



Terms of Appointment for Counsel Instructed by the Crown  
Prosecution Service in Very High Cost Cases and Those Cases  
Falling Outside the Graduated Fee Scheme Including Advice,  
Court of Appeal and Higher Court Cases

## **Table of Contents**

1. Purpose of the Document
2. Review
3. Appointment of Counsel
4. Determining Whether a Case is a VHCC
5. Determining the Fee Category
6. Managing Preparation
7. Advice
8. Work Done Between Committal and PCMH
9. The End of the Stage
10. Work Records
11. Preparation During Trial
12. Returns
13. Legal Research
14. Ancillary Work
15. Court of Appeal and Higher Court Work
16. Travel and Hotel Expenses
17. Submission of Invoices
18. Audit
19. Security of Papers
20. Secure E-Mail
21. Refreshers
22. Appeals

Annex A - Fee Selection Criteria

Annex B - Glossary

## **1. Purpose of the Document**

The Crown Prosecution Service (CPS) has established this document to define the services expected of counsel in the preparation and invoicing of fees in Very High Cost Cases (VHCC) and all other cases falling outside the Graduated Fee Scheme (GFS) including requests for advice, Court of Appeal and higher court cases.

If after being instructed, counsel is unable or unwilling to comply with the terms, the reviewing lawyer should be notified and the brief returned.

## **2. Review**

The Very High Cost Case fee scheme and Terms of Appointment document will be subject to regular review and amendment.

## **3. Appointment of Counsel**

Wherever possible the CPS shall follow these procedures for instructing counsel in a VHCC.

The reviewing lawyer in consultation with the Chief Crown Prosecutor / Head of Division / Sector Director (CPS London) or other CPS representative shall nominate suitable prosecution counsel in accordance with current guidance on selection of advocates. The CPS operational unit shall contact counsel's clerk by telephone to check nominated counsel's initial availability. If counsel is available written instructions and relevant paperwork shall be sent to counsel.

The CPS must be satisfied that counsel has sufficient time available to prepare the case and to avoid a return brief. Therefore, counsel may be required to submit a personal undertaking that he / she has sufficient time available to prepare the case and be available for trial.

If at any time after counsel has been instructed there is a possibility that counsel will not have sufficient time to prepare the case or be unavailable for trial, the reviewing lawyer and / or another CPS official shall determine whether the brief shall be returned.

The fee scheme under which the case will fall will be determined as soon as possible and at the latest after the trial estimate is given at the Plea and Case Management Hearing (PCMH).

Where, following committal, sending or transfer of the case, there is uncertainty about when the case will be listed for PCMH, or the PCMH is adjourned for a period well beyond that expected in a similar case, and there is a risk that the case may fall out of GFS because of estimated trial length, or the number of advocates instructed, the case should be treated as a potential VHCC and referred to the Chief Crown Prosecutor / Head of Division / Sector Director (CPS London) and Head of Fees who will determine whether the case can be confirmed as a VHCC.

#### **4. Determining Whether a Case is a VHCC**

A case shall be confirmed as a Very High Cost Case when it is estimated at the PCMH that the case will last over 40 days at trial, or three trial counsel are instructed in the preparation and presentation of the case.

Disclosure counsel will be appointed by the reviewing lawyer, who will determine their role in consultation with counsel already instructed. In most cases the reviewing lawyer or junior counsel already instructed will undertake the review of disclosure material. In exceptional cases additional counsel may be instructed solely to deal with the question of disclosure. Disclosure counsel instructed solely to review and advise on unused material shall be paid as a second junior counsel and if required to attend trial be paid at the appropriate daily rate.

Counsel appointed solely to review and advise on disclosure will not constitute third trial counsel, although may be required to sit in during trial.

Within 5 working days of the case being identified as a VHCC, the reviewing lawyer shall complete and send counsel the Case Plan. The Case Plan will provide an overview of the case and an initial estimate of hours required to prepare the case. The overview of the case will contain the charges / potential charges, complexities, brief facts, legal issues etc.

The CPS accept that the Case Plan may not reflect all the potential issues in the case and level of preparation required. Therefore, no later than 15 working days after receipt of the Case Plan, the reviewing lawyer and counsel will agree the Case Plan by completing the relevant sections.

