



Legal Aid
Agency

2013 VHCC Accreditation Process

INFORMATION FOR APPLICANTS (for organisations)

NB. This document and the application process described applies to cases classified as VHCCs on or after 1st April 2013.

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Section 1: Overview

What are we inviting applications for?

- 1.1 The Lord Chancellor, acting through the Legal Aid Agency is inviting interested parties to submit an application for a Very High Cost (Crime) Case (VHCC) Accreditation. The Accreditation will enable the Applicant Organisation to enter into a VHCC Contract (the VHCC Contract) to carry out publicly funded very high cost criminal defence services (VHCC services) for eligible clients where their case is classified as a VHCC and public funding has been granted.

What does this Information for Applicants (IFA) cover?

- 1.1A This IFA contains the information, instructions, rules and conditions that will govern the application process for the VHCC Accreditation for organisations (see **Section 3** for documents related to this application) working on all VHCCs classified on or after 1st April 2013.
- 1.2 Applicant Organisations must read and comply with all instructions and rules contained in the Application Documents and the Terms and Conditions of Application (see **Section 9**).
- 1.2A A separate IFA and application process applies to cases classified as VHCCs on or after 1st April 2013, where public funding has been granted, but where, in our opinion, the trial would be likely to last less than 61 days. A copy of this separate IFA can be found on our website.
- 1.3 It is important to highlight at the outset that whilst we use procurement terminology (e.g. pre-qualification questionnaire, invitation to tender etc) throughout the VHCC Accreditation documents, the 2013 VHCC Accreditation Process is a registration exercise and not a tendering exercise. We use this terminology in order to be consistent with the use of the terms in the E-accreditation System and for this reason only.

Who may submit applications?

- 1.4 This is an open process and Applicant Organisations do not need to be holders of current Legal Aid contracts to apply. Any Applicant Organisation interested in undertaking VHCC services in England and Wales may apply subject to **paragraph 1.17**.

How do Applicant Organisations submit applications?

- 1.5 We will only accept applications submitted through our E-accreditation System which can be accessed at <https://legalaid.bravosolution.co.uk> (see **Section 7**).
- 1.6 There are two application forms (one for organisations and one for self-employed advocates) covering VHCC work which will be published on our E-

accreditation System. Applicant Organisations must use the application form for organisations.

- 1.7 The organisation application form can cover multiple offices run by the same organisation. Advocates employed by organisations would be covered by the organisation application form.

What does a completed application consist of?

- 1.8 A completed application consists of a response to the Pre-Qualification Questionnaire **and** a response to the VHCC ITT (for those Applicant Organisations submitting evidence of their experience (see **paragraph 7.5**), this includes the Experience Information Form which, for these Applicant Organisations, is a Mandatory Form).

When can Applicant Organisations submit applications from?

- 1.9 Applicant Organisations may submit their application at any time.

When is the deadline for submitting applications?

- 1.10 There is no closing date or time for submitting an application as this is an open accreditation process. However, it is important to note that only those organisations that have gained accreditation will be offered a VHCC Contract, so if you are instructed in a case which is classified as a VHCC you must become accredited as soon as possible.

How will applications be assessed?

- 1.11 Applications will be assessed by the LAA in accordance with the process set out in **Section 8**.

What happens if an application is successful?

- 1.12 The purpose of the application process is to accredit those providers able to deliver VHCC services. The outcome for those successful Applicant Organisations is obtaining an Accreditation Notice. The award of the VHCC Contract is not an outcome of this application process.
- 1.13 The award of a VHCC Contract will only take place when an Applicant Organisation, in possession of a VHCC Accreditation Notice, is instructed on a case that is classified by us as a VHCC. Unless exceptional circumstances apply, only those organisations that are in possession of a VHCC Accreditation Notice will be eligible for a VHCC Contract.
- 1.14 A VHCC Accreditation Notice is issued in two stages: a Conditional Accreditation Notice and a Full Accreditation Notice. If an application is successful, the LAA will issue a Conditional Accreditation Notice. This Notice is confirmation that the Applicant Organisation satisfies Criteria 1 to 16 inclusive of the Eligibility Criteria in Annex A and that they have committed to

have a VHCC Supervisor in post at the start of the VHCC Contract (Criteria 17 and 18 of the Eligibility Criteria in Annex A).

- 1.15 The Conditional Accreditation Notice becomes a Full Accreditation Notice for a case when, at the start of the VHCC Contract, the LAA confirms that the VHCC Supervisor is in post.
- 1.16 The Full Accreditation Notice will only apply to that case. Therefore, the Accreditation Notice remains conditional for any future VHCC, i.e. the organisation will be asked to confirm the status of their VHCC Supervisor each time they are offered a VHCC Contract.

What happens if an application is unsuccessful?

- 1.17 If an application is unsuccessful (following the outcome of any reassessment), unless exceptional circumstances apply, the Applicant Organisation must not submit a new application within six months of the date of an unsuccessful application.
- 1.18 Where **paragraph 1.17** applies, Applicant Organisations may seek prior authorisation from the LAA to reapply during this six month period by providing exceptional circumstances in writing through the online secure messaging tool (see **Section 2**) before submission of the new application.
- 1.19 Where **paragraph 1.17** applies, we will not consider any application submitted where you have not obtained prior authorisation from the LAA in accordance with **paragraph 1.18**.

Section 2: About this IFA and the application process timetable

Structure

- 2.1 This IFA sets out information about the documentation required for this application as well as information about criminal legal aid, quality standards, how to respond to the PQQ and VHCC ITT and the assessment and reassessment process.

Terms and Conditions of Application and Definitions

- 2.2 **Section 10** explains the definitions of key phrases used throughout this IFA and the Application Documents. **Section 9** contains the Terms and Conditions of Application governing the application process. Applicant Organisations should familiarise themselves with these terms and conditions.

Asking questions

- 2.3 During the application process there will be two different channels through which to direct questions depending on the nature of the query. The two different question types are:
- Questions about the content of this IFA, the PQQ or the VHCC ITT.
 - Technical questions about how to use the e-accreditation system.

Questions about this IFA, the PQQ or the VHCC ITT

- 2.4 If Applicant Organisations have any questions about this IFA, the VHCC ITT or the PQQ they may submit them at any time on the E-accreditation System.
- 2.5 All questions must be submitted using the online secure messaging tool within the E-accreditation System (see **Section 7** for more detail about e-accreditation).
- 2.6 Questions that we consider to be of wider interest will be collated and answered centrally in writing to ensure that all interested parties have equal access to information in the answers. These questions and answers will be published on the VHCC Accreditation pages of our website in a Questions & Answers (Q&A) document.

Questions about how to use the E-accreditation System

- 2.7 We will offer a helpdesk to provide technical support to Applicant Organisations using the E-accreditation System. However, the helpdesk is **unable** to assist with problems with Applicant Organisations' own computer hardware or systems - for these types of issues Applicant Organisations should contact their usual IT support.

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2.8 Questions should be emailed to the following email address: help@bravosolution.co.uk. Alternatively, the telephone number for the helpdesk is 0800 368 4850.

2.9 We recommend that Applicant Organisations complete their applications early so that they can identify any areas where they need help as soon possible.

Timelines

2.10 The following timetable is provided by way of a **guide** to the VHCC Accreditation Process and the planned turnaround times. Please note however that submission of a significant number of applications at any one time may delay the assessment process.

