

**Private and Confidential**

Mr Riccardo Gresta

By e-mail only: [REDACTED]

## Statement of Reasons

<b>Name:</b>	Mr Riccardo Gresta
<b>CCRC case reference number:</b>	00071/2024
<b>Offences:</b>	<ul style="list-style-type: none"><li>• Fraud by false representation.</li><li>• Make or supply article for use in fraud.</li></ul>
<b>Date of conviction:</b>	22 November 2022
<b>Court:</b>	Hastings Magistrates' Court
<b>Sentence:</b>	1 year imprisonment suspended for 24 months and a 6-week curfew.

You applied to the CCRC and asked us to look at your conviction and sentence.

**We have now looked at your case and have decided not to send your conviction or sentence for an appeal. The reasons why are explained below.**

We know our decision will be disappointing for you. If you feel you need support, you can contact the Samaritans free on 116 123.

## Summary

As you pleaded guilty in the Magistrates' Court, you cannot, by virtue of section 108 of the Magistrates' Court Act 1980, appeal against your conviction in the ordinary way, other than through a reference by the CCRC.

To enable the CCRC to review your conviction there must be exceptional circumstances. We have decided **not** to refer your conviction for an appeal because there is **no real possibility** that the appeal would succeed.

This is because what you say in your application could have been raised at a trial had you disputed the evidence. Instead, you pleaded guilty to the offence. We have explained below why we consider there is no real possibility that the Crown Court would accept that your plea should now be disregarded.

Having considered the points you have raised we conclude there is no real possibility that a different verdict would be reached at an appeal.

We have decided **not** to refer your sentence for an appeal as you have not attempted to appeal against it yourself. In the absence of an attempt to appeal we can only refer your sentence to the appeal court if there are exceptional circumstances. We have not identified any.

Our role, our powers and our decision are explained in more detail below.

## Our role

This section explains the CCRC's powers in 'plain English'. We make our decisions based on the exact terms used in the relevant legislation.

It is important to explain that we can only refer your **conviction** for an appeal if there is a **real possibility** that your conviction would not be upheld.

We can only refer your **sentence** for an appeal if there is some **important new information or argument on a point of law** that was not raised at sentencing or appeal. The new issue must raise a **real possibility** that your sentence would be reduced.

Please contact us if you would like to know more about our powers and limitations.

## Your submissions

You have raised a large number of issues about your conviction. We have considered all the matters raised individually and together. This is our response to the substance of those submissions. However, the law says that we are not required to give a detailed answer to each and every point that has been raised. We have to deal fairly with the essence of the arguments so that anyone reading this Statement of Reasons can understand why your conviction has not been referred for an appeal.<sup>1</sup>

### The circumstances around the guilty plea

- **You received contradictory legal advice from two lawyers at the same firm which affected your decision to plead guilty.**

You stated that one of your legal counsel advised you to plead not guilty whilst the other indicated that the defence would be tough. This is not contradictory legal advice. A warning that the defence would be difficult does not mean that one should plead guilty. Ultimately, this was your decision to make. If you believed that you did not commit the offence, then it was open to you to plead not guilty and to put forward your case at trial.

That you may now regret your decision to plead guilty is not capable of grounding a referral. In the case of *R v Wilford* (2007) EWCA Crim 2175, Hughes LJ commented:

*‘Although it is well accepted that this court has unrestricted jurisdiction under s2(1) of the Criminal Appeal Act 1968 to entertain an appeal against conviction based on an appellant’s guilty plea, cases where such appeals are brought and succeed are extremely rare. The Court is rightly and for obvious reasons very reluctant to allow a defendant to go back on a plea of guilty. The decision whether to plead guilty is often a very difficult one. It has to be taken in circumstances of considerable stress*

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<sup>1</sup> *R (El Heri) v Criminal Cases Review Commission* [2009] EWHC 3558 (Admin) at paragraph 13.

*and with all the pressure that are inherent in the situation. It is not uncommon for defendants subsequently to have second thoughts about whether they have done the right thing. But that by itself does not entitle them to revisit the decision. In all ordinary circumstances the decision – a solemn one, made in circumstances which emphasise the importance of finality – will be binding and cannot be revisited however much later development may cause the defendant to regret it.”*

- **You felt intimidated by the interviewing officer, Mark Jobling.**
- **You believed that your house was broken into by Mark Jobling and, therefore, felt compelled to maintain a guilty plea due to fear.**

Whilst we appreciate that you may have felt intimidated in an interview setting, the interview transcripts do not suggest that Mark Jobling acted in an aggressive or intimidating manner.

