

Position Paper | The Jurisdiction of Te Kāhui

Te Rā | Date 26 April 2024

Version 1.0

Te Whāinga Matua | Purpose

1. This Position Paper sets out the jurisdiction of the Criminal Cases Review Commission | Te Kāhui Tātari Ture (Te Kāhui) in relation to its primary function of investigating and reviewing convictions and sentences and deciding whether to refer them to the appeal court.

Te Tūranga | Position

Overview

2. Te Kāhui is only able to investigate, review and refer criminal convictions and sentences. Applications which raise issues that do not relate to criminal convictions and sentences cannot be investigated or reviewed by Te Kāhui. In particular, Te Kāhui does not have jurisdiction to consider applications relating to civil proceedings, bankruptcy proceedings, Family Court proceedings, proceedings under the Mental Health (Compulsory Assessment and Treatment) Act 1992, professional disciplinary proceedings, bail decisions or parole decisions.

The jurisdiction of Te Kāhui

3. The purpose of the Criminal Cases Review Commission Act 2019 (the Act) is to establish an independent body to investigate and review criminal convictions and sentences and decide whether to refer them to an appeal court.¹ This is the primary function of Te Kāhui.²
4. There are two central requirements that must be met for someone to apply to Te Kāhui to review a conviction or sentence.³ First, the applicant must be alive at the time the application is made. While Te Kāhui retains a discretion to continue to review and investigate applications if an applicant passes away after applying, Te Kāhui cannot accept applications made on behalf of people who have passed away.

¹ Section 3.

² Section 11.

³ Sections 4 and 21.

5. The second requirement which must be met to apply to Te Kāhui for review, is the applicant must have been convicted of a criminal offence. If a potential applicant has not been convicted of a criminal offence, or is applying for review of something other than a criminal offence or sentence, Te Kāhui cannot accept the application.
 - a. The Act also provides that Te Kāhui may decide to investigate a conviction or sentence,⁴ including of its own initiative,⁵ as it considers appropriate.⁶
 - b. While Te Kāhui does have the ability to conduct inquiries into practices, policies, procedures or other matters of a general nature, these matters must arise in the course of the primary function of reviewing convictions or sentences. In addition, they must be matters relating to cases involving miscarriages of justice, or have the potential to give rise to cases involving miscarriages of justice.
6. The primary function of Te Kāhui is to investigate and review convictions and sentences and refer them to an appeal court, if appropriate. The Act limits the jurisdiction of Te Kāhui to this. The Act does not provide Te Kāhui with the jurisdiction to investigate and review anything outside of this, including, but not limited to, civil proceedings, bankruptcy proceedings, Family Court proceedings, proceedings under the Mental Health (Compulsory Assessment and Treatment) Act 1992, professional disciplinary proceedings, bail decisions or parole decisions. Where an applicant applies to Te Kāhui for review of these issues, Te Kāhui is unable to investigate or review these issues and will advise the applicant accordingly.

Assistance with preparing an application

7. Applications may be submitted by an applicant or their representative (such as a lawyer or support person).
8. If a potential applicant or their representative requires any assistance in preparing an application, or have any questions, Te Kāhui staff are available to help. The applicant and/or representative can contact Te Kāhui by:
 - a. Calling – 0800 33 77 88 (this is a freephone call, please call Monday to Friday, 9am-5pm)
 - b. Email – info@ccrc.nz
9. While an applicant does not need a lawyer to apply to Te Kāhui, they may wish to engage a lawyer to assist them with preparing their application. Legal Aid may be available to an applicant who wishes to engage a lawyer when applying to Te Kāhui. Applicants who wish to access Legal Aid

⁴ Section 25.

⁵ Section 27(1).

⁶ Section 31(1).

should call the Ministry of Justice on 0800 2 LEGAL AID (0800 253 425) for assistance with making an application for Legal Aid.