The agreed version of the Case Plan will contain an overview of the case and an agreed estimate of hours of preparation. The Case Plan will be a dynamic document and will provide a record of the mutual expectation and understanding of the issues in the case and amount of work required. The reviewing lawyer and counsel will be responsible for continuing evaluation of new material and developing issues that may

have an impact on overall preparation time. Revision of the agreed hours of preparation will be endorsed on the Case Plan.

## **5. Determining the Fee Category**

The reviewing lawyer shall determine the fee category i.e. hourly and refresher rates by referring to the criteria at Annex A. Once determined, the reviewing lawyer will record the fee category, hourly and refresher rates in the Case Plan. The fee category will be determined within 5 working days of the case being confirmed as a VHCC and before the Case Plan is sent to counsel.

Counsel may seek re-determination of the fee category at any time by submitting written reasons to the reviewing lawyer.

Counsel can appeal the fee categorisation to the Appeal Committee if dissatisfied with the determination of the fee category.

## **6. Managing Preparation**

Managing preparation will be a partnership between the reviewing lawyer and counsel. Preparation shall be managed in stages using a Stage Plan. At the beginning of each stage of preparation the reviewing lawyer and counsel will produce an agreed Stage Plan setting out the work to be done during the stage.

The Stage Plan will set out the key case milestones and the work to be done by each member of the trial team i.e. counsel, reviewing lawyer, higher court advocate and caseworker. The Stage Plan will be more detailed than the Case Plan and should accurately set out the tasks to be undertaken during the stage. A stage will normally last 8-12 weeks.

The Stage Plan will include: -

- the time period for the stage;
- the steps in proceedings the stage covers;
- an overview of what will be achieved in the stage and by whom in the Trial Team;
- division of work between members of the Trial Team;
- the planned hours to be undertaken by the individual on each area of work;
- where appropriate, the number of pages of material involved, the number of witnesses and the number of conferences required for each area of work;
- the key dates by which work will be completed.

It is the responsibility of the reviewing lawyer and all counsel to agree each part of the Stage Plan. The Stage Plan shall be reviewed regularly and amended to reflect ongoing developments during the stage.

An unreasonable failure by counsel to complete a Stage Plan will result in counsel not being paid for work done during the stage.

At the end of the stage counsel shall record the actual number of hours worked against each area of work in the Stage Plan. An electronic Stage Plan can be exchanged between counsel and the reviewing lawyer by secure e-mail.

The CPS accept there may be times when counsel will carry out work not agreed in the Stage Plan. The CPS anticipate three instances when counsel can be remunerated for carrying out work not agreed in the Stage Plan. The three instances are:

- (i) necessary additional work arising from the service of further papers in the same category of documentation that has already been agreed;
- (ii) additional work, falling within the tasks agreed, within a tolerance of 10% of the total hours agreed for the stage; or
- (iii) where it is not possible to contact the reviewing lawyer in advance, provided that genuine efforts are made.

By the end of the case there should be a set of Stage Plans providing an audit trail of all preparation.

If counsel is unable to undertake some or all of the work agreed at the beginning of the stage, the reviewing lawyer should be notified and the work and hours will be carried over to the next stage with agreement from the reviewing lawyer.

## **7. Advice**

Counsel may be instructed to provide advice to assist in determining whether to initiate or proceed with a prosecution; or a discrete issue in the course of a prosecution in which others are already instructed; or an issue of law not related to a specific prosecution.

All advice cases will fall to be paid in accordance with these arrangements.

The reviewing lawyer shall determine the hourly rate in accordance with the Fee Selection Criteria contained in these Terms of Appointment. The reviewing lawyer shall notify counsel of the hourly rate in writing. The reviewing lawyer shall also notify counsel of the number of hours of preparation required to prepare the advice. If

the estimated hours of preparation appear unreasonable counsel should contact the reviewing lawyer to discuss the estimate. Counsel and the reviewing lawyer will not be expected to manage continuing preparation using the Stage Plan. Instead, counsel shall keep a full and detailed work record of all preparation (in accordance with paragraph 10). If the case develops in such a way as to require a higher level of input from counsel than originally anticipated, counsel should put the reviewing lawyer on notice of the additional work to be undertaken. The fees will be audited at the end of the case and counsel paid for work properly and reasonably undertaken at the specified hourly rate.