You also submit that you suspect Mark Jobling entered your house illegally and this made you feel compelled to maintain your guilty plea due to fear. This point is unevicenced and you have not been able to provide any evidence that such an incident actually took place or that you believed it to be so at the relevant time. In the absence of any evidence to support the assertion that you have made, it cannot form the basis of a referral.

The behaviour of Mark Jobling is not a submission that would create a real possibility that the Crown Court would not uphold your conviction if the case was reheard.

- **The interviewing officer conducted the interview without the assistance of a professional interpreter.**

According to Code C of PACE, para 13.2, you should not have been interviewed without the interviewing officer making arrangements for an interpreter to assist you if you did not appear to speak or understand English. As such, we consider that you should have been offered an interpreter at interview if this was the view of the officers. However, we also conclude that if this evidence was to be excluded, it would not make a difference to your case if it were reheard.

This is because you denied the offence at interview and only later pleaded guilty to the offence when you were legally represented and had the benefit of an interpreter. You explained how you had carried out the

offence to the probation officer. The Crown Court also asked you to confirm your guilty plea prior to your sentencing which you did. At all relevant times when a plea was entered, you had access to an interpreter and legal representation.

As such, this is not a submission that would create a real possibility that the Crown Court would not uphold your conviction if your case was reheard.

- **You were receiving medical treatment at the relevant time which affected your decision-making abilities.**

At the time of making your plea, you were assessed by your legal representatives as being fit to plead. Your legal representatives were best placed to comment on this as they needed to ensure you had the capacity to understand the proceedings and give instructions at that time. There is no evidence to suggest that there were concerns about your mental capacity during the proceedings.

As such, this is not a submission that would create a real possibility that the Crown Court would not uphold your conviction if your case was reheard.

- **You had been alone since August 27, 2022, with no support from friends or family.**

This is not a submission that would create a real possibility that the Crown Court would not uphold your conviction if your case was reheard as it is not relevant to your guilty plea.

- **You felt there was a lack of support for witnesses who had been repatriated to their home countries for personal or professional reasons.**

As you pleaded guilty to these offences, a trial did not take place and there were no witnesses in this case on your behalf. Had you proceeded to trial, arrangements could have been made to obtain evidence from relevant witnesses.

As this is not relevant to your guilty plea, this is not a submission that would create a real possibility that the Crown Court would not uphold your conviction if your case was reheard.

- **The prosecuting authority (East Sussex County Council) was a local government authority, therefore, there was a power imbalance.**

Local authorities are required by law to comply with PACE Codes of Practice when acting as a prosecuting authority. This ensures that the rights of individuals are protected throughout the prosecution process. Although there was a possible breach of PACE in your case, as discussed above, it was not relevant to your decision to plead guilty. This submission would not create a real possibility that the Crown Court would not uphold your conviction if the case was reheard.

- **Accepting a guilty plea under these circumstances is a blatant breach of Articles 1-15 of the Universal Declaration of Human Rights.**

Upon consideration of the circumstances raised, we have concluded that there is no evidence of a breach of human rights. You entered a guilty plea of your own volition, after receiving the benefit of legal representation and an interpreter. There is no evidence that these circumstances breach the safeguards within section 76 of PACE, for example, that there was oppression, or something was said or done to render a confession unreliable.

The CCRC has reviewed material from the magistrates' court, from the East Sussex County Council, from the Crown Court from your sentencing, and concluded that you made an informed decision to plead guilty.

We note in particular that a Pre-Sentence Report was prepared for the Court's assistance at your sentencing hearing. That Pre-Sentence Report was based on an interview with you on 18 October 2022 and it records that, at that interview, you again accepted responsibility for the offence. It states:

*"2. Mr Gresta fully accepts that he falsified two letters and that he used his home personal computer to transfer the NHS logo. He tells me that for a number of years he has suffered with back problems, and he applied for a blue badge so that he could gain access to his vehicle more easily when coming to and from his property.*

*2.1 Mr Gresta explained that when he received a letter detailing the reasons for him not being granted a blue badge, he was upset and frustrated. At the time he was very emotional and felt that the decision made was incorrect based on all of the information he had provided from his consultant.*

*2.2 Mr Gresta did not make a sophisticated attempt at fraud, the letters were in the main relatively crude and not at all to any sophisticated standard. There is limited evidence of pre-planning, and he tells me he reacted right away. It is my assessment that his emotional and mental state at the time affected his decision making.*

*2.3 During our interview Mr Gresta was emotional and very apologetic, he tells me that he did not think through the consequences or seek out alternatives.”*

If we were to refer your conviction to the Crown Court, the prosecution would apply to introduce your guilty plea as evidence that you admitted the offence. The Court will only exclude such evidence where there are legal reasons to do so.

