminal Appeal Act 1995, this power allows the Commission to obtain materials from public bodies such as the police, courts and other agencies which provided the starting point for the vast majority of case reviews.

Section 17 has two particular limitations. Firstly, there is no statutory penalty for non compliance. The main recourse the Commission would have to rely on would be the threat of a judicial review against public body which refused to comply with a notice issued under section 17.

Secondly, the provisions of section 17 only apply to public bodies. Whilst this does appear to be an anomaly (the Scottish Commission has had the power to obtain documentation from private bodies and individuals since its inception) it is only in relatively recent years that this has become a particular problem.

Since the Commission was established 20 years ago, many functions previously fulfilled by public bodies are now performed by private companies. Examples include the abolition of the Forensic Science Service (FSS). Previously, the Commission could have used section 17 to obtain materials from the FSS, whereas now the same materials lie with private bodies which has the potential to cause disruption to the case review process.

The anomaly was remedied on the 12th July 2016, when section 18A of the Criminal Appeal Act 1995, as inserted into the Criminal Appeal Act by the Criminal Cases Review Commission (Information) Act 2016, came into force.

In summary, section 18A gives the Commission the powers to apply to the Crown Court for an order compelling a private body or individual to allow the Commission access to documents or materials within their possession. The Criminal Procedure Rules have been amended at section 47.54 to set out the practical process to be followed.

Subsections (3) and (4) of section 17 apply for the purposes of this section 18A as they apply for the purposes of section 17.

Section 17(3) provides that the material may relate either directly to a case to which the Commission's function may be exercised, or in relation any other case which may be connected in any way with that case.

This means that the Commission could, for example, seek information relating to a co-defendant of an applicant, even if that co-defendant had not applied to the Commission themselves.

Section 17(4) provides that the duty imposed on a public body is not affected "by any obligation of secrecy, or other limitation on disclosure (including any such obligation or limitation imposed by or by virtue of an enactment) which would otherwise prevent the production of the document or other material to the Commission or the giving of access to the Commission".

In other words, the duty on a private body or individual to comply with an Order under section 18A is not affected by matters such as the general sensitivity of the material, or medical confidentiality, legal professional privilege or the existence of a court order for public interest immunity, or by legislation such as the Data Protection Acts or the Official Secrets Acts.

Failure to comply with an order from the Crown Court would put an individual or company in contempt of Court and potentially subject to the associated sanctions.

It will not always be appropriate to alert a Respondent to the fact that the Commission is making an application for a section 18A order. This can be dealt with by way of an ex-parte application.

Applications of this nature will be rare, and will only be made when it is clear that the consequences for the integrity of the review should the Respondent be made aware of the application are potentially significant.

To date, the Commission has not applied to the Crown Court for a section 18A order, but this does not mean that the Commission and its applicants have not benefited from the new powers. The Commission will generally seek to negotiate with a private body or individual prior to initiating proceedings.

One specific example involves an applicant convicted of large scale fraud and dishonesty offences. In addition to the prosecution case it became clear that the applicant's former employer, a large scale international company, had undertaken its own investigation. The applicant submitted that there was information uncovered within this investigation that had not been disclosed to the prosecution or defence in the criminal proceedings.

The Commission opened a dialogue with the company, which was initially reluctant to disclose its internal investigation documentation. However, following a full explanation of the Commission's powers under section 18A of the Act, the company agreed that if an application was made, the court would likely grant an order and as such granted the Commission access to the materials without the need for proceedings.

### **Cases referred to the appeal courts in 2016/17**

(A table listing referrals in 2016/17 appears on page 78.)

#### *Winzar*

On 31st January 1997 Mr Dominic McCarthy was found unconscious and profoundly hypoglycaemic. He was taken to hospital for treatment but did not regain consciousness and died on 9 February 1997.

Mr McCarthy was a paraplegic, having suffered a motorcycle accident several years previously. His wife, Ms McCarthy-Winzar was employed as a senior ward sister. Mr McCarthy was very active, was in employment, was able to drive, to care for himself and the couple's young son and was keen on bodybuilding.

Hospital laboratory tests revealed that Mr McCarthy had had a very high insulin level and an unmeasurable level of c-peptide. The prosecution case was that Mr McCarthy's hypoglycaemia must have resulted from being administered a large dose of insulin, and that Ms McCarthy-Winzar alone had the opportunity to administer this. In addition, she was a nurse and had access to insulin, as well as the skills to inject it.

There was little evidence against Ms McCarthy-Winzar other than the immunoassay results. The Prosecution relied upon the assay results, combined with the clinical picture, to support the allegation that Ms McCarthy-Winzar had murdered her husband.

Ms McCarthy-Winzar denied any wrong-doing at all, stated that she had a happy marriage, and maintained that her husband must have died of natural causes. Ms McCarthy-Winzar pleaded not guilty to the murder of her husband when she

stood trial at Birmingham Crown Court in July 2000. She was convicted on 19 July 2000 and sentenced to life imprisonment.

Ms McCarthy-Winzar appealed against her conviction, but the appeal was dismissed by the Court of Appeal on 20 December 2002. She applied to the Commission in June 2005.

The Commission has conducted a wide range of enquiries during its extensive review of this case. Numerous experts have been consulted in what has been a highly complex review, exploring the latest developments in the relevant science. As a result of its enquiries, the Commission decided to refer the case to the Court of Appeal.

The Commission considers that new opinion evidence from medical experts gives rise to a real possibility that the conviction will be quashed. The expert opinion amounts to fresh evidence that the deceased may have died from natural causes. Although an administered dose of insulin remains the most likely cause of death, it is now unsafe to exclude natural causes, taking the evidence as a whole.

This is the longest case in the Commission's 20-year history, illustrating the lengths that the Commission will go to, in appropriate circumstances, to get to the bottom of a highly complex case.

The Commission has sought the expert advice of approximately 15 experts in the course of this review. The subject matter of the expert reports is complex. Instructing busy experts inevitably lengthens a review, and instructing multiple experts obviously adds to this. Liaising with so many experts and analysing their various opinions takes time.

The review considered hundreds of pages of written argument and supporting documents from the applicant. The material has been voluminous. Ms McCarthy-Winzar has added to these submissions on a number of occasions during the review, including detailed further representations in June 2013. The Commission sought to ensure that all arguments were carefully considered.

In addition, the Commission instructed Cambridgeshire Constabulary to conduct witness enquiries on our behalf (under section 19 of our Act), which appeared not to have been carried out during the original investigation and before reaching the final decision in this case the Commission took great care to ensure that we have considered the latest developments in the relevant science.

It is likely that the appeal in this case will be heard sometime in 2018.

### **Commission referrals decided in the appeal courts**

(A table listing Commission cases heard in 2016/17 appears on page 79)

#### *Alexander Blackman (Marine A)*

This high profile case was referred by the Commission and then decided by the Court within the same reporting year.

On 8 November 2013, at the Court Martial sitting at Military Court Centre Bulford, Mr Blackman, Marine A, was convicted of the murder of an unidentified male insurgent in September 2011, while serving with the Royal Marines in Afghanistan. Two co-defendants of Mr Blackman were acquitted by the Court Martial Board. The relevant facts of the case are now well known due to the publicity attracted to the case, but are briefly outlined below.

In September 2012, video footage was found during an unrelated police investigation showing the handling of an injured male by British military personnel. Subsequently, Mr Blackman and others were arrested on suspicion of war crimes contrary to the Geneva convention. When interviewed under caution, Mr Blackman stated the insurgent had died of his injuries.

Searches conducted during the arrest phase recovered a further video clip, which showed Mr Blackman discharging a firearm into the chest of the unidentified insurgent. Mr Blackman was re-arrested and re-interviewed on suspicion of murder. Mr Blackman did not answer any questions but provided two prepared statements through his solicitor. Briefly, these stated that following the death of the insurgent Mr Blackman's stress and anger took over and he had discharged his sidearm.

In October 2012, Mr Blackman and Marines B and C were charged with murder contrary to section 42 of the Armed Forces Act 2006. The prosecution case was Mr Blackman had executed the injured insurgent and that Marines B and C had encouraged him to do so, thereby being guilty of murder by way of joint enterprise. Mr Blackman's defence was that he believed the insurgent was dead when he discharged his firearm, thereby lacking the intent to kill or cause grievous bodily harm.

Subsequent to his conviction Mr Blackman supported by his legal team made an application to the Commission. This application contained lengthy submissions.

With the benefit of access to the public body material in the case, including information from the Service Prosecuting Authority, and Ministry of Defence, the Commission conducted its own investigation which resulted in a referral back to the Court Martial Appeal Court. This was the first occasion that the Commission has referred a conviction that originated in the military courts.

New expert psychiatric evidence from three consultant and academic psychiatrists, obtained since conviction, indicated that Mr Blackman was suffering from a recognised medical condition, namely an adjustment disorder, at the time of the incident. The symptoms of the adjustment disorder were relevant to Mr Blackman's trial defence, in that they interfered with his ability to diligently and competently assess the injured insurgent's status. The Commission concluded that the new psychiatric evidence also added to a number of factors which indicate unlawful act manslaughter would have been a legitimate alternative verdict to the Court Martial Board.

The appeal was heard at the Court Martial Appeal Court in London over two days in February 2017. On 15 March 2017 the Court handed down its judgment quashing Mr Blackman's murder conviction and substituting a verdict of manslaughter by reason of diminished responsibility.

At a later hearing the Court considered the matter of sentence and decided that Mr Blackman be dismissed from the service and serve a determinate sentence of seven years, with a direction under s.246 of the Armed Forces Act 2006 that the time on remand in service custody be counted towards sentence. The effect of this was that Mr Blackman was released from prison on 28th April 2017.

Since Mr Blackman had already exhausted his other avenues of appeal, it is worth noting that, but for the existence of this Commission, there would have been no route back into the Court for Mr Blackman's murder conviction to be reconsidered.

#### *Jeanette Burke*

Last year's annual report considered the case of Jeanette Burke. In July 2006, at Liverpool Crown Court, Ms Burke was convicted of two counts of conspiracy to supply Class A drugs.

Between 2004 and 2005, a lengthy investigation, called Operation Lima, was conducted by Her Majesty's Customs and Excise (HMCE) and Merseyside Police, into the activities of an organised group suspected of conspiring to supply Class A drugs (cocaine and heroin) imported into the UK.



During the course of the review, it became apparent that there was a real possibility that the Court of Appeal would find that there had been material non-disclosure of the bases of plea entered.

Subsequently, there were several individuals prosecuted for conspiracy to supply class A drugs. The prosecution alleged that Ms Burke had played a vital role in the conspiracies to supply cocaine and heroin. Its case was that she was heavily involved, throughout the period of the investigation, with other conspirators, in particular with KB and CB, who had since admitted their involvement by pleading guilty.

The Commission referred Ms Burke's conviction to the Court of Appeal because during the course of the review, it became apparent that there was a real possibility that the Court of Appeal would find that there had been material non-disclosure of the bases of plea entered by CB and KB, and that the non-disclosure may undermine the safety of Ms Burke's conviction on counts one and two.

In reviewing this case the Commission noted that there did not appear to be much by way of direct guidance on the issue of disclosure of a basis of plea by one accused to any co-accused (save, perhaps, for fraud cases).

While commenting that the Commission was right to refer, the Court said that despite material which undoubtedly should have been disclosed but was not, the weight of the other evidence against the appellant was such that the conviction was safe. This is another example in the line of authority that illustrates the Court's view that it is rarely sufficient to warrant the quashing of a conviction that there has been a material non-disclosure; the case, and the safety of the conviction, must be considered on the facts and in the round.

#### *Stephen Lawless*

Mr Lawless pleaded not guilty to possession of heroin with intent to supply when he stood trial at Greater Grimsby Crown Court in October 2003. Mr Lawless accepted that he was in possession of heroin for personal use, but denied that he had supplied, or intended to supply the drug to anyone else. He was convicted of possession with intent to supply and sentenced to five years' imprisonment.

He tried unsuccessfully to appeal against his sentence in 2004 but did not seek to appeal against his conviction. He applied to the Commission in November 2010.

Following a long and complicated investigation, the Commission decided to refer the case to the Court of Appeal because it believed there was new material that gave rise to a real possibility that the conviction would be quashed.

The basis of the referral included new information relating to the conduct of a police officer involved in the case. However, the detailed reasons for the referral were of a highly sensitive nature. As a result, the Commission was able to disclose to Mr Lawless and his legal representative only a limited amount of information about the reasons for the referral. A confidential document detailing the exact reasons was sent to the Court of Appeal.

On the 1st December 2016, an ex parte application was heard by the Court of Appeal, so that disclosure and public interest immunity matters could be addressed. The Court subsequently summarised the nature of the Commission's referral as follows:

*"The CCRC has referred the case because during the ex parte hearing which preceded Mr Lawless' trial the judge could have been misled by receiving information provided to his superior officer by PC Hansford who knew it to be false. There is no suggestion any lawyer who appeared knew or had reason to suspect it was false. None of the information supported the defence advanced or undermined the case for the Prosecution. No order for disclosure was made nor would any have been had the judge not been misled. The CCRC considers Mr Lawless should have the opportunity of arguing that what occurred at the ex parte hearing was an abuse of process, that had the ex parte judge or the trial judge known of the abuse proceedings would have been stayed and consequently that his conviction should be quashed."*

The Court then went on to consider whether the above scenario could lead to the conclusion that it would offend the court's sense of justice and propriety that this defendant was tried. The court went on to consider the competing positions as outlined in *Early* [2003] 1 Cr.App.R 19 and *Warren and Jersey* [2012] 1 AC 22.

In *Early*, the court found that where, during a PII (Public Interest Immunity) hearing, a witness for the Crown lied to the judge, the court would take an extremely serious view and it is likely the prosecution would be tainted beyond redemption, however strong the evidence might otherwise be. In *Warren and Jersey* the Privy Council held that "whether to stay on the ground of executive misconduct required a court to acknowledge the public interest in ensuring those accused of serious crime be prosecuted but at the same time in ensuring that misconduct did not undermine confidence in the criminal justice system".

In this case, the Court of Appeal observed that it is important to distinguish *Early* from *Warren and Jersey*. In *Early* the defence argument was that the offence would not have been committed but for the role of the participating informant. In upholding the conviction, the Court distinguished Mr Lawless' case on the basis that the fault was in the way in which the information was treated, rather than the effect of that information upon the trial, commenting that the conduct of the police officer "does not begin to bite on the strength of the evidence the Crown was entitled to lead."

Another important factor was that Mr Lawless had not previously appealed his conviction to the Court. The Commission can usually only consider a case if the applicant has exhausted their normal appeal rights. Mr Lawless had not previously appealed against his conviction. The Commission concluded that, it would be impossible for Mr Lawless to obtain the evidence on which the referral was based without access to the Commission's resources and statutory powers to obtain relevant material and that therefore there were "exceptional circumstances" that meant we ought to investigate in spite of there having been no previous appeal against conviction in this case.

#### *Embleton*

Another case referred and discussed in some detail in last year's report. In summary, on 9 November 2000 at Teesside Crown Court, Mr Embleton, H and G were all unanimously found guilty of the joint enterprise murder of a Mr Sharif.

The prosecution alleged that the defendants had killed Mr Sharif during the course of a burglary that went wrong. Mr Embleton raised an alibi defence, stating that he had spent the night with his then girlfriend at her home.

Key evidence against Mr Embleton amounted to a) seven fibres found on his clothing which were determined to be a match for the deceased's jumper and said to provide 'moderate' support for the contention that there had been direct contact between them, and b) evidence from a further witness, C, that Mr Embleton had visited her home with an injured hand on the date and at the time of the attack on Mr Sharif, and that Mr Embleton had stated his injury was caused by hitting someone and c) evidence from co-defendant H who placed Mr Embleton at the scene, although he also exonerated him of taking part in the actual assault upon Mr Sharif.

The CCRC considered the evidence in Mr Embleton's case, and it became apparent that an Informant Contact Sheet contained new information in relation to the visit Mr Embleton was alleged to have made to C on the morning of Mr Sharif's murder. This was not disclosed to the defence.

Mr Embleton's conviction for murder was quashed by the Court of Appeal. This is an example of the Court of Appeal again clarifying that any errors or failures of disclosure must be looked at in the context of the case as a whole.

Mr Embleton's conviction for murder was quashed by the Court of Appeal. This is an example of the Court of Appeal again clarifying that any errors or failures of disclosure must be looked at in the context of the case as a whole.

They concluded that there was discredited evidence, which was pivotal to the prosecution case against Mr Embleton because it shored up an otherwise weak case against him, and that the new disclosure threw the evidence into doubt on a crucial point, with the remaining evidence being dubious.

This contrasts with the points made in the cases above, where the other evidence in the case had been strong. Clearly, if the undermined evidence strikes at the heart of the prosecution case, the Court will give serious consideration to the safety of the conviction, and where appropriate quash it.

### *Evans*

Briefly discussed in last year's report, the high profile case of Chedwyn Evans reached its conclusion in 2016/17. Mr Evans was convicted, 20 April 2012 at Caernarfon Crown Court, of the rape of LC. He was sentenced to five years' imprisonment. A co-defendant, Clayton McDonald, was acquitted at the same trial of a separate count of rape of the same complainant.

The Crown's case against both Mr Evans and Mr McDonald was that the complainant, LC, was significantly intoxicated and lacked the capacity to consent to sexual intercourse. Further, that neither defendant could have had a reasonable belief that she had so consented.

LC's evidence was that she had been drinking in a nightclub in Rhyl, North Wales, yet could not thereafter recall any of the events of the following eight hours until she woke up naked in a hotel bedroom. The course of events during part of the missing period, until LC entered the hotel, was the subject of substantial evidence at trial from a variety of witnesses, CCTV footage and the accounts of the defendants.

