Legal Aid Agency

Criminal Bills Assessment Manual

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Version History

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1	25th April 2013	
2	Oct 2015	Incorporated changes brought in by Legal Aid Transformation Consultation 2013 and changes to Criminal Legal Aid regarding the Anti-Social Behaviour, Crime and Policing Act 2014
3	Jan 2016	Post Consultation changes and updated regarding Contempt of Court
4	July 2017	2017 Standard Crime Contract version
5	Feb 2018	Changes in scope of Prison Law
6	June 2018	Changes to scope of Prison Law
7	July 2019	Changes in relation to the Parole Board reconsideration mechanism
8	January 2020	Adding stalking protection orders to the list of matters funded under prescribed proceedings at Annex A, brought in by the Criminal Legal Aid (General) (Amendment) Regulations 2020 that came into force on 20 January 2020
9	October 2020	Changes in relation to the Sending Hearing Fixed Fee and other minor amendments
10	June 2021	Changes in relation to Pre-Charge Engagement Advice & Assistance
11	November 2021	An amendment to the list of prescribed proceedings at Annex A in respect of the pilot being running in the metropolitan police district to 4 September 2022 on knife crime prevention orders
12	March 2022	An amendment in relation to series of offences in relation to breach of an injunction under Part 1 of the Anti-Social Behaviour Crime and Policing Act 2014 and contempt matters alongside other minor amendments
13	April 2022	Added details of new process for claiming intermediary costs and inserted a new annex detailing the COVID-19 contingencies and the impact on travel claims.
13.1	April 2022	Amendment made to Annex C in relation to police station attendance.
14	October 2022	2022 Standard Crime Contract version
15	October 2022	An amendment at Annex A to reflect the extension of the pilot being run in the metropolitan police district on knife crime prevention orders to 31 March 2023.
16	January 2023	Adding the variation, renewal, discharge and appeals of serious violence reduction orders (SVROs) to the list of prescribed proceedings at Annex A
17	July 2023	Amended section in relation to Police Station work to reflect changes in pre charge bail and claiming Police Station Advice and Assistance
18	Sept 2023	Amended section on hotel disbursement fees
19	Apr 2024	Amended section on Prison Law to reflect changes in the contract and other minor amendments

20	Oct 2024	Adding in a section on DAPNs and DAPOs
21	Dec 2024	Updating sections relating to Criminal Legal Aid Independent Review
22	May 2025	Updating sections on DAPNs and DAPOs
23	Oct 2025	2025 Standard Crime Contract version
24	Dec 2025	Adding a section on parole board referrals to the High Court
25	Mar 2026	Amendments to travel & subsistence
26	Jul 2026	Updated costs assessment guidance for all cases in sections 3, 8 & 9 and specifically for prison law cases in section 13. The updated guidance will be applied to assessments from 31 July 2026.
27	Oct 2026	Annex A updated to confirm that from 1 October 2026 the Crown Court may impose Serious Crime Prevention Orders (SCPOs) not only on conviction but also on acquittal (and where the defendant successfully appeals their conviction) and that criminal legal aid will be available to cover SCPOs on acquittal (and where the defendant successfully appeals their conviction) in the same way as SCPOs on conviction.
28	Oct 2026	Updating 6.15, 6.16 and 14.3 in respect of injunctions under Part 1 section 1 of the Anti-Social Behaviour, Crime and Policing Act 2014 which, on 26 October 2026, separated out into respect orders (Part A1 section A1 of the 2014 Act), youth injunctions (Part 1 section 1 of the 2014 Act) and housing injunctions (Part 1 section 1A of the 2014 Act).

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1. Introduction

1. The guidance contained in this document applies to the assessment of bills in criminal matters and cases (other than in the Crown Court) governed by the 2025 Standard Crime Contract (SCC). If there are any inconsistencies between this document and the SCC, then the SCC will take precedence over this guidance.

2. Separate guidance has been published by the Legal Aid Agency (LAA) relating to the Litigator Graduated Fee Scheme (LGFS), the Advocates Graduated Fee Scheme (AGFS), and Criminal Very High Cost Cases (VHCCs). Attempts have been made to ensure consistency but there are some intentional differences between funding scheme guidance. Where such differences occur, the separate guidance applicable to a particular fee scheme will take precedence over this guidance.

3. Providers undertaking work governed by the SCC are required to keep a detailed record of the work done and costs incurred on each file. This document sets out the LAA's approach to assessing recorded costs. This guidance will be applied by LAA processing centre staff when assessing criminal claims. It will also be used by Contract Managers and Operational Assurance staff undertaking file reviews and Contract Compliance Audits.

4. The Criminal Legal Aid (General) Regulations 2013, the Legal Aid Sentencing and Punishment of Offenders Act 2012 and the SCC should be consulted for an understanding of the scope of Criminal Legal Aid. Cases falling within the scope of Criminal Legal Aid, and completed under the SCC, will be remunerated at the rates set out in the Criminal Legal Aid (Remuneration) Regulations 2013 (as amended) These documents can be located at the following links:
http://www.legislation.gov.uk/
Standard crime contract 2025 - GOV.UK

5. This guidance does not cover the rules and processes for reporting cases to the LAA and separate guidance on the LAA online system, which must be used to claim cases under the SCC, is available at the following link:
CWA codes guidance - GOV.UK (www.gov.uk)

6. The key Representative Bodies have been consulted on the content of this manual and will be consulted each time it is changed. This manual will be reviewed and updated as developments require.

7. Throughout this guidance there are a number of references to the National Taxation Team's 'Compendium', which contains useful case law on criminal costs which may not be reported elsewhere. These authorities relate to previous Crown Court assessments and, while not binding on the LAA, they are to be treated as highly persuasive. Extracts from the Compendium are referred to in the text of this manual where appropriate.

8. References are also made to previous Points of Principle of General Importance (PoP). PoP decisions add clarity or interpret the rules for assessing a claim for costs and once certified are binding on cost Assessors. The PoP manual can be found here:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

Any mention relevant to the PoPs in the guidance will be referenced as "CRIMLA" or "DS".

