



SCOTTISH CRIMINAL CASES  
REVIEW COMMISSION

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**Annual Report**  
2015–16

## Overview

### 2015-16

- 148 New applications received
- 40 Applications accepted for full review
- 159 Applications concluded overall
- 43 Cases concluded after full review

### 1 April 1999 to 31 March 2016

- 127 Cases referred to the High Court
- 116 Cases determined by the High Court
- 76 Convictions quashed/sentences reduced
- 40 Appeals unsuccessful
- 11 Appeals abandoned

THE HIGH COURT  
OF JUSTICIAL



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## Chairman's Foreword

### Introduction

I am delighted to report that in 2015-16 the Scottish Criminal Cases Review Commission once again delivered a very strong performance across all areas of operation. We met all of our targets, operated within budget and delivered well against our business objectives.

### Case Outcomes and Targets

The Commission received 148 applications and concluded 159 cases in 2015-16. These figures continue the overall trend of almost 50% higher case levels in recent years compared with the average experienced in the first 10 years of the Commission's operation. It is reassuring to see that, through efficiencies and diligence, the Commission has been able to absorb such increases at a time of budgetary constraints.

Two cases were referred to the High Court following full review, both of which were successful. I have previously reported that in 2010 there were 23 referrals awaiting determination by the Court. This number has reduced steadily over the years and as at 31 March 2016, for the first time since our inception, there were no referrals outstanding. The prompt consideration that the High Court has given to referred cases has produced this impressive statistic and is very much appreciated by everyone at the Commission.



JEAN COUPER CBE

Equally impressively, the Commission achieved all 5 key case related performance targets set for 2015-16 including the target regarding the allocation of cases received; in previous years the target was within 1 month but this year we adopted and achieved a much more rigorous target of 1 week. Of particular note is the reduction in the overall average time taken from the date of acceptance to our issuing of a decision; which for the first year ever is less than 7 months – a truly remarkable achievement.

To conclude our review of cases to the highest standard and within targets we rely upon cooperation from the defence, Crown Office, police and other key stakeholders in the justice system. Their continued support and assistance is also much appreciated.

### **Mr Abdelbaset Ali Mohmed Al-Megrahi**

As expected, in June 2014 the Commission received a second application in respect of the late Mr Abdelbaset Ali Mohmed Al-Megrahi. However the Commission's ability to progress its review of this application was hampered by lack of access to documentation and concerns as to who was legitimately entitled to support the application. The Commission sought an Opinion of the High Court in terms of section 194D(3) of the Criminal Procedure (Scotland) Act 1995 to determine if certain members of the victims' families were deemed to have a 'legitimate interest' to pursue any subsequent appeal as required by

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s303A of the 1995 Act. Following the Court's determination on 3 July 2015 that members of the victims' families did not have a 'legitimate interest' the Commission decided that, in the absence of a party with a "legitimate interest" to pursue any subsequent appeal and in the absence of the necessary documentation to address the appropriate matters, it was not in the interests of justice to continue with the review of the second application and issued its statement of reasons to that effect on 5 November 2015.

### **Communication**

We have continued to improve our communication with applicants and the materials we make available to members of the public to assist them in better understanding both the role and the work of the Commission. In particular we have published a number of 'Position Papers' which, for the more common grounds of review or appeal, set out how the Commission seeks to apply its statutory tests and also the findings of our recent internal research programme. In addition extensive work was undertaken to revamp our web site to improve navigation for the user, increase functionality and provide better links to other relevant sites.

Communication also involves speaking with and listening to others involved in the Criminal Justice system. This year the Commission was delighted to welcome a number of distinguished visitors to its offices, including the new Lord President,

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Lord Carloway, and the (now) new Lord Justice Clerk, Lady Dorrian. The departing Lord Advocate, Frank Mulholland Q.C., also addressed the Members and staff of the Commission at our offices - another first!

### **Board Members and Staff**

Dr Rajan Darjee, Colin Dunipace and Professor Jim Fraser joined the Board in July; each brings specialist skills and experience which are highly relevant to the work of the Commission. In December Gerald Bann and Professor George Irving CBE will retire having served on the Board for 8 years; their expertise and oversight has contributed greatly to the effective governance of the Commission and our thorough consideration of each case.