Activity	Guide time
Applicant Organisations submit response to PQQ and VHCC ITT	
PQQ and VHCC ITT assessed by us	One week
Applicant Organisation emailed if clarification is required	Upon completion of assessment period
Time for Applicant Organisation to consider and provide response to clarification email	One week
Response to clarification email considered	48 hours
Applicant Organisation notified of decision: <ul style="list-style-type: none">• Successful Applicant Organisations to receive a Conditional Accreditation Notice• Unsuccessful Applicant Organisation to receive a letter setting out decision	Upon completion of assessment period or following consideration of response to clarification email

Section 3: Documents related to this IFA

Application Documents – Applicant Organisations MUST read these before submitting their application

Name	Description	Location
Information for Applicant Organisations (IFA)	Sets out the information, instructions, rules and Terms and Conditions of Application relating to the VHCC Accreditation.	VHCC Accreditation page of our Website.
Pre-Qualification Questionnaire (PQQ)	Includes: (1) Series of questions (2) Applicant Organisation Information Form.	PQQ pages on the e-accreditation portal accessed via the VHCC Accreditation page of our Website
Invitation to Tender (ITT)	Includes: (1) VHCC ITT questions (2) Experience Information Form (where applicable)	ITT pages on the e-accreditation portal accessed via the VHCC Accreditation page of our Website

Supporting documents

Name	Description	Location
VHCC Contract	All Contract documentation: – Contract for Signature – Standard Terms – Specification	VHCC Accreditation page of our Website.
VHCC Standard Forms and Documents	All template documents used to notify, make requests, claim and report data to LAA	Crime High Cost Cases page of our Website.
Application Q&A document	Questions and answers of wider interest to Applicant Organisations.	VHCC Accreditation page of our Website.
e-accreditation guidance ¹	Guidance on how to use the E-accreditation System	“Technical Support and Guidance” section on the e-accreditation portal accessed via the VHCC Accreditation page of our Website.

¹ In addition to our e-accreditation guidance, our provider of the E-accreditation System, has its own supplier helpdesk which can be accessed through clicking on the '?' options on the E-accreditation System. This supplier helpdesk contains technical support which may assist you further.

Section 4: About the Legal Aid Agency and legal aid

About the Legal Aid Agency

- 4.1 The Legal Aid Agency (LAA) is responsible for delivering legal aid (publicly funded advice and representation), on behalf of the Lord Chancellor, through high quality service providers to people with legal problems in England and Wales.
- 4.2 The LAA is an Executive Agency of the Ministry of Justice. The Lord Chancellor and the Secretary of State for Justice is accountable to Parliament for the LAA's activities and performance, and also appoints a board of non-executive Commissioners to oversee its work.

About legal aid

- 4.3 Legal aid enables people to safeguard their rights and address their legal problems. Our work is therefore essential to the fair, effective and efficient operation of the civil and criminal justice systems.

Criminal Legal Aid

- 4.4 Criminal legal aid ensures that many people under police investigation or facing criminal charges can get legal advice and representation. By ensuring that people accused of crimes have access to legal advice and representation, criminal legal aid also helps the police and courts operate fairly and efficiently. Criminal legal aid is administered and delivered by the Legal Aid Agency acting on behalf of the Lord Chancellor.
- 4.5 Subject to a means and merits test in certain areas, criminal legal aid offers:
- Advice and assistance from a provider on criminal matters.
 - Legal advice from a provider at the police station during questioning.
 - The cost of a provider preparing a case and initial representation for certain proceedings at a magistrates' court or Crown Court.
 - Full legal representation for defence in criminal cases at all court levels.
 - Legal advice and representation at magistrates' court.
 - Legal advice and representation for Prison Law and Appeals and Review work.

Client choice

- 4.6 While providers have contracts which enable them to claim payment for criminal legal aid work, neither the Lord Chancellor nor the Legal Aid Agency controls the allocation of cases or work. Clients are free to choose, from those providers with a legal aid contract, a legal representative of their choice to advise or represent them.

Quality Assessment

- 4.7 All providers who deliver criminal or civil legal aid services must hold either the legal aid Specialist Quality Mark (SQM) or the Law Society's quality standard (Lexcel). The same requirement applies to organisations applying for a VHCC Contract. See **Section 5** for more information about these and how to apply for the SQM.
- 4.8 The Legal Aid Agency also administers, on behalf of the Lord Chancellor, a quality assessment tool called Peer Review. Peer Review involves independent experienced legal aid practitioners assessing a random sample of a provider's case files to determine the quality of advice and legal work provided to clients in a particular Category of Law. A standard ratings system is applied to the work as an indication of quality (1 being the highest rating and 5 being the lowest). More information about the Independent Peer Review process can be found at <http://www.justice.gov.uk/legal-aid/quality-assurance/audits/peer-review> .

VHCC Arrangements 2013 and the VHCC Contract

- 4.9 The VHCC Arrangements 2013 and the 2013 VHCC Crime Contract govern the VHCC scheme for those cases classified as VHCCs on or after April 1st 2013.
- 4.10 Any case already classified as a VHCC and conducted as such prior to April 1st 2013 will continue to be governed by the terms of the scheme in accordance with which it was classified.
- 4.11 The VHCC Arrangements 2013 set out the process that needs to be followed Pre-Contract for these cases and include: obligations to notify the Legal Aid Agency of a case likely to meet the VHCC criteria; the Eligibility Criteria for gaining the VHCC Accreditation; the classification and contracting process; and the rules and conditions relating to work conducted during the Pre-Contract stage of the case.
- 4.12 Upon a case being classified as a VHCC, we will commence the contracting process set out in the VHCC Arrangements 2013. The VHCC Contract is split into:
- Contract for Signature
 - Standard Terms (govern the relationship between us and the provider)
 - Specification (governs how work should be delivered, the service standards that providers must meet, the rules relating to claiming, assessment and remuneration and the appeals process).
- 4.14 All the contract documentation (and guides) are available at <http://www.justice.gov.uk/legal-aid/areas-of-work/crime/crime/vhcc-accreditation> and we would strongly recommend that Applicant Organisations familiarise themselves with the terms of the VHCC Contract prior to applying.

Who we will contract with

- 4.15 Applications are welcome from new organisations and from organisations which are opening new offices subject to them meeting the requirements of their regulatory body, the application process, and the terms of the VHCC Contract.

Legal status of applicants, mergers, subcontracting and consortia bids

- 4.16 We will only contract with a single legal entity for the purposes of providing VHCC criminal defence services. Should Applicant Organisations wish to merge or join up with others it will be necessary to form a new single legal entity to provide the advice services required. This will mean that the single entity, in accordance with the relevant professional body's regulatory rules, will be responsible for ensuring the performance of the provider's obligations under the contract and that a client's retainer will always be with the single entity.
- 4.17 If Applicant Organisations have merged or intend to merge with another provider, they may apply as the merged entity if the merger is finalised before the submission of their application. If the merger is not complete by the submission date, Applicant Organisations are advised to apply in their current form as single legal entities in their own right, then once the merger is finalised, apply to us to have the Accreditation Notice amended, once the Notices have been issued.
- 4.18 We will not accept subcontracting arrangements (e.g. where another organisation is paid to deliver part of the service); instead, Applicant Organisations must be able to provide all the services they apply for, without the need to refer work to other individuals or organisations. Please note that the VHCC Contract does permit, in limited circumstances, the use of agents, advocates or approved third parties. We will not accept consortia bids for the provision of these VHCC criminal services.

Indemnities from Applicant Organisations with limited liabilities (excluding charities)

- 4.19 If you are an Applicant Organisation with limited liability (unless you are a registered charity) any VHCC Accreditation issued will be conditional upon the Applicant Organisation supplying us with a completed, relevant indemnity form specified by us. Applicant Organisations that have already provided such a form as part of their 2010 Crime or Civil Contract tender need not resubmit this for the purposes of the VHCC Accreditation process. Those Applicant Organisations that have not provided such a form must do so by submitting it with their application form. The form must be signed by the ultimate owners of the Applicant Organisation and/or such persons as we might reasonably regard as being controllers and/or senior managers of the Applicant Organisation and/or where the Applicant Organisation is a limited company, from any company which is a holding company.

- 4.20 If Applicant Organisations fail to provide the completed form (or notify us of any reasons for any delay) with their application form this will mean that the Applicant Organisation has failed to meet a condition of the VHCC Contract. This will entitle us to reject an application and/or entitle us not to proceed with any decision made to issue the Applicant Organisation an Accreditation Notice.