9. Unless otherwise specified any references to Regulations in the main text means:

i) Criminal Legal Aid (General) regulations 2013 (as amended)

ii) Criminal Legal Aid (Remuneration) Regulations 2013 (as amended)
iii) Criminal Legal Aid (Financial Resources) Regulations 2013
iv) Criminal Legal Aid (Determination by a Court and Choice of Representative) Regulations 2013

10. Any references to Quality Standards mean the Specialist Quality Mark (SQM) or Lexcel.

Useful addresses:

The following address can be used for both the Magistrates' Court Billing Team and the National Crime Application Team (NCAT);

1 Unity Square,
Queensbridge Road,
Nottingham,
NG2 1AW

DX 10035
Nottingham 1

The following can be used for claims for Central Funds:

https://www.gov.uk/guidance/claim-back-costs-from-cases-in-the-criminal-courts

eforms guidance:

https://www.gov.uk/guidance/legal-aid-eforms

Guidance on allowances in Criminal matters (witnesses, professionals and expert witnesses)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592291/guide-allowances-under-part-v-costs-criminal-cases-general-september-2016.doc

2. Basic principles

2.1 General Requirements

1. The basis on which all cost assessments are undertaken is defined at 8.31 to 8.36 of the SCC Specification.

2. All the relevant circumstances of the case including the nature, importance, complexity or difficulty of the work and time involved are considered and a reasonable amount is allowed for all work actually and reasonably done.

3. In accordance with 5.6, of the SCC Specification, time should be recorded in 6 minute units.

4. The onus is on the Provider to provide evidence on file that the work was reasonably done. For each item of work claimed the time spent must be supported by appropriate evidence on file by way of an attendance note or evidence of documentation drafted or perused. Please refer to 8.34, of the SCC Specification.

5. Standardised attendance notes, without any confirmation or reference to specific instructions obtained from or advice given to the client, should not be deemed as satisfactory evidence of the reasonableness of the work done for any but the briefest of attendances.

6. All records of work done should be timed and dated. If they are not, the claim may still be allowed if alternative evidence exists on file showing the date on which the work was done.

7. At the time of audit, Providers must demonstrate that contract work is undertaken in accordance with the terms of the SCC (Standard Terms, 7.6). Consideration should be given to the most efficient way of doing this to ensure that the auditing process is carried out correctly and that claims are properly and efficiently determined. Where the contract for example specifies that work ought to be undertaken by specific individuals (*e.g.* accredited representatives, designated fee earners or solicitors), consideration should be given to identifying those individuals on attendance notes or pro forma documents.

8. Where the attendance note does not justify the time spent, or there is no other evidence on file, the claim may either be reduced or disallowed.

9. Individual attendance notes should be carefully considered but it is also important to look at the total time claimed for advising on particular issues and on the total time expended on the case as a whole. Justification should be evident for any step that is unusual or takes a significant amount of time.

10. Payment will not be made for time spent on purely administrative matters and office overheads (i.e. the costs of running the Provider). Work undertaken by fee-earning staff is not automatically considered fee-earning work for this purpose. See Section 3 (below) for further details of administrative work and refer to 5.48 to 5.50, of the SCC Specification for more details of non-chargeable work.

11. Handwritten notes are acceptable provided the Assessor can clearly see what they relate to. There is no requirement that attendance notes should be typed up.

12. A solicitor is not entitled to be paid for preparing, checking or signing a claim for costs. (R -v- Sandhu - The Taxing Compendium):

"*The drawing of a bill of costs, which by its nature takes place after the proceedings are concluded, could not possibly fall within this definition of legal aid… no such allowance is permissible. The item was rightly disallowed by the determining officer*."

13. A Provider may not make a claim for costs from the LAA that have been incurred due to an error on their part. For example, a letter sent to the client to address an earlier error or omission could not be claimed or the costs of the production of a second Representation Order if the original has been lost by the Provider. Please refer to 5.53, of the SCC Specification.

2.2 Definition of a Fee-Earner

1. Other than work undertaken by an Agent or Counsel it is only possible to pay for work done by a fee-earner under the SCC. This means a solicitor, a legal executive, a clerk or any other person who regularly does work for which it is appropriate to make a direct charge to a client. 2.27 to 2.33, of the SCC Specification indicates that such fee-earners should be designated. In practice, more than one fee-earner may work on the same case and the Assessor should ensure that, where this occurs, there is no unnecessary duplication of work. Please also refer to 4.44, of the SCC Specification.

2. In accordance with 2.31, of the SCC Specification, it would not be expected for a non-designated fee earner to undertake more than 3 hours work a month.

3. In accordance with 2.34, of the SCC Specification, 80% of instances of Police Station Advice and Assistance Matters, and 50% of Advocacy Assistance Matters in the magistrates' court should be undertaken by Designated Fee Earners.

4. An employee of a Provider may act partly as a fee-earner and partly in another capacity. The test is whether it would be appropriate to directly charge the client for the fee-earning part of the work (*R -v- Duxbury* - The Taxing Compendium) –

"*There was no rule or principle which stated that a part-time employee of a solicitor, who otherwise falls within the definition of a fee-earner in Regulation 2, was disqualified from being a fee-earner for the purpose of the Regulations. It was a question of fact to be determined in each case whether the individual concerned was a fee-earner."*

5. A fee-earner does not necessarily have to be a full-time employee, as set out in the PoP CRIMLA 43, see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

2.3 The Role of an Assessor

1. Under the Legal Aid, Sentencing and Punishment of Offenders Act 2013, the Lord Chancellor is the appropriate authority to determine a claim for costs relating to contract work. In practice, the assessment of costs is delegated to LAA staff.

2. In this manual, the term "Assessor" is used instead of "determining officer". The role of an Assessor is to allow such work/time which appears to have been reasonably done by a fee-earner in relation to each type of work specified in the Contract and Regulations and to allow such disbursements as appear to have been reasonably incurred.

3. An Assessor should not be required to "second guess" what a fee-earner has done as this should be evident from the file.

2.4 Exercise of Discretion and the Reasonableness Test

1. In accordance with 8.3 to 8.36 of the SCC Specification, an Assessor must determine whether the work appears to have been reasonably done and whether the time claimed is reasonable. "Reasonable" means what is reasonable for the proper conduct of the case. Reference should also be made to the PoP CRIMLA 38 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

2. Determining reasonableness will involve, in general terms, taking into account all the relevant circumstances of the case including; the nature, importance, complexity or difficulty of the work, the time involved and the client's personal circumstances, including, but not limited to: language difficulties, mental health problems, or age. However, the Assessor should also bear in mind his or her duty to the fund which was set out in the civil case of *Storer -v- Wright [1981] 2 WLR 209:*

"Seeing that there is no one to oppose, it seems to me that, on a legal aid taxation, it is the duty of the taxing officer to bear in mind the public interest. He should ... disallow any item which is unreasonable in amount or which is unreasonably incurred. In short, whenever it is too high, he must tax down. Otherwise the legal aid system could be much abused by solicitors and counsel." (Per Lord Denning MR)

3. As well as assessing individual items of work the Assessor is entitled to look at the claim as a whole. The Assessor should initially undertake a per item assessment and then consider the reasonableness of the total claim. In *R -v- Singh [1997] 1 Costs LR 49* it was held that:

"The proper use of the legal aid fund requires that the efficient are rewarded for the economies of time in and out of court which their efficiency produces. It also requires that the inefficient are not over-compensated by being given an open cheque to take as long as they like. Reasonable economy and dispatch must be required while making proper allowance for matters such as a difficult client and the dangers of hindsight in the unpredictable field of litigation." (Per Henry LJ)

4. The assessing officer should not apply the benefit of hindsight. The claim should be assessed with reference to the information that was reasonably available to the solicitor at the time. In the civil case of *Francis -v- Francis & Dickerson [1955] 3 All ER 836* the test was expressed as follows:

*"When considering whether or not an item in a bill is **"proper"** the correct view point to be adopted by a determining officer is that of a sensible solicitor sitting in his chair and considering what in the light of his then knowledge is reasonable in the interests of his lay client." (Per Sachs, J)*

5. An Assessor must have regard to CLA56 and may only depart form a Provider's use of delegated functions where the Provider's decision was 'manifestly unreasonable' i.e. where the use of delegated functions was plainly unreasonable such that no reasonably competent solicitor, in light of their then knowledge, could have concluded that the sufficient benefit test was met, see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

6. An Assessor must also have regard for CLA59 in relation to the Provider's use of delegated functions when assessing a client's financial means. Note that this does not override any mandatory regulatory or contractual duty relating to the assessment of means, any determination that an individual is financially eligible for legal services must comply with all relevant regulatory and contractual provisions.
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

3. Guidance for all Assessments

3.1 Administrative Work and Overheads

1. Subject to any express exceptions, payment will not be made for time spent on purely administrative matters (5.48, of the SCC Specification). Thus, office overheads are not recoverable under the SCC. Overheads include, but are not limited to: the cost of maintaining premises, taxes, postage, stationery, typing, faxing, and telephone bills.

2. In deciding whether fee-earning work is administrative, consideration should be given to the work that was actually undertaken and not just the person doing the work. The test for fee-earning work is whether it goes directly to the provision of contracted legal services to the client.

3. The cost of undertaking all but exceptional quantities of photocopying in-house is regarded as an overhead expense (see Section 7).

4. Pursuant to 5.49, of the SCC Specification, the Assessor may not allow payment for preparing, checking, or signing a claim for costs. The cost of opening and setting up files, and maintaining time costing records are all administrative costs. However, a Provider may claim reasonable costs for exercising their Delegated Functions, for example to grant Advocacy Assistance in Prison Law Cases, considering next steps and completing the application forms, up to 30 minutes is considered reasonable for this.

5. Courier fees are also excluded unless it is necessary to use a courier to deliver documents as a matter of urgency and the urgency has not been created by delay on the part of the solicitor.

3.2 Attendances

1. Where there have been several attendances on the client, consideration should be given as to whether the later attendances dealt with issues which could have been raised at an earlier stage or dealt with through correspondence. If there are a number of very short attendances, the Assessor should consider whether the time was reasonably spent. It is unlikely that material progress will be made on the case in such a short time period. However, if the matters discussed are relevant it may be appropriate to make a small allowance to reflect the time spent, *R -v- Moss* - The Taxing Compendium:

"In this matter the determining officer disallowed an attendance of 10 minutes as not being fee earners work, because it had to do with questions of listing of the trial.

The Taxing Master said that the facts are that the defendant called uninvited and asked to see the fee-earner in charge of his case. The matters discussed were relevant. A solicitor or his clerk cannot be said to have been acting unreasonably under such circumstances. The Taxing Master allowed what he considered to be a trivial sum so as to underline his view that the regulations do not require the determining officer to be astute to seek ways of snipping of,' small amounts of time here and there in a bill of costs."

2. The frequency and length of the attendances should be justified on file and should relate to all the circumstances apparent from the file.

3. If lengthy attendances are claimed, these should be capable of substantiation by reference to statements taken from the defendant and/or witnesses or a full file note.

4. The solicitor may need to see persons other than the defendant, e.g. witnesses (whether as to fact or character) and also perhaps the prosecution, social services, or probation service. National standards of witness care require legal representatives to ensure that witnesses understand court procedure. Work undertaken attending on a defence witness to explain those procedures should generally be allowed, provided the time spent is reasonable.

5. For any attendance claimed over two units (12 minutes) in length, the Assessor should expect to see some detail showing the instructions taken, or the advice given, or how the case was progressed. This does not mean that every word of the advice given as to the law and procedure needs to be recorded. The longer the attendance claimed, the more detail should be expected. In the absence of either such detail or other relevant supporting evidence it would be appropriate to reduce the attendance allowed. Appropriate supporting evidence could include, but is not limited to:

a) Hand-written or typed notes of the interview with the client.
b) Documentation prepared in the course of or as a result of the interview. For example, an attendance on a witness to take a statement could be evidenced by the presence of the statement on a file.
c) A letter to the client confirming the advice given in interview.
d) Details of the papers considered such as the pages read or summary of the context.

Child Defendants

6. When representing children i.e. those under 18, it could be necessary for the solicitor to spend some time in attending and advising parents, guardians or other relatives. The Assessor should consider the age and capacity of the client and allow such time as is reasonable.

7. The Assessor should, however, ensure that time has not been claimed in respect of unreasonable attendances on parents or other relatives. The Assessor should be satisfied that the attendance in question has materially progressed the case.

3.3 Preparation of Documents

1. When claiming for the preparation of documents, an attendance note should show the time spent in preparation of that particular document (e.g. a statement or long letter) and should normally be evidenced by the existence of that document or a copy on the file. The length or nature of the document should justify the time claimed in its preparation. There are paragraphs specific to prison law and preparation of documents in the general principles section in the Prison Law chapter, below.

2. The length and content of any statements taken from a defendant and/or witnesses should be considered, particularly if lengthy attendances are claimed. As a guide, it will normally take approximately one to two units (6 to 12 minutes) preparation to consider and dictate each page of a simple document. More complex documents may take longer per page and justification for this should be on file (8.31 – 8.35 of the SCC Specification). Any lengthy attendances should be capable of substantiation by reference to statements taken or a full file note or a letter to the client confirming the advice given. The time spent attending the client will not necessarily correlate with the length of any statement prepared. However, for longer attendances the Assessor would expect to see a more detailed justification on file e.g. witness statement, attendance note etc. There may be circumstances affecting the client which may justify a longer than usual attendance e.g. language problems, mental disability, or the case itself may be complex. The solicitor should justify why additional time was spent as part of the claim. Again, see the general principles section in the Prison Law chapter for further detail on this point regarding Prison Law claims.

