

INUK Innocence Projects Handbook



‘Educating to overturn and prevent the wrongful conviction of innocent people.’

Innocence Project Student Handbook

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PART I - OVERVIEW OF INNOCENCE NETWORK UK

ABOUT INUK

Innocence Network UK (INUK) was established by Dr Michael Naughton in September 2004 as a practical response to the limitations of the criminal justice system identified in academic research. Put simply, there are many known causes of wrongful convictions to which innocent individuals can fall prey, both intentional and unintentional. However, the criminal appeals system and the Criminal Cases Review Commission (CCRC) cannot guarantee that all innocent victims of wrongful convictions will have their convictions overturned.

INUK is an apparatus with four broad interrelated purposes:

Research

INUK is a vehicle for the circulation of my research on wrongful convictions and the research that I undertakes on wrongful convictions and miscarriages of justice with others under the auspices of INUK. These researches feed into INUK's public engagement and impact aims (see below).

Casework

INUK undertakes independent, objective investigations into claims of factual innocence by alleged victims of wrongful convictions to determine whether they are true or not.

All investigations into alleged wrongful convictions by INUK are undertaken on a *pro bono* basis – free for public good.

INUK's casework is undertaken by University of Bristol Innocence Project students (who also have opportunities to get involved with INUK research and public engagement activities) who have first completed the INUK training on the key causes of wrongful convictions, assessing applications for casework assistance, investigating alleged wrongful convictions and writing applications to the Criminal Cases Review Commission (CCRC) and/or the Scottish Criminal Cases Review Commission (SCCRC).

Public engagement

INUK is a channel to communicate the failings and limitations of the criminal justice system to policy makers, criminal justice system agencies, the legal community and more widely to members of the public. The focus of INUK's public engagements is on the intentional wrongs and unintentional errors of the criminal justice system that cause wrongful convictions and the inability of the criminal appeals system and the CCRC/SCCRC to overturn wrongful convictions as identified in academic research and case investigations into alleged wrongful convictions.

Impact

INUK was established with the overall aim of improving the criminal justice system.

INUK is a medium to influence reforms of the criminal justice system and changes to prison and parole practices from the findings of research and casework so that the innocent can overturn their convictions and/or make progress or achieve release from prison.

WHY WAS INUK ESTABLISHED?

1. PROBLEMS WITH THE SYSTEM

Despite the creation of the Criminal Cases Review Commission (CCRC) and the Scottish Criminal Cases Review Commission (SCCRC) in Scotland, factually innocent victims of wrongful convictions still find it difficult, sometimes impossible, to have their cases referred back to the appeal courts and overturned.

2. VICTIMS

The wrongful conviction of factually innocent people inevitably results in serious financial and emotional damage far beyond harm to the prisoner only. It extends to family, friends and society itself, because the real perpetrator is still at large and justice has not been done.

3. PROGRESSING PRISONERS MAINTAINING INNOCENCE

Life sentenced prisoners maintaining factual innocence are, generally, unable to progress through the prison system, with a view to consideration for parole, as they refuse to acknowledge their crimes (because they maintain innocence), which the system considers an essential pre-requisite for rehabilitation. So they are faced with the impossible decision of admitting to the crime, in the hope of release, or continuing to maintain factual innocence, knowing that they may never come out of prison as a result.

4. NO ALTERNATIVE ORGANISATION

INUK was established because there was no other organisation at the time to address these problems in the same way. In particular, the organisation JUSTICE ceased its work on alleged miscarriages of justice when the CCRC was set up on the misconception that it was the panacea for the wrongful conviction of the innocent. As an independent project, with a firm educational base, INUK provides a strong voice in a unique way.

See: <http://www.innocencenetwork.org.uk>

PART II- OVERVIEW OF INUK CASEWORK

INUK's casework is undertaken by University of Bristol Innocence Project students (who also have opportunities to get involved with INUK research and public engagement activities) who have first completed the INUK training on the key causes of wrongful convictions, assessing applications for casework assistance, investigating alleged wrongful convictions and writing applications to the Criminal Cases Review Commission (CCRC) and/or the Scottish Criminal Cases Review Commission (SCCRC).

Please note: All INUK casework is conducted on a pro bono (free for public good) basis.

WHAT IS INUK CASEWORK?

INUK casework is focused on investigating the case of a convicted person maintaining factual innocence who has exhausted the initial appeals process.

Students work under the academic supervision of INUK director, Dr Naughton, and with pro bono legal assistance from a practising lawyer where appropriate.