Section 5: Quality Standards

- 5.1 It will be a requirement of the 2013 VHCC Contract that Applicant Organisations hold a relevant Quality Standard – either Lexcel or the Specialist Quality Mark (SQM).
- 5.2 In April 2010 the SQM Delivery Partnership was appointed to undertake Specialist Quality Mark (SQM) audit work, charging Providers for the service. All Applicant Organisations intending to hold a Relevant Quality Standard through obtaining the SQM will be required to be audited by the SQM Delivery Partnership in some capacity. This is detailed below as are requirements for those choosing to hold a Relevant Quality Standard through Lexcel.

Applicant Type (by organisation)	Requirement
New entrant (i.e. organisation does not have an existing legal aid contract) that intends to obtain SQM	<ul style="list-style-type: none"> - Registration with the SQM Delivery Partnership for a desktop audit against the SQM prior to the submission of a VHCC ITT - Pass desktop audit by point at which successful applications are verified - Fully pass the Pre SQM audit from the SQM Delivery Partnership within six months of the Contract Start Date
New or existing Provider that intends to obtain Lexcel	<ul style="list-style-type: none"> - Apply for Lexcel prior to the submission of a VHCC ITT - Achieve Lexcel within six months of the Contract Start Date
Existing Provider holding SQM	<ul style="list-style-type: none"> - Fully pass the Post SQM audit from the SQM Delivery Partnership within six months of the Contract Start Date
New or existing Provider already holding Lexcel	<ul style="list-style-type: none"> - No further audit required

- 5.3 Further information about the SQM and how to register with the SQM Delivery Partnership can be found at <http://www.sqm.uk.com>.
- 5.4 Further information on Lexcel can be found at the Law Society's website: <http://www.lawsociety.org.uk/for-the-public/accredited-specialists/best-practice/>

Section 6: About VHCCs

Introduction

6.1 As stated earlier in this IFA, the outcome of the VHCC Accreditation Process will be the issuing of a Conditional Accreditation Notice. However, it is important for all Applicant Organisations to read and understand the Contract Documents they may be awarded should they be successful in obtaining VHCC Accreditation and subsequently be instructed on a case classified as a VHCC. This section therefore outlines the VHCC services governed by those Contract Documents.

6.1A To reiterate, this IFA and the application process it describes only applies to those cases classified as VHCCs satisfying the criteria set out at paragraph 1.1A above.

VHCC services

6.2 The rules governing how VHCC services should be delivered by organisations are set out in the VHCC Arrangements 2013 and the 2013 VHCC Contract.

6.3 From 1st April 2013, all cases classified as VHCCs will continue to operate on an individual case by case basis. Only those organisations that hold a Full Accreditation Notice will be eligible to claim legal aid funding for their work on a VHCC.

Summary of the VHCC scheme

6.5 Pursuant to The Criminal Legal Aid (Remuneration) Regulations 2013 all organisations are under an obligation to notify any case, on which they are instructed, that is likely to meet the VHCC criteria. They do so by submitting a Notification Request Form (available on our Website) to the Legal Aid Agency. Upon notification, we will determine whether, in our opinion based on the information available, the case satisfies the VHCC criteria and ought to be classified as a VHCC.

6.6 Following classification and the signing of a VHCC Contract, at the outset of the case the organisation's VHCC Supervisor and the VHCC Case Manager assigned to the VHCC will enter negotiations on the category of case. A VHCC will fall into one of four categories. The category will determine the hourly rate of remuneration for each fee earner and advocate working on that VHCC. For further information on the VHCC categorisation criteria please see Annex B of the VHCC Arrangements 2013.

6.7 The scheme operates on the principle that all work to be done on a VHCC must be agreed in advance of the work being undertaken. Having agreed the category, the case is divided into three-monthly stages and at the start of each stage the VHCC Supervisor submits a task list setting out, item by item, the work required and time to conduct that work in order to further the defence case over the course of the three-month period.

- 6.8 The assigned Case Manager and the VHCC Supervisor then negotiate the work and hours requested based on reasonableness and necessity. Throughout the stage, the VHCC Supervisor and the Case Manager will then amend the task list (by agreement) to take account of new and/or further items of evidence or additional work that was not foreseeable at the outset of the stage.
- 6.9 At the end of each stage the VHCC Supervisor then submits the organisation's claim for the work done. Provided the work done falls within the item of work and time agreed, the LAA will pay the claim after audit. With the claim for work, the VHCC Supervisor will also submit a new task list for the next three-monthly stage of the case and the negotiation starts afresh.
- 6.10 The stage of the case that includes the work at trial will follow the same general principle but tends to offer greater flexibility to those conducting the work at this stage. For example, rather than agreeing very specific items of work, Case Managers will tend to agree weekly allowances and/or ratios for reading evidence served. This is to avoid any unnecessary and often burdensome administration during the trial stage of the case.
- 6.11 The VHCC scheme also includes work undertaken post trial, at sentencing and/or confiscation hearings. These are dealt with as separate stages of the case and will follow the same strict principles as pre-trial stages.

Section 7: How to submit an application using the E-accreditation System

Introduction

- 7.1 This section covers how Applicant Organisations must submit a completed application and how to use the E-accreditation System to do so.
- 7.2 A completed application will consist of a response to both a PQQ and a VHCC ITT:
- (1) PQQ
 - Response to the questions
 - Response to the Applicant Information Form (non-mandatory);

And, if applying for the SQM:

- The Applicant Organisation must as part of the PQQ response submit its Office Manual

and

- (2) VHCC ITT
 - Response to the questions
 - Response to the Experience Information Form (where applicable this is a Mandatory Form)

VHCC Panel Members

- 7.3 Criterion 16 of the Eligibility Criteria at Annex A applies the same experience requirement as was required under the desirable criteria for the 2007 VHCC Panel tendering exercise. However, whereas in 2007, applicants were required to satisfy a balance of experienced to non-experienced defence team members; for current VHCC Accreditation, the experience can be held by the organisation itself or the Key Personnel or the employees individually.
- 7.4 Therefore, provided VHCC Panel Members have retained a sufficient number of experienced defence team members) to continue to meet the experience threshold set out at Criterion 16, they will automatically satisfy this criterion. They will not be required to resubmit the information they provided in 2007/08 as part of their VHCC Panel application form. These Applicant Organisations will be asked to simply confirm that they continue to meet the requirements set out in Criterion 16.

Other Applicant Organisations

- 7.5 Those Applicant Organisations that either were not VHCC Panel Members or have not retained a sufficient number of experienced defence team members as described in **paragraph 7.4** above must provide evidence of their

experience using the template Experience Information Form. For these Applicant Organisations, the Experience Information Form is a Mandatory Form which must be completed and submitted with the VHCC ITT in order for an application to be complete.

The E-accreditation System

- 7.6 E-accreditation is an electronic application process used increasingly by Government and private organisations to procure contracts and commission services. It replaces paper-based forms and uses a secure internet site as a platform through which interested parties can submit applications. It also offers a secure messaging service enabling Applicant Organisations and LAA staff to communicate with each other throughout the application process.
- 7.7 E-accreditation offers many advantages over paper-based systems including:
- access to all relevant documents in one place
 - secure portal through which to submit applications and send/receive communications
 - instant submission with no risk associated with postal failure
 - automatic acknowledgement of receipt
 - full audit trail of all transactions.

Registration

- 7.8 To use the E-accreditation System Applicant Organisations will need to register onto the system. To do this Applicant Organisations should go to <https://legalaid.bravosolution.co.uk/> Once Applicant Organisations have registered they will receive an automated email sent to their registered email address detailing their username and password to enable them to log into the system in future. For more information on how to use the e-accreditation system please see the 'Technical Support and Guidance' on the e-accreditation portal. If required, Applicant Organisations can access this information from the e-accreditation front page before registering.
- 7.9 Some Applicant Organisations may have already registered on the E-accreditation System as part of a response to another of the LAA's ITTs (e.g. a response to the 2010 Civil or Crime tendering exercises). If this is the case, then the Applicant Organisation does not need to register again.

