



Criminal Cases Review Commission

CASEWORK POLICY

Policy Title: **Interviewing Jurors**

Reference: **CW-POL-22**

Version: **1.0**

Contents

Key Points.....	2
Definitions	2
1 General Information	3
2 Section 20D Juries Act 1974	4
3 Section 8(1) Contempt of Court Act 1981	5
4 The Court of Appeal	5
5 Procedure to be followed when interviewing jurors	6
6 The possibility of a section 19 appointment	7
Relevant CCRC Documents	8
Document Control	8

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

This policy states the CCRC’s approach to, and legal justification for, interviewing jurors.

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-22	Interviewing Jurors	Date Issued: 15/07/2021
Page 1 of 8	Uncontrolled When Printed	Version: 1.0

Key Points

- 1) The CCRC's powers to obtain jurors' names and addresses, and to take any necessary investigative steps, are not qualified by any requirement for judicial oversight.
- 2) The legal provisions which apply to juries sworn on or after 13 April 2015 are in [Section 2](#).
- 3) The legal provisions which apply to juries sworn before 13 April 2015 are in [Section 3](#).
- 4) The Court of Appeal can disclose information to initiate an investigation into jury related impropriety. In such circumstances it is not a criminal offence for a juror to disclose information about deliberations for the purpose of that investigation.
- 5) Providing the Court of Appeal has initiated the investigation, and the jury was sworn on or after 13 April 2015, section 20G of the Juries Act 1974 allows CCRC staff to legitimately ask a juror about deliberations.
- 6) Section 20D of the Juries Act 1974 and section 8 of the Contempt of Court Act 1981 do not prevent jurors being questioned about matters that were **not** in the course of their deliberations.
- 7) Unless the enquiry is very urgent, initial contact with a juror requesting an interview will be by letter, explaining the CCRC's role and the reason for the request.
- 8) The CCRC will generally advise a senior member of staff at the relevant Crown Court, so that the juror has someone with whom s/he can verify the CCRC's role.
- 9) The scale of the inquiry needed, or the nature of it, may raise the possibility of an Investigating Officer needing to be appointed under section 19 of the Criminal Appeal Act 1995.

Definitions

Key Word	Meaning
CCA	Contempt of Court Act 1981
CoA	Court of Appeal (Criminal Division)
JA	Juries Act 1974

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-22	Interviewing Jurors	Date Issued: 15/07/2021
Page 2 of 8	Uncontrolled When Printed	Version: 1.0

1 General Information

- 1.1 There are two ways in which the CCRC may seek to interview one or more members of the jury at trial:
- 1.1.1 First, the CCRC may decide that in order to properly discharge its functions it will be necessary and appropriate to interview one or more members of the jury at trial.
- 1.1.2 Second, the Court of Appeal (CoA) may request the CCRC to carry out interviews with jurors.¹
- 1.2 In the ordinary appeal process, there can be occasions when, following conviction, either the defence or the prosecution wish to interview jurors. Additionally, where there is a suggestion of a tainted acquittal under section 54 of the Criminal Procedure and Investigations Act 1996, the police may wish to investigate whether an “administration of justice” offence has been committed.
- 1.3 With the agreement of the Lord Chief Justice, all Circuit Administrators are required to forward any application by the defence or the Crown Prosecution Service for the names and addresses of jurors to the Registrar of Criminal Appeals, so that it can then be considered by a nominated Lord Justice of Appeal.²
- 1.4 The CCRC’s powers to obtain jurors’ names and addresses³ and to take any necessary investigative steps⁴ are not qualified by any requirement for judicial oversight. Nor would it be desirable to follow a procedure in which conflict could arise between the CCRC’s view about the proper exercise of its statutory functions and that of the nominated Lord Justice of Appeal.
- 1.5 Should the CCRC have any concerns about its proposed action in an individual case, the power to seek the Court’s opinion is available.⁵

¹ Pursuant to a direction under section 15 of the Criminal Appeal Act 1995. See ‘CW-POL-25 Investigations for the Court of Appeal (s.15)’ for further information.

² The CCRC has agreed with the Registrar of the Court of Appeal (Criminal Division) that it would **not** be appropriate for the CCRC to follow this procedure.

