

Standing Counsel

Application Pack

September 2024

## About the Competition and Markets Authority

The Competition and Markets Authority (CMA) is the United Kingdom’s primary competition and consumer authority. It is an independent non-ministerial government department and its key responsibilities include:

1. investigating mergers that have the potential to lead to substantial lessening of competition;
2. investigating businesses to determine whether they have infringed UK competition law and deterring such breaches, including by imposing penalties on infringing and seeking the disqualification of directors of those companies involved;
3. enforcing a range of consumer protection legislation; and
4. conducting studies and investigations into particular markets where there are suspected competition and consumer concerns.

The CMA’s responsibilities have increased by the passing of the Digital Markets, Competition and Consumers Act 2024, which establishes a new administrative enforcement model of consumer protection and introduces a statutory pro-competition regime for digital markets through its Digital Markets Unit.

The areas of law the CMA engages with are highly specialised and decisions of the CMA are often fiercely contested by well-resourced parties, with the CMA frequently having to defend challenges in the Competition Appeal Tribunal and the appellate courts. Additionally, where the CMA intends to secure the disqualification of company directors and the parties are unwilling to agree undertakings, the CMA is required to initiate proceedings to obtain court orders.

To continue to achieve successful outcomes in court, the CMA needs to be able to call upon a small group of specialist counsel with particular expertise who are available and willing to give priority to the CMA’s cases and help with providing bespoke training to its staff.

For more information on the CMA see our homepage on [GOV.UK](https://www.gov.uk/government/organisations/competition-and-markets-authority) or follow us on [X](https://twitter.com/cmagovuk), [Facebook](https://www.facebook.com/CMAgovUK/) and [LinkedIn](https://www.linkedin.com/company/3352301/).

## Proposed Arrangement

The CMA first established its Standing Counsel arrangements in 2015 and has since expanded its Standing Counsel panel, first in 2018 and again in 2021. In light of the success of these arrangements, the consistent and rapid growth in the volume and breadth of litigation that the CMA undertakes and the expected increase in the CMA’s enforcement activity upon the commencement of the Digital Markets, Competition and Consumers Act, the CMA wishes to appoint at least six additional junior counsel to its Standing Counsel panel.

In combination we expect these appointments to bring further generalist competition experience for the appointed counsel, as well as particular expertise in:

* digital markets and/or technology regulation to assist with the Digital Markets Unit;
* consumer law to assist with the new administrative enforcement model; and
* director disqualification.

Appointments will be made under the following arrangement:

* the appointment will be for an initial period of three years, with the possibility of an extension for up to a further three years;
* Standing Counsel will be expected to prioritise accepting instructions from the CMA wherever possible;
* before accepting any instructions to act against the CMA, or which might lead to acting against the CMA, Standing Counsel will notify the CMA of the proposed instruction. The CMA will consider these notifications on a case-by-case basis to ensure any such instructions do not risk giving rise to a conflict of interest; and
* Standing Counsel will be expected to deliver training sessions to CMA staff throughout the duration of their appointment.

## Eligibility

The appointment is open to counsel practising in England and Wales, additional qualifications in Scotland or Northern Ireland are beneficial but not required.

Applicants are expected to meet the following criteria:

* at least five years’ experience (usually from the end of the successful completion of pupillage for counsel));
* an extensive and proven track record advising and litigating in one or more of the following practice areas: competition law, consumer law; digital markets and/or technology regulation, public law and/or director disqualification, and a willingness to advise the CMA and develop expertise across these areas;
* proven record as an advocate in the Competition Appeal Tribunal or other relevant courts/tribunals in the UK; and
* demonstrate an appreciation of the special demands of litigating for public bodies.

Please refer to the Frequently Asked Questions section below for further information on meeting these criteria.

## Recruitment and Appointment Process

The appointment will be made with the approval of the Attorney General following this open advertisement and the application process described below.

All applicants will be required to complete a standard application form and provide written examples of their work.

A Selection Board comprising senior representatives from the CMA will consider the applications and select applicants for interview.

Applicants shortlisted for interview will be e-mailed a referee pro forma. Applicants should give the referee pro forma to three professional referees of their choice of which one must be a judge or tribunal chair. Other referees can include instructing solicitors (including government lawyers), senior or other partners in practise.

The choice of referees is important – those who can speak with authority on an applicant’s ability as an advocate are likely to be particularly helpful to the selection board. It is your responsibility to ensure that your referees return the pro formas to the CMA by the required deadline.

Applicants should be aware that interviews are expected to take place during the period 4 November 2024 to 29 November 2024.