Steps to submitting an application

- 7.10 Below we provide an overview of the steps that an Applicant Organisation must follow in order to apply to deliver VHCC criminal defence services.
- 7.11 An application will consist of responses to the:
- 1) PQQ; and
 - 2) VHCC ITT (which includes the VHCC ITT questions and the Experience Information Form.

7.12 These steps are set out in the E-accreditation System, we suggest Applicant Organisations look at the system in conjunction with reading this section:

- 1) Use the E-accreditation System to prepare and submit (publish) a single organisation response to the Pre- Qualification Questionnaire (PQQ)
- 2) Use the E-accreditation System to prepare and submit (publish) a response to the VHCC ITT
- 3) Once Applicant Organisations have completed a response to a PQQ and VHCC ITT they must ensure that they submit ('publish') it.

Pre-Qualification Questionnaire

7.13 The PQQ's purpose is to enable us to assess whether an Applicant Organisation meets our minimum standards of suitability for a publicly funded legal aid contract and to gather certain other information about Applicant Organisations.

Important note if the Applicant Organisation has already expressed an interest or responded to the PQQ on the E-accreditation System in relation to another Legal Aid ITT.

7.14 Applicant Organisations may have already 'expressed an interest' or in fact completed and submitted a response to the PQQ as part of responding to another Legal Aid invitation to tender

7.15 To avoid having to fill in a new PQQ each time Applicant Organisations submit a response to a Legal Aid ITT, the E-accreditation System is designed so that it saves Applicant Organisations' latest response to the PQQ. However, this means that Applicant Organisations will need to review their response to ensure that they have answered all required questions and the information provided is accurate. If any changes are needed, Applicant Organisations will need to resubmit the PQQ.

7.16 As part of a response to the VHCC ITT, Applicant Organisations will be required to confirm that a response to the PQQ has been submitted and that the information contained in the last response remains accurate and up to date at the time of submitting the VHCC ITT.

7.17 The PQQ covers the following areas:

- Are there any mandatory grounds for rejection of the Applicant Organisation under regulation 23(1) of the Public Contracts Regulations 2006 (Applicants or Key Personnel convicted of conspiracy, bribery, fraud, money laundering)?
- Requirement to have one year's managerial experience and three years' experience of delivering specialist legal advice

- Requirement to have a complaints process, and no history of complaints being upheld and sanctions applied by a regulatory/complaints body, or upheld professional negligence claims, in the last 3 years (in relation to publicly funded areas of law only)
- Requirement to have appropriate professional indemnity, public liability and employers' liability insurance cover
- Requirement to comply with workplace legislation (data protection, equalities and health and safety at work) by having appropriate policies and procedures
- Business conduct including interventions and adverse findings by regulatory bodies, bankruptcy/insolvency, terminations for fault of public sector contracts, criminal convictions and failures to repay money owing on public sector contracts
- Confirmation that the Applicant Organisation has met its tax, VAT and NI liabilities
- Confirmation that the Applicant Organisation will hold an appropriate quality standard (SQM or Lexcel)

7.18 A full version of the PQQ can be found on the E-accreditation System through the 'PQQs open to all suppliers' link.

7.19 Some answers to PQQ questions will be assessed on a pass/fail basis and do not offer an opportunity for Applicant Organisations to give further exceptional circumstances. In relation to these types of questions the requirement to have the required experience is absolute and is a mandatory ground for failing the PQQ.

7.20 Other questions on the PQQ provide an opportunity to set out exceptional circumstances where an Applicant Organisation considers that it cannot meet the requirements but that exceptional circumstances apply which mean that the Applicant Organisation should be considered by us as still meeting the PQQ requirement.

7.21 It is the Applicant Organisation's responsibility to ensure that it makes full use of this opportunity in order to provide comprehensive details of any exceptional circumstances. We are under no obligation to seek further information or clarify a response – and will not do so where in our opinion this would give an Applicant Organisation an unfair opportunity to improve their response.

7.22 The opportunity to give exceptional circumstances cannot be used to provide other supplementary information to an Applicant Organisation's PQQ or VHCC ITT. Information incorrectly submitted, as exceptional circumstances that is intended only to enhance an Applicant Organisation's bid, will not be considered.

7.23 If an Applicant Organisation fails any PQQ question, the PQQ will be unsuccessful and none of the Applicant Organisation's applications will be considered further.

- 7.24 The PQQ also asks for information about financial sustainability and equalities and diversity through an Applicant Information Form. This information is not assessed (and the form is non-mandatory at the time of submitting the application), although we may use the financial sustainability information to inform future contract management. However, if Applicant Organisations do not submit this form at the time of application and are subsequently awarded a contract following assessment of the application, we will require Applicant Organisations to provide this information as part of the terms of the contract.
- 7.25 Therefore we do encourage Applicant Organisations to complete and attach the relevant Applicant Information Form (Private Sector or not for profit as appropriate), however, where an Applicant Information Form is not uploaded and submitted as part of a application, it will not result in an application being rejected. Guidance about filling out the financial section of the Applicant Information Form is available at <http://www.justice.gov.uk/legal-aid/areas-of-work/crime/crime/vhcc-accreditation> .

VHCC Invitation to apply/tender (ITT)

- 7.26 Once logged into the e-accreditation system, Applicant Organisations can access the VHCC ITT from the home page by clicking on the 'Invitations to Tender (ITTs)' link which will bring up a list of all ITTs currently open or by clicking on the 'Projects' link.
- 7.27 Applicant Organisations should click on the VHCC ITT. This will bring up an overview of the VHCC ITT. Applicant Organisations should then 'express an interest' in the VHCC ITT and 'reply' to it (these links can be found on the left-hand side of the page).

What is in the VHCC ITT?

- 7.28 The VHCC ITT comprises of the following sections set out in a single page of the e-accreditation system:
- VHCC ITT questions
 - Indemnities
 - Declarations (see **paragraph 7.32**)

VHCC ITT questions

- 7.29 The VHCC ITT questions section will seek confirmation that the Applicant Organisation meets the Eligibility Criteria (set out at Annex A) to be considered for the VHCC Accreditation.

Indemnities

- 7.30 If you are an Applicant Organisation with limited liability (unless you are a registered charity) any VHCC Accreditation issued will be conditional upon the Applicant Organisation supplying the Legal Aid Agency with a completed, relevant indemnity form specified by us. Applicant Organisations that have

already provided such a form as part of their 2010 Crime or Civil Contract tender need not resubmit this for the purposes of the VHCC Accreditation process. Those Applicant Organisations that have not provided such a form must do so by submitting it with their application form. The form must be signed by the ultimate owners of the Applicant Organisation and/or such persons as we might reasonably regard as being controllers and/or senior managers of the Applicant Organisation and/or where the Applicant Organisation is a limited company, from any company which is a holding company.

- 7.31 If Applicant Organisations fail to provide the completed form (or notify us of any reasons for any delay) with their application form this will mean that the Applicant Organisation has failed to meet a condition of the VHCC Contract. This will entitle us to reject an application and/or entitle us not to proceed with any decision made to issue the Applicant Organisation an Accreditation Notice.

Declarations

- 7.32 Applicant Organisations must confirm that the information provided in the PQQ and VHCC ITT is accurate to the best of their knowledge, information and belief. Applicant Organisations must also confirm that they understand that if they have not answered every question on either form, the application may be rejected; further, that any material inaccuracy or omission in the information provided may lead to the application being treated as invalid and/or any Accreditation Notice issued being withdrawn or amended by us.
- 7.33 Applicant Organisations must also declare that the person(s) involved in the preparation and collation of the application form were/are in no way, associated with the initial preparation by us of the Accreditation documentation or with the subsequent evaluation, assessment, analysis, management and decision making process of the application.

What happens once a response to a VHCC ITT is ‘published’?

- 7.34 Responses submitted to the VHCC ITT will be treated as open applications. This means that LAA staff will be able to open any responses immediately after submission.
- 7.35 Therefore, once submitted, an Applicant Organisation will not be able to amend their VHCC ITT.
- 7.36 Responses will be automatically acknowledged when they are submitted.