Throughout the year Gerard Sinclair, Chief Executive and Principal Solicitor, has provided excellent advice and support to the Board and strong leadership of the staff team. I experience at first hand the work of every member of staff; I am always impressed by their commitment to quality and justice. Together, and with legal advice from Sir Gerald Gordon Q.C., they have delivered a large and complex caseload to a consistently high standard.

Throughout 2015-16 staff and Members alike have shown great commitment to the purpose and objectives of the Commission and I am grateful to them all for their hard work.

## Looking Forward

This is my last foreword as Chairman. There have been many challenges in the past few years. Enhanced governance requirements, reduced budgets, a very large increase in the number of applications received each year, coupled with changes in the law and sentencing practice and changes in the policies and operating procedures within other justice agencies, have all impacted on our work. I believe the Commission has made significant improvements to deal with these demands. We adopted many new or revised policies and procedures, found the necessary savings year on year and enhanced our communication to applicants, stakeholders and the public. We re-engineered our operating methods for case review, introducing an initial stage followed by, for appropriate cases, a full review. These changes facilitated better focus of our limited resources on cases which merited full review and improved our efficiency whilst maintaining the highest standards of case review and taking proper account of our statutory tests and the Court's views and approach.

In the current year alone we have seen the introduction of a new Summary Appeal Court, the elevation of a new Lord Justice General and Lord Justice Clerk as well as developing Sentencing Council Guidance and the passing of the Criminal Justice (Scotland) Act 2016, all matters that impact upon the work of the Commission.

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The Criminal Justice arena constantly evolves and adapts to modern challenges, and in the coming year and beyond I have no doubt there will be further changes in the criminal justice system and continued financial and operational pressures. Each year the Commission will receive large numbers of often complex cases and must maintain the highest quality of consideration of each application. Effective management of resources, diligence in investigation and decision making, and a capacity to adapt and manage change will be essential. I am confident that the Commission, its Members and staff, working together, are well placed and able to ensure the Commission continues to deliver an excellent service and a route for those who believe they have suffered a miscarriage of justice to have their cases reviewed and, where appropriate, referred to the Court.



JEAN COUPER CBE  
Chairman  
19 June 2016

# Our Purpose

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TO REVIEW POTENTIAL MISCARRIAGES OF JUSTICE IN CRIMINAL CASES IN SCOTLAND AND REFER APPROPRIATE CASES TO THE HIGH COURT FOR AN APPEAL.



## **The Commission**

The Scottish Criminal Cases Review Commission was established as an independent public body in 1999 to review alleged miscarriages of justice. The Commission was created by section 194A of the Criminal Procedure (Scotland) Act 1995 and has the power to refer cases to the High Court for determination.

Anyone convicted of a criminal offence in Scotland can apply to the Commission to have their convictions and/or sentences reviewed (but normally only after a previously unsuccessful appeal). Thereafter the Commission has a statutory obligation to provide a statement of reasons for making a referral to the High Court or for deciding not to refer a case.

As at 31 March 2016, the Commission's Board was made up of a Chairman and 7 Members. The Commission's staff complement was as follows: a Chief Executive, a Director of Corporate Services, a Head of Casework, 2 Senior Legal Officers, 6 Legal Officers and 3 Administration Staff.

The Commission's Legal Officers investigate cases under the direction of the Chief Executive and Board Members. The Board is responsible for deciding whether or not cases should be referred to the High Court.

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The Commission operates under statutory non-disclosure provisions, whereby it is a criminal offence for any Member or staff of the Commission to disclose information obtained by the Commission in the exercise of any of its functions, except under certain statutory exemptions.

Details of the Commission's remit, specific powers of investigation and case review procedures can be found on our website, [www.sccrc.org.uk](http://www.sccrc.org.uk), or by request from the Commission's office.



## Case Statistics

Between 1 April 1999 and 31 March 2016, the Commission received a total of 2166 cases, completed the review of 2136 cases and referred 127 cases to the High Court for determination.

Within this section of the Annual Report some of the Commission's key case statistics relating to both case volumes and case related performance in 2015-16 are detailed. Where appropriate, these statistics are set within the context of comparative data from previous years.

**Table 1** – shows a simple comparison of case related statistics over the Commission's last 5 reporting years, as at the end of each reporting year, including cumulative figures to 31 March 2011.

**Table 2** – shows the comparison of solemn/summary and conviction/sentence-only cases received by the Commission over the past 5 reporting years.

**Table 3** – provides information on the nature of offences committed by applicants. The top 14 categories of offence are detailed separately with the remainder of offences classified as "other."