In deciding whether there is a real possibility of the Court excluding evidence of your plea, we have considered whether:

- the circumstances breach the safeguards within Section 76 PACE (i.e. oppression; things, said or done, likely to render any confession unreliable), and/or
- the guilty plea ought to be excluded under Section 78 (i.e. admission into evidence of the guilty plea would have such an adverse effect on the fairness of the proceedings that it ought not to be admitted).

Having considered the matters set out above, we conclude that there is no real possibility that the Court would exclude evidence of your guilty plea at any appeal hearing and no real possibility that the Court would find any compelling explanation why your guilty plea does not prove the offence.

Entering a guilty plea is not something to be done lightly. It is an express admission of the offence: you are effectively saying to the court that you are entirely responsible. We have not identified anything new which changes this position.

#### Other submissions

- **There were inconsistencies and false claims across the four witness statements from the ESCC employees.**

You say that the statements of Stephanie Thuoy, Mark Jobling, Mandy Covey, and Ann Longden were misleading because their claims can be refuted by evidence that you now present.

You chose to plead guilty, therefore eliminating the need for a trial to determine guilt. Had you pleaded not guilty and proceeded to trial, you would have had the opportunity to introduce your own evidence regarding these matters and to litigate the issues fully.

- **The weight of the letter was ten grammes and only contained the appeal document and envelope.**

By entering a guilty plea, you accepted the offences against you. Namely, that you created the fake medical letter purporting to be a neurologist that was attached with your appeal. Had you pleaded not guilty and proceeded to trial, you would have had the opportunity to introduce your own evidence regarding these matters and to litigate the issues fully.

- **ESCC created a false letter internally in response to the applicant's complaint to the Local Government and Social Care Ombudsman.**

You stated that the staff within the ESCC may have been motivated to do this because you had submitted a complaint after your blue badge assessment. This submission is unevidenced and you have not been able to provide any proof that this allegation actually took place. You also raised this argument when you were interviewed regarding the offence.

You later confessed to writing the letter and at the time of sentencing, you told the Probation Service in detail about how you were able to falsify letters and commit the offences. In the absence of any evidence to support the assertion that it was the ESCC instead that fabricated the letter, it cannot form the basis of a referral. This is therefore not a submission that would create a real possibility that the Crown Court would not uphold your conviction if your case was reheard.

You have raised a number of issues about your conviction. We have considered all the matters raised individually and together.

You pleaded guilty at the magistrates' court. You have told us that you were not fit to plead guilty and that you were influenced into this decision by your legal representatives.

For all the reasons outlined above, we conclude that there is no real possibility that if your case were reheard the Crown Court would not uphold your conviction.

## **Sentence**

You have asked us to look at your sentence, but you did not tell us why your sentence is wrong. We note however that you appear not to have tried to appeal against your sentence. It still remains open to you to try and appeal against your sentence yourself, now. We could only refer your sentence for an appeal in the event of exceptional circumstances.

You have told us that you need special help with your application because you suffer from a medical condition that has worsened from the stress of pleading guilty to the offences. We do not consider that this reason would amount to exceptional circumstances in which you could not appeal without our help. You will need to explain to the Court the reasons why you feel that your sentence was manifestly excessive or wrong in principle. In addition, you will need to state why you have not previously tried to appeal against sentence. This does not cost any money, and you do not require a lawyer.

If you wish to appeal only against the sentence imposed at the Crown Court you will need to tell the Court of Appeal:

1. What part of the sentence you are appealing against, and why?
2. What information you want the Court of Appeal to take into account in particular?

The Court will expect you to explain why you have not been able to apply within the usual 21-day period. You should include your explanation with your application.

We are not able to give you legal advice but you may want to get help from a lawyer who can tell you if there are any grounds for appeal and help you submit them to the appeal court. You do not need to use the same solicitors who represented you at trial. **If you cannot get a lawyer, you can apply to the Court without one.**

If your application to the Court fails, you would be able to re-apply to us at that stage. Please note, however, we will only consider new matters relating to your sentence at that stage. We have no power to refer a

sentence to the Court of Appeal for it to consider matters that it has already dealt with.