The CMA operates an equal opportunities policy and will recommend to the Attorney General the appointment of the best applicants solely on merit following a fair and open competition.

The CMA is keen to achieve diversity in its appointments to standing counsel and committed to eliminating the potential for direct or indirect bias or discrimination on the basis of sex, age, race, religion or belief, marriage and civil partnership, disability, gender reassignment, pregnancy and maternity, or sexual orientation.

### Please see the timetable below for indicative dates:

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| **Element** | **Date** |
| Closing Date | 4 October 2024 (4pm) |
| Interview | 4 November 2024 to 29 November 2024 |

Please note that the dates listed are accurate at the time of writing but may be subject to change. If you are invited to interview but are not able to attend on the given date, we will do our best to arrange an alternative date, but this may not be possible.

## How to Apply

The closing date for receipt of applications is **4pm** on **Friday 4 October 2024.** If you wish to apply, please email the following completed documents to [standingcounsel2024@cma.gov.uk](mailto:standingcounsel2024@cma.gov.uk):

* **Application Form** (Annex A).
* **Written work examples** (one opinion and one skeleton argument) (see also Annex A).

Please include your name when labelling the attachments to the application email. For example:

* [SURNAME, FORENAME] – Application Pack
* [SURNAME, FORENAME] – Opinion
* [SURNAME, FORENAME] – Skeleton Argument
* **Equality and Diversity Monitoring Form** (Annex B). We would be very grateful if you couldcomplete the form. The form will be kept separate from your application form and will not be seen by the Selection Board.

## Queries

If you wish to discuss this role before applying, please contact:

* Stephanie O’Neil, Legal Director at [Stephanie.Oneil@cma.gov.uk](mailto:Stephanie.Oneil@cma.gov.uk)
* James Granshaw, Litigation Director at [James.Granshaw@cma.gov.uk](mailto:James.Granshaw@cma.gov.uk)

For administrative queries about the application process etc, please email [standingcounsel2024@cma.gov.uk](mailto:standingcounsel2024@cma.gov.uk).

## Frequently Asked Questions

### Do I need to be on one of the Attorney General’s (AG’s) panels to be eligible to apply?

No.

### What is the interaction of the CMA’s Standing Counsel appointment with the AG’s panels?

The two panels run in parallel. Counsel may be a member of both. However, appointment as Standing Counsel to the CMA is not conditional on appointment to an AG’s panel.

### How will the appointment of Standing Counsel affect the CMA’s use of counsel from the AG’s panels?

Subject to workload and the nature of the issue, Standing Counsel is generally the first port of call for the CMA’s non-criminal work. Where the CMA does not instruct Standing Counsel on a particular matter it will generally select counsel from the AG’s panels.

### What will be the breadth of Standing Counsel’s work?

The CMA needs advice upon a wide range of complex competition, consumer and public law and director disqualification issues. We expect to involve Standing Counsel in litigation before the Competition Appeal Tribunal and other relevant courts/tribunals in the UK.

### What role will any new appointee have compared with the existing appointees?

Existing and newly appointed members of the CMA’s Standing Counsel panel will work together across the CMA’s case work. The CMA encourages collegiate working across the Standing Counsel panel, including on cross-cutting legal and policy issues. The CMA Legal Service maintains regular dialogue with the Standing Counsel panel to discuss forthcoming cases and allocation of work amongst the panel members. We also prepare quarterly reports and organise quarterly conferences with the full Standing Counsel team.

The future allocation of work will depend upon the CMA’s case load at any point in time, counsel availability and the specific legal issues arising. Where possible, we would expect to provide advocacy opportunities for junior members of the Standing Counsel panel.

### Do I need experience of advising on both consumer and competition law?

The CMA is looking to ensure that it has sufficient expertise in competition and consumer law, as well as public law and director disqualification, across the Standing Counsel panel as a whole. Accordingly, expertise in both competition and consumer law would be helpful but is not essential. More generally, there may be some advantage to counsel having experience across more than one of the CMA’s practice areas.

### Can you give any indication of the hourly rate the CMA is willing to pay?

Not at this stage. In determining the hourly rate the CMA will consider several matters including the particular experience and expertise of the applicant, as well as the AG’s panel rates.[[1]](#footnote-2)

There will be room for an individual discussion concerning the hourly rate with applicants who the CMA is considering appointing to its Standing Counsel panel.