Section 8: How the applications will be assessed

Opening procedure

- 8.1 LAA staff will be able to open responses submitted by Applicant Organisations immediately after submission. A staff member authorised to do so will open responses.

PQQ assessment

- 8.2 The PQQ consists of a series of yes/no questions that are designed to test compliance with our requirements.
- 8.3 We expect all Applicant Organisations to confirm compliance with all of our PQQ requirements. If an Applicant Organisation fails any question in the PQQ then they will not be considered further and their application will be unsuccessful.
- 8.4 We will assess on the basis of the latest information included in the response to the PQQ submitted to us.

VHCC ITT questions

- 8.5 The VHCC ITT questions reflect the minimum service requirements that we want all VHCC providers to meet.
- 8.6 The VHCC ITT will include a question about VHCC Supervisors. Applicant Organisations will be asked to commit to having at least one VHCC Supervisor in post from the Stage 1 Start Date of each VHCC until the Conclusion of that VHCC. The assessment of the VHCC Supervisor's experience will be conducted by us immediately prior to signing the VHCC Contract. This assessment will determine the status of the Accreditation Notice (see **paragraph 8.8** below).
- 8.7 All of the questions asked in this section will be equally weighted and assessed on the basis of pass or fail and any Applicant Organisation unable to confirm that they meet all our requirements will have their response to the VHCC ITT rejected.

Issuing the Accreditation Notice

- 8.8 We will notify Applicant Organisations electronically via the E-accreditation System whether an application has been successful. If an application is successful, the LAA will issue a Conditional Accreditation Notice. The Notice is confirmation that the Applicant Organisation satisfies Criteria 1 to 16 inclusive of the Eligibility Criteria at Annex A and that they have committed to have a VHCC Supervisor in post from the Stage 1 Start Date of each VHCC until the Conclusion of that VHCC (Criteria 17 and 18 of the Eligibility Criteria). The Conditional Accreditation Notice becomes a Full Accreditation Notice for

a case when, at the start of the 2013 VHCC Contract (for organisation), we confirm that the VHCC Supervisor is in post.

- 8.9 The organisation retains a Conditional Accreditation for any future VHCC, i.e. the organisation will be asked to confirm the status of their VHCC Supervisor each time they are offered a VHCC Contract.

Reassessment

- 8.10 Where an application (or any part it) is unsuccessful or rejected, the Applicant Organisation will be given written reasons as to why it was unsuccessful or rejected.
- 8.11 There will be no right to apply for a reassessment against a decision to reject an application if it is incomplete.
- 8.12 There will be a right to apply for a reassessment if an application is unsuccessful in the following circumstances:
- (a) where the Applicant Organisation does not pass the PQQ;
 - (b) where the Applicant Organisation does not pass the VHCC ITT;
 - (c) where the Applicant Organisation does not comply with paragraph 9.2 **and** a notice that the application is unsuccessful stipulates a right to apply for a reassessment.
- 8.13 Applications for reassessment will only be accepted if made through the E-accreditation System and must be received prior to the applicable deadline(s) set out in the table below. An application for reassessment submitted after the applicable deadline, in any other form or by any other method will not be considered.

Where appropriate, Applicant Organisation to submit application for reassessment	Within one week of receipt of decision
LAA Principal Legal Advisor to consider application for reassessment and follow procedure set out at 9.13 of this IFA.	Determination made within one week of receipt of the application for reassessment

- 8.14 The LAA Principal Legal Advisor will review all applications for reassessment, and will determine the procedure and will decide whether to invite or require any further information from the Applicant Organisation, before making a determination.
- 8.15 There will be no further right to apply for reassessment.

Section 9: Terms and Conditions of Application

- 9.1 The Applicant Organisation's participation in the accreditation exercise for publicly funded criminal VHCCs is governed by these Terms and Conditions of Application. The Applicant Organisation must also comply with the User Agreement governing use of the LAA E-accreditation System and all rules and instructions set out in any Application Document.
- 9.2 Submission of an application which fails to comply with any Terms and Conditions of Application, User Agreement or other rules and instructions shall, without affecting the Applicant Organisation's liability for non compliance, entitle us to reject an application, assess the application as unsuccessful and/or entitle us not to proceed with any decision made to issue the Applicant Organisation an Accreditation Notice or entitle us to withdraw the Accreditation Notice.
- 9.3 By submitting an application, the Applicant Organisation is acknowledging they have read and understood the VHCC Arrangements 2013 and the VHCC Contract.
- 9.4 The Applicant Organisation acknowledges that the issuing of a VHCC Accreditation does not guarantee any amount of VHCC Work. VHCC Work is dependent on successful Applicant Organisations attracting clients.
- 9.5 All applications and applications for reassessment must be submitted on the E-accreditation System at www.legalaid.bravosolution.co.uk. An application or application for reassessment submitted in any other form, or by any other method, will not be considered.
- 9.6 For an application to be complete, it must consist of a response to the Pre-Qualification Questionnaire (which, if applying for the SQM must include submission of the Applicant Organisation's Office Manual) **and** a response to the VHCC ITT.
- 9.7 The Applicant Organisation must not amend or alter any document comprising part of the application after they have submitted the application.
- 9.8 After submission any information or documents submitted in response to a request for clarification or further information (in accordance with **paragraph 9.22**) will also form part of the Applicant Organisation's application.
- 9.9 In the event of any conflict between the information, answers or documents submitted as part of an application, the conflict will be resolved by accepting the information, answer or document least favourable to the Applicant Organisation.
- 9.10 It is the responsibility of the Applicant Organisation to make sure that an application is fully and accurately completed. We are under no obligation to contact the Applicant Organisation to clarify its application or to obtain missing information.

- 9.11 It is the responsibility of the Applicant Organisation to make sure that it submits an application in good time to take account of any problems or delays in uploading the application and documents requested by us, accessing the E-accreditation System owing to heavy usage, internet access or with the Applicant Organisation's own IT systems.
- 9.12 The Applicant Organisation is solely responsible for the costs and expenses incurred in connection with the preparation and submission of application and all other stages of the application process. Under no circumstances will the Lord Chancellor or any LAA staff acting on his behalf be liable for any costs.
- 9.13 The Applicant Organisation must reply to all the questions in order to respond to the PQQ and the VHCC ITT, even if it has previously provided this information or if it thinks the LAA is already aware of it (e.g. if the Applicant Organisation holds an existing Legal Aid contract).
- 9.14 The Applicant Organisation must not submit an application which contains any information which the Applicant Organisation knows to be, or has reason to be, false or misleading in accordance with Clause 18 of the VHCC Contract Standard Terms. If information given by the Applicant Organisation is subsequently found to be false or misleading, this may lead to the Applicant Organisation's application being unsuccessful and/or entitle us not to proceed with any decision made to issue an Accreditation Notice, enter into a VHCC Contract with the Applicant Organisation or entitle us to terminate the VHCC Contract pursuant to Clause 25 of the Standard Terms.
- 9.15 If, because an Application Organisation has registered more than once on the LAA e-accreditation system or, for any other reason, more than one response to the PQQ or a VHCC ITT is received by us the latest response submitted by an Applicant Organisation shall be the response that is considered by us in the assessment process.
- 9.16 Where an application is unsuccessful (following the outcome of any reassessment), **paragraphs 1.17 to 1.19** apply.
- 9.17 The person who submits an application must be a member of the Applicant Organisation's Key Personnel with appropriate authority to submit an application for the Applicant Organisation.
- 9.18 An application will be unsuccessful where, following assessment, the Applicant Organisation:
- 1) fails to pass the PQQ;
 - 2) fails to pass the VHCC ITT.
- 9.19 We reserve the right to amend at any time any of the Application Documents and the VHCC Contract or to issue clarifications (including in response to questions and answers from Applicant Organisations) or to correct errors or omissions provided that in all cases any such amendment is not sufficiently

material to amount to a new application or contract. Any notices of amendment etc will be published on the VHCC Accreditation page of our Website and sent by email to all Applicant Organisations that have expressed an interest in the VHCC ITT and/or PQQ.