Fundamentally, Mr Evans's defence rested on his belief that LC had consented to sexual intercourse with him. She had, he said, verbally invited him to engage in sexual activity with her and, during intercourse, uttered words of encouragement.

New evidence presented to the Commission from a witness, TO, indicated that LC had used with TO the same words of encouragement that Mr Evans had stated, in police interview and at trial, she had used with him. Such evidence might have assisted his defence had it been available at trial. For the reasons discussed in the Statement of Reasons the Commission considered that it was arguable that TO's evidence would have been admissible at trial under section 41 of the Youth Justice and Criminal Evidence Act 1999 and that the Court of Appeal might prefer his evidence to LC's evidence on this matter.

As a result of the investigations it has made the Commission has reached the conclusion that there was a real possibility that the Court of Appeal would consider Mr Evans' conviction to be unsafe. That real possibility arose as a result of the Commission's conclusions, that:

- The Court of Appeal might prefer the evidence of TO and his mother, AO, to that of the complainant, LC; and
- The evidence of TO would have added significant support to Mr Evans' defence at trial.

The Court of Appeal subsequently considered whether this new evidence was admissible in accordance with section 23 of the Criminal Appeal Act 1968, and whether the new evidence would have been admissible at trial.

To be admissible, the Court had to consider whether the new evidence was sufficiently similar to come within the terms of section 41 (3) (c) (i) of the Youth Justice and Criminal Evidence Act 1999. The Court, observing that the behaviour did not have to be unusual or bizarre, arrived at the conclusion that the new evidence did relate to behaviour that was sufficiently similar and accordingly quashed the conviction before ordering a retrial. Mr Evans was subsequently acquitted.

High profile cases of this nature invariably attract interest and comment on the Commission's role in the criminal justice system. At the time of the referral Commission Chair Richard Foster commented:

*"The decision of the Commission is not a judgment on guilt or innocence in relation to Ched Evans, nor is it a judgment about the honesty or integrity of the victim or any other person involved in the case.*

*"Our role is to consider applications to see if, in our judgment, there is any basis on which to ask the court to hear a fresh appeal – that is our statutory responsibility.*

*"In this case we have identified new material which was not considered by the jury at trial and which in our view might have assisted the defence. In those circumstances, it is right and proper for the matter to be before the Court so that they can decide whether or not the new information should affect the verdict in this case."*

#### *R v Skinner in Northern Ireland*

The case of *R v Skinner* [2016] NICA 40 was heard in the Northern Ireland Court of Appeal (NICA) and, while not one of our referrals, was of interest to the Commission.

Following the Supreme Court judgment in *Jogee*, in October 2016, NICA delivered its judgment in respect of a group of cases involving joint enterprise where the appellants had already exhausted their appeal rights. Ordinarily, the route to appeal in these cases would be via the Commission. However, in *Skinner*, the appellants argued that this was not the case and that NICA could and should re-open their appeals.

NICA rejected that approach, observing that where "there has been no final determination by the Court of Appeal, the conviction can be set aside by seeking exceptional leave to appeal to the Court of Appeal out of time " saying in its judgment that: "we have come to the conclusion that this court should not re-open cases which have already been determined by the Court of Appeal absent features which bring them within the general confines of the finality principles as outlined in *R v Pinfold* [1988] QB 462. The appropriate recourse for these applicants in such circumstances is to turn to the CCRC."

This clearly affirms the position and role of the Commission within the justice system. If a case is out of time, then an application can be made to the Court of Appeal to extend time. If the appeal has already been completed, then the avenue of remedy is the CCRC.

#### **Judicial Reviews 2016/17**

Decisions made by the Commission can be subject to judicial review. Applications for judicial review are handled by the Administrative Court sitting at the Royal Courts of Justice in London and at some regional centres.

In the event of a successful judicial review of a Commission decision, the Administrative Court can require us to revisit the decision in question.

During 2016/17 the Commission was the subject of a total of 34 challenges by way of judicial review; up from 21 in the previous year. In 32 of the 34 cases, correspondence was exchanged under the pre-action protocol for judicial review. The other two cases did not follow the pre-action protocol and opted to issue claims directly.

A total of 24 of those 34 cases proceeded to issue a judicial review claim with the Administrative Court.

Of the 24 cases in which proceedings were issued, 13 had been concluded at the time of writing this report.

Eight of those were deemed by the Court to be "totally without merit".

The Commission does not want the fear of having to pay court costs to discourage applicants from seeking a review in cases where it is genuinely believed there has been an error.

In two cases the Commission conceded the judicial review and agreed to reconsider its decisions. One was conceded at pre-action stage on limited grounds. That case was allocated to a different Case Review Manager for further review and consideration by a Commissioner who had not previously been involved in the case.

The other was conceded after initial consideration by the Single Judge, and in light of the Single Judge's comments. Again, that case was allocated to a different Case Review Manager for further review and consideration by a Commissioner not previously involved in the case.

These two cases again demonstrate that the Commission prefers to adopt a pragmatic approach to challenges by way of judicial review. If we think that someone seeking a judicial review has raised a point with sufficient merit, we will concede at the earliest opportunity and take the appropriate action and avoid if possible expensive litigation regardless of whether or not we think we would prevail in Court.

During 2016/17 one application was withdrawn by the Claimant after issuing proceedings. In the remaining challenges concluded during the year, either the applicant chose not to issue proceedings following the pre-action correspondence with the Commission, or the Administrative Court refused permission to judicially review a decision made by the Commission.

The Commission does not want the fear of having to pay court costs to discourage applicants from seeking a review in cases where it is genuinely believed there has been an error. One unusual feature of this year's cases has been that on four occasions the Court has awarded the Commission costs despite the fact that no claim for costs was made. In only one case did we claim costs.

### Complaints to the Commission

The Commission operates a formal complaints process whereby the Commission's Customer Service Manager looks independently and carefully into every complaint that is made. She has the power to decide whether or not to uphold a complaint and can recommend redress and remedial action if necessary. In the event that a complainant is not satisfied with the outcome of their complaint, there is a second stage to the process whereby someone else will consider how the complaint was handled at the outset. The Commission's Formal Memorandum on the Complaints Procedure sets out the process in detail and can be found online at [www.ccrcc.gov.uk](http://www.ccrcc.gov.uk).

During 2016/17 we received a total of 55 complaints. This represents a 12.7% decrease on the number of complaints made in the previous year when 63 were received. The 55 complaints came from 50 individual complainants.

We aim to acknowledge receipt of a complaint within ten working days. In 2016/17 we did so in an average of five working days. Our target is then to provide each complainant with a substantive response within 25 working days. During 2016/17 the average time from receipt of complaint to substantive response was 18 working days. This represents a significant improvement on the previous year when on average we took 39 days to provide a substantive response.

The number of complaints moving to the final stage of the complaints process also fell in 2016/17; seven (12.5%) moved to the final stage of the complaints process during the year compared with 16 (25%) in 2015/16.

A complaint is upheld if any aspect of the Commission's conduct of the case complained about is found to have been deficient regardless of whether that deficiency affected the outcome of the case.



A total of three complaints (5.4%) were upheld in 2016/17. This represents a decrease from the previous year when seven complaints (11%) were upheld. During the year the Customer Service Manager had no cause to require the re-opening of any case as the result of a complaint being upheld whereas in 2015/16 two cases were re-opened following complaints. The three cases where complaints were upheld in 2016/17 were dealt with by way of apology.

As in previous years, most of the complaints we received in 2016/17 were made by applicants on their own behalf. However, three complaints were made by applicants' legal representatives and eight were made by non-legal representatives.

The proportion (20%) of complaints submitted in 2016/17 by (legal and non-legal) representatives rather than applicants was unusually high. In previous years we have typically seen only one or two complaints from representatives. However, none of the complaints submitted by representatives were upheld this year and there are no particular trends discernible with these types of complaint.

The Commission pays close attention to complaints based on issues relating to equality and discrimination. During the last year five (nine per cent) of complaints raised such issues; this was an increase on 2015/16 year where 4 (six per cent) sought to raise such issues. No complaint had to be upheld on grounds of this kind in 2016/17.

The Commission can accept an application from someone who has applied to us previously only if the re-application raises something new that we have not considered in any previous application. In 2016/17 a significant number of complaints came as a result of the Commission declining to consider a re-application. There were 24 (43.5%) such complainants in 2016/17 compared with 20 (32%) in 2015/16.

As in previous years, the complaints in 2016/17 spanned a range of offences varying in seriousness. It is noteworthy that, in line with 2015/16, a large percentage of the complaints received were from applicants convicted of what are sometimes referred to as 'minor' offences for which the applicant did not receive a custodial sentence. In 2016/17, some 28% of complainants had not received a custodial sentence.

### **Military cases**

The Armed Forces Act 2006 amended the Criminal Appeal Act 1995 and the Court Martial Appeals Act 1986 to give the Commission jurisdiction over convictions and/or sentences arising from the Court Martial or Service Civilian Court after 31st October 2009. During 2016/17 the Commission referred its first case to the Court Martial Appeal Court. This was the high profile murder conviction of Alexander Blackman, also known as "Marine A". This case is discussed in detail on page 18.

During 2016/17 the Commission received one new military application bringing to 12 the total number of such applications received by the Commission so far. At the time of writing this annual report, three cases of military court origin remain under consideration at the Commission.

### **Section 15 Investigations for the Court of Appeal**

Although the Commission's principal function is to consider the cases of individuals who apply to us, we also have a lesser known but significant role investigating on behalf of the Court of Appeal Criminal Division when the court is considering a first appeal or an application for leave to appeal.

The Court of Appeal can direct the Commission to investigate and report on matters related to ongoing appeals under section 15 of the Criminal Appeal Act 1995 (and section 23A of the Criminal Appeal Act 1968). During 2016/17 we conducted one such investigation at the behest of the Court. As has typically been the case with section 15 investigations, this case involved the Commission looking into allegations of irregularity or misconduct relating to jurors. The fact that only one section 15 investigation was required during 2016/17 continues a trend of recent years which has seen the number of such cases decrease from a high point of ten in the year 2012/13.

### **Royal Prerogative of Mercy**

Section 16 of the Criminal Appeal Act 1995 gives the Commission two areas of responsibility in relation to the Royal Prerogative of Mercy. One is to recommend the use of the Royal Prerogative where the Commission sees fit. The other is to respond to requests from the Secretary of State in relation to the use of the Royal Prerogative. The Commission has had no cause to do either in 2016/17.

The Commission has in recent years worked closely with the Kalisher Trust to provide a number of paid internships. The scheme has been highly beneficial both for the Commission and for the interns who have worked with us.

## Resources

### Human Resources

In the period 2016/17, the Commission recruited externally for one Case Review Manager. Other positions, including vacancies following the departure of two Group Leaders, two Casework Administrators and one Records Management Assistant, were filled via internal promotions following an application and interview process.

In March 2017, the Commission made an internal announcement regarding some changes to the structure of its Corporate Services function, following the retirement of the HR and Facilities manager. This restructure did not result in any redundancies. It was recognised that the departure of the HR and Facilities manager would require the Commission to recruit for a 'Head of HR' position. In considering its resources, the Commission also recognised a need to strengthen its legal team, and the position of 'Lawyer' was created, with recruitment commencing in March 2017.

The Commission has in recent years worked closely with the Kalisher Trust to provide a number of paid internships. The scheme has been highly beneficial both for the Commission and for the interns who have worked with us. In 2016/17, we extended our internship programme, with the appointment of four interns ranging from periods of six to twelve months. Recruitment for the Commission's 2017/18 interns began in March 2017.

In addition, the Commission has for many years operated an Apprenticeship Scheme, which has consisted of one apprentice in the Business Administration Team. Due to the success of this scheme, which has generally resulted in apprentices successfully applying for permanent administrative positions at the Commission, we expanded in early 2017 to include another apprentice position, this time within the Commission's Records Management team.

Three Commissioners left the Commission in 2016, when their fixed term appointments came to an end (see page 38).

The Commission conducted its bi-annual staff survey in 2016. As in previous years, the results were very positive. This year we achieved an employee engagement rate of 83%.

### Our IT systems

The Commission relies heavily on the existence of a highly secure and stable IT environment. We achieve this through a small in-house IT team which has maintained greater than 99.9% system availability over the year.

The main work during 2016/17 consisted of the development of a replacement for the Commission's crucial Case Management system which is scheduled to go live during 2017/18. A review of all IT support and maintenance contracts was completed to ensure we are getting the best value for money from our procurement strategy while an upgrade to the Commission's Disaster Recovery equipment has resulted in the ability to restore all critical systems at an alternative site with 48 hours of a major disaster occurring.

### Records Management

Our ability to obtain casework material and manage the flow of documents and information. is central to our effectiveness as a caseworking body. The way we handle material is subject to legislation including the Public Records Acts of 1958 and 1967, the Data Protection Act 1998 and the Freedom of Information Act 2000. We act in accordance with the requirements of those Acts, and in consultation with the National Archives, in the way we create, manage and preserve or destroy records. We operate a retention and disposal schedule which sets out how we will manage all paper and electronic records in our possession.

During 2016/17 we re-tendered our main off-site storage contract. This process led to a change of provider and this in turn necessitated the relocation of almost all of the material that the Commission had stored off-site. It is a testament to the skill and professionalism of the Records Management team that the secure transfer of some 5,147 boxes of casework material from one facility to another went without a hitch and with no disruption to the case review process or any other Commission business.

### Applicants' advice line

The Commission operates an advice call rota whereby applicants, potential applicants, their lawyers or supporters, can call the Commission and speak to one of our Case Review Managers about matters relating to a current or potential application.

During 2016/17 we logged 742 calls to the advice line. This compares with 842 in 2015/16 and with an average of 750 per year over the last five years. As in other years, calls to the rota in 2016/17 related to a wide range of issues including driving offences, fraud, rape and murder. Perhaps unsurprisingly we observed during the year an increase in the number of calls relating to joint enterprise murder convictions.

A significant amount of casework time and effort goes into operating the advice call rota. The Commission takes the view that it is a worthwhile investment because, among other things, the rota helps potential applicants make the important decisions about matters such as whether they should approach the Commission or apply direct to the appropriate appeal court.

### Financial Resources and Performance

The funding of the Commission is entirely by means of a cash grant, called a Grant in Aid, from the Ministry of Justice. Financial control is mainly exercised by means of delegated budgets. These are divided into three categories. The Resource Departmental Expenditure Limit (RDEL) covers most cash expenditure, but also includes depreciation; Resource Annually Managed Expenditure (RAME) covers movements in provisions; and Capital DEL (CDEL) is for expenditure on non-current assets which are capitalised. Financial performance is therefore measured against each of these budget control totals.

The Ministry of Justice also funds the Commission's liabilities with respect to the by-analogy pensions for Commissioners. The use of provisions and the cash payments arising do not form part of the DEL or AME control totals.

For 2016/17 the Commission received a delegated Resource DEL budget, excluding notional costs, of £5.119M and a CDEL budget of £310,000. At the time of writing the Commission has received a firm budget for 2017/18. The table below shows a comparison of budget figures for the current year, the previous year and the following year.

	2015/16 £000	2016/17 £000	2017/18 £000
Fiscal RDEL	5,133	5,119	5,244
Non-cash RDEL	184	219	150
RDEL total	5,317	5,338	5,394
RAME	270	258	258
CDEL	47	310	205
TOTAL	5,634	5,906	5,857

The cash Grant in Aid received from the Ministry of Justice is drawn in accordance with government accounting rules such that it is to be drawn only when needed, and the Commission forecasts its cash requirement on a monthly basis. By drawing down only the amount of Grant in Aid needed in the month, the Commission aims to keep its monthly end of period cash balances as low as possible. The balance at the end of the year was £51,000 (2015/16 £63,000).

Financial performance as measured by expenditure against budget is one of our Key Performance Indicators (KPIs). The targets for KPI 8 are that for each of RDEL and CDEL expenditure should not exceed budget, nor fall below budget more than 2.5%.

The Commission's actual expenditure compared with budget was as follows:

Ex-notional costs:

	2016/17			2015/16		
	Actual £k	Budget £k	Variance £k	Actual £k	Budget £k	Variance £k
Fiscal DEL	5,067	5,119	(52)	5,082	5,133	(51)
Non-cash	287	219	68	232	184	48
RDEL	5,354	5,338	16	5,314	5,317	(3)
RAME	343	258	85	232	270	(38)
CDEL	248	310	(62)	47	47	0
Total	5,945	5,906	39	5,593	5,634	(41)

In 2016/17 the Commission's actual expenditure against the RDEL total was £5.354M and within 0.3% of the budget provided.

In 2016/17 the Commission's actual expenditure against the RDEL total was £5.354M and within 0.3% of the budget provided. It also represented an increase in actual expenditure compared to 2015/16 of just 0.7%, which is almost entirely explained by an increase to the non-cash depreciation estimate for IT equipment and software.

During the year, the Commission managed to spend only 80% of its capital allocation. Most of the saving was achieved by completing alterations to the building for a far lower cost than had been budgeted. The increase in RAME followed a re-assessment during the year of the potential liabilities arising from dilapidations and reinstatements that may fall due to the Commission at the end of its current period of contractual occupation of the offices. On completing the appraisal, the provision for future expenditure was increased by £110,000.

Expenditure shown above excludes notional costs. Notional expenditure is a presentational item included to ensure that the financial statements show the true cost of the Commission's operations. It is neither scored against the Commission's budgets nor actually incurred by the Commission. Notional costs relate to the cost of office accommodation, which is borne by the sponsor department on behalf of the Commission. The increase in notional costs from £665,000 to £740,000 relates to the fact that estimates for the cost of office service charges are made during each year which can only be finalised in the following year. It is the movement between the estimated and actual costs relating to 2015/16 that caused the apparent increase in 2016/17.



