



Criminal Cases Review Commission

CASEWORK POLICY

Policy Title: **Inappropriate Conduct from Applicants’ Representatives**

Reference: **CW-POL-05**

Version: **1.0**

Contents

Key Points.....	2
Definitions	2
1 General Information	2
2 Delays by Solicitors and/or Legal Executives.....	2
3 Delays by Counsel (Barristers).....	3
4 Declining to Deal with a Representative.....	4
Relevant CCRC Documents	6
Document Control.....	6

The CCRC’s Quality Statement

The CCRC is committed to achieving high-quality case reviews as quickly as possible. In order to achieve this, we operate under a Quality Management System; please see ‘Q-POL-01 CCRC Quality Policy’ for further information. Our policy documents are available on our website: www.ccrcc.gov.uk.

If you or someone you represent has difficulty accessing the internet then please contact us via 0300 456 2669 (calls charged at local rate) and we will send a hardcopy of the relevant policy free of charge.

This is a quality-controlled document. Significant changes from the last issue are in grey highlight: like this. Significant deletions are shown as: [text deleted].

Introduction

Effective representation, whether legal or otherwise, undoubtedly assists the CCRC and the applicant. Occasionally, the attitude and/or behaviour of applicants’ representatives causes delay or other detrimental impact on the review. This document sets out the CCRC’s approach in such situations.

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-05	Inappropriate Conduct from Applicants’ Representatives	Date Issued: 15/07/2021
Page 1 of 6	Uncontrolled When Printed	Version: 1.0

Key Points

- 1) CCRC staff will agree a reasonable timescale for obtaining information from representatives.
- 2) The request will be as specific and helpful as possible, confirming precisely what is required.
- 3) The CCRC allows 20 working days for a representative to provide a response to the CCRC, but this will be case specific.
- 4) The lack of co-operation from a representative may result in the CCRC having to make a decision without the requested material / information.
- 5) The CCRC reserves the right to refuse to have dealings with an applicant's representative on any one or more of various grounds. If this happens, the representative and the applicant will be notified and given an opportunity to make representations before action is taken.
- 6) Cases where it will be necessary to take formal action in respect of a representative will be rare. Every attempt will be made to resolve difficulties informally.

Definitions

None

1 General Information

- 1.1 The assistance and representation of applicants takes many forms. Throughout this policy, the term 'representative' is used to mean anyone, legal or otherwise, who assists an applicant:
 - I. Directly or indirectly.
 - II. At any point prior to or during the case review process.

2 Delays by Solicitors and/or Legal Executives

- 2.1 The Solicitors Regulation Authority Code of Conduct requires the service provided to clients to be delivered in a timely manner. The Chartered Institute of Legal Executives' Code uses the word 'promptly'.

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-05	Inappropriate Conduct from Applicants' Representatives	Date Issued: 15/07/2021
Page 2 of 6	Uncontrolled When Printed	Version: 1.0

- 2.2 Solicitors and legal executives will have current instructions or will have seen an authority from a former client. Accordingly, they will usually be under a duty to deal promptly with correspondence from the CCRC.
- 2.3 CCRC staff will agree a reasonable timescale for obtaining information from solicitors and legal executives. The request will be as specific and helpful as possible, confirming precisely what is required. As a general rule, the CCRC will regard 20 working days as a reasonable period of time for a solicitor or legal executive to provide a response to the CCRC, but this will be case specific.
- 2.4 If no response is received within 20 working days, the Casework Administrator will contact the representative again. Where there is no response within 5 working days, or the proposed timescale for a response is so long that it will inhibit the process of the review, the matter will be referred to a Group Leader.
- 2.5 The Group Leader may decide to contact the senior partner, pointing out that failure to respond could amount to professional misconduct. If the response to this approach fails to resolve the matter, a formal complaint may be made to the Solicitors Regulation Authority or Chartered Institute of Legal Executives, having regard to CCRC policy 'CW-POL-19 Disclosure by the CCRC'.
- 2.6 In some cases, the lack of solicitor or legal executive co-operation may result in the need for a decision to be made in the absence of material or information requested.¹

3 Delays by Counsel (Barristers)

- 3.1 Counsel are expected to respond promptly to correspondence from the CCRC. CCRC staff will agree a reasonable timescale for obtaining information from counsel. The request will be as specific and helpful as possible, confirming precisely what is required. As a general rule, the CCRC will regard 20 working days as a reasonable period of time for counsel to provide a response to the CCRC, but this will be case specific.