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**Table 4** – provides information on the main grounds of review lodged by applicants. The top 12 grounds of review are detailed separately with the remainder of grounds classified as “other.”

**Table 5** – provides information on the grounds upon which the Commission has referred the 72 conviction cases to the High Court.

**Table 6** – provides information on the grounds upon which the Commission has referred the 55 sentence-only cases to the High Court.

The more detailed classification in tables 5 and 6 is that used in the 2008-09 Commission research project on referrals. Within these tables all grounds of referral are identified in each case and not just the “main” ground.

It should also be noted that, following internal review, the classification of previous year referrals has resulted in a slight change to the split in conviction and sentence-only cases from prior years.

**Table 1 – Cumulative case related statistics (as at 31 March each year)**

	Cumulative to 31 March 2011	2011-12	2012-13	2013-14	2014-15	2015-16	Cumulative Total
Cases Received	1354	139	196	155	174	148	2166
Pre-acceptance Cases (Stage 1)	n/a	25	29	16	17	10	n/a
Cases under review (Stage 2)	n/a	49	34	22	22	19	n/a
Cases Concluded	1277	159	190	179	172	159	2136

**Table 2 – All cases received from 1 April 2011 to 31 March 2016**

	2011-12 %	2012-13 %	2013-14 %	2014-15 %	2015-16 %	% Cumulative: 1 April 1999 to 31 March 2016
Solemn	79	80	67	74	68	78
Summary	21	20	33	26	32	22
Sentence- only review	19	19	18	16	16	20
Review involving conviction	81	81	82	84	84	80

**Table 3 – Nature of principal offence committed by applicants  
(applications received from 1 April 1999 to 31 March 2016)**

Principal Offence	Number of Cases	%
Murder	452	21.02
Sexual Offences other than Rape	312	14.51
Rape	286	13.30
Drug Related Offences	172	8.00
Other Assault	165	7.67
Aggravated Assault	134	6.23
Other Statutory Offences	132	6.14
Breach of the Peace	97	4.51
Road Traffic Offences	97	4.51
Attempted Murder	88	4.09
Other Crimes of Dishonesty	58	2.70
Theft	46	2.14
Robbery	44	2.05
Culpable Homicide	27	1.26
Other	51	2.37
	<b>2161*</b>	<b>100</b>

\*Please note that a further five applications (0.25 %) have been recorded as “unknown” as no details of the offence were included in the application.

**Table 4 – Main ground of review lodged by applicants  
(applications received from 1 April 1999 to 31 March 2016)**

Main Ground of Review	Number of Cases	%
Defective Representation	401	18.65
Excessive Sentence	326	15.16
Credibility or Reliability of Evidence	245	11.50
Unfair Trial	187	8.70
New Evidence	156	7.26
Misdirection by Trial Judge	117	5.44
Credibility or Reliability of Witness	92	4.28
Human Rights Issue	84	3.91
Wrong Sentence Imposed	55	2.56
Wrongful Conviction	55	2.56
Police Misconduct/Wrong Procedure	50	2.33
Perjury	26	1.21
Other	372	17.30

**Table 5 – Main ground of referral in conviction cases  
(for cases referred from 1 April 1999 to 31 March 2015)**

Main Ground of Referral	Frequency of Ground	% of Referred Cases
<b>Error in Law:</b>	<b>18</b>	<b>25%</b>
Insufficient Evidence	12	17 %
Evidence: Wrongful Admission	3	4 %
Evidence: Wrongful Exclusion	2	3 %
Refusal of No Case to Answer Submission	2	3 %
Miscellaneous	1	1 %
<b>Irregular Proceedings:</b>	<b>9</b>	<b>13%</b>
Conduct of Judge	2	3 %
Conduct of Jury	3	4 %
Conduct of Prosecutor	1	1 %
Other	3	4 %

**Table 5 – Main ground of referral in conviction cases  
(for cases referred from 1 April 1999 to 31 March 2015) cont.**

Main Ground of Referral	Frequency of Ground	% of Referred Cases
<b>Misdirection:</b>	<b>12</b>	<b>17%</b>
On Evidence: Omission, Value, Weight	8	11 %
On Law: Corroboration	2	3 %
On Law: Other	4	6 %
<b>Other:</b>	<b>37</b>	<b>51%</b>
Evidence Not Heard at Original Proceedings	26	36 %
Failure to Disclose	11	15 %
Defective Representation	10	14 %
Unreasonable Verdict	3	4 %
Lurking Doubt	1	1 %

It should be noted that the sub totals in each of the four main categories of referral ground may not add up to the heading total as there may be some cases referred on more than one of the grounds contained in the sub categories, e.g. under misdirection a case may have been referred on evidence and on law etc. This will have the same effect on the percentage figures.