The notional costs are included in the Statement of Comprehensive Net Expenditure in accordance with the Financial Reporting Manual. There is an equivalent reversing entry in the Statement of Changes in Taxpayers' Equity. Full details are given in notes 1 and 18 to the accounts. The table below reconciles to net expenditure after interest as shown in the statement of comprehensive net expenditure on page 59: as follows:

		2016/17 £000	2015/16 £000
Resource DEL		5,354	5,314
Resource AME		343	232
Total resource expenditure		5,697	5,546
Notional expenditure	<i>Note 18</i>	740	665
Net expenditure after interest		6,437	6,211

The accounts for the year ended 31 March 2017 are set out on pages 59 to 62.

The Statement of Comprehensive Net Expenditure on page 59 shows total expenditure for the year of £6.79m (2015/16 – £6.12m). Staff costs have decreased by £132,000 compared with the previous year. This was in spite of expenditure pressures arising from salary increases and, more particularly, the increase in Employers' National Insurance contributions, following the introduction of the new State Pension arrangements from 6th April 2016. Other expenditure has increased from £1.42m in 2015/16 to £1.67m in the current year, reflecting in particular a sharp increase in costs for legal advice in relation to Judicial Reviews, an impairment provision for IT assets, discussed elsewhere in this report. The increase in Resource AME reflects a new provision for dilapidations.

By far the largest item on the Statement of Financial Position is the pension liability arising from the Commission's commitments to Commissioners for the by-analogy pension scheme. For those Commissioners entitled to this benefit, the Commission has to reflect the increase in liabilities relating to their service, interest thereon and adjustments arising from actuarial revaluations. The provision reduces as benefits are paid. In recent times, Commissioners have been and continue to be appointed without a pension. It means that as the longer serving Commissioners come to the end of their respective terms, the current service cost will tend to reduce. In 2016/17, the current service cost decreased from £124,000 to £85,000 because the final three Commissioners to whom pension entitlements existed retired part way through the year. The interest (unwinding of the discount) also contributed to an increase in the liability, which was further increased by an actuarial loss of £350,000 (gain in 2015/16 of £95,000). Despite the reduction caused by benefits paid, the liability increased by £315,000 in the current year. The Statement of Financial Position on page 60 now shows overall net liabilities of £6.634m (2015/16 £6.285m). The net liabilities largely fall due in future years, and will be funded as necessary from future Grant in Aid provided by the Ministry of Justice. As a result, it has been considered appropriate to continue to adopt the going concern basis for the preparation of the accounts. This is discussed further in the Accounting Policies note on page 63.

### Compliance with public sector payment

The Commission follows the principles of the Better Payment Practice Code. The Commission aims to pay suppliers wherever possible within ten days. Where this is not possible, the Commission works to targets to pay suppliers in accordance with either the payment terms negotiated with them or with suppliers' standard terms (if specific terms have not been negotiated). The average terms are approximately 30 days, and performance against this target is shown in the table below:

	2016/17		2015/16	
	£000	Number	£000	Number
Total invoices paid in year	<b>1,478</b>	<b>1,027</b>	1,136	1,255
Total invoices paid within year	<b>1,461</b>	<b>1,013</b>	1,061	1,255
Percentage of invoices paid within target	<b>98.8%</b>	<b>98.6%</b>	93.4%	97.6%

Performance has improved in 2016/17 and exceeded our 95% target for both measures.

No interest was paid under the Late Payment of Commercial Debts (Interest) Act 1998.

The film was designed as an open access resource providing accessible and engaging information to young people about criminal justice issues and ultimately, in the final frame, to give contact details for the Commission.

## Corporate

### Our wider contribution

The Commission's first responsibility has always been to progress the cases of individual applicants and appropriately conclude each one in a fair and timely manner. That work involves us with a wide range of stakeholders with whom we seek to engage through a varied programme of activities and events.

Our efforts in this area are generally intended to raise awareness of the Commission and its work, to build relationships with relevant interested parties and to feed the knowledge and experience gained by the Commission back into the wider criminal justice system.

### The CCRC and young people

The Commission has for some time been concerned that the proportion of applications we receive from young people is significantly lower than the youth population of the prison estate. Indeed, the Commission received only 0.38% of its applications from under 18s and 3% from the under 25s when available figures suggest that one per cent of the prison population were aged 15 to 17, seven per cent aged 18 to 20 and 15% aged 21 to 24.

It seems that young people are similarly under represented in the initial appeal process.

In order to better understand the issues in this area and to help us address those affecting the Commission, we hosted in May 2016 a special event designed to engage with young people. In light of the fact that, according to The Young Review<sup>3</sup>, 43.7% of young people in the criminal justice system are from Black Asian and Minority Ethnic (BAME) groups, we also chose to target the event at BAME communities in Birmingham.

Our aim was essentially to help us learn more about the views of these hard to reach groups regarding the CCRC, the appeal system and the justice system generally and to help us improve the ways in which we communicate and engage with them. We worked with local companies Safe Innovation Projects and First Class Legacy to create an event that would engage young people from these local communities in a way that would be difficult or impossible for us to do alone. We are grateful for their assistance.

In brief, the key relevant findings from the event were that young people tend to be unaware of their rights in the justice system, about the appeal system and about the existence and the role of the Commission.

Suggested ways of dealing with this included the CCRC forging better links with local communities, becoming involved with schools and citizenship education, producing a YouTube video and generally developing advocates capable of speaking about and for the CCRC in the youth justice system.

As a direct result of the event in May 2016, the Commission again worked with First Class Legacy to produce a short film and release it on YouTube. The film was designed as an open access resource providing accessible and engaging information to young people about criminal justice issues and ultimately, in the final frame, to give contact details for the Commission. The three minute film features a spoken word artist DanMan speaking about criminal justice for young people, deciding when and why to plead guilty and about appeal and post appeal rights. The video was launched in December 2016 and at the point of writing this report it had been viewed online more than 15,000 times. It can be seen at [www.youtube.com/watch?v=kvQHvx-Q2wM](http://www.youtube.com/watch?v=kvQHvx-Q2wM) or via a link at the Commission's own site at [www.ccrcc.gov.uk](http://www.ccrcc.gov.uk)

Another significant initiative designed to deal with some of the issues emerging from the Commission's youth engagement efforts in May 2016 was a special

<sup>3</sup> See [www.youngreview.org](http://www.youngreview.org)

Criminal Justice Day school event. This saw a number of Commission staff deliver a day of lessons to year eight (12 and 13 year old) pupils at The Rawlett Academy in Tamworth. The interactive lessons followed a youth murder case through the investigation process, through trial and appeal and culminating in a CCRC referral and successful second appeal. Feedback from teachers and pupils at the school was overwhelmingly positive. The Commission's broader aim for the project is now to turn the teaching material into a free resource pack for any school or other organisation that wants to make use of it. We aim to complete this during 2017/18.

Also specifically in relation to young people, the Commission made contact in 2016/17 with Barnado's staff who provide advocacy services for young people detained in Young Offenders Institutions and Secure Training Centres. The Commission provided training for Barnado's advocacy staff and produced an article for the Barnado's newsletter that goes to everyone aged 18 or under who is in custody or in secure training.

The Commission provided an article for the November 2016 issue of the prison newspaper *Inside Time* setting out the role of the Commission and explaining what prisoners need to consider when thinking about applying to us. In February 2017 we also began what we hope will be a useful and long running bi-monthly *Inside Time* column in which the Commission sets out to answer prisoners' relevant questions about the Commission and deal with other related matters of interest.

In April 2016, in the wake of the Supreme Court's decision in *R v Jogee and others* [2016] UKSC 8, two of our Commissioners published an article in the Law Society Gazette dealing with the implications of the Jogee case for the Commission and explaining how it was affecting our work on current and closed joint enterprise cases as well as driving an increase in new joint enterprise applications.

A Commissioner also contributed an article about the role of Commissioners at the CCRC for an issue of *Proof*, the magazine of the Justice Gap website.

### Visitors and visits

During 2016/17 we hosted visits from a number of parties interested or involved in the work of the Commission. We also provided representatives, speakers and participants at number of events around the country.

We were pleased to be visited by The Hon. Sir Charles Haddon-Cave, who, as well as being a judge of the Court of Appeal Criminal Division, is Chairman of International Committee of the Judicial College and Presiding Judge on the Midland Circuit. Mr Justice Haddon-Cave spoke informally to a gathering of CCRC staff about judicial matters.

Claire Wiggins, the then Chief Executive of the Office of the Victims' Commissioner provided a training session for CCRC staff. Towards the end of 2016/17 our Chair and Chief Executive visited Victims' Commissioner Baroness Helen Newlove, and the new Chief Executive Russell A'Court, to discuss how we discharge our obligations under the Victim's Code of Practice.

Staley Heatly, a District Attorney from the 46th Judicial District, Vernon, Texas, visited the Commission on a fact-finding mission. Mr Heatly was visiting on behalf of the Exoneration Review Commission which was looking into the causes of wrongful convictions in Texas.

Similarly, we hosted an informal visit from New Zealand MP David Clendon, who is Green Party Criminal Justice spokesperson who is interested in our work and the possibility of a creating a similar commission in New Zealand.

We also hosted a visit from a Chinese judicial delegation led by Wang Jianling, Presiding Judge of the Suzhou Intermediate People's Court Juvenile Court.

In September we were visited by two experienced lawyers from the Taiwan Association for Innocence which is an established Non-Governmental Organisation seeking to tackle wrongful convictions through pro bono work.

A Commissioner and a member of staff spoke and took part in a panel discussion at the annual United Against Injustice conference in Liverpool in October. In November we provided a casework lecture/workshop to around 40 law students from Leicester University Miscarriages of Justice Project. In February 2017 a similar casework session was provided to the newly formed City of London Appeals Clinic which is a project involving five London-based academic institutions including Queen Mary's, LSE and UCL and University of Law. We aim to continue providing such events to stakeholders when we can.

A CCRC representative also lectured to LLB students at University of Nottingham and another gave a presentation for a criminal proceedings training day arranged by Kent Law Clinic at the University of Kent in Canterbury in March 2017.

### **Feeding back to the criminal justice system**

The most significant cross-discipline work for the Commission this year was our involvement in the inspection of disclosure issues conducted jointly by Her Majesty's Inspectorate of Constabulary and Her Majesty's Inspectorate of the Crown Prosecution Service.

We were part of a small 'reference group' set up to act as a critical friend for the inspection. We met with the lead Inspectors and have shared our insight and some information about the role of material disclosure issues, particularly in cases that we have referred to the appeal courts and where the appeals were ultimately allowed.

We made evidence-based submissions to the consultation that led ultimately to the new Sentencing Council guidelines on credit for guilty pleas which were due to come into effect on 1st June 2017.

We also provided some observations and statistics to David Lammy MP as part of his independent review of the treatment of, and outcomes for, Black, Asian and Minority Ethnic (BAME) individuals in the criminal justice system.

The Commission is routinely represented at meetings of the Criminal Procedure Rule Committee.

During the year Commissioner Andrew Rennison, who was formerly the Forensic Science Regulator (FSR), became Chairman of the FSR's Quality Standards Specialist Group. Commissioner Ewen Smith was Deputy Chairman of that group until his departure from the Commission at the end of October 2016.

The Commission was also represented on the Forensic Science Advisory Council by Commissioner Julie Goulding until her departure at the end of December 2016, when Commissioner Andrew Rennison took over.

The Commission is represented on the Court of Appeal Criminal Division's User Group by our Chief Executive, Karen Kneller. She also sits on the Advisory Board of University of Nottingham's Criminal Justice Research Centre.

### **Progress of Easy Read**

At the behest of the Criminal Procedure Rule Committee, the Commission's Customer Service Manager created an Easy Read form for use by people seeking to appeal against a magistrates' or Youth Court conviction or sentence. We used the expertise we have gained within the Commission since first developing our own Easy Read application form in 2012. The magistrates' and Youth Court appeal form was trialled before finally going into circulation nationally and can now be obtained at [www.justice.gov.uk/courts/procedure-rules/criminal/forms](http://www.justice.gov.uk/courts/procedure-rules/criminal/forms).



Our long term aim is to facilitate the use of Commission data for research projects that may be able to identify and make public matters of interest in relation to miscarriages of justice and the wider justice system.

We were also pleased during 2016/17 to have assisted Professor Cheryl Thomas of University College London (who conducted the UCL Jury Project) with the development, for the Lord Chief Justice and Criminal Procedure Rule Committee, of a new jury notice. The new notice was designed to communicate the rules of juror conduct to all sworn jurors in a clear, engaging and helpful manner. The new notice was piloted in early 2017 with very positive results and is expected to be introduced nationwide during 2017/18.

### **Feedback and data capture**

As reported last year, a lack of capital funding in 2015/16 meant that the project to install a new casework IT system had to be deferred. Capital funding was provided for 2016/17 but time already lost developing and testing the new casework system meant that it was not available to us during 2016/17. The new system will be central to our plans to capture and analyse relevant casework data in the future. As mentioned in the casework section on page 12 of this report, we have already made changes to procedures designed to ensure that the right questions are asked and relevant data recorded during the casework process. However, we will not be able to start the new data capture process until the new system goes live. We expect this to happen during 2017.

### **Academic Research**

In 2016/17 the Commission's research committee took considerable strides forwards in its mission to promote and formalise arrangements for the undertaking of serious independent academic research using Commission casework records to study areas relevant to our work.

In this, our long term aim is to facilitate the use of Commission data for research projects that may be able to identify and make public matters of interest in relation to miscarriages of justice and the wider justice system.

In February 2016, the committee issued its first research call (for which the deadline for submissions was 31st August 2016); thereafter the committee worked with a number interested parties to develop research proposals.

We are pleased to be moving ahead with three substantive research proposals.

One is from a team from the University of Sussex for a significant project looking at legal aid and legal representation (i.e. the potential impact of changes to funding for legal aid in criminal cases).

Two separate proposals from teams at Queens University Belfast involve research relating (a) to the relatively low number of applications we receive from young people and (b) to the relatively low number of non-Troubles related applications to the Commission from the criminal courts in Northern Ireland.

We hope that these interesting projects will begin in earnest in the coming months so they can join the ongoing research activity at the Commission. We also look forward to the publication in the near future of a number of recently completed research projects involving the Commission.

The committee agreed in November 2016 to a project by Warwick University looking at the high number of applications from individuals who have not appealed their convictions or sentences (no appeal cases) before applying to us. That work is ongoing.

A new research section of the Commission's website at [www.ccr.gov.uk](http://www.ccr.gov.uk) now provides links to published academic work based on access to our casework material. It also contains details about ongoing research projects and of research calls made by the Commission and provides guidance for anyone interested in proposing new research.

### **Training and Knowledge Management**

Each year the Commission runs a substantial programme of in-house and external training to ensure that staff have up-to-date skills and knowledge.

During 2016/17 we ran 17 formal training sessions relating mainly to casework issues. The topics covered included digital forensics, data protection, informants, joint enterprise, young people in the criminal justice system, witness credibility and mental health and sentencing.

Our Knowledge Manager has continued to help the Commission to make the best use of the knowledge, experience and information at its disposal both in the skill and know-how of its staff and in the data held in IT and other systems. She has continued to expand and develop the Commission's intranet as a tool for the capturing knowledge and information and making it readily available within the organisation. Almost all Commission training sessions are now recorded and via the intranet made available to staff who could not attend and so that the sessions can be revisited if necessary.

### **The Information Commissioner's Office**

As discussed in last year's annual report, the Commission volunteered to undergo an Information Commissioner's Office (ICO) audit of its compliance with the Data Protection Act 1998.

ICO staff visited the Commission between 19th and 21st of January 2016 to audit our information handling arrangements, to conduct more than 30 interviews with members of staff as well as visit our secure off-site storage facility. When the 2015/16 Annual Report was produced, the outcome of the ICO had not been finalised and therefore could not be reported in that year. In June 2016 the final ICO audit report included a limited assurance rating and identified scope for improvement in existing arrangements to reduce the risk of non-compliance with the Data Protection Act. With our agreement the ICO published a summary of its audit finding on its website.

The Commission accepted a significant proportion of the matters raised which generally related to policy and procedure and record keeping rather than to the security of information held by the Commission either physically or electronically. The Commission put in place a programme of actions to deal with the matters raised by the audit and has made good progress throughout the year addressing the issues identified by the ICO. This progress was acknowledged by the ICO, following a report to them by the Commission in January 2017.

### **The Miscarriage of Justice Support Service**

The Commission maintains a good working relationship with the Miscarriage of Justice Support Service (MJSS). The MJSS is a specialised service delivered by RCJ Advice (a part of the Citizens Advice Bureau) which offers practical help and support to people whose convictions are quashed after a Commission referral or after an out-of-time appeal. A Commission representative occasionally attends meetings of the MJSS Advisory Board.

We have continued to work with the MJSS and this year we made changes to the information that we supply to potential applicants to make it clear that if their case is referred for appeal, the Commission will usually share information with the MJSS. Those changes took place in October 2016 and mean that, in relation to applications received since then, it will be easier for the MJSS to offer its help when a case is referred.

During 2017, we have for the first time facilitated contact between the MJSS and applicants that we could not assist here but whose cases meet the criteria of the MJSS.

We were also grateful during 2017 to RCJ Advice Chief Executive Alison Lamb for the placing on the national Citizen's Advice Intranet of an article including information about the CCRC and its relationship with the MJSS. The Commission is keen that bodies such as local Citizens' Advice providers should be aware of the Commission and its specific role, not least because it is possible that budgetary pressures on publicly funded legal services may lead more people to think they need to seek help from the voluntary sector in relation to criminal appeal matters.