In larger cases where the amount of hours to be spent by counsel cannot be fairly determined at the outset, the reviewing lawyer shall determine the hourly rate in accordance with the Fee Selection Criteria contained in these Terms of Appointment. The reviewing lawyer will complete the Case Plan. Fifteen working days after receipt of the Case Plan, counsel and the reviewing lawyer will agree the relevant sections of the Case Plan. Work shall be managed at intervals using the Stage Plan. At the beginning of each stage (the length of the stage will vary depending on the case) the reviewing lawyer and counsel shall agree work to be done over the course of the stage. At the end of the stage counsel shall send the endorsed Stage Plan, work records and valid invoice to the reviewing lawyer. This process shall continue until counsel has complied with the instructions or the case has been committed / sent for trial.

## **8. Work Done Between Committal and PCMH**

Work undertaken between committal, sending or transfer and PCMH will be audited after PCMH. Counsel shall keep detailed work records of all work done between committal, sending or transfer and PCMH.

If the case is confirmed as a VHCC either by third counsel being instructed or the trial being estimated to last over 40 days, all work done between committal and PCMH will be audited and paid at the confirmed hourly rate if determined as properly and reasonably undertaken.

If at PCMH the trial is estimated to last 40 days or under, it will be confirmed as a graduated fee and the CPS Graduated Fee Scheme shall apply and work done between committal and PCMH shall fall to be paid under GFS arrangements.

## **9. The End of the Stage**

Within 20 working days of the end of the stage, counsel shall send the work records, a fully endorsed Stage Plan, receipts and an invoice to the reviewing lawyer. A

separate note should specify any additional issues to be considered before the fees are audited. Within 10 working days of receipt of the documents, the reviewing lawyer and counsel shall agree a new Stage Plan for the next 8-12 week stage.

Failure to submit the work records, receipts, endorsed Stage Plan or invoice within the specified time period or documents of sufficient quality will result in payment being delayed and / or refused.

## **10. Work Records**

Counsel is expected to record details of all chargeable preparation at or about the time that the work is undertaken. The records, ideally in electronic format, should record the task undertaken and the time spent, using the 24 hour clock

e.g. 11.10.04 - Further consideration of evidence of Dr Smith - 19-00 – 21-30.

Failure to submit sufficiently detailed work records may delay payment or result in the invoice being rejected. Work records should be submitted to the CPS in the agreed format and be capable of being audited against chambers' diary or other records.

Details of hours worked by individual counsel will be shared with the Legal Services Commission and possibly the Department of Constitutional Affairs and the Office of Criminal Justice Reform.

## **11. Preparation During Trial**

Before the trial or other main court hearing commences, the reviewing lawyer and counsel should reach broad agreement on the amount of preparation likely to be required during the court stage. Agreement at the outset will not preclude continuing review and amendment to the agreement during the course of the case.

Where possible, counsel should contact the reviewing lawyer in advance if the level of preparation is likely to exceed the original agreement. If counsel is unable to contact him/her, the reviewing lawyer will conduct a subsequent assessment of work done and determine whether the work done was properly and reasonably undertaken. If so, all such work will be paid at the appropriate hourly rate.

If counsel is dissatisfied with the reviewing lawyer's determination, he / she may appeal the matter to the Appeal Committee.

If agreement can not be reached on levels of preparation during the trial / hearing, the reviewing lawyer will seek advice from a more senior prosecutor, and if agreement still cannot be reached between the reviewing lawyer and counsel, the reviewing lawyer will refer the matter to the Appeal Committee.

## **12. Returns**

Counsel should only accept a case where their professional commitments will allow them to see the case through to conclusion. Having accepted a case, and been involved from the outset, counsel should use their best endeavours to avoid having to withdraw from the case and will only do so for reasons outside their control or because of professional embarrassment.

Where a return is unavoidable, counsel will be responsible for ensuring that immediate written notice is given to enable the CPS to choose and instruct another advocate. That notice will contain a full explanation of why the brief has had to be returned including details of when counsel became aware of the issue causing the return. Once notice has been served, counsel should do only such work as is necessary to progress the case until the matter has been resolved.

