



Guidance for Applicants and
Representatives:

Submissions to the Commission

Submissions to the Commission – in Brief

- Fill out and sign our form.
- If you have learning difficulties or problems with English, we can help.
- Tell us why there's been a miscarriage of justice. Keep your points focused.
- If you think we don't understand your points, let us know.
- Make all of your important points at the start of the review.
- If you have a solicitor, agree one set of submissions between you.

Equality

We can offer help making an application to people with learning difficulties. One of our senior legal officers is responsible for helping applicants with learning difficulties. If you need help, please call us on 0141 270 7030.

We will make any reasonable adjustments necessary to help those with other disabilities to engage fully with our process. If you are disabled, please let us know by completing the relevant section of the application form.

We are a member of Happy to Translate. We will arrange an interpreter if needed.

We will make this guidance (and any other Commission document) available in alternative formats on request.

Example from Practice	What did we do?
An unrepresented applicant told us on his application form that his English was too poor to explain his grounds of review to us properly.	The legal officer brought an interpreter with him to visit the applicant in prison. The legal officer established what the grounds of review were.

Application Form

All applicants (whether or not they have representatives) must return our application form. We will send an application pack with the form if you ask. The form is also online at www.sccrc.org.uk.

The grounds of review may be completed in the boxes in the form. Applicants may attach separate sheets of paper instead.

We will not accept an application for stage 2 review unless the applicant has signed the instruction to former legal representatives. This may be found on the application form.

Example from Practice	What did we do?
An applicant did not sign the instruction to her former legal representatives.	The legal officer wrote to the applicant telling her that the Board would refuse the application if she didn't sign the mandate. The applicant returned a signed copy of the mandate. The review went forward.
An applicant ticked the boxes for review of his conviction and sentence. He set out grounds for review of conviction but did not provide any grounds for review of sentence.	The Commission didn't consider sentence in its review of his case.

Form of Submissions

We expect to receive a set of clear and concise submissions.

- The submissions should address why the conviction and/or sentence is a miscarriage of justice. They should cover all parts of the legal test(s) relevant to the ground(s) of review. (The Commission's position papers may be useful. These are on our website and in the information folders we issue to prisons.)
 - The court has held that an applicant who presents us with an "incoherent or inspecific" complaint about his conviction cannot expect us to determine for ourselves what the grounds of review should be. We understand that engaging with legal process may be difficult for unrepresented applicants. We try to make allowances for this. However, it is important to keep grounds of review as tightly focused as possible.
 - If we can't understand your grounds of review, we may ask you to redraft them. If you don't do this, we're likely to refuse the application at stage 1.

- If you want us to obtain particular material because you think it is or may be important to your case, you need to explain why you think that. If you don't, explain, we're unlikely to obtain the material.
- If you consider that material is likely to help your case, it's best to try to obtain it yourself before applying to us. This will help you to make your submissions to us.

We can use our statutory powers to recover materials where we consider it necessary to resolve a case. The decision to do so is for us to take. We do not conduct speculative enquires at the request of applicants.

- If the case is of a type that we would usually reject at stage 1, you should also explain why it is in the interests of justice for the Commission to conduct a stage 2 review. (The types of cases we normally reject at stage 1 may be found in the position paper "Referrals to the High Court: the Commission's Statutory Test". This is on our website.)

Example from Practice	What did we do?
An applicant's current representatives sent us another solicitor's defence file. They asked us to consider whether or not the representation at trial was defective.	We refused the application at stage 1 as having "no statable grounds". The grounds were unstatable because the representatives hadn't told us why they thought that the applicant's defence was not presented. (In other words, they hadn't set out an argument that suggested that there had been a miscarriage of justice.) We returned the file when we refused the case.
An applicant's representatives sent us a copy of a note of appeal that the court had rejected at sift. They didn't explain why they thought the court had got the decision wrong	We refused this at stage 1 as a "repeat of appeal grounds". The applicant's representatives hadn't explained why it was in the interests of justice to accept the case.
An applicant told us that he had abandoned his appeal because he had been advised that his grounds were unarguable. The fresh evidence in his case had come to light many years later. He argued that it was in the interests of justice to accept his case for review.	Normally, we would refuse a case where an applicant has abandoned a previous appeal. In this case though, we agreed that the applicant had a good reason for abandoning. We accepted the case for stage 2 review.

If we need more information, we will usually write to the applicant or, if applicable, his representatives.

Volume of submissions is an increasing problem, particularly from unrepresented applicants. We do not believe that it is ever necessary to use hundreds of pages to explain grounds of review. Such submissions are unhelpful. They increase the risk that we will miss a good point. If an applicant's submissions are too long, we may take steps designed to encourage him to make them shorter and more focused.

We may, if we consider it necessary, meet unrepresented applicants at stage 1 if we want to know more about their grounds.

Example from Practice	What did we do?
An applicant sent us a large volume of unfocused submissions.	We asked the applicant to summarise his position. This helped us to understand his grounds of review.

Grounds of Review Letter

About 2 weeks before the case calls at the Board, we will send the applicant (and his representatives) a letter summarising the grounds of review as we understand them. If our understanding is wrong, it's important to contact us as soon as possible to let us know.

Example from Practice	What did we do?
An applicant phoned us to tell us that he was unhappy with the wording of our summary of one of his grounds of review.	The legal officer agreed an acceptable wording with him during the telephone conversation. The legal officer then sent the new wording to the applicant and forwarded it to the Board.

Submissions While the Stage 2 Review is Ongoing

It is important to try to put all of the main arguments in the application form. If you don't do this it can be much more difficult to plan the review. It is likely to delay the case.

Sometimes, applicants continue to add submissions during the stage 2 review. If we think that the applicant's late submissions are causing problems for the review, we may choose to set a deadline beyond which we will not consider any further submissions during the present review.

Further Submissions

If the Commission decides not to refer a case at stage 2, we will give the applicant 28 days in which to make any further submissions. This is a chance to explain to the Commission why it has reached the wrong decision. The further submissions should relate to the grounds of review that the Commission has already considered.

If the further submissions raise new matters, the Commission may decide to consider them. However, in that case the applicant will have no chance to make further submissions in relation to the new matters during the present review.

Example from Practice	What did we do?
An applicant sent us a long further submission. This covered a legal point that he had not brought up at the earlier stage.	We dealt with the point in the supplementary statement of reasons. He had no chance during that review to make any more submissions on the point.

The Commission has experienced increasing problems with multiple, and sometimes conflicting, sets of further submissions from the applicant, his solicitors and counsel and other representatives. This can make it difficult to work out what the applicant's position is. We do not think this is acceptable. If an applicant is represented, we require a single set of further submissions. If the applicant and his representatives send multiple sets, we will ask them to produce a single, coherent set. If they don't do this, we may choose not to consider secondary sets. Sometimes, legal representatives produce submissions and send with them the applicant's comments or an annotated copy of the statement of reasons. If this happens, we will usually consider the representatives' document to be the primary submission.