**Table 6 – Main ground of referral in sentence-only cases  
(for cases referred from 1 April 1999 to 31 March 2015)**

Main Ground of Referral	Frequency of Ground	% of Referred Cases
Improper Punishment Part Calculation	24	44 %
Sentence Inconsistent with Precedent	15	27 %
Incompetent Sentence	9	16 %
Relevant Factor Not Taken Into Account	5	9 %
Sentence Calculated on Inaccurate Factual Basis	1	2 %
Inappropriate Weighting of Certain Factors	3	6 %

The percentage figures in table 6 do not add up to 100 % as some referrals have more than one ground of referral.

# Referrals

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## Referrals

Under section 194B of the Criminal Procedure (Scotland) Act 1995, the Commission has the discretionary power to refer to the High Court any conviction or sentence passed on a person convicted on indictment or complaint whether or not an appeal against the conviction or sentence has been heard and determined by the High Court.

Full details of the applicable legislation and the Commission's two tier test for making referrals (i.e. whether the Commission believes there may have been a miscarriage of justice and that it is in the interests of justice that a referral is made) are available on the website, [www.sccrc.org.uk](http://www.sccrc.org.uk), or within the Commission's information leaflets, available upon request.

### High Court Referrals

As at 31 March 2016, the Commission had referred a total of 127 cases to the High Court, 116 of which have been determined. From 1 April 1999 to 31 March 2016, the overall average time from referral to judgment was 19.29 months, a reduction of 0.62 months from the same period last year. It should however be noted that the timescales from referral to determination over the past 5 years have been substantially shorter and at 31 March 2016 there were no Commission referrals waiting to be determined.

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Of the 116 cases decided, 76 appeals have been granted and 40 appeals have been refused. In addition, 11 appeals were abandoned by appellants following referral by the Commission.

### Referral Rates

As at 31 March 2016 the Commission's overall rate of referral to the High Court was 5.9%, based on a total of 2136 concluded cases and 127 referrals. The overall rate of referral in relation to conviction is 4.2%, based on a total of 1721 conviction cases concluded and 72 conviction referrals.

During 2015-16, the overall rate of referral was 1.3%, based on a total of 159 cases concluded and 2 referrals. The annual rate of referral in relation to conviction is 0.7%, based on 137 conviction cases concluded and 1 conviction referral.

### Case Referral Details

**Table 7** shows a summary of cases referred by the Commission and cases determined by the High Court in each reporting year. The last five reporting years are detailed separately. Cases are not necessarily determined by the High Court in the same year that they are referred by the Commission.

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**Table 8** provides details of all cases referred by the Commission which have been determined by the High Court during 2015-16. A full listing of all cases referred by the Commission and determined by the High Court since 1 April 1999 is available on the website, [www.sccrc.org.uk](http://www.sccrc.org.uk). This information is broken down by conviction and sentence-only cases, and includes details of appeals which were abandoned. Where a written judgment has been issued by the High Court, the appropriate hyperlink to the Scottish Court Service is provided.

**Table 9** provides details of all cases referred by the Commission during 2015-16.

**Table 7 – Summary of cases referred by the Commission and determined by the High Court**

	Cumulative 2011-12 to 31 March 2011	2012-13	2013-14	2014-15	2015-16	Cumulative Total 31 March 2016	
Cases Referred	101	6	11	4	3	2	127
Cases Determined	81	9	9	5	8	4	116
Cases Abandoned	11	0	0	0	0	0	11

**Table 8 – Cases determined by the High Court during 2015-16**

## Conviction: 2 Cases

Name:	John Milligan
Date Referred to Court:	11 November 2015
Offence:	Various Sexual Offences under Civic Government Act 1982
Date of Conviction:	7 May 2009
Appeal Outcome:	Successful
Date of Appeal Outcome:	23 February 2016
Judgment:	<a href="https://www.scotcourts.gov.uk/search-judgments/judgment?id=a25f0ca7-8980-69d2-b500-ff0000d74aa7">https://www.scotcourts.gov.uk/search-judgments/judgment?id=a25f0ca7-8980-69d2-b500-ff0000d74aa7</a>