When the CPS instruct counsel to attend an interlocutory hearing, including PCMH, bail applications, applications to make or break fixtures and mentions, counsel instructed in the case will, wherever practicable, be expected to attend. If instructed counsel cannot attend, the CPS expect stand in counsel to work within the terms and rates set out in this document.

In Very High Cost Cases no return is acceptable save where the following applies: -

- counsel is unable to attend court because of illness, accident or unexpected incapacity;
- attending court would cause counsel grave personal hardship, for example, following bereavement;
- the case has been fixed by the court in the knowledge that counsel instructed will not be available;
- circumstances have arisen outside counsel's control which are such to make a return unavoidable.

Counsel's involvement in a part heard trial will not normally justify a return, unless the part heard trial has been prolonged due to unforeseen circumstances. Where an advocate is instructed in a part heard trial, the position must be kept under constant review, and the CPS fully informed, so that an early decision can be made by the CPS as to whether to require a brief to be returned.

The CPS aim to pay only once for preparation. However, in the event of a reasonable return the CPS will pay new counsel to read the case and conduct preparation not already undertaken by previous counsel. The CPS accept there will be occasions when new counsel will have to carry out work already undertaken by previous counsel. The reviewing lawyer will consider this on a case by case basis.

In the event of a brief being returned, the CPS may refer the matter to the Joint Advocate Selection Committee where there is concern that the return was unreasonable.

### **13. Legal Research**

Unless the case involves a novel, developing or an unusually complex point of law, justifying legal research by counsel, time spent on pure legal research will not normally be paid, as distinct from considering the application of the relevant law to the facts of the particular case as part of the preparation for trial. If extraordinary legal research is required, it should be specified as an item of work in the Stage Plan. Counsel is assumed to be up to date in substantive and procedural law: *Perry and Another v the Lord Chancellor, The Times, May 26, 1994*.

### **14. Ancillary Work**

Counsel will be remunerated for conferences at the hourly rate for preparation specified in the Case Plan.

Counsel will be remunerated for reasonable time spent preparing advices, case summaries, opening notes, opinions and indictments, and time spent engaged watching or listening to visual or audio material, at the hourly rate for preparation. If work of this type is required, it should be allocated to the appropriate level of counsel and recorded as an area of work in the Stage Plan.

Counsel will be remunerated at the hourly rate for preparing the Stage Plan and meeting the reviewing lawyer.

### **15. Court of Appeal and Higher Court Work**

All Court of Appeal and higher court work (excluding bail applications, and advice and representation in respect of cases, sentences or points of law referred by the Attorney General) shall fall to be paid under these arrangements.

The reviewing lawyer shall determine the hourly and refresher rate at either Category 1, Category 2 or Category 3, by considering the particular complexities of the case and the previous history of the case. The reviewing lawyer shall notify counsel of the hourly rate in writing. The reviewing lawyer shall also notify counsel of the number of hours of preparation required to prepare the case. If the estimated hours of preparation appear unreasonable counsel should contact the reviewing lawyer to discuss the estimate. Counsel and the reviewing lawyer will not be expected to manage continuing preparation using the Stage Plan. Instead, counsel shall keep a full and detailed work record of all preparation (in accordance with paragraph 10). If the case develops in such a way as to require a higher level of input from counsel than originally anticipated, counsel should put the reviewing lawyer on notice of the additional work to be undertaken. The fees will be audited at the end of the case and counsel paid for work properly and reasonably undertaken at the specified hourly rate.

In larger cases where the amount of hours to be spent by counsel cannot be fairly determined at the outset, the reviewing lawyer shall determine the hourly and refresher rates. The reviewing lawyer will complete the Case Plan. Fifteen working days after receipt of the Case Plan, the reviewing lawyer and counsel will agree the relevant sections of the Case Plan. Work shall be managed at intervals using the Stage Plan. At the beginning of each stage (the length of the stage will vary depending on the case) the reviewing lawyer and counsel shall agree work to be done over the course of the stage. At the end of the stage counsel shall send the endorsed Stage Plan, work records and invoice to the reviewing lawyer. This process shall continue until counsel has complied with the instructions or the case has been committed / sent for trial.

