



APPG on Miscarriages of Justice

Visit to the Criminal Cases Review Commission

Friday 10th May 2019, 10am-1.30pm

5 St Philip's Place, Birmingham, B3 2PW

Attendees:

- Barry Sheerman MP
- Andy Slaughter MP
- Glyn Maddocks, Solicitor and APPGMJ Advisor
- Hannah Swirsky, APPGMJ Parliamentary Officer

Minutes

Discussions with:

- Helen Pitcher - Chairman
- Linda Lee - Commissioner
- Sally Berlin - Director of Casework Operations
- Justin Hawkins - Head of Communication

HP: CCRC have secured additional funds for digital transformation e.g. update to windows software. They are also looking into artificial intelligence for responding to individuals who contact that CCRC but haven't appealed first.

HP: Overall funding cuts has not affected their work.

SB: The CCRC hasn't appointed new Case Review Managers (CRMs) due to low quality of applicants. There are currently 32 CRMs and they want to increase this by 6.

There is an issue regarding staffing due to lack of career prospects and changes to legal aid which has meant many are leaving the career path entirely. BS suggested the CCRC strengthen their links with universities and explore the possibility of offering scholarships/fellowships as a way to attract recent graduates.

Currently only one CRM has biological forensic expertise and one is an ex police officer. Two are lawyers.

HP is hoping to have Commissioners home based.

Cases are predominantly undertaken by CRMs, who then draft a decision regarding whether to refer. Commissioners then make the final decision after a review of the case. If a Commissioner is undecided then the case will go to a committee of Commissioners. On average, each CRM will be responsible for 18 cases at one time.

There are currently 12 Commissioners, two of which start next week (w/c 13th May). - *N.B. only seven are listed on their website*. Commissioners work between 1-3.5 days a week.

LL: low referral rate is not due to the quality of investigations. Instead, the Court of Appeal is too narrow.

SB: one reason for the CCRC's low referral rate is the lack of prosecutions by CPS. The types of cases which may have previously led to convictions are now not going to court.

AS queried this.

JH: Referral rate stats include applications that the CCRC shouldn't deal with e.g. no appeal cases. If these were taken out then this would be around 3%.

LL: the real possibility test is very vague so is interpreted widely. If the CCRC had interpreted the test narrowly then their Court of Appeal success rate would be 100%.

LL: finding new evidence is the main issue

JH: in a lot of cases, convictions look safer after the CCRC have reviewed them.

LL: innocence isn't relevant, it's whether the case passes the real possibility test and is unsafe.

GM stated that the CCRC should be more vocal in opposing the Court of Appeal's decision to not overturn a conviction.

JH: The CCRC still support the view that the Law Commission should review the 'reasonable possibility' test.

AS: Q about judicial review cases including Cunliffe case. Asked for stats on JRs.

JH: on average the CCRC get 30 JRs per year.

LL: There is no limit on how many times people can re-apply to the CCRC but there are restrictions in place to ensure undue time is not given to persistent applications.

90% of applicants don't have legal representation. More resources are given to these cases.

Most cases have a decision made in 12 months. In the past four years the waiting time for an initial response has gone down to three months.

JH: CCRC has worked on improving communications with applicants throughout the case review, although it does take on board that communications could include more substance.

AS raised issue of transparency.

JH: Section 23 of the CA Act places restrictions on what the CCRC can disclose to the public. They would encourage applicants to make public the CCRCs statement of reasons for why they have chosen not to refer a case.

HP wants to improve outreach work. Currently there is very little support in prisons. The CCRC do prison workshops and have a helpline.

BS: if issues do not stem from the CCRC, do we need to be looking at the CPS?

LL: Need to look at all elements of the legal system e.g. legal aid.

JH: CCRC have commissioned independent resources to look at the impact of legal aid.

HP: Regarding the lower referral rate in comparison with Scotland, a big proportion of Scottish cases are sentence cases. The UK Court of Appeal has stated that it doesn't want sentence or historic cases. In Scotland their approach is more focused on legal points.

HP: has communications with Court of Appeal judges (Leveson and Burnett) who have said they will help the CCRC. Court of Appeal view is that the CCRC referral rate is right.

JH: most cases are crown court cases. 1/3 of applications are for sexual offences. CCRC feel they should continue to examine magistrates court cases.

JH: CCRC often hosts international meetings and have had visits from China, Japan, Taiwan, Canada and Texas.

HP: In answer to Q on the diversity of staff, one Commissioner is BME. There is a gender balance.

Discussion regarding forensics. Need statutory teeth.