- 9.20 A submitted application, which does not comply with any additional or alternative Terms and Conditions of Application, rules, conditions of VHCC Contract and instructions (or other qualifications) introduced in accordance with **paragraph 9.19** above, may be rejected or unsuccessful.
- 9.21 Any communications about the Application Documents will be given by notice published on the VHCC Accreditation page of our Website and sent by email to all Applicant Organisations that have expressed an interest in the VHCC ITT or PQQ.
- 9.22 Should we, at any time during the application process, request the Applicant Organisation to give additional information/clarification the Applicant Organisation should be prepared to provide additional information and/or clarify any aspect of an application by the deadline set out in the request. We reserve the right to validate any part of the Applicant Organisation's application and information subsequently given to it.
- 9.23 We reserve the right to cancel the invitations to apply or PQQ covered by this IFA in their entirety or in part, and not to proceed to issue Accreditation Notices or to suspend any stage of the process at any time at its absolute discretion.
- 9.24 The Applicant Organisation agrees to keep any application valid and capable of acceptance by us up to the Stage 1 Start Date of any VHCC.
- 9.25 The right to apply for reassessment for unsuccessful Applicant Organisations is limited to that set out in **paragraphs 8.10 to 8.15**.
- 9.26 After assessment is complete, we will retain copies of applications for such time as we consider reasonable to satisfy our audit obligations and for any associated case management purposes.
- 9.27 All intellectual property rights in the Application Documents and any associated documents are and shall remain our property.
- 9.28 While we have taken all reasonable steps to ensure, as at the date of the issue of the Application Documents, that the facts which are contained in the Application Documents and associated documents are true and accurate in all material respects, it does not make any representation or warranty as to the accuracy or completeness or otherwise of these documents, or the reasonableness of any assumptions on which these documents may be based.
- 9.29 All information supplied by us to the Applicant Organisation or potential applicants, including that within the Application Documents, is subject to that

Applicant Organisation's own due diligence. We accept no liability to the Applicant Organisation or potential applicants whatsoever resulting from the use of the Application Documents, or any omissions from or deficiencies in them.

- 9.30 Without prejudice to any warranties given, the rules, instructions, conditions of the VHCC Contract and Terms and Conditions of Application contained in this IFA, do not form a separate collateral contract between the Applicant Organisation and us. The relevant parts of the Applicant Organisation's application may form part of any VHCC Contract subsequently awarded.
- 9.31 If an Applicant Organisation changes its status or any material element of its application including management or Key Personnel, between submitting its application and being issued an Accreditation Notice and/or between being issued an Accreditation Notice and entering into a VHCC Contract, we must be informed of this as soon as possible in writing. We reserve the right (depending on the nature and effect of the change in status) to withdraw any Accreditation Notice and/or revoke any VHCC Contract and/or may request the new Applicant Organisation (post-change) to submit a fresh application.
- 9.32 The Applicant Organisation must not, and must ensure that its employees, partners, directors, Key Personnel and agents must not:
- (a) canvass any officers, employees, agents or advisers of the Ministry of Justice or Legal Aid Agency in connection with this application process; or
 - (b) offer or agree to pay or give any sum of money, inducement or valuable consideration (directly or indirectly) to any person for doing or having done or causing or having caused to be done in relation to this application, any act or omission.
- 9.33 The Applicant Organisation must not enter into any agreement or arrangement with any other person or organisation about whether it should or should not apply, or to fix or adjust the amount of any application, or collude with any such other person or organisation in any way, in this application process.
- 9.34 Nothing in these Terms and Conditions prevents the Applicant Organisation from approaching or recruiting employees or agents to undertake work covered by this application process on behalf of the Applicant Organisation.
- 9.35 If you are an Applicant Organisation with limited liability (unless you are a registered charity) any VHCC Accreditation issued will be conditional upon the Applicant Organisation supplying us with a completed, relevant indemnity form specified by us. Applicant Organisations that have already provided such a form as part of their 2010 Crime or Civil Contract tender need not resubmit this for the purposes of the VHCC Accreditation process. Those Applicant Organisations that have not provided such a form must do so by submitting it with their application form. The form must be signed by the ultimate owners of

the Applicant Organisation and/or such persons as we might reasonably regard as being controllers and/or senior managers of the Applicant Organisation and/or where the Applicant Organisation is a limited company, from any company which is a holding company.

- 9.36 If Applicant Organisations fail to provide the completed form (or notify us of any reasons for any delay) with their application form this will mean that the Applicant Organisation has failed to meet a condition of the VHCC Contract. This will entitle us to reject an application and/or entitle us not to proceed with any decision made to issue the Applicant Organisation an Accreditation Notice.

Confidentiality and Freedom of Information Act 2000

- 9.37 We may share any information contained in an Applicant Organisation's application with Bravo Solutions Limited for the purposes of administering the application process.
- 9.38 The Applicant Organisation should note that under the Freedom of Information Act 2000 (the "FOIA") we may be required to disclose details of its application in response to a request from third parties, either during or after the application process. We can only withhold information where it is covered by a valid exemption as set out in the FOIA.
- 9.39 If an Applicant Organisation is concerned about possible disclosure it should contact us and clearly identify the specific parts of the application that it considers commercially sensitive or confidential (within the meaning of the FOIA), the harm that disclosure may cause and an estimated timescale for that sensitivity. The Applicant Organisation should familiarise itself with the Information Commissioner's current position on the disclosure and non disclosure of commercially sensitive information and therefore should not notify us of blanket labelling of all its application as confidential.
- 9.40 The Applicant Organisation should also be aware that the receipt by us of information marked 'confidential' does not mean that we accept any duty of confidence in relation to that marking. Neither do we guarantee that information identified by the Applicant Organisation as confidential will not be disclosed where the public interest favours disclosure pursuant to our obligations under FOIA.
- 9.41 It is important to note that the sensitivity of information is likely to change over time and therefore it is likely that general Contract details will be disclosed once the application process is complete.
- 9.42 We will collect, hold and use personal data obtained from and about the Applicant Organisation and its Key Personnel during the course of the application process ("Personal Data").
- 9.43 The Applicant Organisation must agree to such Personal Data being collected, held and used in accordance with and for the purposes of

administering the application process as contemplated by the Application Documents and for contract management of any Contract subsequently awarded.

9.44 The Applicant Organisation warrants, on a continuing basis, that it has:

- a) all requisite authority and has obtained and will maintain all necessary consents required under the Data Protection Regulations (which means the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all relevant regulations together with any codes of conduct and guidance issued by the Information Commissioner);and
- b) otherwise fully complied with all of its obligations under the Data Protection Regulations, in order to disclose to us the Personal Data, and allow us to carry out the application process. The Applicant Organisation shall immediately notify us if any of the consents is revoked or changed in any way which impacts on our rights or obligations in relation to such Personal Data.

Section 10: Definitions

Set out below are some summary definitions Applicant Organisations may find helpful.

“Applicant Organisation” means a single legal entity applying to deliver VHCC criminal defence services.

“Application Documents” means this IFA (and supporting annexes), the PQQ and the VHCC ITT.

“Bravo Solutions” is the software provider of the e-accreditation system.

“Category of Law” has the same meaning as the legal definition of each Category of Law set out in a separate document called “Category Definitions 2010” which has been published on the Justice website;

“VHCC Case Manager” means our nominated representative who will be responsible for the day-to-day running of the 2013 VHCC Contract (for organisations);

“Conclusion” means either (i) the date the final Claim for the VHCC has been paid by us and there is no appeal in respect of the payment; or (ii) the date the final payment is made on the VHCC following any decision made on appeal in respect of payment in accordance with the VHCC Contract; or (iii) the date of any decision to reject the appeal in respect of payment is made on the VHCC in accordance with the VHCC Contract;

“Director” means the Director of Legal Aid Casework

“E-accreditation System” means the online system that will be used to run the application process and through which Applicant Organisations must submit applications.