If required to attend a preliminary hearing, the fixed preliminary hearing rate shall be paid for the level of counsel in attendance.

## **16. Travel and Hotel Expenses**

Counsel shall receive travel expenses if required to attend a conference, view of the locus or court hearing. The journey is deemed to start from chambers unless the actual starting point is nearer. Travel expenses will be remunerated at the standard fare rate. First class travel will be considered if the reviewing lawyer is satisfied that counsel is engaged in work on the preparation of the case whilst travelling. If own transport is used, payment will be made at £0.45 per mile. Travel expenses will only be paid if the journey was necessary. Counsel may also claim an additional hourly rate of £25 (regardless of grade) for reasonable travel and waiting time to and from a conference, view of the locus or court hearing.

Counsel will be remunerated at the hourly preparation rate if required to prepare the case while travelling. Work done whilst travelling must be recorded in the work record.

Authority to incur expenses for hotel or other temporary accommodation should be secured from the reviewing lawyer before incurring the expenditure. Actual expenses for accommodation and meals will be paid. The CPS will not meet the cost of alcohol.

Reasonable expenses will be paid on production of receipts.

### **17. Submission of Invoices**

Within 20 working days of the end of the stage, counsel should submit the work records, endorsed Stage Plan, receipts and an invoice to the reviewing lawyer. Provided no issues requiring clarification are identified with the submitted paperwork, the CPS shall make payment within the current Service Standard of 20 working days.

For every 4 weeks worked during trial, counsel shall submit a claim for refreshers to the reviewing lawyer. Provided no issues requiring clarification are identified with the submitted claim, the CPS shall make payment within the current Service Standard of 20 working days.

Within 20 working days of the end of the case, counsel shall submit work records, an invoice and receipts to the reviewing lawyer for all unpaid work. Provided no issues requiring clarification are identified with the submitted paperwork, the CPS shall make payment within the current Service Standard of 20 working days.

If counsel has conducted work prior to the pre-committal / sending stage or between committal / sending and PCMH, counsel should submit work records, receipts and an invoice to the reviewing lawyer no later than 20 working days after the PCMH.

Failure to submit the work records, receipts, endorsed Stage Plan or invoice within the specified time period or of sufficient quality will result in payment being delayed and / or refused.

### **18. Audit**

When a case is identified as a potential VHCC or confirmed as a VHCC, the CPS Head of Fees will appoint a Case Auditor to work with the reviewing lawyer on effective management of the VHCC process. The Case Auditor will provide initial

guidance to the reviewing lawyer on the VHCC management process and provide further procedural advice and guidance on request.

At the end of each stage, the Case Auditor shall work with the reviewing lawyer to audit the work records and pay the fees. Issues with the work records, endorsed Stage Plan or invoice will be raised with counsel before the fees are paid.

The reviewing lawyer will keep a full record of all decisions made, including how the work is allocated between the Trial Team and how agreement is reached on the hours required for each area of work. The Case Auditor shall oversee the reviewing lawyer's application of the VHCC process and audit the reviewing lawyer's decision making processes. If the Case Auditor has issues of concern the matter shall be referred to the Chief Crown Prosecutor / Head of Casework Division / Sector Director (CPS London).

Counsel are encouraged to keep their own records of agreements made with the reviewing lawyer on levels of pre-trial and during trial preparation. If a dispute arises over a claim for payment, counsel's records will be considered in support of a claim for payment.

The CPS reserve the right to withhold payment if counsel unreasonably fails comply with instructions or the standard of work produced falls below that normally expected from counsel of the same level and experience. If payment is to be withheld, the CPS shall notify counsel immediately in writing giving full reasons. In the event that payment is withheld, counsel will have the right take the matter to the Appeal Committee.

## **19. Security of Papers**

The CPS shall determine on a case by case basis any specific requirements covering the security of papers and disposal of confidential case-related waste by counsel.

## **20. Secure E-Mail**

Secure e-mail is a service available to CPS staff and external partners that enables secure electronic communication of case related information, all of which carries a 'restricted' marking. Counsel shall be expected to use secure e-mail when available – both to receive instructions and to communicate advice. Hard copies of documentary evidence (statements and exhibits), plus any served unused material will continue to be provided to counsel, unless special electronic presentation arrangements are made.