INUK casework conducts thorough, objective and independent investigations of claims of factual innocence by alleged victims of wrongful conviction. If evidence of factual innocence is found or the evidence that led to the conviction is discredited, innocence projects will assist in making an application to the CCRC or the SCCRC for that person's case to be reviewed for referral back to the appeal courts.

It is also possible that INUK may make applications for a Free Pardon under the exercise of the Royal Prerogative of Mercy in applications to the Secretary of State if strong evidence of factual innocence exist that does not provide legal grounds for appeal in the eyes of the CCRC and/or the SCCRC.

There are no definitive criteria for INUK casework, other than that they are concerned with allegations of factual/actual innocence as opposed to allegations of technical miscarriages of justice.

INUK does not consider claims that murder convictions should have been convictions for manslaughter, for instance.

INUK is not a replacement for legal aid.

WHY DO WE NEED INUK CASEWORK?

The structures of the existing criminal appeal system cannot guarantee that all innocent victims of wrongful conviction will overturn their convictions. Instead, the appeal courts attempt to determine whether criminal convictions are 'unsafe' in terms of whether the trial was 'fair', understood as compliance with

the prevailing rules, as opposed to fair in terms of a just outcome from a lay social justice perspective where a factually guilty person is convicted in a criminal trial and a factually innocent person acquitted.

In addition, legal aid is not always available to persons maintaining their innocence wishing to appeal, so finances are often a huge problem. Also, much has been written about the reducing number of criminal legal aid lawyers, so access to appropriate legal advice is not always easy.

WHAT DOES INUK CASEWORK DO?

INUK investigations generally consist of the following:

- obtaining and analyzing all available used and unused evidence
- requesting for retention of evidence
- conducting prison visits to alleged innocent victims of wrongful conviction
- tracing and interviewing witnesses
- conducting comprehensive research on forms of evidence
- exploring new methods (e.g. DNA testing or other forensic science techniques) that could establish the validity of a claim of innocence
- consulting with forensic science experts
- making submissions to the appropriate public/ legal bodies, particularly the Criminal Cases Review Commission or the Scottish Criminal Cases Review Commission

INUK investigations are independent from the structures of the adversarial system and are neither defence nor prosecutorial oriented.

Rather, INUK investigations are geared towards truth seeking or testing the credibility of the claim of innocence, critically interrogating existing evidence or utilising new methods or techniques to prove or disprove the claim of innocence of an alleged victim of a wrongful conviction.

THE PRACTICAL LIMITATIONS OF INUK CASEWORK

INUK investigations into alleged wrongful convictions can help to meet the unmet legal needs of alleged victims of wrongful conviction whose cases have exhausted the appeals process and fall outside the scope of legal aid. However, we continually grapple with a whole host of problems which limit the casework assistance that we can provide to those that we seek to help.

1. INUK is limited in its resources and capacity.
2. As such, INUK cannot guarantee that all applications that are deemed to be eligible will be able to have their claims of innocence investigated immediately.

There is a waiting list but eligible applicants will be updated regularly about when their case will be investigated.

3. Another major limitation is that we do not have the powers of investigation that statutory bodies such as the CCRC possess. As a result, INUK investigations are often unable to access and/or obtain confidential or sensitive information such as medical records, police log books and diaries and information contained in the police's HOLMES database.

4. At present, INUK does not have the financial resources to commission forensic testing or analysis, although INUK does have forensic scientists who can offer preliminary review and advice on a pro bono basis.

5. As such, whilst INUK can assist with identifying lines of investigation and conducting research on the forms of forensic science technology that can help to establish a claim of innocence, the actual tests and analyses can usually only be carried out if the CCRC commissions it. In such circumstances, INUK will make an application to the CCRC requesting for the required tests to be commissioned.

THE EDUCATIONAL BENEFITS OF INUK

There are considerable educational benefits associated with the study and/or investigation of alleged claims of wrongful conviction, adding valuable insight and experience into the curriculum of law and society. Students gain work experience and a broad range of transferrable skills , including:

- Research techniques
- Analytical skills and creative thinking
- Communication and presentation skills
- Management and organisational skills
- Advocacy
- Drafting

Those teaching potential future lawyers can observe the educational benefits of innovative programmes involving real-client work, whilst ensuring that future practitioners develop a passion for justice, ethical practice, and pro bono work.

PART III- CASEWORK

INUK CASEWROK PROTOCOLS

INUK's Casework Protocols set out minimum standards that INUK casework investigations will work to.

They have been adapted from the model standards for live-client work that govern associates of the Clinical Legal Education Organisation (CLEO) and are in line with the Attorney General's Pro Bono Protocols.

