



Scottish Criminal Cases  
**Review Commission**

**Information**

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# Introducing the Scottish Criminal Cases Review Commission (SCCRC)

## Who are we?

We are the independent public body that investigates and reviews alleged miscarriages of justice in Scotland.

We comprise a Board of Commissioners, both legally qualified and lay persons, a Chief Executive, a Director of Corporate Services, legal officers and support staff.



# Introducing the Scottish Criminal Cases Review Commission (SCCRC)

## Who may apply?

Any person convicted of a criminal offence in Scotland, whether under solemn or summary procedure. In normal circumstances, however, we look into an applicant's case only after he or she has made an unsuccessful appeal to the High Court (see over). We can consider applications made on behalf of another person.

## Whom do we represent?

We are an independent body: we do *not* represent the prosecution, the defence, the police, the courts or any other part of the criminal justice system. We do *not* represent applicants.



# The Work of the Scottish Criminal Cases Review Commission

## What do we do?

We review cases to decide whether they should be referred to the High Court to be considered again. The High Court must then decide whether the conviction or sentence should be overturned.

## When do we refer cases?

We refer a case to the High Court where we believe that there *may* have been a miscarriage of justice and it is in the interests of justice to do so.



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# Applying to the Scottish Criminal Cases Review Commission

## **When may you apply?**

You may apply to the SCCRC in respect of your conviction or sentence (or both) once your appeals against conviction and sentence are concluded. If your appeal against conviction is concluded and you have an appeal against sentence outstanding, you may apply immediately in respect of your conviction.

## **How do you apply?**

You must complete an application form (which is enclosed). You must set out the details of your conviction and appeal and why you believe that a miscarriage of justice has occurred in your conviction or sentence (or both).



# Applying to the Scottish Criminal Cases Review Commission

## **Do you need legal advice?**

You may ask a solicitor (or another person) to assist you in completing the application form – and free or low-cost legal advice may be available under the Legal Advice and Assistance Scheme – and your solicitor should be able to help you formulate your grounds of review. However, you do not need to use the services of a solicitor when you apply.

## **Will it cost you to apply?**

We do not charge you a fee for reviewing the case. We shall pay for any expert reports we think are necessary for the review.



# Dealing with applicants

## **How long does a review take?**

Where we are reviewing an applicant's conviction, we aim to issue a decision in nine months. Where it is a sentence-only case, we aim to issue a decision in four months. However, we cannot guarantee that a decision will be issued in those time-scales: the length of time of the review process depends on the complexity of the case and the cooperation of witnesses and other parties.

## **Do we keep an applicant informed on the progress of a review?**

We keep you informed of the progress of the case on a regular basis (usually every six weeks).

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CRIMINAL CASE  
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SCOTTISH  
CRIMINAL CASE  
REPORTS

SCOTTISH  
CRIMINAL CASE  
REPORTS

SCOTTISH  
CRIMINAL CASE  
REPORTS

SCOTTISH  
CRIMINAL  
REPORT

INDEX  
1981-1985

1987

1988

1989

1990

1991



# What investigative powers do we have?

We have the power to undertake enquiries, to obtain statements and to ask the Lord Advocate to undertake enquiries on our behalf. Where necessary, we arrange for tests to be carried out and we seek the views of experts.

Where we believe a person may have information relevant to our investigation and that person refuses to provide a statement, we may apply to a sheriff for a warrant to cite him to give a precognition on oath. If the sheriff grants the warrant, that person will require to attend a sheriff court to answer the questions we wish to ask him. His failure to attend the court, or to provide information within his knowledge, is a criminal offence for which the penalty is up to £1000 fine and/or 21 days' imprisonment.

Where we believe a person or a public body possesses material which may assist our investigation and that person or public body refuses to provide the material, we may apply to the High Court for an order requiring that person or public body to produce the material or to provide us with access to the material. A public body includes any police force, governmental department and local authority.



# After a referral is made to the High Court

## **Do we have any further involvement in the case?**

Where we refer the case, we have no further involvement in the case: it proceeds as a normal appeal. The applicant or his counsel will need to present any appeal.