Name:	David Lilburn
Date Referred to Court:	20 November 2013
Offence:	Murder
Date of Conviction:	17 July 2008
Appeal Outcome:	Unsuccessful
Date of Appeal Outcome:	17 June 2015
Judgment:	<a href="https://www.scotcourts.gov.uk/search-judgments/judgment?id=2dd7dca6-8980-69d2-b500-ff0000d74aa7">https://www.scotcourts.gov.uk/search-judgments/judgment?id=2dd7dca6-8980-69d2-b500-ff0000d74aa7</a>

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**Sentence-only: 2 Cases**

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Name:	William O'Neil
Date Referred to Court:	2 April 2015 (decided by the Board on 27 March 2015)
Offence:	Fraud
Date of Conviction:	5 November 2013
Appeal Outcome:	Successful
Date of Appeal Outcome:	7 May 2015
Judgment:	No written judgment available

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Name:	Andrew Brown
Date Referred to Court:	8 December 2015
Offence:	Murder
Date of Conviction:	16 April 2014
Appeal Outcome:	Successful
Date of Appeal Outcome:	18 March 2016
Judgment:	<a href="https://www.scotcourts.gov.uk/search-judgments/judgment?id=d84511a7-8980-69d2-b500-ff0000d74aa7">https://www.scotcourts.gov.uk/search-judgments/judgment?id=d84511a7-8980-69d2-b500-ff0000d74aa7</a>

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**Table 9 – Referrals to the High Court in 2015-16****Conviction only: 1 Case**

Name:	John Milligan
Offence:	Various Sexual Offences under Civic Government Act 1982
Date of Conviction:	7 May 2009
Date Referred to Court:	11 November 2015
Main Referrals Grounds:	Insufficient Evidence
Appeal Outcome:	Successful
Date of Appeal Outcome:	23 February 2016

**Sentence-only: 1 Case**

Name:	Andrew Brown
Offence:	Murder
Date of Conviction:	16 April 2014
Date Referred to Court:	8 December 2015
Main Referrals Grounds:	Excessive Sentence
Appeal Outcome:	Successful
Date of Appeal Outcome:	18 March 2016

# Accountability

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## Accountability

The Commission strives to maintain the highest levels of accountability with regard to how it undertakes its core function and delivery of its service to all stakeholders. The Commission has in place a number of governance related structures and processes which are outlined below.

### Stakeholders Views

The Commission continues to obtain feedback from stakeholders through the User Group Forum, which last met on 18 March 2016. Representation on the group includes the Miscarriage of Justice Organisation (MOJO), Justiciary Office, HMP Shotts, Police Scotland, the Presumed Innocent Network, Faculty of Advocates, SACRO, the Criminal Cases Review Commission, the Scottish Government and private legal practice.

At the last meeting of the group, the topics under consideration included:

- *Casework Statistics / Performance*
- *Corporate Planning 2016-19*
- *Annual Reporting 2015-16*
- *SCCRC Research – Referrals & Repeat Applications*
- *SCCRC's Statutory Test*

- *Equalities Action Plan*
- *SCCRC Awareness Raising*

The input and feedback from all members of the group continue to be of great assistance to the work of the Commission and their continued support and contribution is valued and appreciated.

### **Complaints Procedure**

The Commission has in place a formal complaints procedure which is available on the website and upon request from the Commission. The complaints procedure is limited to administrative matters and does not cover complaints about decisions issued by the Commission in respect of cases.

The number of formal complaints received decreased from 4 in 2014-15 to 2 in 2015-16. All complaints were dealt with in accordance with the complaints procedure and corresponding review timescales. In each case the complaint was not upheld. A further 3 complaints were received during 2015-16 although following initial review it was confirmed that these related to case decisions taken by the Board and were therefore not recorded as formal complaints.

### **Code of Conduct**

The Commission has in place a documented Code of Conduct for both Board Members and staff. As part of the Code of Conduct all Members and staff

must declare any known conflicts of interest, e.g. where they have had previous involvement with an applicant or witness in a case. Conflicts of interest are recorded and the person involved is precluded from any involvement in the respective case. The Code of Conduct was updated and reissued during 2015-16.

A Declarations of Interest Register is maintained and is available on the website or for inspection at the office.