In summary, INUK believes that pro bono investigations into alleged wrongful convictions by student caseworkers in universities should work to agreed minimum standards.

This includes minimum standards for 'client' care that keeps in mind at all times the need to inform alleged innocent victims of wrongful conviction of the progress of their case.

At a very basic level, this involves regular letters to 'clients' to update them on the progress of the investigation into their claim of innocence.

We further recommend that student investigators follow some basic guidelines, including:

1. As a precursor to case work, investigators should first **familiarise themselves with all of the materials that are available in the public domain** on the basis that lack of knowledge of case facts will tend to induce lack of trust and credibility.
2. They should **produce a timeline for the case** – a detailed chronology of the incident, followed by significant events (hearings etc.). The timeline can be used as a tool to identify discrepancies or find problems with the case.
3. They should early on **produce a list of key characters** and the names and contact details of anyone who is involved in the case in any way.
4. **All casework should be recorded in some form of case management system**, listing all the documents on the case, where they are and what they contain.
5. Before any approach is made to potential witnesses, caseworkers in universities must **seek consent from the 'client'** and students must always be supervised by their staff director.

INUK Casework Protocols will be given to UoBIP students at the INUK basic training.

CASEWORK PROCESS

INUK's casework process consists of three distinct stages as set out below

Stage 1: Eligibility assessment

The first stage of the Casework Process is a letter from a convicted person maintaining innocence asking the Innocence Network UK (INUK) for assistance. An Introductory Letter and a Preliminary Questionnaire is sent out by the INUK. The Preliminary Questionnaire asks straight forward questions about the case.

- Personal details;
- Details of conviction including the offence(s) s/he is convicted of, location of crime, length of sentence received, date of conviction and so on;
- A brief description of the prosecution's case, including any evidence produced at trial in support of the prosecution's case;
- Argument put forward by the defence, including evidence produced at trial;
- Details of previous lawyers, at trial, appeal and/or an application to the CCRC/SCCRC;
- Full appeal history, giving reasons cited for failed appeals, and CCRC/SCCRC decision if applicable.
- Most crucially, the Preliminary questionnaire then asks more specific questions about the claim of innocence and how an innocence project affiliated with the INUK may assist the prisoner maintaining innocence:
 - Why do you think you were wrongly convicted of the crime?;
 - Do you have an alibi that proves that you could not have committed the crime that you have been convicted of? If so, please provide details;
 - Is there any physical evidence (DNA, fingerprints etc) that proves that you could not have committed the crime?;
 - How do you think an Innocence Project can help you prove your innocence? In other words, point us in the right direction; and,
 - Is there any fresh evidence to now indicate that you are innocent that was not put before the jury at your trial?
- When the completed Preliminary Questionnaire is returned INUK will assess whether the case is eligible. A case is deemed 'eligible' if:
 - the applicant is maintaining factual/actual innocence of a conviction;
 - the applicant has exhausted the normal appeals process, including those who have been advised that no grounds of appeal can be found;
 - the applicant's case is not in the process of a review by the CCRC/SCCRC; and,
 - if the applicant has a solicitor acting on his/her behalf for a possible appeal, the solicitor is willing to be assisted the innocence projects.

Cases meeting the INUK's criteria are deemed 'eligible' and added to our waiting list to be investigated.

Alternatively, cases which do not meet the required criteria are deemed 'ineligible' for further investigation, but are kept on record for future research potential.

Stage 2: Investigation

When cases deemed to be eligible are investigated, more specific questions that arise from the completed Preliminary Questionnaire are put to the alleged innocent victim of wrongful conviction. For instance, clarification may be sought about any potential evidence that was mentioned. This may include the names and addresses of potential alibi witnesses; guidance about obtaining fresh evidence; allegations put forward by the 'client' as evidence of their innocence that student caseworkers may wish to further explore and/or confirm. In essence, this stage of the casework process is a rigorous 'test' of the information provided in the Preliminary Questionnaire. Anything that you may be unsure of is made sure of at this stage.

Caseworkers will try to obtain a full set of case documents from previous solicitors utilising an 'Authority of Release Letter' which is signed by the 'client'. This can involve many boxes of case materials – trial summing up; Court of Appeal judgment; applications to the CCRC/SCCRC; witness statements; photographs and other exhibits, and so on. This will often arrive in a highly disorganised state and requires a methodical and meticulous approach to putting the case files back into chronological order.