*Will Standing Counsel be paid a retainer during its appointment?*

No. Standing Counsel will be permitted to bill, at its hourly rate, for all work and engagement with the CMA undertaken in its capacity as Standing Counsel, including the preparation and delivery of training events for CMA staff and the attendance at the quarterly Standing Counsel conferences.

### Will Standing Counsel be expected to work exclusively for the CMA?

No. The CMA is sensitive to counsel wishing to maintain a private practice during their appointment. However, the CMA will expect Standing Counsel to be committed to prioritising and delivering its work in a timely fashion.

### How much time does the CMA expect Standing Counsel to devote to its work?

We cannot predict with certainty how much of Standing Counsel’s practise will be devoted to the CMA’s work. This may vary depending on counsel’s area of expertise and the CMA’s anticipated workload. There will be an initial period when existing commitments both of the CMA and counsel will limit the workload.

### Why require Standing Counsel to notify the CMA of any instruction to act against it, or that might lead to acting against it?

Standing Counsel will develop a close relationship with the CMA. The CMA is mindful that Standing Counsel will necessarily be privy to the CMA's developing thinking, guidance and other sensitive insight, including in respect of its litigation and administrative portfolios and associated strategies.

The CMA will consider Standing Counsel’s notifications on a case-by-case basis to ensure any instructions to act against it do not risk giving rise to a conflict of interest in doing so.

### Do I have to be a member of a particular set of chambers or based in London?

No. Each applicant will be considered on their merits only.

### When will I hear about my application?

After the closing date we need to allow time for papers to be distributed to members of the Selection Board. Our target is to notify applicants of whether they have been selected for interview in week commencing 7 October 2024. Following interviews in November 2024, we anticipate being able to make offers in December 2024.

### Who should I select as referees?

Applicants shortlisted for interview will be required to provide references. We expect at least one referee to be a judge or tribunal chair. Judicial references are particularly important: (1) they give us information about an individual’s performance as an advocate in a court or tribunal and (2) advocacy will be an important part of the work of Standing Counsel. Other referees can include instructing solicitors (including government lawyers), senior or other partners in legal practise.

### What happens if one of my referees is late sending in their reference?

If any of your reference forms have not arrived by the deadline, we will contact you. Information contained in references is important to the Selection Board’s decision and if, after contacting you about a late reference, we do not receive all three forms, your application is very likely to be unsuccessful.

### Who sits on the Selection Board and what will the interview entail?

The Selection Board is likely to include the CMA’s General Counsel, Deputy General Counsel and Litigation Directors. The interview will explore the applicant’s experience and understanding of the demands of the CMA’s work and litigation.

### When would the CMA expect Standing Counsel to start?

As soon as possible after appointment subject to transitional arrangements to take account of counsel’s current commitments and CMA’s existing case work.

### How will I deal with existing commitments/cases involving the CMA?

This would be considered on a case-by-case basis; the CMA will respect existing commitments and will want to take care to avoid any perception of a conflict of interest arising.

# ANNEX A: Application Form

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| **Personal Information** | |
| Surname: | |
| Forenames: | |
| Any previous names: | |
| **Your Current Chambers** | |
| Name of Chambers: | |
| Length of time at your current Chambers: **Years:**       **Months:** | |
| Are you content for us to communicate with you at your current Chambers concerning this application? **Yes**  **No**  **(Please provide a communications address and telephone number below.)** | |
| Address of Chambers:                        Tel.:  E-Mail: | Address for Communications  (if not current Chambers):                        Tel.:  E-Mail: |

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| **Your Regular Advocacy Experience** |
| Date commenced regular advocacy (from end of 2nd six months’ pupillage):  **Month:**       **Year:** |
| Less any periods during which you have not undertaken regular advocacy (please detail): |
| Total Regular Advocacy Experience (as of 6 September 2024):  **Years:** **Month(s**): |

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| **Previous Chambers** |
| Please provide name(s) of any previous Chambers and the nature of the work you did: |
| **Your Professional Qualifications** |
| Dates of Bar Society Examinations:  Full time:  Part time: |
| Grades of Bar Society Examinations: |
| **Counsel:** Date of Call:  and, if applicable:  Date you took silk: |

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| --- | --- | --- |
| **Your Degree and Any Post-Graduate Qualification(s)** | | |
| Date | Course/Subject | Result  (including grades) |
|  |  |  |
| If you did not obtain a class 2.1 or higher in your main degree, please say what compensates for this in your view (e.g. other qualifications, experience): | | |