3. Time spent in dictation of attendance notes, proofs, briefs, etc. should be allowed as preparation, provided that it is reasonable. Proof reading to check accuracy of documents may be allowed as preparation if it is reasonable to do so in the circumstances. No time is claimable for the mechanical preparation of documents i.e. the time spent by a typist or the printing of a document. However, if a fee-earner types his or her own work then reasonable preparation time may be allowed for time spent typing provided that this is done by the same fee-earner who saw the client (and it takes no longer than it would have taken to dictate and check). It may sometimes be more efficient for a fee-earner to input data directly whilst going through papers, rather than spending additional time dictating. In such circumstances time spent inputting data may be allowed provided that it is reasonable and is the most economic means of undertaking the work. An example of this is where a fee-earner directly inputs data into an evidential database resulting in overall savings in the time spent on case preparation.

4. A reasonable allowance, 2 to 3 units, for completion of CRM4 form and compiling documents in support the application, may be made for work undertaken in seeking prior authority. Reference should be made to CRIMLA 67 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

5. In cases where there is evidence exhibited, such as film or video evidence, which would on its own make out a prima facie case, a solicitor, having seen such evidence, would generally be expected to spend a lesser amount of time considering other documents than if such evidence was not present. That is not to say that the solicitor should not be allowed any time for consideration of other documents. The solicitor may also need to spend some time linking the content of witness statements to the visual recording.

6. In complex cases, the volume of served evidence can be extensive. If the documents show a clear prima facie case, then the amount of time required to consider the remaining evidence may be very much less than in a case where the evidence does not set out the prima facie case. In many routine cases the size of the Advanced Information is not so great as to leave much scope for argument as to the amount of time spent by the solicitor on preparation. More detailed justifications are more likely to be required in larger cases which are more complex.

7. It is important to look at the case as a whole, and to take into account all the available information including the number and nature of the charge(s), the defendant's plea, the facts available about the incident resulting in the charge, and to consider the relevance of any time spent by the conducting solicitor in providing advice at the police station.

8. When evaluating the amount of time spent preparing a case, account should be taken of the number of documents a solicitor has had to peruse, including the committal file and/or papers received by way of Advanced Information. The solicitor is required to estimate the number of pages of evidence on the claim form when claiming a Non-Standard Fee. The complexity of a case should not be determined according to the volume of documents alone, but this is a relevant factor.

9. To refuse to allow a solicitor to read all the witness statements contained in the Advanced Information would be unreasonable as it would not enable the solicitor to obtain an overview of the whole case. This may be invaluable later in terms of subsequent cost savings and it would question the solicitor's judgement in a way that could be regarded as prejudicial to the judicial process.

10. There is a difference between reading and considering documents, such as the Advanced Information for the purpose of advising on plea, and detailed consideration of documents by way of preparation for a full hearing, such as a trial. As a rough guide, it takes approximately 2 minutes per A4 page to read and consider the contents of a document. Simple documents may take less time to read and documents of greater complexity may take longer either to read and comprehend, or to compare with other documents, e.g. an expert's report.

11. If a defendant clearly intends to plead guilty, less detailed consideration of documents will generally be needed than where the case is contested. In a contested matter the solicitor will need to consider all the papers prior to the substantive hearing.

12. A solicitor may be entitled to claim as part of preparation work time spent in correcting prosecuting papers, although it would be unusual to do so. Reference should be made to the PoP CRIMLA 16 see: https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

3.4 Legal Research

1. A solicitor who undertakes criminal work is expected to be able to deal with everyday criminal cases without the need to do a great deal of legal research. 5.50, of the SCC Specification provides that unless the case involves a novel developing unusual or complex point of law justifying legal research or an expert opinion from an external advocate, time spent on legal research will not normally be paid as contract work. This rule does not prevent payment for undertaking brief checks of one to two units (6 to 12 minutes) on the current law or the application of the law to the facts of a particular case, provided the time spent is reasonable. However, it would not be expected that such a claim would appear routinely. There would have to be some particular justification e.g. there has been a recent change in the law that may affect the file and the matter has to be considered for that reason.

2. Time spent in researching a novel, developing or unusual point of law or the implications of new legislation may be allowed *Perry and Alexander -v- The Lord Chancellor [1994]* - The Taxing Compendium:

"We are in no doubt that this was a case where Counsel was entitled to spend time both in getting up the law and then applying it to the circumstances of the case."

3. There should be something in the particular case that raises it above the norm in order to justify legal research. Where such a claim is made, the Assessor would expect to see evidence of the research on file, e.g. copies of case reports etc. and some assessment of the effect of the law on the case. A generalised attendance note not backed up by this evidence will be disallowed.

4. Any fee claimed in relation to Human Rights Act 1998 issues should be considered in the context of whether at the time the work was done, it could still be said to be an unusual or novel point of law. The fact that human rights issues are raised will not necessarily mean of itself that the point of law is novel or unusual. It will be a matter of judgment in each case whether the issues are genuinely unusual or novel.

5. A solicitor, who agrees to undertake a particular case, should have sufficient experience and expertise to deal with it properly. The fund should not be expected to meet the extra cost incurred by reason of inexperience. If a case is complex, the Assessor is entitled to assume that it will be conducted by a solicitor with sufficient experience to identify the key issues and decide what documentation requires detailed consideration.

6. If, in a complex case, an experienced solicitor is instructed and is able to deal with the matter in a competent and expeditious manner (including spending only a limited amount of time considering documents as the solicitor has sufficient expertise to be able to ascertain what is relevant and what is not), then he or she may be rewarded through the allowance of enhanced rates of payment. Similar considerations may apply where a solicitor has conducted a complex case personally, rather than referring it to an external advocate (if assigned).

3.5 Multiple Fee-Earners and Fee Earner Changes

1. In exceptional cases, it may be appropriate to allow for the attendance of more than one fee-earner on a client, e.g. a fraud case where preparation work has been divided between more than one fee-earner

due to the volume of papers and complexity of the case. The Assessor should consider any justification as to why the use of more than one fee-earner was reasonable and, in accordance with Part 4.44, of the SCC Specification, should ensure that no duplication of work has taken place.

2. If a solicitor charges for attendance on another fee-earner within the Provider, then the purpose of that attendance should be considered and the cost should only be allowed if it would have been chargeable to a private client and the attendance advances the case.

3. Extra time incurred that arises from conduct of the file changing from one fee-earner to another within the Provider is not allowable where such changes occur through the Provider's own administrative arrangements and the change of fee earner could have been reasonably avoided.

4. Where work on an individual case is delegated within an office, the LAA will apply the maximum fee principle between fee-earners on assessment i.e. it will assess the case as if the work had been undertaken by a single fee-earner. Delegation of work between fee-earners may be remunerated where it can be demonstrated that savings are made elsewhere in the process. For instance, the time spent by a fee earner preparing a note for the advocate attending a specific hearing may be allowed, if there is a corresponding reduction in the amount of time spent by the advocate in preparation for the hearing. The note itself should take less time to prepare than any additional file reading.