### **Sustainability**

The Commission has fewer than 100 staff and occupies office space less than 1000m<sup>2</sup>. As a result the Commission is exempt from the requirements to prepare a sustainability report pursuant to the Government commitments to "greening" the public sector. Also, given that we occupy part of a multiple occupancy building where power and water usage and waste are not measured separately, it would in practice be impossible for us to produce meaningful sustainability statistics. The Commission does, however, provide recycling facilities in its office and tries itself, and encourages its staff, to behave in ways that tend to reduce the environmental footprint of the organisation.



**Karen Kneller,**

Chief Executive and Accounting Officer

4 July 2017

## Section Two

## Accountability Report

The accountability report section sets out information relating to the structure, management and governance of the organisation.

### Corporate Governance Report

#### The Directors' report

The Commission's board is made up of the Commissioners, the Chief Executive and directors and the non-executive directors.

#### Commissioners

Commissioners are appointed by the Queen on the recommendation of the Prime Minister. Each Commissioner is appointed for a period of up to five years. Commissioners can be re-appointed but can serve for a maximum of ten years.

During 2016/17 three Commissioners left the Commission having completed the maximum period of ten years' service. This means that at the end of March 2017 there were nine Commissioners in post including the Chair, Mr Richard Foster CBE.

During 2016/17 the Commissioners were:

Mr Richard Foster CBE (Chair)

Mrs Elizabeth Calderbank

Mr James England (until 30/9/16)

Miss Julie Goulding (until 31/12/16)

Ms Celia Hughes

Mr Stephen Leach CB

Ms Alexandra Marks

Dr Sharon Persaud

Mr Andrew Rennison

Mr David James Smith

Mr Ewen Smith (until 31/10/16)

Mr Ranjit Sondhi CBE

#### Commissioner Recruitment

The Commission has for much of 2016/17 been working with the Ministry of Justice in order to appoint a number of new Commissioners. Commissioners are public appointees and responsibility for the recruitment process lies with the Ministry of Justice as the Commission's sponsoring ministry. At the time of writing, it is not possible to report on the outcome of the recent recruitment process.

#### The Chief Executive and Directors

During 2016/17, responsibility for the day-to-day running of the Commission fell to Miss Karen Kneller, Chief Executive and Accounting Officer, Mrs Sally Berlin, Director of Casework Operations, and Mr Ian Brooks, Director of Finance and Corporate Services. Together the two Directors and the Chief Executive make up the Senior Management Team.

#### Non-executive Directors

During the year the Commission non-executive directors were Mrs Caroline Corby, Mr Jonathan Baume and Dr Maggie Semple OBE, FCGI.

### **Code of Best Practice**

The Commission adopted a Code of Best Practice for Commissioners at its first meeting in January 1997. This code was revised in 2012 in light of the Cabinet Office Code of Conduct for board members of public bodies and it was decided to merge the Staff Code of Conduct with the Commissioner Code of Conduct. The resulting Code of Conduct for Commission Board Members and Employees sets out the standards of personal and professional behaviour and propriety expected of all board members and members of staff. The key principles on which the code is based are the “Seven Principles of Public Life”, also known as the Nolan principles. The Code of Conduct for Commission Board Members and Employees includes a commitment to maintain a register of Commissioners’ interests and to make that register available, by appointment, for inspection at the Commission.

### **Audit and Risk Assurance Committee**

This Committee ensures high standards of financial reporting and proper systems of internal control and reporting procedures. It reviews internal and external audit reports on behalf of the Commission. The committee is chaired by Commission non-executive director Dr Maggie Semple.

### **External Audit**

Arrangements for external audit are provided for under paragraph 9 of Schedule 1 of the Criminal Appeal Act 1995, which requires the Comptroller and Auditor General examine, certify and report on the statement of accounts. The report, together with the accounts, is laid before each House of Parliament.

No remuneration was paid to the auditor for non-audit work during the year. The members of the board have taken all the steps which they ought to have taken to make themselves aware of any relevant audit information and to establish that the Commission’s auditor is aware of that information. As far as the members of the board are aware, there is no relevant audit information of which the Commission’s auditor is unaware.

### **Personal data related incidents**

There were eight recorded incidents during 2016/17 which related to the management of information, each of which was investigated and reviewed by the Commission’s Management of Information and Security Forum. None involved the actual loss of personal data. All were low risk and none had to be reported to the Information Commissioner.

### **Expenses of the Commission’s Chair and Chief Executive**

The total expenses claimed in 2016/17 by the Chair was £110.83. The total claimed by the Chief Executive was £469.18.



## Statement of the Accounting Officer's Responsibilities

Under the Criminal Appeal Act 1995, the Secretary of State (with the consent of HM Treasury) has directed the Criminal Cases Review Commission to prepare for each financial year a statement of accounts in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the Criminal Cases Review Commission and of its resource outturn, application of resources, changes in taxpayers' equity and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the *Government Financial Reporting Manual* (FReM) and in particular to:

- observe the Accounts Direction issued by the Secretary of State (with the consent of HM Treasury), including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the *Government Financial Reporting Manual* have been followed, and disclose and explain any material departures in the accounts; and
- prepare the accounts on a going concern basis.

The Accounting Officer of the Ministry of Justice has designated the Chief Executive as Accounting Officer of the Criminal Cases Review Commission. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the Commission's assets, are set out in *Managing Public Money* published by the HM Treasury.

The Accounting Officer is also required to confirm that:

- (a) as far as she is aware, there is no relevant audit information of which the entity's auditors are unaware;
- (b) she has taken all the steps necessary to make herself aware of any relevant audit information and to establish that the entity's auditors are aware of that information;
- (c) the annual report and accounts as a whole is fair, balanced and understandable;
- (d) she takes personal responsibility for the annual report and accounts and the judgments required for determining that it is fair, balanced and understandable.



**Karen Kneller,**

Chief Executive and Accounting Officer

4 July 2017

## Governance Statement 2016/17

The Governance Statement is prepared annually by the Accounting Officer. It explains the system and processes, culture and values, by which the Accounting Officer discharges her responsibilities to manage and control the Commission's resources and risks during the year. The statement provides an assessment of how we have achieved these objectives.

### Introduction

HM Treasury "Managing Public Money" lays out my responsibilities as Accounting Officer, for reviewing the effectiveness of the system of internal control, including the risk management framework. My review is informed by the work of the executive managers within the Commission who have responsibility for the development and maintenance of the internal control framework, the work of our internal auditors and comments made by the external auditors in their management letter.

My statement outlines the legal framework in which the CCRC operates, and how the oversight arrangements we have in place provide assurance of the CCRC's stewardship of public funds.

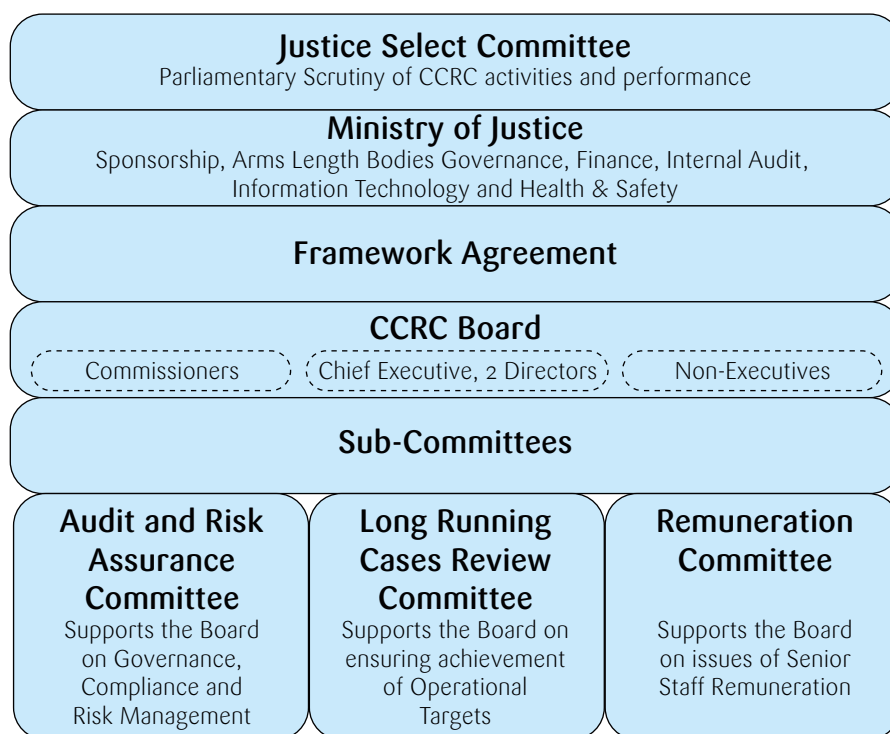
### Governance framework

The Commission was founded by legislation in the Criminal Appeal Act 1995, which describes the broad structure and function of the Commission. The diagram below illustrates how the CCRC relates to our sponsor department, the Ministry of Justice (MoJ), and is held, from time to time, to account by Parliament in the form of the Justice Select Committee.

The framework agreement between the MoJ establishes certain aspects of governance and accountability for the CCRC, but the structure of the board, and its sub-committees, are largely a decision for the CCRC. In 2007, governance of the Commission was, and remains, vested to the board including the Chief Executive, directors and non-executive directors. The structure and make up of the board has been altered from time to time but the principle established in 2007 remains unchanged.

The legislation also establishes that the Commission must have a minimum of 11 Commissioners. Following the retirements of three Commissioners during 2016/17 the number of commissioners in post at the 31st March 2017 was nine. The Ministry of Justice began a recruitment process which will restore the number of Commissioners to above the minimum required.

## Governance Framework



## Board Performance

The board meets monthly, except in August, focusing its attention on the delivery of our strategic priorities.

It has split its time over the past year as follows:

Financial and Strategic Planning – 24%

Governance Arrangements – 18%

Reviewing Business Performance – 28%

Risk Management – 8%

External Stakeholder Engagement – 22%

The board maintains a number of processes and systems to ensure that it can operate effectively. Recruitment by the sponsor department of new Commissioners is conducted in accordance with the Governance Code for Public Appointments as applied by the Ministry of Justice. New members receive induction commensurate with their experience and knowledge of the public sector and the criminal justice system. Board members are subject to regular personal appraisal.

Meeting agendas and papers are made available to members electronically and as paper copies one week before board meetings. Papers provide sufficient information and evidence for sound decision-making. At each meeting the board receives a comprehensive management information pack detailing progress against Key Performance Indicators, as defined in our annual Business Plan, performance statistics for our casework, financial expenditure against budget, and information on our people, information systems performance and communications. Feedback on the contents of the pack is routinely sought to ensure it continues to meet the needs of the board. A board work plan is established at the beginning of each year, and agendas are planned to ensure all areas of the board's responsibilities are examined during the year.

The board carries out an annual self-evaluation of its performance, using a questionnaire published by the National Audit Office which compares how the board operates with the recommendations in the Corporate Governance Code.

The board completed a self evaluation exercise, discussed at the board in April 2017, the results of which were compared to the previous year's exercise. The number of broadly positive responses (Strongly agree and partially agree) to 47 statements regarding the functioning of the board increased from 83.9% to 86.8%.

The board is supported in delivering its objectives by the Audit and Risk Assurance Committee, the Long Running Cases Sub-Committee and the Remuneration Committee. The board receives and discusses the minutes of these committees where practicable at the next available board meeting. The Chief Executive and two directors form the Commission's Senior Management Team, which meets at least monthly to ensure operational effectiveness and monitor performance.

### **Audit and Risk Assurance Committee**

The Audit and Risk Assurance Committee supports the board and myself as the Accounting Officer, in discharging their responsibilities for issues of risk, control and governance. Specifically, it advises me and the board on the strategic processes for risk, control and governance; the accounting policies, the accounts, and the annual report; the planned activity and results of both internal and external audit and anti-fraud policies and whistle-blowing processes. During the year the membership of the committee was reviewed and underwent several changes, to improve the functioning of the committee and its independence. From June 2016, the Director of Casework Operations attended the meeting. In January, the membership changed from one Non Executive Director and two Commissioners to two Non Executive Directors and one Commissioner. Also in January 2017, the Audit and Risk Assurance Committee undertook its annual review of effectiveness, which gave further support to completing the transition of membership of the committee. The committee resolved that from 2017/18 membership will be entirely made up by the three Non-Executive Directors, aligning with recommended best practice. The meetings are attended by a commissioner, the Chief Executive and directors, the internal and external auditor and the Government Internal Audit Agency. The committee meets quarterly, and reviews the Commission's major risks and the plans for their mitigation at each of those meetings. A programme of internal audit reviews is agreed each year and each of the reports produced is considered in detail by the Audit and Risk Assurance Committee.

### **Long Running Cases Review Committee**

The Long Running Cases Review Committee, chaired by a non-executive director, was introduced to focus attention and provide scrutiny on those cases that have been under review for two years or more. These long running cases are often complex, or raise particular challenges. Notwithstanding that, the applicants expect progress of their cases and it is our ambition to deliver good quality reviews in shorter timescales. The CCRC recognises the importance of timely intervention if and when case reviews face challenges and since its inception the committee has recommended several improvements to case review procedure.

### **Remuneration Committee**

The Remuneration Committee keeps under review the salaries of the senior staff which are not placed on the Commission's normal salary scales, and considers any other remuneration issues related to staff. In 2016/17 the committee supported a change to the date on which annual pay reviews are completed to 1 July thus aligning the pay review with the annual staff appraisal and performance management cycle. The Committee is chaired by one of the non-executive directors, and normally meets annually or as required.

In addition to the board sub-committees there are a number of other committees and groups that contribute to the wider governance of the Commission. These include the Research Committee, Internal Communications Group, the Management Information Security Forum, the Equality and Diversity Group and various ad hoc groups formed to discharge specific functions.

Membership of the main committees and the attendance record of members are shown in the table. One board meeting, in October, was postponed at short notice and held one week later, which had a slightly detrimental effect on the attendance record.

### Attendance Record

Attendance at eligible meetings

Member	Role	Board	Audit & Risk	Rem. Com.	Long Running Cases
L. Calderbank	Commissioner	10/11			
J. England	Commissioner	4/5			
R. Foster	Commissioner	10/11*		1/1	
J. Goulding	Commissioner	5/8			
C. Hughes	Commissioner	10/11			
S. Leach	Commissioner	9/11			
A. Marks	Commissioner	11/11			
S. Persaud	Commissioner	11/11			
A. Rennison	Commissioner	9/11	3/4	1/1	
D. J. Smith	Commissioner	10/11			
E. Smith	Commissioner	6/6			
R. Sondhi	Commissioner	10/11	3/3	1/1	
J. Baume	Non-Executive	7/11	1/1	1/1	
C. Corby	Non-Executive	11/11		1/1	11/11*
M. Semple	Non-Executive	9/11	4/4*	1/1*	
S. Berlin	Director	10/11	3/3‡		10/11
I. Brooks	Director	10/11	4/4‡	1/1‡	
K. Kneller	Chief Executive	10/11	3/4‡		3/11

\* = Chair, ‡ = in attendance

### Compliance with the Corporate Governance Code

The Commission aims to ensure that its governance arrangements follow best practice, and follow the Corporate Governance Code to the extent that it is relevant and meaningful. The board has identified the following material departures from the provisions of the code:

- The board has no nominations and governance committee, as it is considered that the size of the organisation does not warrant it.
- The constitution of the board does not reflect the optimal balance recommended by the code. By virtue of being a Commission, in which all Commissioners are also board members, there is potentially an imbalance between executive and non-executive members, particularly given the number of non-executive directors which is below the recommended minimum of four. As there are only three non-executive directors, it is not considered necessary to designate one of them as the lead non-executive director. The change made this year was that all three non-executives shall be members of the Audit and Risk Assurance Committee (see above) which has ensured compliance with the code recommendations. A non-executive director chairs each of the other board sub-committees.
- Approximately two thirds of board members are Commissioners. They are selected primarily for their ability to make casework decisions and for their experience of the criminal justice system. The ability of the board to ensure that it has the necessary mix and balance of skills is therefore somewhat

limited, but the opportunity is taken at each recruitment round to ensure that any gaps in the broader skills, experience and background of members are addressed.

### Risk Management

The system of internal control is a significant part of the governance framework and is designed to manage risk to a reasonable level. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the Commission's aims and objectives, to evaluate the likelihood and potential impact of those risks being realised, and to manage them efficiently, effectively and economically. It cannot eliminate all risk of failure to achieve aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The Commission's internal control framework is based on the review of regular management information, administrative procedures including the segregation of duties, and a system of delegation and accountability. This is supported by regular meetings of the board at which the Commission's strategic direction and plans are reviewed, and performance against goals is reported.

The Commission's risk management framework, illustrated below, ensures that risks to the Commission achieving its business objectives are identified, managed and monitored.