Counsel shall use secure e-mail for electronic transfer of case related information.

## **21. Refreshers**

The full daily refresher rate will be paid if counsel is in court for more than 3½ hours. If the court day lasts less than 3½ hours, counsel shall receive a half day refresher, unless the court sits both before and after the luncheon adjournment. In these circumstances counsel shall be paid a full day refresher.

It is assumed that a full day refresher will include 5 hours in court and up to 2 hours preparation either before or after the hearing. It is assumed that the half day refresher shall include 2½ hours in court and 1 hour's preparation. These times may vary depending on the case or the court.

## **22. Appeals**

Counsel may appeal to the Appeal Committee on the following issues:

- (a) the fee category assigned to the case;
- (b) individual areas of work submitted in the Stage Plan;
- (c) hours in dispute within the submitted Stage Plan;
- (d) the level of counsel allowed for any item of work;
- (e) disbursements;
- (f) the decision of the CPS to delay payment because of quality of work records;
- (g) the decision of the CPS not to remunerate counsel for work done by counsel previously instructed;
- (h) the decision of the CPS to refuse payment for work undertaken that is not specified in the Stage Plan
- (i) the decision of the CPS to refuse to amend the Stage Plan;
- (i) the decision of the reviewing lawyer not to pay pre-committal / sending preparation;
- (j) appropriate levels of preparation during the trial.

The appeal should be in writing, setting out the details of the item(s) in dispute and giving reasons why counsel disagrees with the reviewing lawyer's decision. Any appeal must be lodged within 14 days of the original decision as communicated in writing.

On receipt of the appeal, the reviewing lawyer will give his / her reasons for the decision in writing within 14 days. The notice of appeal and reviewing lawyer's response will be sent to the Appeal Committee for consideration.

The Appeal Committee will be drawn from experienced prosecution barristers nominated by the Bar Council, a senior representative of the Crown Prosecution Service nominated by the Director of Public Prosecutions and a member of the Office of the Attorney General. The Appeal Committee, which shall comprise 3 members, plus a non-voting secretary, will consider written applications of appeal in the context of these Terms of Appointment, the reviewing lawyer's reasons, the appellant's reasons and any other relevant matters. Oral representations will only be made at the request of the Appeal Committee.

The Committee may (a) dismiss the appeal or (b) allow the appeal in whole or in part. The Committee shall give written reasons for its decision. Its decision may be by a majority and will be final and binding on all parties. However, the Committee may invite any party to submit further information before it makes its decision. Any such information must be supplied within 14 days of notification of the request unless the Committee specifies a different deadline.

## **Annex A - Fee Selection Criteria**

Criteria for setting hourly rates in

### **FRAUD CASES IN THE CROWN COURT AND AT ADVICE STAGE**

#### **Block A**

- The case is likely to give rise to national publicity and widespread public concern
- The case requires highly specialised knowledge
- The case involves a significant international dimension
- The case requires legal, accountancy and investigative skills to be brought together

#### **Block B**

The value of the fraud exceeds:

- a) £10m
- b) £2m

The volume of prosecution documentation (excluding unused material) exceeds:

- a) 30,000 pages
- b) 10,000 pages

The length of the trial is estimated at:

- a) Over 20 weeks

#### **Categorisation of cases**

Category 1: 4 criteria from Block A, and 3 'a's from Block B

Category 2: 2 criteria from Block A and at least 1 a or b from Block B

Category 3: All other fraud VHCCs

## **CRITERIA FOR NON-FRAUD VHCCS IN CROWN COURT AND AT ADVICE STAGE**

### **Block A**

- Must be a class 1 or 2 offence or be a serious drug case
- The maximum sentence for the offence is imprisonment for life or over 30 years
- The case is likely to attract national interest
- If the offence is of a violent or sexual nature, there are multiple victims or if a sole victim, there is something significant about the crime. If the case involves drugs, their total value is estimated to exceed £10m

### **Block B**

The volume of prosecution documentation (excluding unused material) exceeds:

