

## CASE HANDLING PROCEDURES

### Equality

In accordance with the Equality Act 2010, we will make any reasonable adjustment necessary to assist those with a protected characteristic or disability to engage fully with the Commission. If you require any assistance with this document please let us know.

We are also a member of Happy to Translate (HTT) and can provide language assistance with this document or make it available in alternative formats if required upon request.



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### 1.0 STAGE 1 – PRE-ACCEPTANCE

- 1.1 When the Commission receives an application, the administration officer gives the application a case number, creates a correspondence file, and checks whether the applicant has applied previously to the Commission.<sup>1</sup> He<sup>2</sup> creates a file on the Commission's electronic case management system (Solcase), and puts on the Solcase file the information from the application. An email is automatically sent to the Chief Executive which tells him that a new application has been received.
- 1.2 Within **two working days** from receipt of the application, the Chief Executive writes to the applicant and his representatives, acknowledging receipt of the application and telling them that the application will be allocated to a legal officer for consideration within the Stage 1 procedure. The administration officer writes to the single point of contact at Justiciary Office (SPOC at JO)<sup>3</sup> or the appropriate sheriff court to request the case papers.
- 1.3 The correspondence file is passed to the Chief Executive. The Chief Executive, or, in his absence, the Head of Casework, completes the case summary section on the Solcase file, he drafts a new case report and he, taking into account any conflicts of interest the legal officers have and the workload of each legal officer, allocates the application to a legal officer.

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<sup>1</sup> Where the applicant is on the Commission's Persistent and Repeated Applications Register, the application is addressed in line with the Commission's Persistent and Repeated Applications Policy.

<sup>2</sup> In this document, unless the contrary intention appears, words importing the masculine gender include the feminine, and words importing the feminine gender include the masculine.

<sup>3</sup> In accordance with the agreed protocol between the Commission and Justiciary Office.

- 1.4 Within **three working days** from initial allocation, the legal officer sends a letter to the applicant and his representatives in which he tells them:
- The Board of the Commission will consider the application at its meeting the next month;
  - He will draft a report (the Stage 1 report), based upon the material the applicant has provided and other material pertaining to the application, for the Board's consideration;
  - He may require to contact them in advance of the Board meeting if there are details of the application which are unclear; and
  - After the Board meeting they will be told, in writing, whether the application has been accepted for a Stage 2 review (full review).
- 1.5 The legal officer, after he has read the application and supporting papers, sends a letter to the applicant and his representatives in which he provides a summary of the grounds of review/the submissions.
- 1.6 The legal officer should consider, on the information available to him, whether there are any reasons to believe that 'reasonable adjustments', in terms of the Equality Act 2010, may be necessary and, if he considers that there are such reasons, what reasonable adjustments should be made in this case to the Commission's procedures.
- 1.7 The legal officer drafts the Stage 1 report, in which he provides details of the applicant's conviction and sentence and the summary grounds of review, and in which he recommends whether the application should be accepted for a Stage 2 review. If he recommends that the application should not be accepted for a Stage 2 review, he prepares a draft statement of reasons setting out the Commission's reasons not to accept the application for such a review (the draft Stage 1 statement of reasons). He sends the Stage 1 report, the supporting papers and any draft Stage 1 statement of reasons to the admin team.
- 1.8 The application is added to the Stage 1 agenda for the next Board meeting. **Two weeks** before the meeting, the Director of Corporate Services (DOCS) sends, by way of the Diligent Boardbooks system, the Stage 1 agenda, the Stage 1 report, the supporting papers and any draft Stage 1 statement of reasons to the Members, the Chief Executive and the Consultant Legal Adviser.
- 1.9 **Notwithstanding the legal officer's recommendations and the existence of any draft Stage 1 statement of reasons, it is the Board's decision whether to accept the application for a Stage 2 review.**
- 1.10 Each Member must consider whether he has a conflict of interest in relation to the application. The administration officer notes any conflicts (including any that the Chief Executive or any legal officers have) in the appropriate register. (Where a Member does not become aware of a conflict of interest until a later stage, he, at that stage, tells the Board that he has a conflict, and it is noted at the next Board meeting.) The administration assistant marks on the front cover of the correspondence file and on the Solcase file that there is a conflict of interest. Any Member who has a conflict of interest does not take part in the decision whether to accept or reject the application.
- 1.11 Where the application is not accepted for a Stage 2 review, the Stage 1 statement of reasons refers to the fact that the Member who has a conflict of interest did not take part in the

Board's consideration whether to accept the application for a Stage 2 review. Where the application is accepted for a Stage 2 review, the statement of reasons (**see para 2.10**) refers to the fact that the Member who has a conflict of interest did not take part in the review or the Board's decision in that case.

- 1.12 Where the Board accepts the application for a Stage 2 review, the application proceeds to full review
- 1.13 Where the Board does not accept the application for a Stage 2 review, the Chief Executive writes to the applicant and his representative, enclosing the Board-approved Stage 1 statement of reasons. Where the legal officer recommended that the application be accepted for a Stage 2 review, but the Board decides not to accept the application, the legal officer drafts the Stage 1 statement of reasons in line with the Board's decision. The Chief Executive approves any post-Board changes to the Stage 1 statement of reasons. In each case, the file is closed (see **Stage 4**).
- 1.14 The Board may continue the application where it requires further information. Where the Commission cannot progress the application for other reasons – where, for example, a court decision is expected on a separate matter which may affect the Board's consideration of the application – the Board may decide to suspend its consideration of the application for the relevant period of time.
- 1.15 The Commission aims to complete the Stage 1 procedure within **two months** from the date of the receipt of the allocation.

<b>Date of Approval:</b>	<b>Nov 2014</b>
<b>Date of Last Review:</b>	<b>October 2018</b>
<b>Date of Next Review:</b>	<b>October 2019</b>