“Eligibility Criteria” means in relation to organisations (and their employed Advocate), the criteria as set out in Annex A of the VHCC Arrangements 2013 and Annex A of this IFA;

“Information Commissioners Office (ICO)” is an independent authority sponsored by the Ministry of Justice, to oversee the Data Protection Act, the Freedom of Information Act and the Environmental Information Regulations.

“Experience” means substantial involvement in the case. This would involve (but is not limited to) for example:

- (a) the overall supervision of the case; and/or
- (b) sole control of a number of important elements of the case, such as:
 - (i) instructing experts;
 - (ii) taking the client’s instructions;
 - (iii) instructing counsel;

- (iv) identifying and dealing with complex legal issues;
- (v) drafting legal argument documentation; or
- (vi) trial preparation for/by counsel and/or advocacy.

Experience does not include (for Litigators or Advocates) travel or waiting or (for Litigators) attendance at trial;

“Experience Information Form” means the document used by Applicant Organisations to capture and provide case information as evidence in support of the organisation based experience criteria (Criterion 16 of the Eligibility Criteria at Annex A);

“Invitation to Apply/Tender” or *“VHCC ITT”* means the specific criminal VHCC invitation to tender that Applicant Organisations can apply against. This can be accessed via the E-accreditation System.

“Key Personnel” means any person who has powers of representation, decision or control of an organisation including partners, directors and trustees.

“Mandatory Form(s)” means forms (or other documents or information) that must be submitted as part of an application;

“Partnership Voluntary Arrangement or PVA” is a formal agreement with the partnership’s creditors to repay their debts either in full or more likely partially over a fixed period of time.

“Peer Review” means the independent audit of your Contract Work under the Independent Peer Review process

“Pre-Contract” means work performed from the date the Representation Order was granted until the Stage 1 Start Date;

“Prepared to Trial” means that, where possible, all pre-trial work has been completed and the key issues/points to be raised at trial have been identified, whether or not the trial commences;

“Publish” means to submit the final version of the Applicant Organisation’s completed PQQ and VHCC ITT to us

“Qualifying Case” means, in relation to the Eligibility Criteria, a prosecution or defence case, where:

- (a) when funded publicly, the date of determination that an individual qualified for criminal Legal aid (or where applicable the date the case was committed to the Crown Court) was during the Qualifying Period, and we and/or prosecution agency classified the case as a VHCC;
- (b) when funded privately, the date of determination that an individual qualified for criminal Legal Aid (or where applicable the date the case was committed to the Crown Court) was during the Qualifying Period

and the trial in that case lasted or was estimated by the court to last more than 40 days;

- (c) whether funded publicly or privately, the date of determination that an individual qualified for criminal Legal Aid (or where applicable the date the case was committed to the Crown Court) was during the Qualifying Period, which was notified to us and/or prosecution agency with trial estimates of over 40 days and where we and/or prosecution agency acknowledged the case satisfied the VHCC definition but decided not to classify it as such;
- (d) whether funded publicly or privately, a case, not classified as a VHCC, where the date of determination that an individual qualified for criminal Legal Aid (or where applicable the date the case was committed to the Crown Court) was granted during the Qualifying Period and the trial in that case lasted or was estimated by the court to last no fewer than 25 and no more than 40 days inclusive and:
 - (i) the case is prosecuted by the Serious Fraud Office; or
 - (ii) the case is a Terrorism Case.
- (e) whether funded publicly or privately, a case, not classified as a VHCC, where the date of determination that an individual qualified for criminal Legal Aid (or where applicable the date the case was committed to the Crown Court) was granted during the Qualifying Period and the trial in that case lasted or was estimated by the court to last no fewer than 25 and no more than 40 days inclusive and at least two of the following criteria (i) to (iv) apply:
 - (i) there are/were more than five defendants;
 - (ii) there are/were at least 10,000 pages of served prosecution evidence;
 - (iii) there are/were at least 10,000 pages of unused or third party material;
 - (iv) the case is/was a fraud case or one primarily involving serious drugs offences (as covered by Part 6 Class B of the Criminal Defence Service (Funding) Order 2007) and the value of the fraud (as described in the indictment or prosecution case statement / summary) or drugs (as estimated by the prosecution authority) exceeds £1 million.

“Qualifying Period” means the six-year period preceding the date of the VHCC Accreditation Application;

“Regulatory Bodies” means the Law Society, the Solicitors’ Regulation Authority, Bar Council, Bar Standards Board or the equivalent organisation in a foreign jurisdiction.

“Rules for Applicant Organisations” or *“IFA”* means this document and supporting annexes and appendices that contains information, instructions, rules, Terms and Conditions of Application that will govern the application processes.

"Specialist Legal Advice" means giving legal advice where the Applicant Organisation is taking action on behalf of the clients in order to move the case forward. This includes negotiation and representing the client to third parties on the telephone, by letter or face to face. This also includes providing representation, litigation and/or advocacy services. It does not include triage or initial general advice.

"Stage 1 Start Date" means the date the contract was made, as specified in the 2013 VHCC Contracts. For the avoidance of doubt, this is not the Contract Start Date;

"Terms and Conditions of Application" are the terms and conditions set out at **Section 9** of this IFA.

"VHCC" means Very High Cost (Crime) Cases as defined in the Criminal Legal Aid (Remuneration) Regulations 2013

"VHCC Accreditation Notice" means the document issued, either in conditional or full form, to Applicant Organisations that are successful in their application for VHCC Accreditation;

"VHCC Panel Member Contract" means the contract awarded to applicants that were successful in their application for VHCC Panel membership in 2007;

"VHCC Supervisor" means a partner, principal or employee of the Applicant Organisation who is authorised to and actively supervises in accordance with the VHCC Arrangements 2013;

Annex A: Eligibility Criteria for Applicant Organisations

1.	The Applicant Organisation and its Key Personnel must not be in breach of the provisions of regulation 23 (1) of the Public Contracts Regulations 2006 (as amended).
2.	<p>The Applicant Organisation and its Key Personnel must not have been convicted of:</p> <ul style="list-style-type: none"> ▪ Conspiracy within the meaning of section 1 of the Criminal Law Act 1977 where that conspiracy relates to participation in a criminal organisation as defined in Article 2(1) of Council Joint Action 98/733/JHA (as amended) ▪ Corruption within the meaning of section 1 of the Public Bodies Corrupt Practices Act 1889 ▪ Corruption within the meaning of section 1 of the Prevention of Corruption Act 1906 (as amended) ▪ The offence of bribery ▪ Fraud, where the offence relates to fraud affecting the financial interests of the European Communities as defined by Article 1 of the Convention relating to the protection of the financial interests of the European Union, within the meaning of: <ul style="list-style-type: none"> - the offence of cheating the Revenue - the offence of conspiracy to defraud - fraud or theft within the meaning of the Theft Acts of 1968 and 1978 - fraudulent trading within the meaning of section 458 of the Companies Act 1985 - defrauding the customs within the meaning of the Customs and Excise Management Act 1979 and the Value Added Tax Act 1994 - an offence in connection with taxation in the European Community within the meaning of section 71 of the Criminal Justice Act 1993 - destroying, defacing or concealing of documents or procuring the extension of a valuable security within the meaning of section 20 of the Theft Act 1968 ▪ Money laundering within the meaning of the Money Laundering Regulations 2003 ▪ Any other offence within the meaning of Article 45(1) of the Public Sector Directive as defined by the national law of any relevant state.
3.	At least one member of the Applicant Organisation's Key Personnel must be able to demonstrate at least one year's experience at a managerial level in the five-year period preceding the date of the VHCC Accreditation Application.
4.	At least one member of the Applicant Organisation's Key Personnel must be able to demonstrate at least three years experience delivering Specialist legal advice to the public in the five-year period preceding the date of the VHCC Accreditation Application.