### **Promoting Public Understanding of the Commission's Role**

In accordance with its broad aims, the Commission continues to promote public understanding of its role. This work takes the form of targeting various interest groups as well as more general information events and talks. During 2015-16 these have included:

- *Scottish Prisons – HMP Shotts and HMP Greenock – talks delivered to both prisoners and prison staff*
- *Scottish Prisons – HMP Edinburgh – talk delivered to prisoners*
- *Innocence Project UK – talk on the Commission's operating procedures*
- *SPS – 8 talks to prison officer inductees*
- *Presumed Innocent Network – talk on the role of the Commission*

## Freedom of Information

The Commission has in place a publication scheme, established in January 2005 in accordance with the Freedom of Information (Scotland) Act 2002 (FOISA).

The scheme was updated in 2015-16. The guide to the publication scheme can be found at <http://www.sccrc.org.uk/publication-scheme>.

22 FOI requests were received during 2015-16 and responses were issued in respect of 21 FOI requests\*.

The responses issued were dealt with as follows:

- *full disclosure of information – 10 cases;*
- *partial disclosure of information – 6 cases; and*
- *non-disclosure of information – 5 cases\*\*.*

In the 11 cases in which information was either not disclosed or only partially disclosed, the Commission did not disclose the information, or some of the information, for one of the following reasons:

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- *the information requested constituted third party data – 4 cases;*
  - *the Commission did not hold the information requested/the request was not a valid request within the ambit of FOISA – 8 cases;*
  - *the information requested was prohibited from disclosure by or under another enactment – 3 cases;*
  - *the information requested had previously been provided to the requester – 1 case.*

\*One decision was issued in respect of requests received in 2014-15 and two requests received in March 2016 were responded to in April 2016.

\*\*The 5 figure (non-disclosure) includes the following case: On 10 March 2015, an individual asked the SCCRC for the number of cases a named person was involved in whilst working for the SCCRC. The SCCRC withheld this information on the basis that it was personal data, exempt from disclosure under section 38(1)(b) of FOISA. Following an investigation, the Commissioner found that the SCCRC was entitled to withhold the information under this exemption, but that its responses were not fully compliant with FOISA. The Commissioner did not require the SCCRC to take any action in respect of that error.

The decision of the SIC is available at the following link:

**<http://www.itspublicknowledge.info/ApplicationsandDecisions/Decisions/2015/201500649.aspx>**

### **Data Protection**

The Data Protection Act 1998 (DPA) provides for an individual's right to access any of his or her personal data that the Commission holds, subject to certain exemptions. A request to access such data under DPA is called a 'subject access request'.

8 subject access requests were received during 2015-16 and responses were issued in respect of 7 requests\*.

In 5 of those cases the Commission disclosed, or was of the view that it had already disclosed, the information to the applicant. In 2 cases the Commission considered that disclosure of the requested information would be likely to prejudice the prevention or detection of crime etc, and that the information was therefore exempt from disclosure under section 7 of DPA by virtue of section 29 of the Act.

\*One request received in March 2016 was responded to in April 2016.

### **Persistent & Repeated Applications Policy**

The Commission has in place a Persistent & Repeated Applications Policy, which was approved in April 2013 and subsequently reviewed and updated in December 2015. The policy was developed in response to the increasing number of repeat applications being received from a small number of applicants where there continued to be no new grounds of review or any significantly different matters being raised.

The policy includes an appeals process and all registrations on the Persistent & Repeated Applications Register are reviewed on an annual basis.

No applicants were placed on the Persistent & Repeated Applications Register during 2015-16. The total number of registrations remained at 7.

### **Enhance Public Confidence**

The Commission believes that achieving its objectives and targets and ensuring that all cases are reviewed thoroughly, without undue delay and to a consistently high standard will enhance public confidence in the ability of the Scottish criminal justice system to rectify miscarriages of justice. The Commission is firmly of the view that its independence from Scottish Government and the prosecution service is of paramount importance in enhancing such public confidence.

The Commission will continue to maintain complete independence in its investigation and review of cases.

## Website

The Commission undertook a comprehensive review of its website in 2015-16 which resulted in the development of a new, stakeholder focused, website.

The Commission's main aims with the new website were:

- *to make information about the Commission more easily available and simpler to find;*
- *to make the information on the website more targeted to the needs of its stakeholders;*
- *to improve the presentation of the Commission's publication scheme and associated disclosure information; and*
- *to enhance the overall functionality and accessibility of the website.*

The Commission will canvass feedback from stakeholders during 2016-17 in order to assess if its key aims have been achieved and to identify any further improvements that can be made.