#### Risk Management Framework

<b>CCRC Board</b>	<ul style="list-style-type: none"> <li>• Ensures that the strategic risks to achieving corporate objectives are the "right" ones and are being managed appropriately.</li> <li>• Determine the risk tolerance of the CCRC for each individual risk.</li> <li>• Establishes a culture of openness and learning.</li> </ul>
<b>Senior Management Team</b>	<ul style="list-style-type: none"> <li>• Establishes the risk framework.</li> <li>• Sponsors individual, complex risks and issues.</li> <li>• Promotes risk awareness culture, communication.</li> </ul>
<b>Risk Owners</b>	<ul style="list-style-type: none"> <li>• Actively identify risks in their professional area, understand, evaluate and escalate risks and recommend mitigation. Monitor effectiveness.</li> <li>• Ensure organisational capability.</li> </ul>
<b>Audit &amp; Risk Assurance</b>	<ul style="list-style-type: none"> <li>• Reviews Risk Management Approach.</li> <li>• Agrees Internal Audit Programme, focussed on key risks, reviewing results and implementation of recommendations.</li> <li>• Supports Board on Risk Management.</li> </ul>

Risks are assessed in the light of their impact and likelihood using a scale which reflects the Commission's appetite for risk. Risk appetite is determined by reference to the Commission's objectives, the degree to which it is able to absorb financial shock and its need to maintain its reputation in order to continue to command respect and support amongst its stakeholders. The board approved a new risk appetite statement during the year, which is now used to inform the assessment of risks at each review. The overall risk tolerance set by the board is low, particularly with respect to ensuring that we deliver timely, high quality casework decisions, we protect the information in our possession, and we are, and are seen to be, independent from the MoJ in our decision making. The board's approach towards risk is to implement measures that will reduce the likelihood or



any key risk occurring to unlikely and to reduce the potential impacts to minor financial or reputational consequences.

Individual risks are assigned to named individuals, and risks are reviewed on a systematic and regular basis. Each review is endorsed by the Audit and Risk Assurance Committee and a report is made annually by the Audit and Risk Assurance Committee to the board. A summary of significant risks and progress against mitigating actions is also included in the board's management information pack for review at each of its meetings. In addition, the assessment and monitoring of risk is embedded in the Commission's project management processes.

TIAA Ltd. was awarded a three-year contract to provide internal audit services to 31 March 2018 following competitive tender in 2014/15. The programme of work in 2016/17 evaluated the compliance with build specifications of IT equipment and the adherence to our policy to review case plans once a case had been under review for 12 months. Both internal and external audits assist the Commission with the continuous improvement of procedures and controls. Actions are agreed in response to recommendations, and these are followed up to ensure that they are implemented.

During the year, the Commission has continued to ensure that it is managing risks relating to information security appropriately. Information security and governance arrangements broadly comply with the ISO 27001 Information Security Management standard. TIAA performed an audit of the statement of compliance during the year with no significant recommendations. Self-evaluation of the Commission's compliance with the mandatory requirements of the Security Policy Framework relating to information assurance was positive. All staff were briefed on the Commission's policy on reporting security incidents as part of the programme of security awareness training (see page 39 personal data related incidents).

### Major risks

As part of the Business Planning process for 2017/18, the board took the opportunity to consider the major risks to the Commission achieving its strategic and planned objectives, and those that would have greatest operational impact.

While not an exhaustive list of the risks discussed by the board, the key risks are summarised in the following table:

#### Key Risks

<b>Timescales</b>	<ul style="list-style-type: none"> <li>The ongoing lengthy queues, which can be heavily influenced by the number and complexity of the cases we are asked to review.</li> </ul>
<b>Information</b>	<ul style="list-style-type: none"> <li>The security of the information we obtain in order to perform our work, set against the increasing quantum of demands under the Data Protection and Freedom of Information legislation.</li> </ul>
<b>Resources</b>	<ul style="list-style-type: none"> <li>Obtaining sufficient resources and capital funding to maintain the level of casework personnel and improve the IT environment.</li> </ul>
<b>Skills</b>	<ul style="list-style-type: none"> <li>Maintaining and motivating a highly qualified workforce with sufficient skills and manageable workload in a demand led organisation.</li> </ul>
<b>Safety</b>	<ul style="list-style-type: none"> <li>Ensuring the safety and wellbeing of our staff while performing their roles, particularly on activities away from the office.</li> </ul>

Compared with 2015/16 two of the key risks have been amended. The risks for Resources and the elevation to a key risk regarding the Commission's reputation with Stakeholders relate to the challenge of quickly establishing a new cadre of Commissioners due to join the CCRC during 2017/18.

### Assurance

The framework within the Commission that provides assurance is based on HM Treasury's 3 "lines of defence" model.

The conceptual model of three lines of defence is derived from:

- 1) First line: Management assurance from front-line or business operational areas
- 2) Second line: oversight of management activity, separate from those responsible for delivery, but not independent of the organisation's management chain
- 3) Third line: independent and more objective assurance, including the role of internal audit and from external bodies (e.g. accreditation and Gateway reviews)

Assurance activities cover financial and commercial processes, human resources, key business processes, management information, information security, fraud and error, whistle-blowing and occupational health and safety. By way of examples of how this has operated 2016/17 within the Commission for certain key business processes:

Strategic Objective	First Line Assurance	Second Line Assurance	Third Line Assurance
To improve the case flow balance and to reduce waiting times	Group Leaders (GLs) manage their group portfolios, screening and allocating cases to Case Review Managers (CRM). GLs are provided with reports by their group on applications assigned to them and the duration they have been waiting. GLs scrutinise case progress for cases reaching 12 months.	Director of Casework Operations, Senior Management Team and the board receive and interrogate case working statistics on a monthly basis. The long running cases sub-committee, chaired by a non-executive director, scrutinises all cases in review over 2 years and seeks to establish firm plans for completion.	Internal audit performs an assessment that the scrutiny process are working as intended and makes recommendations for improvement.
Achieving reduced times whilst maintaining quality	GLs review some Provisional Statements of Reasons with the CRMs. Commissioners finalise the Statement of Reasons (SOR).  The Customer Service Manager operates the complaints procedure. There is also feedback from the legal advisor on Judicial Review (JR).	A sample of case SOR, and all that are being referred, are reviewed for quality and consistency by the Director of Casework Operations and the Chief Executive.  Senior Management Team (SMT) review the quarterly report on complaints and JR received.	In those cases referred the appeal courts, judgments often give insightful comments on quality aspects of the referral. For those not referred, post closure work with applicants, representatives and, in rare cases, via judicial review, serve to ensure high quality SORs.  Complaints received regarding the complaints process are handled by a non-executive director or in some cases an independent member of SMT.

During 2016/17, Internal Audit performed a review of cases to ensure that the 12 month scrutiny process was being performed in due time. The report found only limited assurance and made recommendations to improve the rigour of this process. These were acted upon such that all relevant cases had received scrutiny by 31st March.

In addition, over the course of 2016/17 management has:

- Reviewed the specification of all IT contracts to ensure they will remain fit for purpose once the replacement casework management system is in place,
- Re-specified and re-tendered the offsite secure records management storage contract,
- Acted on the recommendations arising from the voluntary audit by the Information Commissioner's Office,
- Delivered a "customised" Information Assurance training session to all staff and Commissioners,
- Carried out a successful Disaster Recovery/business continuity exercise at our partner offsite location,
- Introduced a performance related aspect to annual pay awards where ratings are moderated by peer review,
- Worked with the Ministry of Justice finance team to ensure consistency of classification of costs (changes to take effect in 2017/18)
- Engaged the Ministry of Justice operational research team to review the Commission's KPI's for effectiveness (resulting in two different KPIs in 2016/17)

### **Effectiveness of Whistleblowing Policy**

The CCRC Whistleblowing Policy was last revised during 2016/17, and nominates one of the Commissioners as Whistleblowing champion. The policy is reviewed on a bi-annual cycle. During the year several policies, including the Code of Conduct for Commissioners and Staff, the Travel and Expenses Policy, and the Gifts and Hospitality Policy were updated. The communication and dissemination of these reviews provided an opportunity to remind staff of the provisions of the Whistleblowing Policy should they, at any time, have concerns over the conduct of others.

### **Accounting Officer**

In their annual report, our internal auditors have given an overall assurance that the Commission has adequate and effective management and governance processes. I have been advised on the implications of the result of my review by the board and the Audit and Risk Assurance Committee. I am satisfied that a plan to address any weaknesses in the system of internal control and ensure continuous improvement of the system is in place. I am also satisfied that all material risks have been identified, and that those risks are being properly managed. The budget we have received for 2017/18 includes a small increase but we are, nevertheless, absorbing inflationary pressures and continuing to seek efficiencies in our procedures. In 2016/17 our Whole System Review of casework has continued to prove very effective in delivering efficiencies while maintaining quality, and has helped us to significantly shorten waiting times for applicants. Nevertheless further significant reductions remain necessary before we reduce waiting times to our targeted level.



**Karen Kneller,**

Chief Executive and Accounting Officer  
4 July 2017

## Remuneration and Staff Report

### Remuneration policy

The remuneration of Commissioners is set by the Secretary of State for Justice.

Although Commissioners are appointed with different weekly time commitments, all Commissioners, with the exception of the Chairman, are paid salaries at one of two full-time equivalent rates. The full-time rate for Commissioners appointed prior to 2012/13 is £88,836 per annum plus a contributory pension with benefits which are broadly-by-analogy to the Principal Civil Service Pension Scheme. The full-time rate for Commissioners appointed in 2012/13 and subsequent years is £93,796 per annum, with no entitlement to a pension. The full-time rate for the Chairman is £104,800 per annum (2015/16 – £104,800). During 2016, the three Commissioners appointed prior to 2012/13 reached the end of their terms of office, such that from 31st December 2016 no Commissioner was employed with pension benefits. A recruitment campaign was undertaken to replace the retiring Commissioners. The new Commissioners will be covered by revised terms. They will be paid on a daily fee basis, broadly equivalent to the current annual salary (pro rata for part time working). The daily rate will include provision for holiday pay.

Non-executive directors are paid a daily fee which is reviewed annually in the light of increases in the Retail Price Index.

Salaries of the Chief Executive and directors are set by the Remuneration Committee membership of which comprises the Chair of the Commission, the non-executive directors and two Commissioners. The Committee takes into account HM Treasury pay growth limits, affordability, and performance in determining annual salary increases.

### Service contracts

Commissioners are appointed by the Queen on the recommendation of the Prime Minister, one of whom is appointed by the Queen as Chairman. Appointments may be full-time or part-time, and are for a fixed period of not longer than five years. Retiring Commissioners are eligible for re-appointment, provided that no person may hold office for a continuous period which is longer than ten years. Arrangements for appointment and re-appointment are set out in the “Governance Code for Public Appointments” published in December 2016.

Non-executive directors are office holders appointed for a fixed term of up to five years, which may be renewed. The posts are non-pensionable.

The Chief Executive and Directors are employed on permanent contracts of employment with a notice period of three months. Normal pensionable age under the Principal Civil Service Pension Scheme is 60 for Classic and Premium members, and the Normal State Retirement Age for members of Nuvos and Alpha (or 65 if higher). Further details of the pension schemes are provided in later in this report and note 4 to the accounts. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

### Remuneration (salary, benefits in kind and pensions)

The following sections provide details of the remuneration and pension interests of board members, i.e. Commissioners, the Chief Executive, directors and non-executive directors. These details have been subject to audit.

	2016/17				2015/16			
	Salary £000	Benefits- in-kind (to nearest £100) £000	Pension benefits (to nearest £1000) £000	Total £000	Salary £000	Benefits- in-kind (to nearest £100) £000	Pension benefits (to nearest £1000) £000	Total £000
<b>Commissioners</b>								
Mr Richard Foster CBE	50-55	-	-	50-55	55-60	-	-	55-60
Mrs Liz Calderbank	35-40	-	-	35-40	35-40	-	-	35-40
Mr James England [until 30.09.16]	40-45	-	14	55-60	85-90	-	34	120-125
Miss Julie Goulding [until 31.12.16]	35-40	-	13	50-55	70-75	-	26	95-100
Ms Celia Hughes	60-65	-	-	60-65	55-60	-	-	55-60
Mr Stephen Leach	45-50	23.3	-	70-75	45-50	23.1	-	65-70
Ms Alexandra Marks	40-45	-	-	40-45	35-40	-	-	35-40
Dr Sharon Persaud	75-80	-	-	75-80	75-80	-	-	75-80
Mr Andrew Rennison	55-60	-	-	55-60	55-60	-	-	55-60
Mr David James Smith	90-95	-	-	90-95	90-95	-	-	90-95
Mr Ewen Smith [until 31.10.16]	40-45	-	13	50-55	70-75	-	22	90-95
Mr Ranjit Sondhi	55-60	-	-	55-60	55-60	-	-	55-60
<b>Non-executive directors</b>								
Mr Jonathan Baume	0-5	1.5	-	5-10	0-5	1.3	-	5-10
Ms Caroline Corby	5-10	2.7	-	10-15	5-10	3.1	-	10-15
Dr Margaret Semple	0-5	0	-	0-5	0-5	0	-	0-5
<b>Directors</b>								
Miss Karen Kneller	90-95	-	20	110-115	85-90	-	19	105-110
Mrs Sally Berlin	70-75	-	59	130-135	60-65	-	49	110-115
Mr Ian Brooks [from 12.11.15]	70-75	-	28	95-100	25-30	-	11	35-40
Mr Justin Rees [until 27.04.15]	-	-	-	-	5-10	-	2	5-10

'Salary' includes gross salary or remuneration.

None of the Commissioners, Chief Executive, directors or non-executive directors was entitled to a bonus in the current or previous year, and there is no performance related component to salaries.

The monetary value of benefits-in-kind covers any benefits provided by the Commission and treated by HM Revenue and Customs as a taxable emolument. Benefits relate to costs incurred to enable a part-time Commissioner to work in the Commission's office in Birmingham, and for the non-executive directors to attend meetings in the Commission's office and elsewhere as necessary. These costs are reimbursed to Commissioners and the non-executive directors or incurred on their behalf free of tax and national insurance, and the amounts disclosed above include the income tax and national insurance contributions which are paid by the Commission. The total net costs actually incurred on behalf of the Commissioner and the non-executive directors or reimbursed to them in the year was £14,445 (2015/16 - £14,486).

## Pay multiples

Reporting bodies are required to disclose the relationship between the remuneration of the highest-paid director in their organisation and the median remuneration of the organisation's workforce (including Non Executive Directors).

	2016/17	2015/16
Band of highest paid board member's total remuneration [£000]	100-105	100-105
Median total remuneration	£36,697	£37,364
Ratio	2.8	2.7

Remuneration ranged from £3,000 to £94,000 (2015/16 £5,000 – £94,000).

Total remuneration includes salary, but does not include severance payments, employer pension contributions and the cash equivalent transfer value of pensions.

These details have been subject to audit.

## Pension arrangements

Commissioners appointed prior to 2012/13 are entitled to a pension and may choose pension arrangements broadly by analogy with the Principal Civil Service Pension Schemes. They are entitled to receive such benefits from their date of appointment.

Commissioners' pension arrangements are unfunded, and the Commission is responsible for paying retirement benefits as they fall due. Contributions were paid by Commissioners at the rate of 7.35% of pensionable earnings.

Pension benefits for the Chief Executive and directors are provided through the Civil Service pension arrangements. From 1 April 2015, a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or Alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date all newly appointed civil servants and the majority of those already in service joined Alpha. Prior to that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS). The PCSPS has four sections: three providing benefits on a final salary basis (classic, premium or classic plus) with a normal pension age of 60; and one providing benefits on a whole career basis (Nuvos) with a normal pension age of 65.

These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus, Nuvos and Alpha are increased annually in line with Pensions Increase legislation. Existing members of the PCSPS who were within 10 years of their normal pension age on 1 April 2012 remained in the PCSPS after 1 April 2015. Those who were between 10 and 13 years and 5 months from their normal pension age on 1 April 2012 will switch to Alpha sometime between 1 June 2015 and 1 February 2022. All members who switch into Alpha have their PCSPS benefits "banked", with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave Alpha. (The pension figures quoted in this report show pension earned in PCSPS or Alpha – as appropriate. Where the individual has benefits in both the PCSPS and Alpha the figure quoted is the combined value of their benefits in the two schemes.) Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a "money purchase" stakeholder pension with an employer contribution (partnership pension account).

Employee contributions are salary-related and range between 3% and 8.05% of pensionable earnings for members of classic (and members of Alpha who were members of classic immediately before joining Alpha) and 4.6% and 8.05% for members of premium, classic plus, Nuvos and all other members of Alpha. Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for



each year of service. In addition, a lump sum equivalent to three years initial pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly per classic and benefits for service from October 2002 worked out as in premium. In Nuvos a member builds up a pension based on his or her pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is up rated in line with Pensions Increase legislation. Benefits in Alpha build up in a similar way to Nuvos, except that the accrual rate is 2.32%. In all cases members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension agreement. The employer makes a basic contribution of between 8% and 14.75% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of providers. The employee does not have to contribute, but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.5% of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of classic, premium and classic plus, 65 for members of Nuvos, and the higher of 65 or State Pension Age for members of Alpha. (The pension figures quoted for individuals show pension earned in PCSPS or Alpha – as appropriate. Where the individual has benefits in both the PCSPS and Alpha the figure quoted is the combined value of their benefits in the two schemes, but note that part of that pension may be payable from different ages).

Further details about the Civil Service pension arrangements can be found at the website [www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk)

### **Cash equivalent transfer values**

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. CETVs are calculated in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their purchasing additional pension or years of pension service in the scheme at their own cost. CETVs are worked out in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits arising from Lifetime Allowance Tax which may be due when pension benefits are taken.

### Real increase in CETV

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

### Pension benefits

These details have been subject to audit.