¹ See 'CW-POL-24 Non-Cooperation, Absconson and Withdrawn Applications'.

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-05	Inappropriate Conduct from Applicants' Representatives	Date Issued: 15/07/2021
Page 3 of 6	Uncontrolled When Printed	Version: 1.0

- 3.2 If no response is received within 20 working days, the Casework Administrator will contact counsel's clerk. Where there is no response within 5 working days, or the proposed timescale for a response is so long that it will inhibit the process of the review, the matter will be referred to a Group Leader.
- 3.3 The Group Leader may decide to contact the head of chambers in order to request his/her assistance in resolving the matter. If the response to this contact is unsatisfactory, the matter will be passed to the CCRC's Head of Legal. A formal complaint may be made to the Bar Standards Board, having regard to CCRC policy 'CW-POL-19 Disclosure by the CCRC'.
- 3.4 In some cases, the lack of counsel co-operation may result in the need for a decision to be made in the absence of material or information requested.²

4 Declining to Deal with a Representative

4.1 Grounds for declining

The CCRC reserves the right to refuse to have dealings with an applicant's representative on any one or more of the following grounds:

- I. Conduct towards CCRC staff or Commissioners which is offensive, abusive or in the view of the CCRC has caused or is likely to cause alarm and distress.
- II. Any deliberate or apparently deliberate dishonesty in connection with any application or other communication with the CCRC.
- III. Any deliberate or apparently deliberate breach of confidentiality by disclosure of information to third parties in circumstances which appear not to serve the interests of the applicant and/or the effective functioning of the CCRC or wider Criminal Justice System.
- IV. Any dishonest claim in relation to professional qualifications or professional experience made by a representative.

² See 'CW-POL-24 Non-Cooperation, Absconsion and Withdrawn Applications'.

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-05	Inappropriate Conduct from Applicants' Representatives	Date Issued: 15/07/2021
Page 4 of 6	Uncontrolled When Printed	Version: 1.0

- V. Any other conduct, which in the view of the CCRC is intended, or is likely, to impede or obstruct the interests of an applicant and/or the effective functioning of the CCRC or wider Criminal Justice System.

4.2 Process for declining

- 4.2.1 CCRC staff will create a record of any relevant incident. The matter will then be referred to the Director of Casework Operations.
 - 4.2.2 The Director may decide that restricting contact or declining to deal with the representative is appropriate. If so, both the representative and the applicant will be notified and given an opportunity to make representations before such action is taken. In appropriate circumstances, such as when the CCRC considers the welfare of its staff and/or Commissioners has been or may be impacted, it may be necessary immediately to cease contact with a representative.
 - 4.2.3 In deciding whether to take action under the terms of this policy, the Director may have regard to the CCRC's previous experience of dealing with the representative concerned including, in particular, any risk assessment.
 - 4.2.4 When the Director has decided to restrict dealings, or declined to deal, with a representative in accordance with this policy and it appears that the representative is involved (whether at the same time or subsequently) with another case, the Director may, in the absence of sound reasons not to, maintain their position in connection with that representative.
 - 4.2.5 Cases where it will be necessary to take formal action in respect of a representative will be rare. Every attempt will be made to resolve difficulties informally. The CCRC's objectives will be that the best interests of the CCRC's applicants, along with protecting the integrity and effectiveness of the CCRC and the Criminal Justice System, will prevail.
-

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-05	Inappropriate Conduct from Applicants' Representatives	Date Issued: 15/07/2021
Page 5 of 6	Uncontrolled When Printed	Version: 1.0

Appendices

None

Relevant CCRC Documents

Q-MAN-01 CCRC Quality Manual
Q-POL-01 CCRC Quality Policy
CW-POL-19 Disclosure by the CCRC
CW-POL-24 Non-Cooperation, Absconsion and Withdrawn Applications

Document Control

Document author: Head of Quality
Issue authorised by: Director of Casework Operations

Version History

Date Issued	Version	Brief Details of Change	DCR
15/07/2021	1.0	First Issue	21/04

*****END OF DOCUMENT*****

OFFICIAL - Criminal Cases Review Commission

Document Ref: CW-POL-05	Inappropriate Conduct from Applicants' Representatives	Date Issued: 15/07/2021
Page 6 of 6	Uncontrolled When Printed	Version: 1.0