



## PERSISTENT AND REPEATED APPLICATION POLICY

### Equality

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### 1.0 Introduction

- 1.1 The Scottish Criminal Cases Review Commission (“the Commission”) has established a policy for dealing with what the Commission deems to be the submission of persistent and repeated applications.
- 1.2 Persistent and repeated applications, within the terms of this policy, are those which continue to be submitted by the same applicant and are either repetitious in nature, without raising any new matters to warrant further review, or comprises multiple speculative applications, which may on the face of it raise new matters but clearly contain unreviewable grounds. The criteria for classifying an application as persistent and repeated are set out within the policy.

### 2.0 Policy Aims

- 2.1 The aim of this policy is to ensure that an appropriate process is in place to identify those applications which meet the criteria for persistent and repeated applications and thereafter ensure that these applications do not impact adversely on the Commission’s active cases, review timescales and case volume statistics.

### 3.0 Criteria

- 3.1 An application will be considered to be persistent and repeated whenever the following criteria are met:

- More than 3 applications are submitted by the same applicant to the Commission in relation to the same conviction and/or sentence; and
- The applications submitted continue to be either on the same basis or offer nothing materially different/new; or
- More than 3 applications are submitted by the same applicant to the Commission in relation to different convictions and/or sentence where there is no basis for a full review.

#### **4.0 Registration Process**

- 4.1 The Chief Executive is empowered to classify an application as persistent or repeated.
- 4.2 Recommendations to the Chief Executive to classify an application as being persistent and repeated can be made either by legal officers or by the Director of Corporate Services. Such recommendations must be contained in a report to the Chief Executive.
- 4.3 The Chief Executive may also determine of his own volition whether an application meets the criteria.
- 4.4 Following approval of such a recommendation or following such a determination, the name of the applicant will be recorded on the Commission's Persistent and Repeated Applications Register. The applicant (and his representatives) will be informed of this in writing, with the reason for the decision and will be provided with a copy of the Persistent and Repeated Applications Policy.

#### **5.0 Receipt of Subsequent Applications**

- 5.1 Upon receipt of a subsequent application from an applicant whose name has been registered on the Persistent and Repeated Applications Register, the administration team will forward the application directly to the Chief Executive. The application will not, at that stage, be recorded on the Commission's case management system.
- 5.2 The Chief Executive will review the application in order to determine whether anything materially different or new has been submitted in support of it or whether it continues to meet the criteria for persistent and repeated applications.
- 5.3 Where the application continues to meet the said criteria this will be recorded on the Persistent and Repeated Applications Register and the applicant will be informed that the application has accordingly not been accepted for review.
- 5.4 If the Chief Executive is of the view that the application contains something new or materially different from previous applications it will be processed in accordance with the case management procedures. If after completion of the stage 1 review the Board decides to accept the case for full review the applicant's name will be removed from the register and this will be communicated to the applicant by means of the stage 2 acceptance letter. If the applicant subsequently continues to submit further applications, irrespective of the outcome of the accepted application, which meet the Persistent & Repeated Applications criteria, the Chief Executive can re-register the applicant on the Persistent & Repeated Applications Register without the requirement for three or more applications of the same nature being submitted.

## 6.0 Appeal System

- 6.1 If an applicant who has received notification of registration under clause 4.4 above does not accept the decision to register him or her, he or she may submit an appeal against it in writing to the Chairman of the Board of the Commission, setting out his/her reasons why he/she considers the decision to be inappropriate, within 21 days of receipt of the Chief Executive's letter.
- 6.2 Likewise, if an applicant who has received notification under clause 5.3 above of a refusal to accept an application for review does not accept the decision he or she may submit an appeal against it in writing to the Chairman of the Board of the Commission, setting out his/her reasons why he/she consider the decision to be inappropriate, within 21 days of receipt of the Chief Executive's letter
- 6.3 The Board, as the final appeal body within the Commission, will then consider any such appeal. The decision made by the Board and the reasons for the decision will be intimated to the applicant in writing. An appeal will normally be concluded within 2 months of the appeal being lodged.
- 6.4 If an appeal against a decision to register is upheld the applicant's details will be removed from the Register and if a further application has been submitted this will be processed in line with the case handling procedures on the case management system. If the appeal is unsuccessful the applicant's name will remain on the register.
- 6.5 If an appeal against a decision to refuse to accept an application is upheld the application will be processed in line with the case handling procedures on the case management system. Consideration may then be given to removing the applicant's name from the register. If the appeal is unsuccessful the application will not be accepted for review and the reason(s) for this will be provided to the applicant.

## 7.0 Review

- 7.1 In order to ensure the fair and appropriate ongoing application of the Persistent and Repeated Application Policy and in addition to the Appeals System a review of the Persistent and Repeated Applications Register will be undertaken by the Chief Executive annually. The Chief Executive may remove an applicant from the Register should he determine that the criteria no longer apply.
- 7.2 The Chief Executive will report on the outcome of the review to the Board who will monitor and oversee the application of the policy.
- 7.3 The Persistent and Repeated Applications Register is not a public document and therefore all entries on the register will remain confidential. Any applicant named on the register can at any time confirm with the Commission the status of his or her registration.

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