	Accrued pension at pension age at 31/3/17 and related lump sum £000	Real increase in pension and related lump sum at pension age £000	CETV at 31/3/17 £000	CETV at 31/3/16 £000	Real increase in CETV £000
Miss Karen Kneller – <i>Chief Executive</i>	30-35 plus a lump sum of 95-100	0-2.5 plus a lump sum of 2.5-5	649	603	16
Mrs Sally Berlin – <i>Director of Casework Operations</i>	20-25 plus a lump sum of 5-10	2.5-5.0 plus a lump sum of 0-2.5	286	237	29
Mr Ian Brooks – <i>Director of Finance and Corporate Services</i>	0-5	0-2.5	28	8	15
Mr Jim England <i>[until 30.9.17]</i>	15-20	0-2.5	347	321	13
Mr Ewen Smith <i>[until 31.10.17]</i>	5-10	0-2.5	98	85	11
Ms Julie Goulding <i>[until 31.12.17]</i>	15-20	0-2.5	299	273	12

### Notes

- 1 Mr Richard Foster is entitled to a pension but has not opted-in.
- 2 The non-executive directors are not entitled to pension benefits.
- 3 Commissioners appointed after 2012/13 are not entitled to pension benefits.
- 4 Total accrued pension may include benefits arising from transfers-in from other schemes, and may also be augmented by additional voluntary contributions paid by the individual.
- 5 CETVs are calculated using common market valuation factors for the start and end of the period, which may be different from the factors used in the previous year. Consequently, the CETV at 31/3/16 shown in the table above may differ from the CETV at 31/3/16 as disclosed in the 2015/16 remuneration report.

## Staff Report

### Staff Numbers

Our staff numbers have remained relatively stable during 2016/17, but recruitment activity has increased compared to the previous year, following a higher level of staff turnover and a policy to recruit more interns to support casework. As at 31st March 2017, there were 83 (83 2015/16) permanent members of staff making up an average Full Time Equivalent (FTE) of 78 (76 (2015/16)). There was 0 FTE (1 FTE 2015/16) non permanent staff. Within the staff cohort, the Chief Executive and two directors, while not civil servants, are evaluated at Senior Civil Service staff band equivalent of SCS2 and SCS1 respectively. At the end of 2016/17 there were nine Commissioners (an average FTE 7) including the Chair (12 and FTE 8 2015/16). These details have been subject to audit.

A recruitment campaign is expected to restore Commissioner numbers to more than 11, the minimum number prescribed in the founding legislation. In the interim period, since the retirements of Commissioners, the remaining cohort have worked additional fee paid days to make up, in part, the reduction in resource.

## Staff Composition

At the 31st March 2017 the Commission had 51 female and 32 male staff, five male and four female Commissioners and two female and one male non-executive directors.

## Staff Costs

Full details of staff costs, which have been subject to audit, are presented in the table below:

	2016/17 £000	2015/16 £000
<b>Commissioners</b>		
Salaries and Emoluments	669	765
Social Security Contributions	78	87
Pension Costs	73	103
<b>Total Commissioners Costs</b>	<b>820</b>	<b>955</b>
<b>Non-executive Directors</b>		
Salaries and Emoluments	21	23
Social Security Contributions	–	1
<b>Total Non-executive Directors Costs</b>	<b>21</b>	<b>24</b>
<b>Staff</b>		
<b>– Staff with permanent employment contracts</b>		
Salaries and Emoluments	2703	2,671
Social Security Contributions	272	210
Pension Costs	527	522
<b>– Other staff (contract, agency/temporary)</b>		
Salaries and Emoluments	(6)*	87
<b>Total Staff Cost</b>	<b>3,496</b>	<b>3,490</b>
<b>Total</b>	<b>4,337</b>	<b>4,469</b>

Note: \* value is negative due to the reversal of an overstated accrual in 2015/16.

We aim for sickness absence in the Commission to be less than 7.5 days per person (FTE) per year (see Key Performance Indicator on page 83). Due to several long term absences<sup>4</sup> the actual average in 2016/17 was 13.3 (in 2015/16 it was 8.7 days). Because the Commission has relatively few staff, even a handful of long term absences can have a significant impact on our sickness average.

## Staff Policies

The Commission operates a wide range of staff policies, which are regularly reviewed, designed to promote a working environment that supports staff and the productivity and effectiveness of our work. While not an exhaustive list, the Commission has policies that support:

- Dignity at Work
- Equality and Diversity
- Fair recruitment including a Guaranteed Interview Scheme for applicants who identify as disabled
- Sickness and absence management
- Performance and Appraisal
- Training and development including capability
- Flexitime working.

<sup>4</sup> During 2016/17 there were eight occasions on which employees were absent through ill-health for 20 consecutive days or longer (the standard definition of long term absence).

Line managers and staff are supported in their awareness of the policies by appropriate training, routine reminders and the involvement of Human Resources specialists in matters affecting staff working conditions.

During 2016/17, the Commission ran its bi-annual survey of staff engagement. The response rate to the survey was over 80% and the excellent positive engagement score was 83% (85% in 2014/15). While it is clear from the survey that staff are proud to work for the Commission and enjoy their work, we cannot be complacent. We can continue to make progress in how we train and develop staff and on communication between the leadership and the wider organisation. There is a growing concern over staff feeling properly rewarded and recognised, which is not entirely within the gift of the Commission to resolve.

The Commission is proud of its record of offering internships, including those in partnership with the Kalisher Trust, and apprenticeships. For those interns subsequently obtaining pupillage, 63% of those that apply have been successful, far higher than the wider average, and we have managed to recruit several apprentices into permanent positions. .

### **Expenditure on Consultancy**

The Commission has incurred no consultancy expenditure in 2016/17.

### **Off Payroll Contractors**

During the current period, the Commission has reviewed the tax arrangements of all its off-payroll appointments. All contractors within the scope of this exercise have been required to provide evidence of tax compliance. There have been no instances of non-tax compliant off-payroll engagements as at 31 March 2017. Further details of off-payroll engagements can be found in the Ministry of Justice consolidated accounts.

### **Compensation for loss of office**

None of the Commissioners, non-executive directors or senior management received any compensation for loss of office in the year.

These details have been subject to audit.

### **Exit Packages**

There have been no exit packages in 2016/17 (£0 2015/16).

These details have been subject to audit.

## Parliamentary Accountability and Audit Report

### Regularity of Expenditure

The Criminal Cases Review Commission (CCRC) operates within a framework agreement between the sponsor department and the Commission, which sets out the financial transaction limits to which the Commission may operate without further referral to the Ministry of Justice. The commission also operates to the standards set out in HM Treasury's "Managing Public Money", and can confirm no irregularity with any of the provisions contained therein.

This has been subject to audit.

### Remote Contingent Liabilities

International Accounting Standard 37 (IAS 37) sets out the requirements for provisions, contingent liabilities and contingent assets. Parliamentary reporting also requires that organisations disclose remote contingent liabilities. The CCRC has no remote contingent liabilities.

This has been subject to audit.

### Losses and Special Payments

The CCRC has not incurred any losses or made any special payments in the year 2016/17.

This has been subject to audit.

### Gifts

The CCRC has neither received nor given any gifts above a trivial value during 2016/17.

This has been subject to audit.

### Fees and Charges

The CCRC does not levy any fees or charges.

This has been subject to audit.

### Long Term Expenditure Trends

As part of the Spending Review Process in 2015 (SR15), the Ministry of Justice agreed a long term settlement of resource and capital budgets for the period up to 2020/21. The CCRC works with the Ministry of Justice to agree its budgets on an annual basis.



**Karen Kneller,**

Chief Executive and Accounting Officer

4 July 2017

## The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements of the Criminal Cases Review Commission for the year ended 31 March 2017 under the Criminal Appeals Act 1995. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration and Staff Report and the Parliamentary Accountability Disclosures that is described in that report as having been audited.

### Respective responsibilities of the Accounting Officer and auditor

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Criminal Appeals Act 1995. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Criminal Cases Review Commission's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Criminal Cases Review Commission; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### Opinion on regularity

In my opinion, in all material respects the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of the Criminal Cases Review Commission's affairs as at 31 March 2017 and of the net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Criminal Appeals Act 1995 and Secretary of State directions issued thereunder.



**Opinion on other matters**

In my opinion:

- the parts of the Remuneration and Staff Report and the Parliamentary Accountability disclosures to be audited have been properly prepared in accordance with Secretary of State directions made under the Criminal Appeals Act 1995; and
- the information given in the Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

**Matters on which I report by exception**

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the parts of the Remuneration and Staff Report and the Parliamentary Accountability disclosures to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

**Report**

I have no observations to make on these financial statements.

**Sir Amyas C E Morse**

Comptroller and Auditor General  
7th July 2017

National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

## Section Three

**Financial Statements**

This section presents the Commission's final audited accounts for the period 1st April 2016 to 31st March 2017 in Financial Statements and Notes to the Accounts.

**Statement of Comprehensive Net Expenditure****for the year ended 31 March 2017**

	Note	2016-17 £000	2015-16 £000
<b>Expenditure</b>			
Staff Costs	3	<b>4,337</b>	4,469
Depreciation, Amortisation & Impairment	9, 10	<b>198</b>	91
Other Expenditure	5	<b>1,674</b>	1,425
<b>Total Expenditure</b>		<b>6,209</b>	5,985
<b>Income</b>			
Income from Activities	7	<b>(5)</b>	(5)
<b>Net Operating Expenditure</b>		<b>6,204</b>	5,980
Interest Payable	6	<b>233</b>	231
<b>Net Expenditure for the year</b>		<b>6,437</b>	6,211
<b>Other Comprehensive Net Expenditure</b>			
Pensions: actuarial (gains)/losses	4	<b>350</b>	(95)
<b>Comprehensive Net Expenditure for the year</b>		<b>6,787</b>	6,116

The notes on pages 63 to 77 form part of these accounts.

## Statement of Financial Position

as at 31 March 2017

	Note	31 March 2017 £000	31 March 2016 £000
<b>Non-current assets</b>			
Property, plant & equipment	9	251	219
Intangible assets	10	370	357
Trade & other receivables	11	1	1
<b>Total non-current assets</b>		<b>622</b>	<b>577</b>
<b>Current assets</b>			
Trade & other receivables	11	158	140
Cash	12	51	63
<b>Total current assets</b>		<b>209</b>	<b>203</b>
<b>Total assets</b>		<b>831</b>	<b>780</b>
<b>Current liabilities</b>			
Trade payables & other current liabilities	13	376	401
<b>Total assets less current liabilities</b>		<b>455</b>	<b>379</b>
<b>Non-current liabilities</b>			
Provisions	14	163	53
Pension liabilities	4	6,926	6,611
<b>Total non-current liabilities</b>		<b>7,089</b>	<b>6,664</b>
<b>Total assets less total liabilities</b>		<b>(6,634)</b>	<b>(6,285)</b>
<b>Taxpayers' equity</b>			
General reserve		(6,634)	(6,285)
<b>Total taxpayers' equity</b>		<b>(6,634)</b>	<b>(6,285)</b>

The notes on pages 63 to 77 form part of these accounts.

The financial statements on pages 59 to 62 were approved by the Board on 27 June 2017, and were signed on behalf of the Criminal Cases Review Commission by:



**Karen Kneller,**

Chief Executive and Accounting Officer

4 July 2017

Statement of Cash Flows  
for the year ended 31 March 2017

	Note	2016-17 £000	2015-16 £000
<b>Cash flows from operating activities</b>			
<b>Net cash outflow from operating activities</b>	15	<b>(5,565)</b>	<b>(5,301)</b>
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment		<b>(67)</b>	<b>(1)</b>
Purchase of intangible assets		<b>(78)</b>	<b>(45)</b>
<b>Total cash outflow from investing activities</b>		<b>(145)</b>	<b>(46)</b>
<b>Cash flows from financing activities</b>			
Capital Grant in Aid	2	<b>145</b>	<b>46</b>
Revenue Grant in Aid	2	<b>5,553</b>	<b>5,355</b>
<b>Total financing</b>		<b>5,698</b>	<b>5,401</b>
<b>Net increase/(decrease) in cash</b>	12	<b>(12)</b>	<b>54</b>
<b>Cash flows from financing activities</b>	12	<b>63</b>	<b>9</b>
<b>Cash at end of year</b>	12	<b>51</b>	<b>63</b>

The notes on pages 63 to 77 form part of these accounts.

## Statement of Changes in Taxpayers' Equity for the year ended 31 March 2017

	Note	General reserve £000	Total reserves £000
<b>Balance at 1 April 2015</b>		<b>(6,235)</b>	<b>(6,235)</b>
<b>Changes in taxpayers' equity for 2015-16</b>			
Comprehensive net expenditure for 2015-16		(6,116)	(6,116)
Grant from sponsor department	2	5,401	5,401
Reversal of notional transactions: notional expenditure	18	665	665
<b>Balance at 31 March 2016</b>		<b>(6,285)</b>	<b>(6,285)</b>
<b>Changes in taxpayers' equity for 2016-17</b>			
Comprehensive net expenditure for 2016-17		(6,787)	(6,787)
Grant from sponsor department	2	5,698	5,698
Reversal of notional transactions: notional expenditure	18	740	740
<b>Balance at 31 March 2017</b>		<b>(6,634)</b>	<b>(6,634)</b>

The notes on pages 63 to 77 form part of these accounts.

## Notes to the Accounts

### 1 Accounting policies

#### Basis of Accounts

These financial statements have been prepared in accordance with the Accounts Direction given by the Secretary of State for Justice with the consent of the Treasury in accordance with paragraph 9(2) of Schedule 1 to the Criminal Appeal Act 1995. The Accounts Direction requires the financial statements to be prepared in accordance with the Government Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the Commission for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Commission are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

These financial statements have been prepared under the historical cost convention.

#### Changes in Accounting Policy and Estimates

##### a) Changes in Accounting Estimates

There have been no changes in accounting policies during the period ended 31st March 2017, but two changes in respect of accounting estimates.

##### b) Depreciation, Amortisation and Impairment Estimate

Up to 31st March 2017 assets classified as IT Hardware and development or IT Software Systems and licences have been depreciated over eight years. From 1st April 2017, the depreciation will be applied prospectively over four years. This change has been considered necessary and appropriate given the investment programme in IT underway within the CCRC and the prospective useful life of assets given the speed of change towards digital technologies. The reduced life is an indicator that an impairment may be required on existing assets. As such a fair value exercise has been conducted on existing assets within these categories and an impairment taken.

##### c) Provision Estimate

The accounting estimate for leaseholder dilapidations and re-instatement has been reviewed during the course of 2016/17. The review conducted by professionals from the Ministry of Justice Estates department, together with RICS qualified surveyors, covered both re-instatement (i.e. removal of alterations made by the Commission when taking up occupancy) and dilapidations (refurbishment due to wear and tear). The costs for re-instatement, accounted for in prior years, have been capitalised as a non current asset, amortised over the remaining life of the period of occupation. The review confirmed the adequacy of this provision. However, a new provision for dilapidations was necessary and this has been charged directly to the Statement of Comprehensive Net Expenditure.

#### Going Concern

The Statement of Financial Position at 31 March 2017 shows negative total taxpayers' equity of £6,634,000. This reflects the inclusion of liabilities falling due in future years which, to the extent that they are not to be met from the Commission's other sources of income, may only be met by future Grants-in-Aid from the Commission's sponsoring department, the Ministry of Justice. This is because, under the normal conventions applying to parliamentary control over income and expenditure, such grants may not be issued in advance of need.

Grant in Aid for 2017/18, taking into account the amounts required to meet the Commission's liabilities falling due in that year, has already been included in the sponsor department's Main Estimates for that year, which have been approved by Parliament, and there is no reason to believe that the department's sponsorship and future parliamentary approval will not be forthcoming.

The triennial review conducted by the Ministry of Justice during 2012/13 confirmed that the functions of the Commission should be retained unchanged, and that the Commission should continue in its current form. It is accordingly considered appropriate to adopt a going concern basis for the preparation of these financial statements.



## Grant in Aid

Grant in Aid received is credited direct to the General Reserve in accordance with the FReM.

## Notional expenditure

Accommodation costs are borne by the Ministry of Justice on the Commission's behalf. To enable the accounts to show a true and fair view, and to comply with the FReM, such expenditure is included in the Statement of Comprehensive Net Expenditure as notional expenditure under the appropriate expense headings, with a full analysis shown in note 18 to the accounts. An equivalent credit entry to finance the notional expenditure is recognised in the Statement of Changes in Taxpayers' Equity.

## Non-current Assets

Assets are capitalised as non-current assets if they are intended for use on a continuing basis and their original purchase cost, on an individual or grouped basis, is £500 or more.

Depreciated historical cost is used as a proxy for fair value of all non-current assets due to short lives and/or low values.

## Depreciation and Amortisation

Depreciation or amortisation is provided on all non-current assets on a straight-line basis to write off the cost or valuation evenly over the asset's estimated useful life as follows:

IT hardware/development eight years\* (four years from 1 April 2017)

Software systems and licences eight years\* (four years from 1 April 2017)

Furniture and fittings 10 years

Office equipment 10 years

Refurbishment costs over the remaining term of the lease

Assets under development no depreciation as assets are not yet in use

\*The change in the useful economic life for IT Hardware/development and for software systems and licences is considered necessary and appropriate given the pace of change in the IT estate and the drive towards digital solutions and cloud based applications more generally in the Criminal Justice System.

## Impairment

The Commission annually performs an asset review across significant asset categories and, if indicators of impairment exist, the assets in question are tested for impairment by comparing the carrying value of those assets with their recoverable amounts. When an asset's economic carrying value decreases as a result of a permanent diminution in the value of the asset due to clear consumption of economic benefit or service potential, the decrease is charged to net operating costs on the Statement of Comprehensive Net Expenditure.

## Employee Benefits

### Employee Leave Accrual

An accrual is made for untaken annual leave. Employees accrue one twelfth of their annual paid leave entitlement for each month worked which is calculated as paid time owing to the employee until the leave is actually taken. The value accrued also includes an allowance for the associated employers national insurance and employers pension contributions.

