

EXPLANATORY MEMORANDUM TO
THE CRIMINAL CASES REVIEW COMMISSION (PERMITTED DISCLOSURE OF
INFORMATION) ORDER 2019

2019 No. 933

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 In May 2013, the then Home Secretary created the Daniel Morgan Independent Panel (the Panel) to investigate the circumstances of Daniel Morgan's murder, its background and the handling of the case over the period since 1987. The Panel believes that there is information held by the Criminal Cases Review Commission (CCRC) that is relevant to the Panel's investigation. Disclosure of this information is only permitted by an Order made by the Secretary of State. This Statutory Instrument would be such an Order, thereby permitting the CCRC to lawfully disclose the information to the Panel.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument applies only to England, Wales and Northern Ireland.
- 4.2 The territorial application of this instrument applies only to England, Wales and Northern Ireland.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The Criminal Appeal Act 1995 ('the Act') established the CCRC to independently investigate alleged miscarriages of justice in England, Wales and Northern Ireland and where necessary to send cases back to courts for a fresh appeal to be heard. There are strict statutory controls on disclosure by the CCRC, which are set out in sections

23-25 of the Act. Disclosure to third parties is only permitted by reference to the exceptions in section 24. Section 24(1)(g) provides that the Secretary of State may by Order prescribe circumstances in which disclosure by the CCRC will be permitted.

- 6.2 Since none of the other exceptions specified in section 24 would apply, the CCRC's disclosure of information to the Panel can only be affected if an Order under section 24(1)(g) is made by the Secretary of State, which is the purpose of this instrument.

7. Policy background

What is being done and why?

- 7.1 Daniel Morgan, a private investigator, was murdered in London on 10 March 1987. His murder remains unsolved. After numerous separate police investigations into the case between 1987 and 2002, the Crown Prosecution Service discontinued the final attempted prosecution against five suspects in 2011.
- 7.2 The Metropolitan Police has indicated that there is no likelihood of any successful prosecutions being brought in the foreseeable future. They have also admitted that police corruption was a "debilitating factor" in the original investigation. This led to calls for an inquiry from Mr Morgan's family and in response the Home Secretary set up the Panel.
- 7.3 The Panel was established by the Home Secretary in 2013 to investigate the circumstances of the murder. The Panel has specific Terms of Reference, to 'obtain and examine all documentation from all relevant bodies'. During its investigations, the Panel identified several CCRC cases that may contain information pertinent to the Panel's work. On 5 June 2018, the Solicitors to the Panel wrote to the CCRC requesting access to this material. In response, the CCRC explained that they are unable to disclose the information as the Act prohibits the disclosure to a third party, by the CCRC, of information obtained in the exercise of its functions, unless one of the exceptions listed in section 24 of the Act applies.
- 7.4 The only such exception which could allow the information requested by the Panel to be disclosed by the CCRC, is by an Order made by the Secretary of State.
- 7.5 This instrument will permit the CCRC to lawfully disclose information only to the Panel and no other third parties. This would allow the Panel to fulfil their Terms of Reference.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This instrument does not consolidate any previous legislation.

10. Consultation outcome

- 10.1 There is no requirement to undertake any public consultation in relation to this instrument. However, the CCRC and the Panel were consulted prior to the instrument being made. Neither had any comments to make.

11. Guidance

11.1 There is no need for specific guidance to be provided.

12. Impact

12.1 There is no impact on business, charities or voluntary bodies.

12.2 There is no impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There are no plans for the instrument to be formally monitored or reviewed. This is because the instrument only applies to the CCRC disclosing information to the Panel and has no wider implications that would require monitoring or review.

15. Contact

15.1 Kate Pellatt at the Ministry of Justice Telephone: 07849 854562 or email: kate.pellatt@justice.gov.uk, can be contacted with any queries regarding the instrument.

15.2 Alison Wedge, Deputy Director, Head of the Ministry of Justice's Arm's Length Bodies Centre of Expertise can confirm that this Explanatory Memorandum meets the required standard.

15.3 David Gauke, Secretary of State for Justice can confirm that this Explanatory Memorandum meets the required standard.