5. Time spent by a fee-earner discussing a case with another fee-earner within the Provider is not allowable unless the case requires greater expertise and more than one area of expertise and the discussion occurs at a point in the file where there is need to take or consider specific action. The time spent by the fee-earner with conduct of the file may be claimed as preparation time, provided it is properly recorded and the time would be allowed were the fee-earner to be considering the issues alone. However, the time spent by the other fee-earner is not allowable. The justification for the claim should be recorded on the attendance note if not readily apparent.

3.6 Solicitor Agents and Solicitor Advocates

Solicitor Agents

1. In accordance with 4.8 to 4.12, of the SCC Specification, it may be appropriate in certain circumstances to instruct an Agent, Counsel, or other approved third party.

2. Where a solicitor is instructed by a client at some distance from his or her office, he or she should consider whether or not it would be more appropriate to instruct a solicitor agent to represent the client. Before accepting instructions a solicitor should consider whether it is reasonable to act and it may be proper to decline instructions if a non-local solicitor considers that the costs incurred could not be wholly recovered under the contract *R -v- Goodwin* - The Taxing Compendium:

"The solicitors appealed against the amount allowed for travelling and waiting time and expenses, their practice being based about a hundred miles from the defendant's home and the local court where the case was heard. The Taxing Master held that the determining officer had correctly made his assessment on the basis of what should reasonably have been allowed to a local solicitor."

To that extent the client's choice of solicitor is limited by reasonableness.

3. If a solicitor agent is used, the agent's profit costs may not be claimed as a disbursement and must be included within the solicitor's profit costs claim.

4. Where a Non-Standard Fee is claimed, the use of a solicitor agent should be shown in the schedule of time spent on the claim form. The time spent by the agent should be incorporated into the solicitor's

claim for core costs, although the actual fee paid to the agent is a matter for agreement between the parties and need not be based on prescribed hourly rates.

5. Travel and waiting may only be claimed in respect of Undesignated Standard and Non-Standard Fees. No travel or waiting may be claimed in respect of Designated Standard Fees or Designated Non-Standard Fees.

6. Where the Assessor decides that local agents should have been used to save time and expense, a notional assessment should be undertaken. Reference should be made to the PoP CRIMLA 21 see: https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

In-House Advocates

7. Some solicitors have obtained higher court advocacy rights in criminal proceedings which mean that they have a right of audience in any court in the same way as barristers. Pursuant to the definition outlined in SCC Standard Terms, "Counsel" means a barrister or solicitor with higher rights of audience in independent practice. Conversely, a solicitor with higher court advocacy rights or a Barrister employed in-house (an in-house advocate) will be treated as a solicitor for the purposes of remuneration in the magistrates' court.

8. Where an in-house advocate appears in the magistrates' court as an Assigned Counsel he or she will be entitled to claim advocacy rates in accordance with the rates set out in the Criminal Legal Aid (Remuneration) Regulations 2013. These cases are excluded from the scope of the Undesignated Standard Fee and Designated Standard Fee schemes and are assessed applying the prescribed hourly rates. Preparation for a hearing should be claimed at the hourly preparation rate set out in the Criminal Legal Aid (Remuneration) Regulations 2013.

9. Subject to the exception in para 10 below, and when acting as an Assigned Counsel, in-house advocate's fees should be claimed as profit costs.

10. When an in-house advocate (from a different Provider) provides an opinion (like Counsel), as per 4.13-4.16 of the SCC Specification, that solicitor's charges should be included as a disbursement in the instructing solicitor's bill. This recognises that the solicitor with higher court advocacy rights is providing the same service as a barrister.

11. If an in-house advocate acts as on behalf of his or her own Provider or is instructed as an advocate on behalf of another Provider when higher court advocacy rights are not required, his or her charges must be included in the instructing solicitor's bill as profit costs in the normal way. Where, however, he or she acts as an advocate for another Provider and higher court advocacy rights are required his or her charges may be included as a disbursement in the instructing solicitor's bill in the same way as a barrister's would be.

12. Payment should be claimed at the relevant "preparation rate". If the payment is properly claimed as a disbursement the appropriate hourly rate depends upon the rate which the in-house advocate providing the opinion is entitled to charge. It does not depend upon the rate that the conducting solicitor is entitled to charge.

13. Where work done by an in-house advocate is claimable as a disbursement, it should be shown as such on their claim for payment and any claim for payment on account. In each case, a copy of the receipted invoice should be attached and the form or bill should set out the work that was done and the fact that it was done by a solicitor with higher court advocacy rights. This is necessary to enable the work to be properly assessed.

3.7 Reviewing Interview Records

1. Listening to or watching a recording of the interview is often vital to the proper preparation of the client's defence and particularly important where the client intends to contest the charge or is unsure about plea.

2. It is reasonable in principle for solicitors to listen/watch recordings of police interviews where the client cannot confirm that the police summary is correct provided that the justification for doing so is properly evidenced on file.

3. Previous guidance issued by the Ministry of Justice on how to deal with claims for listening to tapes applies here. This is as follows -

"A determining officer may ask a solicitor or barrister to justify a claim for listening to a tape where the determining officer is not satisfied that it was reasonable to do so. Some examples of circumstances where it would be reasonable are:

a) where the police officer's Record of Interview was materially disputed and resolution of the dispute was relevant to the conduct of the defence
b) where the defendant complained of oppression or circumstances tending to create unreliability in a confession made by the defendant
c) where prosecuting solicitor and/or counsel had listened to the tape in the course of preparing the prosecution case.
d) where the defendant instructed the solicitor to listen to the tape

The examples in the preceding paragraph are not exhaustive and each case must be considered on its own merits. Determining officers should be particularly aware of the need to avoid falling into the hindsight trap in these circumstances. For example, a claim for listening to a tape in a case in which a guilty plea was indicated from the outset may appear unreasonable. However, the solicitor or counsel might justifiably say that the decision to plead guilty was made as a result of listening to the tape in the first place.

The fact that a solicitor has listened to a tape does not mean that counsel must also do so. However where counsel has been instructed by his solicitor to listen then it would be unreasonable to disallow counsel's claim for doing so."

4. If the Provider conducting criminal proceedings also attended the police interview(s) or delegated this to a freelance agent, then any written summary of the interview(s) should be referred to the fee-earner who attended the police station to check whether the record is accurate or adequate. Before allowing payment for listening/watching, Assessors will expect to see a brief note on file confirming the view of the police station adviser as to whether the written summary is accurate or adequate.

5. If a fee-earner decides to listen/watch a record any note produced as a result of this should highlight the relevant passages using real recording times. This will assist the advocate at any subsequent hearing. It is reasonable for an advocate to review the highlighted passages as part of preparation for a trial hearing. If the advocate decides to review the full record then further brief justification must be provided as to the reasons why.

