



## **CASE HANDLING PROCEDURES**

### **4.0: STAGE 4 – FILE CLOSING**

**4.1** At the end of the review process, the legal officer updates the Solcase file, making sure that he confirms the grounds of review and the reasons for the Commission's decision.

**4.2** The administration officer writes to Crown Office and the SPOC at PS to tell them that the Commission's review is completed and to tell them the Commission's decision.

**4.3** Where the Board decides not to refer the case, either at Stage 1 or after a full review, the legal officer passes to the admin team the papers the Commission has obtained during the course of its review, so that the papers can be scanned on to the Solcase file. The papers are marked 'to be kept for five years' (in murder cases, 'to be kept for ten years'). Before doing so, however, the legal officer removes from those papers all duplicate papers and any papers which were extraneous to the Commission's review/decision. Where necessary, he separates the papers and labels them per class of papers – ie, Justiciary Office papers, Crown papers, defence papers – so that they can be scanned, and thereafter identified, more easily. The duplicate and extraneous papers are destroyed.

**4.4** Where the Board decides not to refer the case, the legal officer returns to the defence solicitor and the solicitor at the appeal any papers they sent to the Commission (and he may, at that stage, return to Crown Office and the SPOC at PS any original documents they sent to the Commission); in relation to those 'returned papers', the legal officer must make sure that the Commission retains copies of those papers to which the Commission referred in the statement of reasons and the supplementary statement of reasons.

**4.5** Where the Board decides not to refer the case, the papers are kept normally for five years (and ten years in murder cases) from the date of the Commission's final decision letter or, where applicable, the date of the Commission's letter enclosing the Stage 1 statement or reasons, and are then destroyed (where, at that stage, there are original documents within those papers, those documents are returned to source). However, the Board will consider whether there are any reasons which justify the retention of the papers for longer than the relevant five-year or ten-year period; where it decides that there are reasons for doing so, its decision for how long to retain the papers is recorded in the Board minutes and is marked on the papers.

**4.6** Where the Board decides to refer the case, all the papers, including the defence papers, are retained. Where the appellant's appeal is subsequently upheld, the papers are then destroyed or, where they comprise original documents, returned to source. (Before the appeal is heard, the papers are made available both to the appellant's solicitor and Crown Office, subject to certain exceptions, in line with the Commission's Disclosure Policy.) Where the subsequent appeal is unsuccessful, or is successful only in part, the papers are kept for five years (ten years in murder cases) from the date of the High Court's decision, and are then destroyed or, where they comprise original documents, returned to source. Upon the conclusion of the appeal, however, the defence papers are returned to the relevant solicitors.

**4.7** In addition, the Board will consider, where a Board Member, the Chief Executive or the legal officer has recommended that the papers be archived, whether there are any reasons which justify the archiving of the papers – where, for example, the Board deems the case to be 'exceptional'. Where it decides that there are reasons for doing so, its decision to do so is marked on the papers, and the papers, including the defence papers, will be archived in perpetuity (see also the Commission's Data Retention Policy).

**4.8** After the expiry of the relevant five-year or ten-year period, the Head of Casework makes the final decision whether the papers are to be destroyed or, where they comprise original documents, returned to source.

**4.9** Where the Board decides to refer the case, and the High Court asks the Commission to comment on its decision, the legal officer must tell the Board about the High Court's request. The Board will agree on the appropriate response, and the Chief Executive will write in that regard to the High Court.

**4.10** Where, after the Commission's decision is issued, the applicant or his representative asks the Commission to comment on its decision, the legal officer writes to the applicant or his representative to confirm that the Commission's review is completed and to tell him that the Commission will not enter into correspondence with him about its decision.

**4.11** Where, after the Commission's decision is issued, the applicant or his representative asks the Commission for information about his case, the legal officer should pass the request to the Head of Casework. The request will be addressed in line with the Commission's Disclosure Policy.

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