- a) 10,000 pages
- b) 5,000 pages

### **Categorisation of cases**

- Category 1: Terrorism Cases
- Category 2: 4 criteria from Block A and (a) from Block B
- Category 3: All other VHCCs

### Hourly rates for preparation

<b>Counsel</b>	Category 1	Category 2	Category 3
QC	180	140	110
Leading junior	140	110	90
Led junior	100	80	70
Junior alone	110	90	80
Second led junior*	90	70	60
Second led junior	70	55	50
<b>Solicitor Advocate</b>			
Ldg level A	180	140	110
Led level A	140	110	90
Ldg level B	140	110	90
Led level B	115	95	75
Level A alone	145	120	100
Level B alone	125	105	85
2 <sup>nd</sup> Advocate	70	55	50

### Daily rates for advocacy

<b>Daily rate</b>	1	2	3
QC	600	600	600
Leading junior	450	450	450
Led junior	300	300	300
Junior alone	330	330	330
Second led junior*	200	200	200
Second led junior	150	150	150
Noter	125	125	125

\* In Very High Cost Fraud Cases, the hourly and refresher rate paid to a second led junior can be uplifted if their specific role and responsibility in the case is over and above that expected from a second led junior in another fraud case / or defence second led junior in the same case

<b>Preliminary hearings</b>	
QC	140
Leading junior	100
Led junior	70
Junior alone	80
Second led junior	40
Noter	35

## **Annex B - Glossary**

“Barrister” or “Counsel” means a member of the independent Bar appearing on the approved list of prosecuting counsel instructed by the Crown Prosecution Service.

“Case Auditor” means a person appointed to audit and pay the fees in a Very High Cost Case, Court of Appeal and higher court cases.

“Conference” means a meeting between counsel and the reviewing lawyer (or a CPS representative) to discuss preparation and presentation of the case. A conference that takes place without CPS representation will only be paid if the reviewing lawyer agrees the conference is necessary in advance of the meeting or if such a conference was necessary and the reviewing lawyer could not be contacted.

“Appeal Committee” means the committee with the function of determining appeals under these arrangements.

“ERP” means External Relationships and Performance Branch, part of the Business Development Directorate, CPS Headquarters.

“Fraud Case” means a case in which the offence with which the defendant is charged is primarily, or substantially, founded on allegations of fraud or other serious financial impropriety or involves complex financial transactions or records.

“Head of Fees” means a person employed by the CPS with the title ‘Head of Fees’.

“NOFF” means a Notification of Fees Form used by the CPS to notify counsel of payment of fees.

“Preparatory Hearing” means a hearing ordered by the court in accordance with section 4 of the Criminal Justice Act 1987 or section 29 of the Criminal Procedures and Investigations Act 1996. The preparatory hearing shall be counted as the first day of trial.

“Refresher” means any day between the start and end of the trial on which counsel is required to attend court and the court sits.

“Return” means a brief that is returned by counsel to another counsel or CPS higher court advocate because they are unable to represent the prosecution at trial or the main hearing.

“Significant” means an issue of sufficient weight and complexity that makes the case different from other cases of the same type thereby increasing its comparative value.

“Stage” means a period of time (normally 8 weeks) agreed by the reviewing lawyer and counsel in which the Trial Team will conduct pre-trial preparation.

“Terrorism Case” means a case in which the main offence with which the defendant is charged, whether at common law or under the statutory enactment, is primarily, or subsequently, founded on allegations of terrorism as defined in the Terrorism Act 2002.

“Timely Payment” means a payment made to counsel within 20 working days of receipt of a valid invoice.

“Trial Team” means the CPS reviewing lawyer, the higher court advocate, the CPS caseworker and counsel instructed to prosecute the case on behalf of the CPS.

“Very High Cost Case” or “VHCC” means a case with regard to which if the case proceeds to trial, that trial is likely to last 41 days or longer and is so endorsed on the Plea and Case Management Hearing questionnaire or a case with three or more trial counsel instructed in the preparation and presentation of the case.

“Very High Cost Fraud Case” means a case that is a Fraud Case and a Very High Cost Case.

“Work Records” means an auditable record in an agreed format completed at or about the time that the work was undertaken, and particularising the time spent by counsel on specific items of work on a specific day.