6. Where a recording is reviewed on the basis that the summary or record was materially disputed and the resolution of the dispute was relevant to the conduct of the defence, then it would be reasonable to expect the solicitor to show the summary to the client and for the client to comment on it before the solicitor actually reviews the record. If that is not done the solicitor has no confirmation that the summary is disputed or knowledge of the extent of the dispute sufficient to justify listening/watching to the (whole)

tape. However, if the client is unsure about the summary, then it may be reasonable for the solicitor to listen/watch the tape, provided that the reason for doing so is justified in an attendance note.

7. The length of the record is a starting point for the assessment of what is reasonable but it will not always be necessary for the solicitor to review the whole record (rather than just to the material part) nor would it be reasonable to assume that the record was played through without interruption (i.e. more than the running time of the record may be allowed).

8. Where a Non-Standard Fee is claimed, the solicitor should confirm on the claim form the total time spent watching or listening to recorded evidence.

9. It may be appropriate for a solicitor to review a "no comment" interview to identify the questions which may cause an adverse inference to be drawn. A solicitor may also review a tape to ensure that an interview has been conducted in accordance with Police and Criminal Evidence Act 1984 (PACE) and so that the solicitor is aware of any situational pressures, the client's vulnerabilities, and the conduct of the investigating officer and others involved in questioning the client.

3.8 Correspondence

General

1. Routine letters written and routine telephone calls are paid at the routine rate set out in the Criminal Legal Aid (Remuneration) Regulations 2013. Payment for each of these is on a per item basis in accordance with the SCC.

2. Not every telephone call or letter claimed should automatically be allowed. The assessing officer must make a decision whether it was reasonable to make the call or write the letter and give reasons for any that are disallowed. For example, calls made but unanswered (where no message is left – see below) and calls taken by non fee earning staff would not normally be claimable. As a general rule, for a letter or call to be claimed, it must be with the intent of progressing the case, this includes calls/letters to the court or a prison (for example, arranging to visit a client in prison or making arrangements for a hearing).

3. Letters sent or telephone calls made to correct an error made by the solicitor or to obtain information which could reasonably have been obtained at an earlier interview (in the light of the solicitor's state of knowledge at that time) generally should be disallowed e.g. if an enclosure is omitted and subsequently forwarded under separate cover. Similarly items caused by a reasonable complaint of the client about failure to supply information or reply to a letter should not be allowed save to the extent that the work was in any event reasonably required. The Assessor must be careful not to apply the benefit of hindsight.

4. Where a solicitor telephones/writes to their client reminding the client of an impending court appearance, the solicitor may claim the standard rate for the telephone call or letter. This reminder telephone call/letter is in addition to the current requirement to inform the client of the next court hearing (as required by the Quality Standards). For the avoidance of doubt, reminders by email or text message are also covered by the provisions of this section and may be remunerated as if they were telephone calls or letters.

Letters

5. Where work is undertaken under a Representation Order, a client care letter should appear on file. This will normally be a routine standard letter which should be allowed as such on assessment.

6. When a case is opened, it may be reasonable to separate out the client care letter from any specific written advice being given to the client and to claim for two letters. More than this will not normally be allowed, as any other matters can usually be combined within the two letters.

7. Where the client has failed to give instructions then no more than two further reminder letters should be allowed.

8. For a claim for a non-routine letter to be allowed the time spent must be justified by the substance of the letter. The length of the letter will not itself be determinative of this. A letter of more than one page may be allowed at only the standard rate where, having regard to all the circumstances, including the substantive content of the letter, it was not reasonable for more than 6 minutes to be spent on its preparation. That may particularly be the case where the substance of the letter consists mostly of quotation from another document. Conversely, it may be reasonable to claim more than one unit for a single page letter or less; a concise letter may well take longer to prepare than a verbose letter with the same substantive content, and is likely to be more effective for the client. If this is the case, a short file note should be used to justify this. The letter must not be charged both as a routine letter and also as a time charge.

9. The Assessor may still reduce the time claimed (e.g. to the standard rate) if the content or length of the letter does not seem to justify more. As a rough guide it would be unusual to allow more than the standard rate for a letter which was not more than one page long unless the content of the letter were sufficiently substantial to be likely to take additional preparation time.

10. There is no separate charge for routine letters received. If a complex letter is received e.g. a letter containing an expert's report, then the actual time spent considering the letter may be charged as preparation, provided that it is reasonable.

11. Where a letter is produced to a standard format then the presumption would be that the routine letter rate should be claimed for that letter. Where a routine letter is adapted to include content that is particular to the client's case and materially progresses the case, the time involved in drafting that part of the letter may be allowed as preparation, provided that it exceeds the time threshold set out above.

12. Letters are subject to the reasonableness test in the usual way and where a number of separate letters are produced to deal with matters which could reasonably, conveniently and appropriately have been dealt with in a single letter the costs of the additional subsequent letters should be disallowed on assessment. This also applies to client care letters. It will normally be reasonable for the solicitor to write to the police to obtain copies of the client's interview tape and custody record as these items are not always readily available at the police station (if the solicitor attended). This may require two separate letters if different departments provide this information. The cost of multiple letters sent on the same day may be allowed in circumstances where it is reasonable and necessary to send separate letters (e.g. a case involving a child where copy letters are sent to the child's parent or guardian).

13. The solicitor may, if they consider it appropriate, write to the client after each court appearance, giving details of the decision of the court and the client's next appearance before the court. The solicitor may also write to the client on conclusion of the case confirming the decision of the court. A separate letter to the client advising of file closure/storage arrangements will be disallowed if it was reasonable to combine that information with another letter e.g. the letter to the client with advice at the close of the case. Reference should be made to the PoP CRIMLA 2 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

14. It will not usually be reasonable to allow a claim for a letter written by a secretary or other non-fee-earner without any specific action by the fee-earner, unless it can be construed as fee-earner work and progressing the case, e.g. letter of instruction to an expert or a letter booking a prison visit. An example of a letter that would not require fee-earner work would be the sending of a cheque to an expert.

15. It is good practice to provide covering letters when sending out documents. Sending the document alone may be insufficient explanation to the recipient and retaining only the document on file is insufficient proof of sending. Such covering letters may therefore be allowed at the routine rate.

Telephone Calls

16. If a telephone call is claimed as non-routine attendance, and at preparation rates, a proper record of its content should be provided to justify this claim. The Assessor should consider whether the call was necessary to progress the case, as well as taking into account whether the time spent was reasonable. A call satisfying these criteria and lasting over 6 minutes in length would be likely to justify a claim for attendance. Any call claimed as such must not be simultaneously claimed as a routine item though preparation time (as evidenced by an attendance note) may also be claimed when preparing for a call.