³ By virtue of section 17 of the Criminal Appeal Act 1995.

⁴ By virtue of section 21 of the Criminal Appeal Act 1995.

⁵ By virtue of section 14(3) of the Criminal Appeal Act 1995.

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-22	Interviewing Jurors	Date Issued: 15/07/2021
Page 3 of 8	Uncontrolled When Printed	Version: 1.0

2 Section 20D Juries Act 1974

- 2.1 Section 74 of the Criminal Justice and Courts Act 2015 partially repealed section 8 of the Contempt of Court Act 1981 (CCA) and amended the Juries Act 1974 (JA) to create new offences and provisions relating to the disclosure of jury deliberation information.
- 2.2 This amendment applies only to juries sworn on or after 13 April 2015.
- 2.3 The aim of the legislative change is to allow jurors to report concerns to the Court or to the police who will then inform the CoA. It is not intended that the CCRC be used as an initial point of contact for jurors in such circumstances.
- 2.4 The CoA can instigate an investigation if necessary and make disclosures to a relevant investigator.
- 2.5 Section 20D of the JA now provides that:
- “(1) it is an offence for a person intentionally -
- a) to disclose information about statements made, opinions expressed, arguments advanced or votes cast by members of a jury in the course of their deliberations in proceedings before a court, or
- b) to solicit or obtain such information,
- subject to the exceptions in sections 20E to 20G.”
- 2.6 A person found guilty of an offence under this section is liable on conviction to 2 years imprisonment or a fine (or both).⁶
- 2.7 The exceptions in sections 20E to 20G include the trial judge at the court investigating issues relating to jury deliberations for the purpose of dealing with the case.
- 2.8 In order to determine whether an offence of contempt of court has been committed by or in relation to a juror in the relevant proceedings, a judge may also disclose information for the purposes of an investigation by a “relevant investigator”.⁷

⁶ Section 20D(2) Juries Act 1974.

⁷ Section 20E(2)(b) Juries Act 1974.

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-22	Interviewing Jurors	Date Issued: 15/07/2021
Page 4 of 8	Uncontrolled When Printed	Version: 1.0

- 2.9 A “relevant investigator” is defined as a police force, the Attorney General or any other person or class of person specified by the Lord Chancellor for the purposes of this section by regulations made by statutory instrument⁸ (also see [para 4.3](#) below).

3 Section 8(1) Contempt of Court Act 1981

- 3.1 This section still applies to juries sworn before 13 April 2015.
- 3.2 Once a jury has retired to consider its verdict, its discussions and reasons for its decision are sacrosanct. Section 8(1) CCA provides:

“... it is a contempt of court to obtain, disclose or solicit any particulars of statements made, opinions expressed, arguments advanced or votes cast by members of a jury in the course of their deliberations in any legal proceedings”.

- 3.3 Section 8 does not apply to the courts themselves, but there is also a longstanding common law principle that only the judge at the court of trial is entitled to investigate issues affecting jury deliberations, except where criminal conduct is suspected.
- 3.4 Section 8 does not prevent jurors being asked about matters that are not “in the course of their deliberations”. Relevant situations may include:
- I. Improper approaches made to jurors.
 - II. Allegations of direct or indirect contact with witnesses.
 - III. Their conduct outside the jury room.⁹

4 The Court of Appeal

- 4.1 The CoA can disclose information to initiate an investigation into jury related impropriety.¹⁰ In such circumstances it is not a criminal offence for a juror to disclose information about deliberations for the purpose of that investigation.

⁸ Section 20E(5) Juries Act 1974.

⁹ In *R v Young* [1995] 2 Cr App Rep 379, the jury used a Ouija board during an overnight stay in a hotel. It was not used in the jury room, so it was not “in the course of their deliberations” within the meaning of section 8 Contempt of Court Act 1981.

¹⁰ Under section 20F(4) Juries Act 1974.