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## Research & Development

The Commission continues to utilise the wealth of information and knowledge gathered as part of its operations in order to undertake meaningful internal research which can be utilised to improve both internal procedures as well as enhance external learning opportunities. During 2015-16 the Commission published its second internal review of repeat applications, with the full report and findings available on the website.

During 2016-17 the Commission plans to review and update its previous research on the proportion of applicants who are legally represented and consider the wider issues surrounding support available to potential applicants in the submission of an application to the Commission.

# Performance Analysis

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## Corporate Planning

The Commission has in place a Corporate Plan covering the period 1 April 2013 to 31 March 2016. The Corporate Plan sets out the Commission's strategic aims and priorities for the 3-year period and how it intends to deliver these. It also identifies how the Commission will align itself to the Scottish Government's National Performance Framework and contains a 3-year financial forecast.

In support of the Corporate Plan the Commission produces an annual Business Plan. The Business Plan details the operational objectives for the year ahead as well as providing a full performance assessment for the preceding year. The Business Plan also sets out the Commission's agreed budgetary provision for the year ahead.

Both the Corporate Plan and Business Plan are available on the Commission's website, [www.sccrc.org.uk](http://www.sccrc.org.uk), or from the Commission. A new Corporate Plan covering the period 2016-19 has also been produced and will be published on the Commission's website in June 2016.

## Performance Against Key Targets

To 31 March 2016, the Commission's strategic aims, as set by the Scottish Ministers, were:

- *to investigate all cases efficiently, without undue delay and to a consistently high standard;*
- *to work with others to deliver a quality service;*
- *to promote public understanding of the Commission's role; and*
- *to strengthen public confidence in the ability of the Scottish criminal justice system to address miscarriages of justice.*

The Commission sets specific objectives and targets to meet its broad aims as well as demonstrating its commitment to the National Performance Framework. The Corporate Plan and corresponding Business Plan identify these objectives and targets for 2015-16.

Performance against the Commission's key targets for 2015-16 is set out below:

Target	Outcome	Performance
(i) to allocate cases received within an average of 1 month from the date of receipt.	Achieved	1 day average
(ii) to complete the stage 1 pre-acceptance procedure within an average of 2 months from the date of stage 1 allocation.	Achieved	1.8 month average
(iii) to conclude sentence-only reviews within an average of 4 months of the date of allocation.	Achieved	3.9 month average
(iv) to conclude cases involving a review of conviction within an average of 8 months of the date of allocation.	Achieved	6.5 month average
(v) to complete the review of 98% of the cases received before 31 March 2015, so that by the beginning of the 2016-17 reporting year no more than 3 of the Commission's cases are more than 12 months old.	Achieved	1 case over 12 months old

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Full details of performance against these targets and objectives are available on the Commission's website, [www.sccrc.org.uk](http://www.sccrc.org.uk).

The Commission successfully achieved all 5 of its key targets for 2015-16 despite the continued high level of new applications received. This level of performance reflects positively on the Commission's ongoing review of case handling procedures in order to enhance efficiency in the review process. It is also testament to the ongoing effectiveness and hard work of the Commission's staff and the Board.

### **Performance Indicators**

The Commission has set itself a number of key performance indicators, as identified within the 2013-16 Corporate Plan, and reports on these within each Annual Report. The table below sets out performance against these indicators over the past 5 reporting years:

Performance Indicator	2011-12	2012-13	2013-14	2014-15	2015-16
Number of cases received	139	196	155	174	148
Number of concluded cases	159	190	179	172	159
Average time taken from date of acceptance to date of conclusion	7.8 mths	7.7 mths	7.3 mths	7.5 mths	6.3 mths
Number of cases where initial decision not to refer is changed to a decision to refer following submission of further representations	0	4	1	0	0
Referrals per year	6	11	4	3	2
Outcome of referrals decided in year	5 granted 4 refused	9 granted 0 refused	3 granted 2 refused	3 granted 3 refused	3 granted 1 refused
Cases abandoned following referral	0	0	0	0	0
*Cumulative % referral success rate					65%
Number of formal complaints received	4	1	2	4	2
Number of cases subject to judicial review	0	3	0	0	1

\*Cumulative success rate based on total number of decided referrals. Does not take into account cases which have been referred and subsequently abandoned.