5.	The Applicant Organisation must have, or commit to having in place by the start date of the contract, a written complaints process and/or record/log of client complaints.
6.	Unless exceptional circumstances apply, the Applicant Organisation and its Key Personnel must not, in the three-year period preceding the date of the VHCC Accreditation Application, have received any client or non-client complaints (irrespective of what organisation the Key Personnel were working for at the time) that have been referred to and upheld and sanctions applied by an external Regulatory Body / complaints body in relation to any Category of Law for which public funding is available, irrespective of how the work was funded.
7.	Unless exceptional circumstances apply, the Applicant Organisation and its Key Personnel must not, in the three-year period preceding the date of the VHCC Accreditation Application, have claims for professional negligence from clients or non-clients (irrespective of what organisation the Key Personnel were working for at the time) that have been upheld and sanctions applied by the appropriate Regulatory Body / complaints body or of successful claims of professional negligence in relation to any Category of Law for which public funding is available, irrespective of how the work was funded.
8.	<p>Unless exceptional circumstances apply, the Applicant Organisations must be able to demonstrate that they have (or will have by the start date of the contract) the following insurance in place to protect them, their employees, and the public and to offer effective financial redress to clients:</p> <ul style="list-style-type: none"> ▪ Professional Indemnity Insurance at the level required by us as set out at Clauses 7.4 and 7.5 of the 2010 VHCC Contract Standard Terms. ▪ Public Liability Insurance compliant with current applicable statutory requirements. ▪ Employer’s Liability Insurance compliant with the current applicable statutory requirements.
9.	<p>Unless exceptional circumstances apply, the Applicant Organisations must comply with all relevant workplace legislation as it currently stands, and in particular, with the following:</p> <ul style="list-style-type: none"> ▪ Health and Safety At Work Act 1974 ▪ Equality Act 2010

10.	<p>The Applicant Organisation must:</p> <ul style="list-style-type: none"> ▪ If the Applicant Organisation intends to be an employer during the life of the contract: <ul style="list-style-type: none"> - have written policies in place covering the Applicant Organisation as an employer and as a provider of services to clients, requiring compliance with the statutory obligations under the Equality Act 2010 applicable in England and Wales (or equivalent legislation in the countries in which the Applicant Organisation employs staff); - have a written recruitment and selection policy and procedure that aims to ensure equality of opportunity in employment practices; ▪ Ensure that all current and/or likely clients in the local area(s) in which the Applicant Organisation operates: <ul style="list-style-type: none"> (i) have access to their service notwithstanding any disability; (ii) have any language needs (including but not limited to Welsh speakers) effectively catered for (e.g. by bi-lingual or translation service); ▪ Have adequate technical measures in place, including but not limited to its Information Technology (IT) systems, to keep personal data secure at all times; ▪ Have written policies in place that cover Data Protection – the commitment of the Applicant Organisation’s Key Personnel and all managers to comply with the principles of the Data Protection Act 1998 as amended (or equivalent in the countries in which they operate) and the identification of the person who has overall responsibility for compliance and raising staff awareness; ▪ Have written policies in place that cover Information Risk Management; ▪ Have written policies in place that cover Information Security; ▪ Have written policies in place that cover sanctions if the above policies are not complied with; ▪ Provide training (and/or refreshers) and development on at least an annual basis for managers, staff and/or volunteers in equality and diversity obligations and the Applicant Organisation’s equal opportunity policies and procedures; ▪ Have training (and/or refresher) plans in place to raise and continue to maintain awareness of data protection and information security policies and procedures within the Applicant Organisation; and ▪ Be registered with the Information Commissioner’s Office as a data controller as required under the Data Protection Act 1998 as amended (or equivalent in the countries in which the Applicant Organisation operates), unless the organisation is exempt from registering.
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<p>11.</p>	<p>Unless exceptional circumstances apply, the Applicant Organisation and its Key Personnel must not have been / are not:</p> <ul style="list-style-type: none"> ▪ The subject of findings of unlawful discrimination by an Employment Tribunal, the Employment Appeal Tribunal or any other court or in comparable proceedings in any other jurisdiction, in the three-year period preceding the date of the VHCC Accreditation Application; or ▪ The subject of formal investigations by the Equalities and Human Rights Commission (formerly Commission for Racial Equality, Disability Rights Commission) and the Equal Opportunities Commission or any comparative body in any other jurisdiction, in the three-year period preceding the date of the VHCC Accreditation Application.
<p>12.</p>	<p>Unless exceptional circumstances apply, the Applicant Organisation and its Key Personnel (as applicable) must not have been / are not:</p> <ul style="list-style-type: none"> ▪ The subject of adverse findings, disciplinary sanctions, or other controls or restrictions on their authority to practice relating to act(s) of grave misconduct or breach of professional duties in the course of their business or profession imposed by the Legal Complaints Service (LCS), Solicitors Regulation Authority (SRA), Solicitors' Disciplinary Tribunal, Bar Council, Bar Standards Board (BSB), Adjudication Panel, Disciplinary Tribunal or any equivalent Regulatory Body or complaints body (including, but not limited to, restrictions on solicitors' practising certificates and SRA regulatory agreements) at any time; ▪ In a state of bankruptcy, compulsory winding up, administration, composition with creditors, Individual Voluntary Agreements (IVA), Partnership Voluntary Agreements (PVA) or subject to similar proceedings under the law of any other state; ▪ In receipt of a notice to terminate any contract due to fault (ie. breach of contract) in the three years preceding the date of the VHCC Accreditation application, in relation to any contract with a public sector organisation (including the LAA); ▪ Received a notice to terminate due to fault in the three years preceding the date of the VHCC Accreditation application that includes terms preventing them from applying for any other contract with a public sector organisation (including the LAA); ▪ Convicted of any criminal offence other than those deemed spent under the Rehabilitation of Offenders Act 1974, or any equivalent legislation; ▪ The subject of any intervention by the SRA or any equivalent process by another Regulatory Body in the three years preceding the date of the VHCC Accreditation application; ▪ Upon written request, failed to repay any overpayments, payments on account or other sums owed to a public sector body for which it provides services (including the LAA) by any applicable deadline; or ▪ Upon written request, failed to adhere to a repayment agreement.

13.	<p>Unless exceptional circumstances apply, the Applicant Organisation, its Key Personnel (and any organisation for whom any of the Key Personnel are or were directors/partners/trustees or have or had powers of representation, decision, or control) have, in each of the last three years preceding the date of the VHCC Accreditation Application (or, if the Applicant Organisation has been trading for less than three years, in each full trading year to date) discharged all its/their liabilities in regard to the following within six months of them falling due:</p> <ul style="list-style-type: none"> ▪ VAT ▪ National Insurance Contributions (Class 2 and/or Class 4) ▪ Corporation Tax or Income Tax.
14.	<p>The Applicant Organisation must hold and comply with the Specialist Quality Mark (SQM) or Lexcel quality mark or commit to achieving the SQM within the designated timescales.</p>
15.	<p>The applicant must have been assessed in its most recent Peer Review as:</p> <ol style="list-style-type: none"> a) PR3 minimum on a general crime work Peer Review; or b) “Threshold Competence or Better” on a Peer Review that includes VHCC contracts.
16.	<p>The Applicant Organisation and/or any of its Key Personnel or employees must have Experience of:</p> <ol style="list-style-type: none"> a) At least three Qualifying Cases, at least two of which must have been Prepared to Trial; or b) 500 hours on Qualifying Cases conducted in the Qualifying Period.
17.	<p>The Applicant Organisation must have at least one VHCC Supervisor in place for each VHCC from the Stage 1 Start Date to the Conclusion of that VHCC.</p>
18.	<p>Each VHCC Supervisor must be either a partner, solicitor, solicitor-advocate or employed barrister and:</p> <ol style="list-style-type: none"> a) have eight years’ post-qualification experience; and either b) where the case is a Non-Fraud VHCC, 1,050 hours conducted within the three year period preceding the date of the VHCC Supervisor application on Serious Crime Cases; or c) where the case is a Fraud VHCC, 1,050 hours conducted within the three year period preceding the date of the VHCC Supervisor application on Serious Crime Cases, with at least 700 of those hours on Serious Fraud Work.