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| Examples of Your Work |
| ADVOCACY  1. Please provide details of **five representative examples** of your advocacy experience detailing what you learned from each. 2. Please provide **a list of cases** of which you have had the conduct over the last year or so, to give a flavour of your practice. The Selection Board wants to know in respect of these cases the areas of law you covered, the courts you appeared in and whether you were led. |
| ADVISORY Please provide details of **five representative examples** of your experience advising on one or more of: competition and/or consumer law, public law or director disqualification issues. Detail what you learned from each of the advisory experiences. You may anonymise your examples, which will be treated by us in confidence in any case. |

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| WRITTEN ABILITY Please attach **one opinion** and **one skeleton argument** as examples of your written work (you may anonymise them and we will treat them in confidence in any case). For opinions in certain matters you should be aware that anonymisation may not be sufficient to prevent a risk of breach of confidence by the disclosure of information that continues to be confidential in character.  Please say in the space below the reasons for your selections and what they show.  Not all of your examples need be of competition and/or consumer law work, though you will appreciate that we are particularly interested in this.  In the case of jointly signed documents, you must confirm that they are principally your own work and our preference is for cases where you have not been led. |

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| GENERAL Please say below, in no more than 400 words, what you think will be the key challenges involved in acting as Standing Counsel for the CMA. |

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| ADDITIONAL INFORMATION Please use the space below to mention anything else in support of your application. |

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| Declaration | |
| I declare that all the information I have given on this form is to the best of my knowledge and belief true and complete. I understand that if it is subsequently discovered that any statement is false or misleading, or that I have withheld relevant information, my application may be disqualified or, if I have already been appointed, I may be removed from the CMA’s panel of Standing Counsel. | |
| **Signature (electronic is acceptable):** | **Date:** |

# ANNEX B: Equality and Diversity Monitoring Form

You are invited to complete the enclosed questionnaire. It is not obligatory. **The information you provide will be treated as confidential and will not form part of the assessment process.** It will be used for statistical purposes only and the questionnaire will be destroyed once the Standing Counsel recruitment has been completed. The statistics that we collect will help us to ensure that appointment to the CMA’s Standing Counsel panel is solely on the basis of merit and that there is no element of discrimination.

Moreover, the intention of monitoring and analysis is to establish if there are different success rates between genders, people of different sexual orientation, ages, different ethnic backgrounds or faiths, and people with disabilities. If there are differences in success rates it will enable action to be taken to ensure that no group is treated unfairly.

|  |  |
| --- | --- |
| Age: | 16-24  25-34  35-44  45-54  55-64  65+  Prefer not to say |
| Gender: | Male  Female  Prefer not to say |
| Gender Identity (if appropriate): | If you identify as transsexual, transgender (in that you have effected a permanent change of gender identity) or as intersex which group do you identify with?  Transsexual  Transgender  Intersex |
| Working Pattern: | Part time  Full time  Job Share  Other |

## Ethnic origin: Please tick against one of the following:

|  |  |  |  |
| --- | --- | --- | --- |
| **Asian or Asian British**  Bangladeshi  Indian  Pakistani  Any other Asian background  Please specify below if you wish |  | **Mixed**  White and Black Caribbean  White and Black African  Asian and White  Any other mixed background  Please specify below if you wish |  |
| **Black or Black British**  African  Caribbean  Any other Black background  Please specify below if you wish |  | **White**  British  English  Irish  Scottish  Welsh  Any other White background  Please specify below if you wish |  |
| **Chinese or Other ethnic group**  Chinese  Any other  Please specify below if you wish |  | Prefer not to say |  |

## Disability: Please tick against one of the following:

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| --- |
| The Equality Act 2010 defines a disabled person as someone with a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.  Do you consider yourself to be disabled in the Act?  Yes  No  Prefer not to say  Please describe the nature of your disability:    *This information is provided for monitoring purposes only – if you need any reasonable adjustments you should arrange these separately.* |

## Religion or belief: Please tick against one of the following

|  |  |  |  |
| --- | --- | --- | --- |
| No religion  Baha’i  Buddhist  Christian  Hindu  Jain |  | Jewish  Muslim  Sikh  Other  Please specify below if you wish    Prefer not to say |  |

## Sexual Orientation: Please tick against one of the following

|  |  |  |  |
| --- | --- | --- | --- |
| Bisexual  Gay Woman / Lesbian  Other |  | Gay Man  Heterosexual / Straight  Prefer not to say |  |

1. Information on AG panel rates is available here: [Attorney General’s civil panel counsel: practical information - GOV.UK (www.gov.uk)](https://www.gov.uk/guidance/attorney-generals-panel-counsel-practical-information#rates). [↑](#footnote-ref-2)