



## CASE HANDLING PROCEDURES

### Equality

In accordance with the Equality Act 2010, we make any reasonable adjustments which are necessary to assist those individuals with a disability to engage fully with us and we endeavour to make our service equally accessible to all. Please let us know if you need any assistance with this document.

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### 1.0 STAGE 1 – INITIAL

- 1.1 When the Commission receives an application, the administration officer gives the application a case number, and checks whether the applicant has applied previously to the Commission.<sup>1</sup> They create a file on the Commission's electronic case management system (Visual Files), and put the information from the application on the relevant file on Visual Files. They also capture any information recorded within the equal opportunities monitoring section on the relevant Visual Files screen. This is to ensure that any required 'reasonable adjustments' can be identified, considered and adopted as part of the case review process. An email is automatically sent to the Chief Executive which tells them that a new application has been received.
- 1.2 **Within two working days from receipt of the application**, the Chief Executive emails (or writes to) the applicant and their representative, 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. Unless papers are available in relation to an earlier application, the administration officer emails the single point of contact at Justiciary Office (SPOC at JO) – or, where there has been no appeal, they write to relevant sheriff or JP court – to request the case papers. (At this stage the case papers comprise the indictment or complaint, the court minutes, the charge to the jury, if

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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.

applicable, and the appeal process). If the applicant has made an earlier application and papers have already been obtained and retained, the administration officer will copy these across to the new application case history.

- 1.3 The Chief Executive, or, in their absence, a senior legal officer, completes the case summary section on the file on Visual Files; they draft a new case report; and they, taking into account any conflicts of interest the legal officers have and the workload of each legal officer, allocate the application to a legal officer.
- 1.4 **Within three working days from initial allocation**, the legal officer emails (or writes to) applicant and their representative, telling them the case has been allocated and about further procedure.
- 1.5 The legal officer, on the information available to them, considers whether there are any reasons to believe that 'reasonable adjustments', in terms of the Equality Act 2010, may be necessary and, if they consider that there are such reasons, what reasonable adjustments to the Commission's procedures should be made in this case. Any such adjustments should be recorded on Visual Files. At this point the legal officer will also identify if the case is to be linked with any other applications, either from the same applicant or in relation to the same matter. If this is the case a note will be placed under sensitive issues on the file cover on Visual Files.
- 1.6 The legal officer drafts the stage 1 report, in which they provide details of the applicant's conviction and sentence and the summary grounds of review, and in which they recommend whether the application should be accepted for a stage 2 review.
- 1.7 Where the legal officer is unsure what the grounds of review are, they contact the applicant or their representative for clarification.
- 1.8 Where the legal officer recommends that the application should not be accepted for a stage 2 review, they prepare a draft statement of reasons setting out the Commission's reasons for rejecting the application. **In drafting the statement of reasons, the legal officer considers whether the names of any individuals in it should be anonymised.**
- 1.9 The legal officer emails the stage 1 report, any supporting papers and any draft stage 1 statement of reasons to the admin team. The application is added to the stage 1 agenda for the next Board meeting.
- 1.10 The legal officer sends a letter to the applicant and their representative in which they provide a summary of the grounds of review/the submissions. (The summary of the grounds of review should be a form in which it can be used in a statement of reasons, either at stage 1 or stage 2.) The applicant and their representative have the opportunity to comment on or to amend the summary.
- 1.11 **Two weeks before the Board meeting**, the Director of Corporate Services (DOCS) sends, by way of the Diligent Boardbooks system, the stage 1 agenda, the stage 1 report, any supporting papers and any draft statement of reasons to the Members, the Chief Executive and the Consultant Legal Adviser.

- 1.12 Notwithstanding the legal officer's recommendations and the existence of any draft statement of reasons, it is the Board's decision whether to accept the application for a stage 2 review.
- 1.13 Where the Board rejects the application, the Board-approved statement of reasons is sent to the applicant and their representative. It is sent by secure email to the representative and special post to the applicant
- 1.14 Where the legal officer had recommended that the application be accepted for a stage 2 review, but the Board rejects the application, the legal officer drafts a statement of reasons in line with the Board's decision. The Board may ask the Chief Executive to approve the statement of reasons.
- 1.15 The file is closed (see **stage 4**).
- 1.16 The Board may continue the application where it requires further information. Where it does so, the legal officer writes to the applicant and their representative, telling them that the application will call again at next month's Board meeting.
- 1.17 Where the Commission cannot progress the application for other reasons, the Board may decide to suspend its consideration of the application for the relevant period of time.
- 1.18 The Commission aims to complete the stage 1 procedure within two months from the date of the receipt of the application.

#### Conflicts of interest

- 1.19 Each Member, the Chief Executive and each legal officer must consider whether they have a conflict of interest in relation to the application.
- 1.20 A member of the admin team notes any conflicts in the appropriate register. (Where a person does not become aware of a conflict of interest until a later stage, they, at that stage, tell the Board that they have a conflict, and it is noted at the next Board meeting.) A member of the admin team records on the relevant file on Visual Files that there is a conflict of interest.
- 1.21 Any Member who has a conflict of interest does not take part in the decision whether to accept the application for a stage 2 review.
- 1.22 Where the application is rejected, the statement of reasons refers to the fact that the Member who has a conflict of interest did not take part in the Board's decision to reject the application.
- 1.23 Where the application is accepted for a stage 2 review, the statement of reasons 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.
- 1.24 Where the Chief Executive and/or a legal officer have a conflict of interest, they do not take part in the stage 1 (or stage 2) review.

Date first approved	November 2014
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Date of next review	March 2023