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-22	Interviewing Jurors	Date Issued: 15/07/2021
Page 5 of 8	Uncontrolled When Printed	Version: 1.0

- 4.2 However, where the CoA has not instigated an investigation, exceptions provided within the Juries Act 1974 do not apply and it would therefore be a criminal offence for the juror to disclose information about deliberations and for the CCRC to solicit information about those deliberations.¹¹
- 4.3 In circumstances where the CoA exercises its powers¹² to direct the CCRC to conduct inquiries into alleged jury-related impropriety, it should explicitly indicate that it intends that the CCRC, as a “relevant investigator”, will be afforded protection under sections 20E to 20G of the JA. In the event of doubt, it is vital that the CCRC obtains written confirmation of its legal standing.
- 4.4 Providing the CoA has initiated the investigation, and the jury was sworn on or after 13 April 2015, section 20G of the JA allows for the soliciting of that disclosure and so CCRC staff can legitimately ask a juror about deliberations.
- 4.5 It is important to recognise that section 20D of the JA and section 8 of the CCA (for pre 13 April 2015 sworn jurors) does not prevent jurors being questioned about matters that were **not** in the course of their deliberations. Relevant situations include:
- I. Improper approaches made to jurors.
 - II. Allegations of direct or indirect contact with witnesses.
 - III. Juror conduct outside the jury room.

5 Procedure to be followed when interviewing jurors

- 5.1 Careful precautions need to be taken by the CCRC in relation to interviewing jurors.
- 5.1.1 First, the object must only ever be to obtain relevant information which complies with the Juries Act 1974.
- 5.1.2 Second, considerable care must be taken not to stray beyond the legitimate object into questioning the juror about, or letting the juror volunteer, anything which would breach section 20D of the JA or section 8 of the CCA (for pre 13 April 2015 sworn jurors).

¹¹ This effectively replicates the position that exists under section 8 of the Contempt of Court Act 1981.

¹² Under section 15 of the Criminal Appeal Act 1995.

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-22	Interviewing Jurors	Date Issued: 15/07/2021
Page 6 of 8	Uncontrolled When Printed	Version: 1.0

- 5.2 Initial contact with a juror requesting an interview will be by letter, explaining the CCRC's role and the reason for the request. If appropriate, the letter must refer to section 20D of the JA and matters about which questions cannot be asked or information given. It is important that the juror is given no reason to believe that the CCRC's approach has been misleading or that the intrusion into the sensitive area of his/her jury service might be unlawful.
- 5.3 Exceptionally, where the enquiry is very urgent (such as when the CoA has requested it under section 15 of the Criminal Appeal Act 1995 within a short time frame for current proceedings),¹³ initial contact can be made in some other way, provided that the same degree of care is taken to make clear the CCRC's role. In such circumstances, wherever possible, the juror should also be sent or handed a letter or statement explaining the CCRC's role and the reason for the interview prior to the interview taking place.
- 5.4 The CCRC will generally advise a senior member of staff at the relevant Crown Court, so that the juror has someone with whom s/he can verify the CCRC's role.

6 The possibility of a section 19 appointment

- 6.1 The scale of the inquiry needed, or the nature of it (e.g. if a juror is alleged to have attempted to pervert the course of justice), may raise the possibility of an Investigating Officer needing to be appointed under section 19 of the Criminal Appeal Act 1995.
- 6.2 In that event, the Investigating Officer's directions must be drafted to identify the purpose of the interview and any limitations on what may be covered, with express reference to section 20D of the JA and section 8 of the CCA (for pre 13 April 2015 sworn jurors).
- 6.3 See 'CW-POL-29 Power to Appoint an Investigating Officer (s.19)' for further information.

¹³ See 'CW-POL-25 Investigations for the Court of Appeal (s.15)' for further information.

OFFICIAL - Criminal Cases Review Commission		
Document Ref: CW-POL-22	Interviewing Jurors	Date Issued: 15/07/2021
Page 7 of 8	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-25	Investigations for the Court of Appeal (s.15)
CW-POL-29	Power to Appoint an Investigating Officer (s.19)

Legal Documents (available for free from www.legislation.gov.uk)

Contempt of Court Act 1981
Criminal Appeal Act 1995
Criminal Justice and Courts Act 2015
Criminal Procedure and Investigations Act 1996
Juries Act 1974

Case Law

R v Young [1995] 2 Cr App Rep 379

Document Control

Document author: Head of Investigations
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-22	Interviewing Jurors	Date Issued: 15/07/2021
Page 8 of 8	Uncontrolled When Printed	Version: 1.0