## **Do you need legal advice?**

We would advise any applicant whose case we refer to instruct a solicitor. A list of names of solicitors is available from the Law Society of Scotland.

## **Will your appeal succeed?**

The fact we refer the case to the High Court is no guarantee that the conviction will be overturned or the sentence reduced. We refer a case to the High Court where we believe that there *may* have been a miscarriage of justice and it is in the interests of justice to do so. The High Court must decide whether there *has* been a miscarriage of justice.

# The Case Review Process

## Is the application valid?

- *Does the application concern a criminal conviction in Scotland or a sentence imposed as a result of such a conviction?*
- *Has the normal appeal process been exhausted or are there exceptional circumstances (eg, the applicant was prevented from appealing because serious threats were made against him or his family, or it is only our special powers of investigation that can uncover the evidence he or she needs)?*
- *Has the applicant set out one or more arguable grounds of review in the application form?*

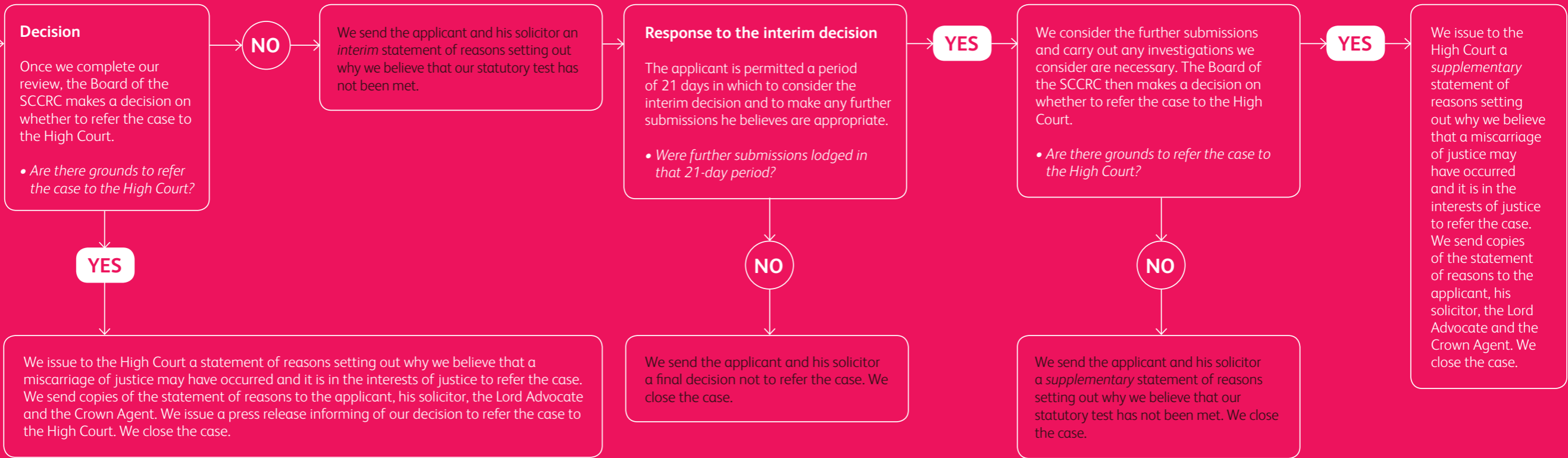
YES

## Case Review

A legal officer, the Chief Executive and two Commissioners examine the issues raised in the application, and any other relevant issues – we are not restricted to examining only those issues raised in the application. The legal officer carries out the day-to-day investigation in the case, but he or she meets with the Chief Executive and the Commissioners, normally each month, to discuss the progress of the review.

NO

The application is not valid and we shall refuse to accept it for review.



### More Information:

The SCCRC was created by section 194 of the Criminal Procedure (Scotland) Act 1995, as amended by section 25 of the Crime and Punishment (Scotland) Act 1997, which sets out the powers and duties of the SCCRC.

Further information about the SCCRC is available on our website: [www.sccrc.org.uk](http://www.sccrc.org.uk)

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Fold Out