17. The Assessor should look at the work done rather than the role of the person conducting it. Chargeable, fee-earning, work is work for which it is appropriate to make a direct charge to a client. Telephone calls/messages which are administrative in nature may not be claimed as they are overheads. Administrative telephone calls are generally calls to arrange appointments or other calls that have no legal content.

18. No allowance can be made for non-effective or abortive telephone calls i.e. where the line was engaged or the telephone is not answered or a mobile phone is switched off. *R -v- Hudson* - The Taxing Compendium:

"that abortive calls are not to be regarded as "routine telephone calls" within sub-paragraph (e)… It does not seem to justify the disallowance of any routine letter written, or any routine telephone call, other than abortive calls which the last sentence expressly excludes."

Repeated attempts to call the same number will require justification regarding the urgency and importance of the call, time may, in principle, be charged for an attendance note recording repeated attempts to make a call and the reasons for these repeated attempts.

19. Where a message is left (even if a voicemail) the routine rate should be allowed provided this constitutes an attempt to progress the case.

E-mails

20. Where an e-mail is sent instead of a letter then it can be allowed as a letter on normal principles. A printout of the e-mail must be kept on file. No separate claim can be made for sending a hard copy as no extra preparation time is involved. Evidence of all e-mail communication should be retained on file.

21. As with the above paragraph 9, an e-mail of substantial length may be claimed at the preparation rate, if it is reasonable.

22. Internal e-mail communication within a Provider should be treated as an overhead, except where it forms part of case preparation e.g. sending a note for advocate via e-mail. Routine e-mails received are not claimable as separate items. The same principle applies where the same e-mail is copied to more than one recipient, i.e. only one item may be claimed for.

Text Messages

23. If a text message is sent instead of making a routine telephone call, the text may be claimed as a routine call, provided that the reason for using text instead of the telephone is justified on file and the message progresses the case. A text message is not remunerable where it duplicates the content of a

routine letter or call. Care should be taken that a number of short texts (for example to arrange an attendance) made up of a string of messages, that would normally be dealt with as one call if speaking to the client, are not artificially used to claim multiple items.

Faxes

24. Where a letter is sent by fax or attached to an e-mail then it is claimable on normal principles. However, no separate claim can be made for the subsequent hard copy of the letter as there has been no extra preparation time involved. Time spent sending a fax (as opposed to preparing the content of the letter) is administrative work and not claimable.

3.9 Travel and Waiting

General

1. Travel or waiting cannot be claimed separately if the case is undertaken in a designated area (10.72, of the SCC Specification).

2. Police Station Fixed Fees usually include an element of travel and waiting as part of the fees. Travel and waiting time would therefore only be remunerated separate to the fee in exceptional claims. Travel time is also claimable in a select number of areas, as set out in the Criminal Remuneration Regulations, see para 3.9.43 to 46 below for further details.

3. Where a solicitor deals with more than one case on the same day, travelling and waiting time and travel disbursements should be apportioned appropriately between each case provided that there is no double claiming of costs. If work is undertaken on behalf of more than one defendant in the same case, then the solicitor should note the apportionment of costs on the file and the Non-Standard Fee claim form where applicable.

Travel

4. Whenever travel time is incurred, the Assessor should consider whether it was reasonable for the journey to be made and whether the time claimed for that journey is reasonable. There is an expectation that the solicitor will use the most economical mode of transport possible whilst taking into consideration the practical considerations of the case. *R- v -Slessor – The Compendium*

"(a) prima facie the amount to be allowed is the cost of the time expended on and the expenses incurred in making the journey by public transport, provided that public transport is available and is reasonably convenient, having regard to the relevant circumstances in each case;"

5. Both the costs of the disbursement, and the time taken at the profit cost travel rate, should be taken into consideration. Where applicable, and travel time is claimable, both elements need to be borne in mind e.g. whilst travelling by coach may be cheaper than the train in terms of the fare, the total cost to the fund of the former might be greater in the particular circumstances if one adds in the extra time the journey will take at the hourly travelling time rate.

6. First class travel may be claimed, but only where it is explicitly proven to be the most economical fare available at the time and the appropriate evidence is retained on file.

7. The contract does not prevent the solicitor from travelling to attend on Counsel, experts, witnesses or site inspections where it is appropriate to do so. The contract is primarily concerned with the distance between the solicitor and the client. Where it is necessary for the solicitor to travel to see the client at a distance e.g. where the client is in prison, the solicitor must consider whether the client could be referred

to a more local contractor. It is unlikely to be reasonable for a Provider to claim for travel for more than one hour each way.

8. However, it may be reasonable to accept instructions from a more distant client where:

a) There is no other more local contractor available.
b) The client's problem is so specialised that, in the solicitor's reasonable view, there is no more local contractor with the expertise to deal with the case.
c) The solicitor has significant previous knowledge of the case or dealings with the client in relation to the issues raised by the case so as to justify renewed involvement even though the client is at a distance.
d) The local court or the remand centre where the client is located is more than one hour's travelling time away.

9. The greater the distance the greater the justification which will be required.

10. The reason for accepting instructions and or making the journey when the client is at a distance should be noted and kept on the file.

11. The amount allowed in respect of reasonable travel should reflect the full cost and time spent on each journey. Reference should be made to the PoP CRIMLA 33 see: https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

12. Local travel expenses should not be claimed if the solicitor's office is within walking distance of the court. A solicitor is not entitled to claim the cost of travelling from home to the office. *R- v- Slessor – The Compendium*

"(b) a solicitor is not entitled to claim the cost of the time spent or cost incurred in travelling to his office from his home; the journey should be deemed to start from the solicitor's office, unless he in fact started from his home and that was nearer to the court than his office;"

However, see Annex C regarding the impact of COVID-19 and the greater flexibility that the LAA will exercise during and after the pandemic.

13. Providers are not entitled to claim the time or costs for travelling between the Provider's offices unless justified for example if the witness or client requested a meeting nearer to them due to mobility problems. The maximum fee principle will be applied to any claim where staff have travelled from a non-local office or where non-employed fee earner have been used, such as an agent or representative.

14. It would generally be expected for the client to attend the solicitor's office. A solicitor's claim for travelling to attend the client may be allowed only where there is a particular reason for do so and a reason for the client being unable to travel e.g. a client with mobility problems, or the client is in custody or detention. The relevant circumstances should be noted on file. Even where there is good reason to visit the client at home, Providers should consider alternative means of obtaining instructions e.g. by telephone. Where it is deemed that an unnecessary number of journeys are made then the travel claimed may be disallowed.