Once the case documents are organised, caseworkers will identify any discrepancies that need to be verified or lines of inquiry that needs further investigation. This may include making contact with witnesses, obtaining evidence from police and other public bodies, and contacting forensic scientists for their services and/or expert opinion where appropriate.

As already indicated, all casework is properly supervised with support where appropriate from practicing criminal solicitors working on a pro bono basis with INUK.

Stage 3: Application to the CCRC/SCCRC or an application to the Secretary of State for a Royal Prerogative of Mercy

If a full investigation turns up grounds for appeal, INUK will make a formal application to the CCRC/SCCRC and, if the case is referred, lawyers will prepare the case for an appeal hearing.

It is also possible (although this is yet to occur) that INUK may make applications for a Free Pardon under the exercise of the Royal Prerogative of Mercy in applications to the Secretary of State if evidence of innocence does not provide grounds for an application to the CCRC and/or the SCCRC.

Alternatively, if during the course of an investigation, new evidence emerges which proves that the client is, in fact, not innocent, INUK will notify the applicant and close the case.

PART IV- CRITICAL REFLECTIVE DIARIES

In line with the clinical educational aims of innocence projects, Bristol innocence project students are encouraged to keep 'Critical Reflective Diaries' in which they write critical reflections of their various experiences with the Project – visits to the Project from guest speakers, trips to police stations with the Project's solicitors, visits to prison, to court, to the Court of Appeal, workshops on the causes of wrongful convictions and conferences, and, when they are working on cases, report their experiences and thoughts about the investigation process and the issues that arise along the way. The following sections provide brief general guidance on aims and methods of reflective learning.

WHAT IS REFLECTION?

It is important that you regularly write down the experiences you have with the innocence project so that you can refine and develop your skills in line with professional standards. Your reflection will also form the basis of discussions about your progress and learning outcomes.

Reflection is a means of working on what we already know and it generates new knowledge. Most of us reflect in some way or another, often just in our heads as we go from one activity to another and try to solve problems that we encounter: "Maybe I should have spent longer on that essay..." or "I should have left the house earlier to beat the traffic; I'll set the alarm for 7 instead of 7.30 tomorrow..." Rather than leave these thoughts in your head, you can improve your self-management and develop your workplace skills if you regularly record and reflect on what you experience on a day-to-day basis.

Reflection is not just an 'add-on extra' to academic work, but an essential component of good quality learning and the representation of that learning. It can be difficult to 'measure' your progression to professional standards. Reflecting on your learning experiences and recording that learning in your critical reflective diary provides crucial evidence of your progression. You will encounter practical situations that you may want to relate to a theory you have already studied and compare different approaches. You may also have to manage a heavy workload, challenging behaviour in clients or even in your colleagues. Your learning diary is the place to write down how you coped, and how you will cope again with a similar situation in the future. You will develop increased self-awareness, makes links between different aspects of your experiences on the Project, become more independent as a learner and become more pro-active in your approach to work and study, therefore making the most of your time spent in practice.

WHY REFLECT?

Effective learners are able to process what they experience in order to learn from it, and this is a highly-valued skill in the world of employment. Developing independence and autonomy in your learning, and fostering professional standards in clinical practice are important aspects of your degree; these are

highly-prized graduate attributes. Your learning diary should be an honest reflection of your experience in practice, demonstrating *critical analysis* and not consisting of straight reporting or description of events.

- This activity is designed to help you write about your experience in clinical legal practice, so that you will have an ongoing record of what you achieve, learn and understand. You will probably be asked to maintain some kind of portfolio of your continuing professional development during future employment, so this is good way of getting used to thinking about *how* you learn and develop.
- When you record what you did or felt, you can begin to think about how you did it, how you might develop, and what you might do next time.
- You can identify your skills, knowledge, and understanding, and work towards developing them.
- Importantly, your completed record will be useful for your CV, job application forms, and also during interviews when you will be asked to give examples of skills and how you attained them.
- The diary demonstrates your understanding of the process of lifelong learning and self-awareness, an important key skill in today's graduate employment market.
- Research also suggests that people who record their goals and who reflect on their progress are far more likely to achieve those goals than people who do not actively reflect on their achievements.

HOW DO YOU REFLECT?

What we are asking you to do is look back on an experience and make sense of it to identify what to do in the future. This means that you can understand why something worked well for you, as well as learning from any mistakes.

Indicators of 'good' critical reflection

- What you did, what happened and what your part in it was;
- What you thought went well, why, and what you achieved;
- What could have been done differently;
- Honesty and some objective critical analysis of a situation. Identifying what went wrong and what you could do differently indicates that you have learned something, not simply that you made a mistake; and,
- What you will do in the future and how you will measure or evaluate your success.