## Pensions

### (i) Staff pensions

Pension benefits are provided through the Civil Service pension arrangements. From 1 April 2015 a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme, or alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date all newly appointed civil servants and the majority of those already in service joined alpha. Prior to that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS). The pension arrangements are managed independently from the Commission as part of a multi-employer

defined benefit scheme, i.e. one where the benefits are based on an employee's earnings, rather than on contributions made by them and the employer. The scheme is unfunded, but underwritten by Government, and the Commission is unable to identify its share of the underlying liabilities. In accordance with IAS 19 (Employee Benefits), the Statement of Comprehensive Net Expenditure is charged with contributions made in the year.

#### (ii) Commissioners' pensions

Commissioners appointed before 2012/13 were provided with individual defined benefit schemes which are broadly by analogy with the PCSPS. These schemes are unfunded, and the Commission is liable for the future payment of pensions. The cost of benefits accruing during the year is charged against staff costs in the Statement of Comprehensive Net Expenditure. The increase in the present value of the schemes' liabilities arising from the passage of time is charged as interest payable to the Statement of Comprehensive Net Expenditure after operating expenditure. Actuarial gains and losses are recognised as Other Comprehensive Expenditure in the Statement of Comprehensive Net Expenditure.

The Statement of Financial Position includes the actuarially calculated scheme liabilities, discounted at the pensions discount rate as prescribed by HM Treasury to reflect expected long term returns.

### Operating Leases

Payments made under operating leases (net of any incentives received from the lessor) are charged to the Statement of Comprehensive Net Expenditure on a straight-line basis over the period of the lease. Operating lease incentives (such as rent-free periods or contributions by the lessor to the lessee's relocation costs) are treated as an integral part of the net consideration agreed for the use of the leased asset and are spread appropriately over the lease term.

### Provisions

Provision is made for the estimated costs of returning the office premises occupied under a Memorandum of Terms of Occupation (MOTO) to an appropriate condition. The estimated amount is adjusted to take account of actual inflation to date when the cash flow is expected to occur (i.e. the end of the period of occupation), and then discounted to the present value. The rates used are the short and medium term official inflation and nominal discount rates for general provisions advised by HM Treasury.

In previous years some small building alterations have been made which gave access to future economic benefits, therefore a non-current asset has also been created corresponding to the amount of the provision, in accordance with IAS 37 (Provisions, Contingent Assets and Contingent Liabilities). This non-current asset is depreciated over the period of the MOTO on a straight line basis, and the depreciation charged to the Statement of Comprehensive Net Expenditure. The interest cost arising from the unwinding of the discount is also charged each year as interest payable to the Statement of Comprehensive Net Expenditure.

Leasehold dilapidations reflect the estimated costs required for refurbishment of wear and tear to the building, fixtures and fittings caused by the occupancy. The provision for leasehold dilapidations is charged directly to the Statement of Comprehensive Net Expenditure.

### Contingent liabilities

Contingent liabilities are not recognised in the financial statements, but disclosure is made in the notes in accordance with IAS 37 unless the possibility of an outflow of funds is remote.

### Taxation

The Commission is not eligible to register for VAT and all costs are shown inclusive of VAT. The Commission is registered with HM Revenue & Customs for corporation tax. There was no taxable income in the year ended 31 March 2017.

### Standards in issue but not yet effective

The Commission has reviewed the IFRSs in issue but not yet effective, to determine if it needs to make any disclosures in respect of those new IFRSs that are or will be applicable. References to 'new IFRSs' includes new interpretations and any new amendments to IFRSs and interpretations. It has been determined that there are no new IFRSs which are relevant to the Commission and which will have a significant impact on the Commission's financial statements.

## 2 Grant in Aid

	2016/17 £000	2015/16 £000
Received for revenue expenditure	5,553	5,355
Received for capital expenditure	145	46
<b>Total</b>	<b>5,698</b>	<b>5,401</b>

Grant in Aid has been received in accordance with the Ministry of Justice main estimate Part III note E as adjusted by the supplementary estimate.

## 3 Staff Costs

	2016/17 £000	2015/16 £000
<b>Commissioners</b>		
Salaries and emoluments	669	765
Social security contributions	78	87
Pension costs	73	103
<b>Total Commissioners cost</b>	<b>820</b>	<b>955</b>
<b>Non-Executive Directors</b>		
Salaries and emoluments	21	23
Social security contributions	–	1
<b>Total Non-Executive Directors cost</b>	<b>21</b>	<b>24</b>
<b>Staff</b>		
<b>– Staff with permanent employment contracts</b>		
Salaries and emoluments	2,703	2,671
Social security contributions	272	210
Pension costs	527	522
<b>– Other staff (contract, agency/temporary)</b>		
Salaries and emoluments	(6)	87
<b>Total Staff cost</b>	<b>3,496</b>	<b>3,490</b>
<b>TOTAL</b>	<b>4,337</b>	<b>4,469</b>

There were no exit packages in 2016/17 (2015/16 nil).

The negative value, reported at “Other Staff (contract, agency/temporary), has arisen by the reversal of an overstated accrual in 2015/16.

## 4 Pensions

### (i) Staff

Pension benefits are provided through the Civil Service pension arrangements. From 1 April 2015 a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme, or alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date all newly appointed civil servants and the majority of those already in service joined alpha. Prior to that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS). Existing members of the PCSPS who were within 10 years of their normal pension age on 1 April 2012 remained in the PCSPS after 1 April 2015. Those who were between 10 years and 13 years and 5 months from their normal pension age on 1 April 2012 will switch into alpha sometime between 1 June 2015 and 1 February 2022. These statutory arrangements are part of an unfunded multi-employer defined benefit scheme but the Commission is unable to identify its share of the underlying liabilities. The last formal actuarial valuation undertaken for the PCSPS was as at 31 March 2012. The next valuation of the scheme was due to be undertaken as at 31 March 2017. Details can be found in the Government Actuary's Department Report by the Scheme Actuary, "PCSPS: Actuarial valuation as at 31 March 2012". ([www.civilservicepensionscheme.org.uk](http://www.civilservicepensionscheme.org.uk)).

The cost of the Commission's pension contributions to the Principal Civil Service Pension Schemes is included in employment costs. For 2016/17, employers' contributions of £497,000 (2015/16 £490,000) were payable to the PCSPS at one of four rates in the range 20% to 24.5% (2015/16 20% to 24.5%) of pensionable pay, based on salary bands. The Scheme Actuary reviews employer contributions usually every four years following a full scheme valuation. The contribution rates are set to meet the cost of the benefits accruing during 2016/17 to be paid when the member retires and not the benefits paid during this period to existing pensioners. The next revision to the employer contribution rate is expected to take effect from 1 April 2019.

Employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. Employers contributions of £29,000 (2015/16 £28,000) were paid to one or more of the panel of two appointed stakeholder pension providers. Employer contributions are age-related and ranged from 8% to 14.75% from 1 October 2015. Employers also match employee contributions up to 3% of pensionable pay. In addition, employer also contribute a further 0.5% of pensionable salary from 1 October 2015 to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement) amounting to contributions of £1,000 (2015/16 £2,000).

There were no outstanding contributions due to the partnership pension providers at the Statement of Financial Position date, nor any prepaid amounts.

### (ii) Commissioners

Commissioners appointed before November 2012 were offered pension arrangements broadly by analogy with the Principal Civil Service Pension Schemes from their date of appointment.

Commissioners' pension arrangements are unfunded, and the Commission is responsible for paying retirement benefits as they fall due. Contributions were paid by Commissioners at the rate of 7.35% of pensionable earnings.

The value of the scheme liabilities for the current and four previous years are as follows:

	2016/17	2015/16	2014/15	2013/14	2012/13
	£000	£000	£000	£000	£000
Liability in respect of					
Active members	0	1,022	707	959	1,241
Deferred pensioners	626	519	522	865	530
Current pensioners	6,300	5,070	5,387	4,241	3,727
<b>Total present value of scheme liabilities</b>	<b>6,926</b>	<b>6,611</b>	<b>6,616</b>	<b>6,065</b>	<b>5,498</b>

The scheme liabilities have been valued by the Government Actuary's Department using the Projected Unit Method. The main actuarial assumptions are as follows:

	2016/17	2015/16	2014/15	2013/14	2012/13
Discount rate	<b>2.80%</b>	3.60%	3.55%	4.35%	4.10%
Rate of increase in salaries	<b>0.00%</b>	0.00%	0.00%	variable	variable
Price inflation	<b>2.55%</b>	2.20%	2.20%	2.50%	1.70%
Rate of increase in pensions (deferred and in payment)	<b>2.55%</b>	2.20%	2.20%	2.50%	1.70%

The mortality assumptions use the CMI SAPS S1 tables, which give the following life expectancies at retirement:

	31 March 2017		31 March 2016	
	Men	Women	Men	Women
<b>Current pensioners</b>				
At age 60	<b>29.0</b>	<b>30.8</b>	28.9	30.7
At age 65	<b>24.0</b>	<b>25.8</b>	23.9	25.7
<b>Future pensioners</b>				
At age 60	<b>31.2</b>	<b>33.0</b>	31.1	32.8
At age 65	<b>26.6</b>	<b>28.4</b>	26.5	28.3

The main financial assumptions are as prescribed by HM Treasury. The principal assumptions adopted by the Commission relate to earnings inflation and mortality, and the sensitivity of the valuation of the liability to these assumptions is set out below.

An increase of one year in the life expectancies would increase the present value of the scheme liability by approximately 4% or £261,000.

An increase of 0.5% in the rate of increase in salaries would not affect the final pensionable earnings figure on which the benefit calculations have been based.

Increasing the discount rate by 0.5% pa would result in a corresponding decrease in the liabilities of approximately £441,000 or 7.0%

Increasing the CPI inflation assumption by 0.5% pa would result in a corresponding increase in liabilities of approximately £514,000 or 8.0%

The following amounts have been recognised in the Statement of Comprehensive Net Expenditure for the year:

	2016/17	2015/16
	£000	£000
Current service cost	<b>85</b>	124
Commissioners' contributions retained	<b>(12)</b>	(21)
<b>Total charge to Staff Costs</b>	<b>73</b>	103
Interest on pension scheme liabilities	<b>233</b>	232
<b>Total charge to Interest Payable</b>	<b>233</b>	232

The estimated current service cost for the next year is £0, following the retirement from the Commission of the final three Commissioners entitled to pension benefits during 2016/17.

The movement in scheme liabilities is analysed as follows:

	2016/17 £000	2015/16 £000
Present value of scheme liabilities at start of year	6,611	6,616
Current service cost	85	124
Interest cost	233	232
Actuarial (gains)/losses	350	(95)
Benefits paid	(353)	(266)
<b>Present value of scheme liabilities at end of year</b>	<b>6,926</b>	<b>6,611</b>

Cumulative actuarial gains and losses recognised in taxpayers' equity are as follows:

	2016/17 £000	2015/16 £000
Loss at start of year	2,166	2,261
Net actuarial losses/(gains) recognised in the year	350	(95)
<b>Loss at end of year</b>	<b>2,516</b>	<b>2,166</b>

Actuarial gains and losses recognised in the Statement of Comprehensive Net Expenditure for the year and the previous four years are set out below, shown as an amount and as a percentage of the present value of the scheme liabilities at the Statement of Financial Position date:

		2016/17	2015/16	2014/15	2013/14	2012/13
Experience (gains)/losses on pension liabilities	£000	(734)	106	41	(4)	159
		10.6%	1.6%	0.6%	-0.1%	2.9%
Changes in demographic and financial assumptions	£000	1,084	(201)	414	426	224
		15.7%	-3.0%	6.3%	7.0%	4.1%
<b>Net actuarial losses/(gains)</b>	<b>£000</b>	<b>350</b>	<b>(95)</b>	<b>455</b>	<b>422</b>	<b>383</b>

## 5 Other Expenditure

	2016/17	2015/16
	£000	£000
Accommodation – operating lease	740	665
IT costs	191	196
Travel, subsistence and external case-related costs	149	155
Legal and professional costs	112	23
Dilapidations provision increase	110	–
Office supplies	86	112
Case storage	54	39
Training and other HR	51	56
Information and publications	50	34
Audit fee – external	26	26
Office services	21	22
Telephones	22	26
Recruitment	18	12
Payroll and pension costs	18	26
Library and reference materials	11	13
Audit fee – internal	7	3
Loss on disposal of non-current assets	5	17
Equipment rental under operating lease	3	–
<b>Total</b>	<b>1,674</b>	<b>1,425</b>

## 6 Interest Payable

	2016/17	2015/16
	£000	£000
Interest on pension scheme liabilities	233	232
<b>Total</b>	<b>233</b>	<b>232</b>

## 7 Income from Activities

	2016/17	2015/16
	£000	£000
Kalisher Trust internships	5	5
<b>Total</b>	<b>5</b>	<b>5</b>

During 2016/17, the Commission created five short-term internship posts, which was partially funded by the Kalisher Trust. One ended in August 2016.



## 8 Analysis of Net Expenditure by Programme & Administration Budget

	2016/17			2015/16		
	Programme £000	Administration £000	Total £000	Programme £000	Administration £000	Total £000
<b>Expenditure</b>						
Staff costs	3,397	940	4,337	3,512	957	4,469
Depreciation & amortisation	198	–	198	91	–	91
Accommodation – operating lease	740	–	740	665	–	665
Other expenditure	734	200	934	563	197	760
<b>Total Operating Expenditure</b>	<b>5,069</b>	<b>1,140</b>	<b>6,209</b>	<b>4,831</b>	<b>1,154</b>	<b>5,985</b>
<b>Income</b>						
Income from activities	(5)	–	(5)	(5)	–	(5)
<b>Net Operating Expenditure</b>	<b>5,064</b>	<b>1,140</b>	<b>6,204</b>	<b>4,826</b>	<b>1,154</b>	<b>5,980</b>
Interest Payable	233	–	233	231	–	231
<b>Net Expenditure for the year</b>	<b>5,297</b>	<b>1,140</b>	<b>6,437</b>	<b>5,057</b>	<b>1,154</b>	<b>6,211</b>

## 9 Property, Plant & Equipment

	Refurbishment Costs £000	Plant and Equipment £000	Furniture and Fittings £000	IT Hardware £000	Total £000
Cost/valuation at 1 April 2016	107	104	128	446	785
Additions	3	5	3	146	157
Disposals	–	(2)	(1)	(87)	(90)
Reclassification	–	–	–	–	–
<b>Cost/valuation at 31 March 2017</b>	<b>110</b>	<b>107</b>	<b>130</b>	<b>505</b>	<b>852</b>
Depreciation at 1 April 2016	54	82	77	353	566
Charged during the year	11	4	11	37	63
Depreciation on disposals	–	(2)	(1)	(84)	(87)
Impairment	–	–	–	59	59
<b>Depreciation at 31 March 2017</b>	<b>65</b>	<b>84</b>	<b>87</b>	<b>365</b>	<b>601</b>
<b>Carrying amount at 31 March 2017</b>	<b>45</b>	<b>23</b>	<b>43</b>	<b>140</b>	<b>251</b>
Cost/valuation at 1 April 2015	107	103	148	446	804
Additions	–	1	1	–	2
Disposals	–	–	(21)	–	(21)
<b>Cost/valuation at 31 March 2016</b>	<b>107</b>	<b>104</b>	<b>128</b>	<b>446</b>	<b>785</b>
Depreciation at 1 April 2015	43	78	79	319	519
Charged during the year	11	4	12	34	61
Depreciation on disposals	–	–	(14)	–	(14)
<b>Depreciation at 31 March 2016</b>	<b>54</b>	<b>82</b>	<b>77</b>	<b>353</b>	<b>566</b>
<b>Carrying amount at 31 March 2016</b>	<b>53</b>	<b>22</b>	<b>51</b>	<b>93</b>	<b>219</b>
<b>Carrying amount at 31 March 2015</b>	<b>64</b>	<b>25</b>	<b>69</b>	<b>127</b>	<b>285</b>

All assets are owned by the Commission.

## 10 Intangible Non-Current Assets

	Assets Under Development	Software Licences	Total
	£000	£000	£000
Cost/valuation at 1 April 2016	263	660	923
Additions	74	17	91
Disposals	–	(105)	(105)
<b>Cost/valuation at 31 March 2017</b>	<b>337</b>	<b>572</b>	<b>909</b>
Amortisation at 1 April 2016	–	566	566
Charged during the year	–	25	25
Amortisation on disposals	–	(103)	(103)
Impairment	–	51	51
<b>Amortisation at 31 March 2017</b>	<b>–</b>	<b>539</b>	<b>539</b>
<b>Carrying amount at 31 March 2017</b>	<b>337</b>	<b>33</b>	<b>370</b>
Cost/valuation at 1 April 2015	218	740	958
Additions	45	–	45
Disposals	–	(80)	(80)
<b>Cost/valuation at 31 March 2016</b>	<b>263</b>	<b>660</b>	<b>923</b>
Amortisation at 1 April 2015	–	606	606
Charged during the year	–	30	30
Amortisation on disposals	–	(70)	(70)
<b>Amortisation at 31 March 2016</b>	<b>–</b>	<b>566</b>	<b>566</b>
<b>Carrying amount at 31 March 2016</b>	<b>263</b>	<b>94</b>	<b>357</b>
<b>Carrying amount at 31 March 2015</b>	<b>218</b>	<b>134</b>	<b>352</b>

All assets are owned by the Commission.

## 11 Other Receivables

	31 March 2017 £000	31 March 2016 £000
<b>Amounts falling due within one year</b>		
Travel loans to staff	18	20
Prepayments	140	120
<b>Total</b>	<b>158</b>	<b>140</b>
<b>Amounts falling due after more than one year</b>		
Prepayments	1	1
<b>Total</b>	<b>1</b>	<b>1</b>

## 12 Cash & Cash Equivalents

	31 March 2017 £000	31 March 2016 £000
Balance at 1 April	63	9
Net change in cash balances	(12)	54
<b>Balance at 31 March</b>	<b>51</b>	<b>63</b>
The following balances were held at:		
Government Banking Service	51	63
<b>Balance at 31 March</b>	<b>51</b>	<b>63</b>

No cash equivalents were held at any time.