## Financial Results

In accordance with paragraph 9(1)(b) of Schedule 9A to the Criminal Procedure (Scotland) Act 1995, the Commission produced a statement of accounts to cover the period 1 April 2015 to 31 March 2016. The Commission's statement of accounts is prepared in accordance with the Accounts Direction issued to the Commission by the Scottish Ministers.

The accounts for the year ended 31 March 2016 are available on the Commission's website, [www.sccrc.org.uk](http://www.sccrc.org.uk).

The Commission's budget for 2015-16 was set at £1,018,995, the same as in 2014-15. Scottish Government also made available additional funding of £125,850 in order to meet any costs associated with the second application in respect of Mr Abdelbaset Ali Mohamed Al-Megrahi. This application was concluded at stage 1 in November 2015 and the case was not accepted for full review. Although costs were incurred as part of the stage 1 review of this case it was agreed with Scottish Government that these would subsequently be met within the ordinary budget. It was also agreed that a reduced level of funding would be drawn down for the year in order to address a previous audit recommendation to reduce the level of cash and cash equivalents held by the Commission. Net operating cost for the year was £1,066,752 including depreciation and notional costs.



## Payment Performance

In line with Scottish Government directions, the Commission's policy for the payment of invoices, not in dispute, is within 10 days of receipt (or the agreed contractual terms if otherwise specified). The Commission aims to pay 100% of invoices, including disputed invoices once the dispute has been settled, within these terms.

The Commission paid a total of 96.3% of invoices received in accordance with the payment policy, compared with 90.7% in the previous year. Of the remaining 3.7% of invoices not paid within the 10 day target (16 invoices in total) these were all paid within the agreed contractual terms. A total of 1.2% of the invoices not paid within the 10 day target were either in dispute or were late as a result of SEAS system issues which were outside of the Commission's control. The overall improvement in payment performance has been a result of enhanced operating procedures and staff contingency arrangements.

As at 31 March 2016 the value of supplier payments outstanding was nil.

The Commission applies the principles of the Better Payment Procedure Code.

# Our People

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## The Board

The Board has corporate responsibility for ensuring that the Commission fulfils the aims and objectives set by Scottish Ministers and for promoting the efficient and effective use of staff and other resources in accordance with the principles of Best Value. The Board also has a specific executive responsibility with regard to discharging its statutory role in making decisions in respect of all cases received by the Commission. The Board is supported by 3 Case Committees, the Audit Committee and the Remuneration Committee. In addition, the full Board sits twice a year as the Policy Group.

**Chairman:**

Mrs Jean Couper, CBE

**Board Members:**

Mr Gerrard Bann\*

Professor George Irving, CBE\*

Miss Frances McMenamin Q.C.

Mr Peter Ferguson Q.C.

Professor Jim Fraser\*

Doctor Rajan Darjee

Mr Colin Dunipace.

\*Audit Committee Members

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	Male	Female
Chairman	-	1
Board Members	6	1

The Register of Interests for Commission Members can be found on the Commission's website, [www.sccrc.org.uk](http://www.sccrc.org.uk), and is also available from the Commission. All Members are required to review and update their registration on at least an annual basis.

## Staffing

The Commission's Chief Executive, Mr Gerard Sinclair, is also the Accountable Officer and was supported by the following staff complement as at 31 March 2016:

Standard	Male	Female
Director of Corporate Services	1	-
Head of Casework & Information Governance	1	-
Senior Legal Officer	1	1
Legal Officer	3	2
Trainee Legal Officer	-	1
Senior Administration Officer	-	1
Administration Officer	1	1

All staff are based at the Commission's office in Glasgow.

The Commission has monitoring arrangements to review staffing performance issues such as rates of absence. The average number of sick days per employee in post increased from 3.9 days in 2014-15 to 4.7 days in 2015-16.

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The Commission is committed to ensuring that staff are adequately trained and staff are encouraged to identify and attend suitable training seminars and courses. All Commission staff have direct access to the Chief Executive and to the Members of the Board of the Commission and are encouraged to express their views on, and to make suggestions to enhance, the efficiency and the effectiveness of the Commission.

The Commission's equal opportunities policy aims to ensure that there is no employment discrimination on the grounds of disability and that access to employment and career development within the Commission is based solely on ability, qualifications and suitability for the work.

