

## **CRIMINAL APPEALS**

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If you are appealing against your conviction you will normally need new evidence or facts, though you can also appeal because something went 'wrong' at trial, for example, an important court procedure was not properly followed. Ideally, you should try to obtain legal advice before you appeal to receive guidance as to whether you have a good reason to appeal. However, you do not have to have received legal advice to put forward your appeal and you can appeal yourself. If your trial took place in the Crown Court and you think you have been wrongly convicted or you disagree with your sentence, you may be able to appeal to the Court of Appeal.

In order to appeal against your conviction and/or sentence, you must submit a Form NG to the Crown Court stating why you think the conviction and/or sentence is/are wrong. This should be done within 28 days of the date that you were convicted. However, if you miss this 28 day deadline, you should still apply for an appeal out of time, explaining why you are late in submitting it.

For more advice and support on criminal appeals you might want to contact the charity APPEAL, they are a charity specialising in this area. You can write to them at; APPEAL72-75 Red Lion Street (6th Floor) London WC1R 4NA or 07735 434268.

You could also contact Advocate, a legal charity who may be able assist with criminal appeals. You can write to them at; Advocate, International Dispute Resolution Centre, 1 Paternoster Lane, St. Paul's, London, EC4M 7BQ.

### **Criminal Cases Review Commission (CCRC)**

If you have already exhausted the appeals process with the relevant appeal court, you may wish to submit an application to the Criminal Cases Review Commission (CCRC). You can write to the CCRC at: Criminal Cases Review Commission, 23 Stephenson Street, Birmingham B2 4BH.

The CCRC is an independent body which is responsible for investigating alleged miscarriages of justice in England, Wales and Northern Ireland. This means that the CCRC looks at cases independently of the police, the prosecution and the courts.

It has the power, under s9 of the Criminal Appeal Act 1995 to refer any conviction on indictment and sentence relating to the conviction to the Court of Appeal. It also has the power, under s 11 of the 1995 Act, to refer any magistrates' court conviction or sentence to the Crown Court.

The CCRC will make such a referral where:

- There is a real possibility that the conviction, verdict, finding or sentence would not be upheld in the event of a reference being made;
- The Commission considers that:
  - In relation to a conviction, verdict or finding, because of an argument, or evidence, not raised in the proceedings which led to it or on any appeal or application for leave to appeal against it, or

- In the case of a sentence, because of an argument on a point of law, or information, not so raised, and
- An appeal against the conviction or sentence has been determined or leave to appeal has been refused.

Therefore, you need to provide the CCRC with something 'new' which was not presented at trial. In doing so, you should provide a reason as to why such evidence was not put forward previously. You should be aware that tactical decisions of your defence lawyers will not suffice as a reason for evidence not being presented. Essentially, you need to provide the CCRC with a starting point from where they may be able to conduct an investigation to assess the fairness of your conviction and / or sentence.

You should generally only consider submitting an application to the CCRC once you have exhausted your opportunities to appeal to the courts. If you have failed to do so, the CCRC will almost certainly NOT take on your case and it may result in your time limit for appealing to the court elapsing. Where you have made an appeal and it has been unsuccessful, you can then make an application to the CCRC.

In considering whether to make a referral to the courts, the CCRC has the power, under s 17 of the 1995 Act, to require public bodies to produce any documents which would assist their investigation. This may include the production of undisclosed police material, as well as prison, health and social security records. However, you should be aware that the CCRC has discretion as to which documents it chooses to request, and so you cannot instruct them to obtain specific information for you. Under s19 of the 1995 Act, the CCRC can also appoint an investigating officer to assist them with making enquiries.

The CCRC considers every application it receives. However, you should be aware that due to the large number of applications received, it may take several months for your case to be referred to a casework manager, at which point there is still no guarantee that your case will be referred to the court.

If you require any assistance with filling out the form, or advice on whether you should make an application, you may wish to contact the CCRC on 0121 233 1473. Their helpline is open between 9am to 5pm from Monday to Friday and should be cleared as a free legal call for prisoners.

Prisons are required to allow confidential telephone calls and correspondence between prisoners and the CCRC in line with the provisions of PSI 49/2011.

### **Accessing Appeal Forms**

If you are conducting your own appeal and require copies of appeal forms, you can contact us via telephone or letter and we can provide these to you.

<p>PRISONERS' ADVICE SERVICE          PO BOX 46199, LONDON EC1M 4XA          Advice line: TEL: 020 7253 3323          Mon, Wed, Fri 10am-12.30pm &amp; 2pm-4.30pm</p>
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