## 13 Trade Payables & Other Current Liabilities

	31 March 2017 £000	31 March 2016 £000
<b>Amounts falling due within one year</b>		
Intra-government balances:		
UK taxation & social security	91	99
<b>Total</b>	<b>91</b>	<b>99</b>
Trade payables	21	129
Capital payables	95	–
Capital accruals	9	1
Other accruals	160	172
<b>Total</b>	<b>376</b>	<b>401</b>

## 14 Provisions

	2016/17 Leasehold dilapidations £000	2016/17 Leasehold reinstatement costs £000	2016/17 Total £000	2015/16 Total £000
The movements in the provisions are analysed as follows:				
Balance at 1 April	–	53	53	54
Provided in year	110	–	110	–
Unwinding of discount	–	–	–	(1)
<b>Balance at 31 March</b>	<b>110</b>	<b>53</b>	<b>163</b>	<b>53</b>

The expected timing of discounted cash flows is as follows:

	31 March 2017 £000	31 March 2016 £000
Leasehold dilapidations and reinstatement costs:		
Later than one year and not later than five years	163	53
<b>Balance at 31 March</b>	<b>163</b>	<b>53</b>

## 15 Reconciliation of Net Expenditure to Net Cash Outflow from Operating Activities

	Note	2016/17 £000	2015/16 £000
Net expenditure for the year		(6,437)	(6,211)
Interest payable	6	233	231
Depreciation, amortisation and impairment	9,10	198	91
Loss on disposal of non-current assets	5	5	17
(Increase)/decrease in receivables	11	(18)	10
Increase/(decrease) in payables	13	(128)	38
Pension provision:			
Current service cost	4	85	124
Benefits paid	4	(353)	(266)
Increase in provision	14	110	–
Notional expenditure	18	740	665
<b>Net cash outflow from operating activities</b>		<b>(5,565)</b>	<b>(5,301)</b>

## 16 Capital Commitments

Capital commitments contracted for at 31 March 2017 were £nil (2016 £nil).

## 17 Commitments Under Operating Leases

At 31 March 2017 the Commission had the following total future minimum lease payments under non cancellable operating leases for each of the following periods:

	31 March 2017 £000	31 March 2016 £000
Buildings:		
Not later than one year	694	618
Later than one year and not later than five years	1,910	2,309
<b>Total buildings</b>	<b>2,604</b>	<b>2,927</b>
Equipment:		
Not later than one year	6	–
Later than one year and not later than five years	9	–
<b>Total equipment</b>	<b>15</b>	<b>–</b>
<b>Total commitments under operating leases</b>	<b>2,619</b>	<b>2,927</b>

The above commitment in respect of building leases relates to the Commission's current office accommodation at St Philip's Place, Birmingham. This is occupied under a Memorandum of Terms of Occupation (MOTO) issued in accordance with the Departmental Estate Occupancy Agreement for Crown Bodies. The MOTO is between the Ministry of Justice on behalf of the Commission and the Department for Communities and Local Government. The costs of occupation are payable by the Ministry of Justice, but are included in the Commission's accounts as notional expenditure. Accordingly, the commitment shown above is also notional.

## 18 Notional Expenditure

The Ministry of Justice incurred costs in respect of accommodation on behalf of the Commission.

	2016/17 £000	2015/16 £000
Notional expenditure		
Other expenditure – incurred by MoJ:		
Accommodation – operating lease	740	665
<b>Total notional expenditure</b>	<b>740</b>	<b>665</b>

Items shown as notional expenditure are items of expenditure which would otherwise have been recognised in the financial statements in the current year if they had been incurred by the Commission.

## 19 Related Party Transactions

The Ministry of Justice is a related party to the Commission. During the period 1 April 2016 to 31 March 2017, the Ministry of Justice provided the Commission with Grant in Aid and made certain payments on behalf of the Commission disclosed in these financial statements and notes as notional expenditure.

In addition, the Commission has had a small number of transactions with other government departments and other central government bodies.

During the period 1 April 2016 to 31 March 2017, none of the Commissioners, key managerial staff or other related parties undertook any related party transactions.

## 20 Financial Instruments

IFRS 7 (Financial Instruments: Disclosures) requires disclosure of the significance of financial instruments for the entity's financial position and performance, and the nature and extent of risks arising from financial instruments to which the entity is exposed, and how the entity manages those risks. Because of the largely non-trading nature of its activities and the way it is financed, the Commission is not exposed to the degree of financial risk faced by business entities. Moreover, financial instruments play a much more limited role in creating or changing risk than would be typical of the listed companies to which IAS 32 (Financial Instruments: Presentation), IAS 39 (Financial Instruments: Recognition and Measurement) and IFRS 7 mainly apply. The Commission has limited powers to borrow or invest funds and financial assets and liabilities are generated by day-to-day operational activities and are not held to change the risks facing the Commission in undertaking its activities.

The Commission is not therefore exposed to significant liquidity risks, interest rate risk or foreign currency risk.

## 21 Events after the reporting period

In accordance with the requirements of IAS 10 (Events After the Reporting Period), events after the reporting period are considered up to the date the accounts are authorised for issue. This is interpreted as the date of the audit certificate of the Comptroller and Auditor General.

The triggering of Article 50 of the Lisbon Treaty to begin the exit process of the UK from the European Union and the result of the Parliamentary Election held on 8 June are non adjusting events. A reasonable estimate of the financial effect of these events cannot be made.



## Section Four

## Tables and Appendices

Table one: Commission referrals to the appeal courts during 2016/17

Name	Ref	Referral date	Offence	Sentence Only
LE, Vinh	1471/2013	14-Apr-16	Cultivation of cannabis	
YAM, Wang	666/2012	26-Apr-16	Murder	
MEADS, Eveen	320/16	25-May-16	Sexual Assault, contrary to section 3 of the sexual offences Act 2003	
LAWLESS, Stephen	827/10	14-Jun-16	Possession of a class A substance with intent to supply, contrary to s4(1) of the Misuse of Drugs Act 1971.	
SMITH, Mark	195/16	16-Jun-16	Conspiracy to supply Class A drugs	●
WINZAR, Deborah	498/05	19-Jul-16	Murder	
KIELBOWICZ, Maciej	924/15	04-Oct-16	Grievous bodily harm with intent, assault occasioning actual bodily harm and two counts of common assault	●
W	498/15	16-Nov-16	Cultivation of cannabis	
WILD, June	1180/14	18-Nov-16	Failure to provide information as to the identity of a driver.	
Blackman	1545/15	15-Dec-16	Murder	
DALBY, James	1485/12	13-Feb-17	Rape (x2)	
Y	1235/12	21-Feb-17	Rape, indecent assault	

Table two: Commission referrals decided by appeal courts during 2016/17

(U = upheld, Q = quashed and A = abandoned)

Name	Referral Date	Offence	Sentence Only	Outcome	Appeal Decision
McKENZIE, David	19-Nov-15	Robbery	●	U	07-Apr-16
EVANS, Chedwyn	05-Oct-15	Rape		Q	21-Apr-16
KARIMI-AYOUBLOO, Toomaj	13-Jul-15	Possession of false identity document with intent		U	04-May-16
R	15-Jan-16	Possession of an identity document with improper intent contrary to section 4(1) of the Identity Documents Act 2010		Q	19-May-16
SHABBIR, Ghazala	13-Nov-14	Conspiracy to commit fraud (contrary to the Fraud Act 2006, s2)		U	07-Jul-16
Z	10-Feb-16	Possessing/Controlling Identity Documents with Intent contrary to section 4 of the Identity Documents Act 2010		Q	07-Jul-16
SMITH, Mark	16-Jun-16	Conspiracy to supply Class A drugs		Q	13-Jul-16
V	28-Jan-16	Possession of false document		A	14-Sep-16
DUNN, James	24-Sep-15	Murder		Q	23-Sep-16
CHIKHO, Roudi	15-Oct-15	Possessing/Controlling Identity Documents with Intent contrary to section 4 of the Identity Documents Act 2010		Q	13-Oct-16
COLEMAN John	12-Nov-15	Intent to Defraud Creditors of a Company contrary to s.458 of the Companies Act 2003 x 3	●	U	18-Oct-16
BURKE, Jeanette	27-Oct-15	Conspiracy to supply cocaine, a class A controlled drug Conspiracy to supply heroin, a class A controlled drug		U	20-Oct-16
DORLING, Mark	27-Oct-15	Murder		U	01-Nov-16
CLARKE, David	27-Jan-16	Count 2: Sexual Assault, contrary to section 3 of the Sexual Offences Act 2003 Count 3: Sexual Assault, contrary to section 3 of the Sexual Offences Act 2003		U	10-Nov-16

Name	Referral Date	Offence	Sentence Only	Outcome	Appeal Decision
MEADS, Eveen	25-May-16	Count 2: Sexual Assault, contrary to section 3 of the Sexual Offences Act 2003 Count 3: Sexual Assault, contrary to section 3 of the Sexual Offences Act 2003		U	10-Nov-16
GARLAND, Jason	06-Jul-15	Burglary, Aggravated burglary, 2 x Grievous Bodily Harm with intent		U	21-Nov-16
KIELBOWICZ, Maciej	04-Oct-16	3 x Assault occasioning actual bodily harm and 1 x Grievous Bodily Harm	●	Q	30-Nov-16
NEUBERG, Karen	08-Mar-16	Re-using a prohibited company name during the period 19 November 2001 to 14 June 2002 contrary to s216(4) of the Insolvency Act 1986	●	U	15-Dec-16
EMBLETON, Jonathan	30-Jul-15	Murder		Q	21-Dec-16
LAWLESS, Stephen	14-Jun-16	Possession of a class A substance with intent to supply, contrary to s4(1) of the Misuse of Drugs Act 1971.		U	21-Dec-16
HOLDEN, Kerry	02-Mar-16	Murder		U	31-Jan-17
WEINTROUB, Adrian	08-Mar-16	Acting as a director of a company with a prohibited company name without the leave of the Court between 6 April 2006 and 29 October 2008 contrary to s216 of the Insolvency Act 1986.	●	U	03-Feb-17
WEINTROUB, Jeremy	08-Mar-16	Acting as a director of a company with a prohibited company name without the leave of the Court between 6 April 2006 and 29 October 2008 contrary to s216 of the Insolvency Act 1986.	●	U	03-Feb-17
LE, Vinh	14-Apr-16	Cultivation of cannabis		U	09-Feb-17
W?	16-Nov-16	Cultivation of cannabis		Q	09-Feb-17
BLACKMAN, Alexander	15-Dec-16	Murder		Q	15-Mar-17
KAMANGA, Patrick	10-Feb-16	Possession of false identity document with intent		Q	28-Mar-17
GREW, Aidan Francis <sup>5</sup>	17-Nov-14	Fraudulent evasion of Customs Duty contrary to Section 170(2) (a) of the Customs and Excise Management Act 1979	●	Q	06-Feb-15

<sup>5</sup> Appeal result confirmed with NI COA on 20-Mar-17

## Appendix one: Key Performance Indicators

### KPI 1 Time from receipt to allocation

Purpose: This KPI records the average time taken for an application to be allocated to a CRM for review, and gives an indication of how long applicants wait before their case is started.

Definition: The time from the date of receipt of the application to the date of allocation to a CRM for review, averaged for all applications in the reporting period for which a CRM allocation date has been recorded. Re-allocations are ignored.

Calculation: Recorded for each month and the rolling 12 month period, calculated separately for at liberty and in custody cases.

Frequency: Monthly.

Data source: Case statistics compiled from the case management system.

Plan: for the average time to allocation to be less than 26 weeks for custody cases and 78 weeks for at liberty cases.

Actual average time for custody cases (weeks):

Apr: 16.7	May: 16.8	Jun: 16.7	Jul: 21.0	Aug: 15.5	Sep: 20.4
Oct: 20.0	Nov: 17.8	Dec: 20.7	Jan: 18.4	Feb: 16.4	Mar: 15.9

Rolling 12 months average time for custody cases: 18.0 weeks.

Actual average time for at liberty cases (weeks):

Apr: 47.6	May: 42.9	Jun: 36.5	Jul: 49.7	Aug: 36.0	Sep: 43.1
Oct: 37.3	Nov: 27.42	Dec: 64.2	Jan: 42.9	Feb: 33.5	Mar: 31.2

Rolling 12 months average time for at liberty cases: 39.3 weeks.

### KPI 2a Duration of Review

Purpose: This KPI records the average time taken for an application to be reviewed.

Definition: For review cases, the time from the date of allocation of the application to the issue of an initial decision averaged for all applications in the reporting period for which an initial decision has been issued.

Calculation: Recorded for each month and the rolling 12 month period.

Data Source: Case statistics compiled from the case management system.

Plan: for the average duration of review cases to be less than 28 weeks.

Actual average time for review cases (weeks):

Apr: 38.7	May: 70.2	Jun: 42.9	Jul: 30.3	Aug: 18.5	Sep: 28.4
Oct: 45.1	Nov: 32.7	Dec: 51.4	Jan: 30.9	Feb: 36.1	Mar: 56.9

Rolling 12 months average time for review cases: 40.0 weeks.

*Please note: The following KPI2b and KPI3 have replaced last year's KPI2b – Time to decision from application and KPI3 – Caseload balance.*

**KPI 2b Cases closed within 12 months of application**

Purpose: This KPI records the percentage of all cases closed within 12 months from the date of application.

Definition: A case is complete when a final decision has been sent. Taking the cases closed within the past 12 months, record the number completed within 12 months as a percentage of the total number of cases completed.

Calculation: Recorded for each month as a rolling 12 month percentage.

Data Source: Case statistics compiled from the case management system.

Plan: Of all cases closed at least 70% to be closed within 12 months of application.

12 month rolling percentage:

Apr: 69.9%	May: 69.5%	Jun: 68.4%	Jul: 67.5%	Aug: 67.2%	Sep: 66.9%
Oct: 67.2%	Nov: 68.4%	Dec: 69.0%	Jan: 68.9%	Feb: 69.3%	Mar: 70.6%

**KPI 3 Long running cases**

Purpose: This KPI records the number of applicants whose cases are over two years since the case was allocated for review.

Definition: A case is counted if 2 years or more has elapsed since the date of allocation for review to the present, and a final decision has not been issued.

Calculation: Recorded for each month.

Data source: Case statistics compiled from the case management system.

Plan: Number of applicants whose cases are over 2 years old: 30 (by 31/3/17)

Number of cases (individual applications):

Apr: 56	May: 53	Jun: 47	Jul: 48	Aug: 54	Sep: 71
Oct: 75	Nov: 77	Dec: 80	Jan: 73	Feb: 72	Mar: 75

**KPI 4 Complaints and judicial reviews**

Purpose: The number of complaints and judicial reviews serves as a measure of the quality of service provided.

Definition: 1. The number of cases re-opened as a proportion of complaints and pre-action protocol letters resolved and judicial reviews heard. 2. The number of complaints otherwise upheld as a proportion of complaints resolved.

Calculation: Recorded for the current period and for the last 12 months.

Frequency: Quarterly.

Data source: Records of official complaints maintained by the Customer Service Manager and of judicial reviews maintained by a Legal Advisor.

Plan and performance:

	Target	Actual	Target rate	Actual rate
Cases re-opened	<3	2	<4%	2.7%
Other	<7	3	<9.5%	6.3%

### KPI 5 Quality Assurance

Purpose: A measure of the quality of review work as measured by the Commission's own quality assurance systems.

Definition: The number of cases examined in the Quality Assurance (QA) sample for which additional work is undertaken, expressed as a percentage of all cases examined.

Calculation: Quarterly and for the last 12 months.

Frequency: Quarterly.

Data Source: QA system records.

Plan: That cases requiring further work should be less than 4% of the sampled cases.

Actual: 0.9% over the last 12 months.

### KPI 6 Time to notification of referral

Purpose: This KPI records the average time taken to notify the court and applicant of a referral from the point of agreement to refer.

Definition: The time from the date of the committee agreement to refer to the point when the court and applicant are notified of the referral by sending the Statement of Reasons.

Calculation: Recorded for the 12 months to date and cumulatively over the life of the Commission.

Frequency: Quarterly.

Data source: Case statistics compiled from the case management system.

Plan: <2 months in 90% of cases.

Actual: 75.0% for the 12 months with a cumulative figure of 74.7%.

### KPI 7 Staff absence

Purpose: The extent to which staff and Commissioners are absent affects the productivity of the Commission and its ability to meet its casework targets.

Definition: The aggregate number of days of employee and Commissioner absence through sickness, divided by the full-time equivalent number of employees and Commissioners.

Calculation: Recorded for the current period and for the year to date.

Frequency: Monthly.

Data source: Internally generated data based on personnel records.

Plan: Sickness absence: <7.5 days per annum.

Actual: Sickness absence: 13.3 days per annum.

### KPI 8 Expenditure against budget

Purpose: A key indicator of financial management is the extent to which expenditure in the period is aligned to the delegated budget, with neither overspends nor significant underspends.

Definition: Total expenditure less delegated budget, measured separately for resource and capital, expressed as a % of budget.

Calculation: Forecast for the year.

Frequency: Monthly.

Data source: Management accounts.

Plan and performance:

	Target		Actual
	Budget %		Budget %
	<	>	
Resource (RDEL)	0%	-2.5%	0.7%
Capital (CDEL)	0%	-12.5%	20.0%