Please note, the CCRC is not advising you to do this. It is a matter for you. We have enclosed some further information in respect of appeal against sentence.

### **Our decision**

We have thought about whether there is anything else that we should investigate. We have decided that there is nothing that we should investigate that could make a difference to your case.

We have now considered all the issues you raised in your application. We have considered them individually and together. We have applied the test that the law sets out for us. We have decided that there is no real possibility your conviction would not be upheld if referred to the appeal court. There are no exceptional circumstances in relation to sentence.

At the end of this document, we have included some information on what the phrase 'real possibility' means. There is also some information about the material we have considered and a note of the law we have to follow when looking at your case.

**Our decision is final. Your case is now closed.**

However, if new information about your case comes to light in the future, you may re-apply to the CCRC at that time.



**Joanne Fazakerley**  
**Commissioner**  
(on behalf of the CCRC)

**Date: 21 July 2025**

## The material we have considered

- The Magistrates' Court file
- The Crown Court (sentencing) file
- ESCC prosecution file
- Sentencing remarks
- Your application to us

### Note

1. We have a legal duty to disclose any new material obtained during our review which would help you make your best case for a reference to the appeal court. We may, at our discretion, provide other material where we consider it appropriate.
2. The material may be sent to you in its original form, or as an extract or it may be summarised.
3. The following material has been sent to you in the course of the review or with this document:

## Your material

If there are any documents you have sent to us that you would like us to return to you, you must contact us within **3 months** using the 'Request to Return Case Material' form at the end of this document.

We will destroy any paper files 3 months after case closure. Electronic files are retained for a minimum of 5 years in accordance with the published retention schedule, available on our website.

## The law the CCRC has to follow when looking at your case

### Criminal Appeal Act 1995

This Statement of Reasons sets out the CCRC's decision and reasons in accordance with section 14(6) of the Criminal Appeal Act 1995.

### The CCRC's powers to refer

The CCRC may refer **your conviction** to the court if:

1. there is a **real possibility** that your conviction would be overturned if it were referred; and
2. this real possibility arises from evidence or argument which was **not put forward at your trial or appeal** (or there are exceptional circumstances<sup>2</sup>); and
3. you have already appealed or applied for leave to appeal against conviction (or there are exceptional circumstances<sup>3</sup>).

The CCRC may refer **your sentence** to the court if:

1. there is a **real possibility** that your sentence would be reduced if it were referred; and
2. this real possibility arises from information or argument on a point of law which **was not put forward at your trial or appeal**; and
3. you have already appealed or applied for leave to appeal against your sentence (or there are exceptional circumstances).

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<sup>2</sup> "Exceptional circumstances" to allow us to refer a case without something 'new' are extremely rare.

<sup>3</sup> "Exceptional circumstances" to allow us to refer a case where there has not been an earlier appeal are very rare. There has to be a good reason why there has been no appeal and why there cannot be an appeal now without the CCRC's help.

## What is a 'real possibility'?

The phrase 'real possibility' has been considered by the courts in a long line of cases. In a very important case called *Pearson*<sup>4</sup>, the Lord Chief Justice explained that a 'real possibility' was more than an 'outside chance' or a 'bare possibility' but may be less than a 'likelihood' or 'probability' or 'a racing certainty'. It is at least 'a reasonable prospect'.

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<sup>4</sup> *R v Criminal Cases Review Commission ex parte Maria Pearson* [1999] 3 All ER 498. See the remarks of Lord Bingham at paragraph 14 of the judgment. See also *R (Cleeland) v CCRC* [2022] EWCA Civ 5.



# Request to Return Case Material

**Important Note**

If there are any documents or letters you have sent to us that you would like us to return to you, you must send us this form within **3 months**. Please complete all 3 sections below.

<b>Name</b> Mr Riccardo Gresta	<b>CCRC Ref</b> 00071/2024
<b>Address</b>	

**Section 1**

I would like the CCRC to return the following documents to me (please choose one box only):

<input type="checkbox"/>	All documents (including letters) I have sent during my case review
<input type="checkbox"/>	All documents (excluding letters) I have sent during my case review
<input type="checkbox"/>	The following documents only (please state what they are):

**Section 2**

Please return the documents to:

	Me at the above address
	Someone else (please state their name and address below):

**Section 3**

Signed	
Name	Mr Riccardo Gresta
Dated	

**\*\*\*END OF DOCUMENT\*\*\***