Indicators of 'poor' reflection

- A straight description of what you did, with no analysis or insight;

- A lack of honesty, making everything sound fine or awful (there are few situations where everything goes smoothly, or where nothing positive happens); and,
- Excuses or blaming others. Acknowledge your responsibilities.

Questions to prompt yourself

- What happened? How did it feel? How did other people react? What were your strengths/limitations? What choices did you make and what effect did they have? What have you learned for the future?

Setting goals and objectives

One way to provide structure for reflection is to set weekly and daily goals for yourself, and then to revisit those goals and think about how you met them: did they have to change, or were there things you did that stopped you achieving them?

The key to setting any goals is to make them **SMART** ones:

- **Specific:** what exactly is the goal? The less vague the better.
- **Measurable:** how will you measure your success?
- **Achievable:** is it realistic and possible?
- **Resourced:** have you got the time or other resources to do it?
- **Timed:** by when will you have done it?

PART V- PERSONAL DEVELOPMENT PLANNING (PDP)

WHAT IS PDP?

“Personal Development Planning is 'a structured and supported process undertaken by an individual to reflect upon their own learning, performance and / or achievement and to plan for their personal, educational, and career development.'

The primary objective for personal development planning is to improve the capacity of individuals to understand what and how they are learning and to review, plan and take responsibility for their own learning.

It is intended to help students:

- become more effective, independent and confident self-directed learners;
- understand how they are learning and relate their learning to a wider context;
- improve their general skills for study and career management;
- articulate their personal goals and evaluate progress towards their achievement; and
- encourage a positive attitude to learning throughout life.
- The ideas that underpin these conceptions mean that PDP is:
 - a structured process that is integral to higher level learning;
 - concerned with learning in an holistic sense (both academic and non-academic);
 - something that an individual does with guidance and support: the latter perhaps decreasing as personal capability is developed so that it becomes self-sustaining;
 - a process that involves self-reflection, the creation of personal records, planning and monitoring progress towards the achievement of personal objectives;
 - intended to improve the capacity of individuals to communicate their learning to others who are interested in it (e.g. academic staff and employers).

The reflective and planning skills on which idea of PDP is based are integral to knowing how to learn in different contexts and to the ability to transfer learning.

What results from the PDP process?

PDP results in two main outcomes. The first is enhanced self-awareness of strengths and weaknesses and directions for change. The process is intended to help individuals understand the value added through learning that is above and beyond attainment in the subjects they have studied. Crucially, it relates to their development as a whole person. The second outcome is a record of

learning experiences and achievement, personal reflections and plans for self-improvement (Personal Records), that provide a unique resource to each individual. The information in such records is owned by the learner and their maintenance, authenticity and use is the responsibility of the individual” **(from the website of the Quality Assurance Agency for Higher Education).**

In summary, PDP is a structured and supported process that will help you to critically review your learning experiences, set personal and academic goals and evaluate your progress towards these goals.

PDP is designed to assist you to further develop as an independent learner and will be of benefit not only during your time at university but throughout your career.

As earlier sections emphasised, spending some time recording what you are doing, what results you're getting and then planning ahead is a process of critical reflection. If you take on board the fact that employers cite self-awareness as a crucial graduate skill, you can see how important this process is to your future prospects, as well as helping you to improve your academic learning right now!

UNIVERSITIES AND PDP

All universities vary in how they will offer you PDP opportunities. Sometimes these opportunities will be built into your degree course (study skills help, a work placement, regular sessions with a personal tutor), or you may be able to attend extra workshops such as those offered by your Students' Union or Careers Service. They allow dedicated undergraduate students thinking seriously about their careers to make the most of university, and help you plan ahead for future employment success.

INNOCENCE PROJECTS AND PDP

Innocence projects arguably tick all of the required PDP boxes for students and for universities, as they offer themselves as perfect vehicles for obtaining Personal Development Planning (PDP) experiences.

INUK recognises the value to students of PDP and is committed to universities supporting these aspects of its innocence project work.

PART VI- ASSESSMENT

The innocence projects at Bristol is currently extra-curricular clinical venture. As such, INUK does not oblige its students to be assessed.

However, having some form of assessment is good practice, both to measure the student members' clinical learning experiences and for the students themselves to deliver on the aims of PDP and critical reflection generally. It is recommended, therefore, that students at least keep reflective diaries, compiling what might be termed a 'portfolio of critical reflections' that will chart their development.