15. 9.99 of the SCC Specification confirms that the Provider must not claim more than 45 minutes travel time each way on a Police Station Escape Fee Claim. However, as para 9.75A of the SCC Specification sets out, full travel from a specific Attending Duty Scheme to a specific Destination Police Station is claimable, as set out in the Criminal Remuneration Regulations. For the avoidance of doubt, in those instances, travel is not capped at 45 minutes.

16. Furthermore 12.29 of the SCC Specification confirms that the Provider must not claim more than one hour each way on a Prison Law Escape Fee Case. The only exception to this is when a client is moved Prison and the case has already reached the Escape Fee Threshold. In these circumstances a Provider may claim up to three hours travel either way (12.30-12.31 of the SCC Specification).

17. Assessors should note that on occasions a fee-earner may have to travel with bulky case papers and reference books. There is also a security and confidentiality issue in that solicitors must keep the client confidential or sensitive material that they carry safe from interference or theft. In such circumstances it may not be reasonable to expect a solicitor to use public transport. The onus is on the solicitor to provide relevant justification on file. However, see Annex C regarding the impact of COVID-19 and the greater flexibility being exercised during and after the pandemic.

18. The mileage rate outlined at 5.43, of the SCC Specification should only be paid where the use of a private motor vehicle was necessary (for example, because no public transport was available), or where a considerable saving of time is made (for example, where the fee earner would have been required to stay overnight, or leave and return at unreasonable hours, if public transport was used), or the use of a private motor vehicle was otherwise reasonable (for example, where a fee earner needs to carry a large number of sensitive documents)..

19. The mileage rate for the use of a bicycle is 20p per mile.

20. In instances where there is no justification for the use of a private motor vehicle, the cost of public transportation, or a notional public transport mileage rate (25p) may be applied. The public transport rate is a rate per mile calculated to be equivalent to the average cost of public transport. *R- v- Slessor* – The Compendium

“(e) if the journey is one which could have been made by public transport, but is accomplished by motor car purely as a matter of preference, then the allowance to be made for travelling time should be the notional time which would have been taken by public transport, or the time actually spent, whichever is the less: expenses should be calculated on the basis of the "public transport" mileage rate (that rate is calculated by reference to the average cost of public transport per mile)…”

“(f) if public transport is not available or not reasonably convenient, the actual time spent in travelling should be allowed and the expenses should be calculated on the basis of the standard mileage rate…”

“(g) what may be "not reasonably convenient" is a matter of discretion, dependent upon the relevant circumstances of each case, and what is reasonably convenient in one set of circumstances may not be in another; a factor which is always relevant is the time which may have been spent in getting from the starting paint to the railhead, and from the terminus to the Court; if it is considerable, the use of a car may be justified - the Taxing Master urged determining officers to adopt a flexible and broad approach to the problem.”

“Per curiam: so far as expenses only are concerned these rules apply equally to members of the Bar in cases in which it is appropriate to include an element for expenses in the fees allowed, but no allowance for the cost of time spent in travelling is made to them.”

21. The Assessor should allow what is reasonable in the circumstances, bearing in mind that the most economical fare might not always be appropriate. It would be usual to expect alternative quotes to be sought to identify the most competitive route.

22. Invoices/receipts should always be produced in support of claims for travel expenses. Where travel disbursements are claimed, a dated breakdown must be provided in support. Claims for up to £20 will not require substantiation by provision of a receipt or disbursement voucher, but should be justified on file. All

expenses of £20 or more (excluding mileage) must be substantiated by the relevant disbursement voucher or an explanation why it is not available on the file.

23. If prior authority has been obtained to cover the expense, then the voucher and a copy of the authority must be available but there is no need to justify why the expense was incurred, unless the amount exceeds the prior authority given.

24. The ticket and/or an internet print out for the journey undertaken should be provided alongside the evidence that the fee for the journey has been paid. The onus is on the Provider to ensure that clear evidence is presented on the file in order to justify and identify any disbursements claimed. Such evidence should refer to the particular journey, the date of the journey, the class of fare, the price of the disbursement, and the case concerned.

25. The cost of travel by air may only be allowed if there is no reasonable alternative and the class of fare is reasonable in all the circumstances, or if air travel is more economical taking into account the time saved. This applies equally to travel on internal and international flights. If the Assessor determines that it was unreasonable to use air travel, the appropriate rate for travel by an alternative means of public transport should be allowed.

26. Where taxi costs are claimed but public transport alternatives are available claims may be assessed to the cost of public transport unless evidence is provided that this was unavailable or inappropriate.

Waiting

27. A solicitor may have very little control over the amount of time spent waiting at court for the case to be called. The Assessor should only disallow this element of a claim if it appears excessive i.e. in excess of 20 units (2 hours) as a rough guide. A note must be included on the file to outline why any excessive waiting time has been claimed.

28. A solicitor cannot claim as waiting time the period spent at court over the luncheon adjournment *R -v- Varney* - The Taxing Compendium –

"The Taxing Master said that a court rises at mid-day to enable those appearing before it to obtain refreshment and if this time is not occupied in any meaningful work, such as attendances and short conferences with counsel, it should not be treated as time during which a solicitor would expect to be working and for which he would make a charge to his client."

29. This time may be used to undertake preparation work which may be remunerated according to the usual principles i.e. reasonableness.

30. If the solicitor attends on the client or Counsel during waiting time then this should be claimed as attendance and care should be exercised to ensure that there is no double claiming. It would not be reasonable for a solicitor to claim waiting time, plus a separate attendance.

31. Courts may "double list" trial hearings to ensure that court time is used efficiently. If a case is "stood out" at the last minute due to a re-listing, the waiting time incurred should normally be allowed as the solicitor is not responsible for the double listing.

Overnight Expenses

32. The cost of overnight accommodation should only be allowed if the Assessor is satisfied that an attendance at a distance is justified and that the need for an overnight stay is justified. Even if it is

reasonable for a solicitor at a distance to accept instructions, it may be appropriate to use a local agent at some stage in the case. Reference should be made to the PoP CRIMLA 31 see: https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

33. LAA caseworkers have discretion to agree higher overnight hotel costs where providers are able to show a lack of suitable accommodation within the guideline rates, or that prices have temporarily increased due to seasonal demand or public events. A contemporaneous screenshot from a booking site should be provided showing a comprehensive search of available hotel rooms/apartments for the required dates. Where providers have incurred costs for accommodation which has been cancelled, caseworkers will consider allowing claims where it can be demonstrated that the booking was made in good faith, and the hotel has confirmed that a refund will not be offered.

34. The LAA accepts that block-booking accommodation for longer running trials can often be more cost-effective than booking on a weekly basis and can consider requests for retaining hotel rooms or self-catering apartments over the weekend, provided that the overall cost does not exceed what would be reasonable to pay for the sitting days only.

35. For example, a two-week trial in Manchester comprising ten sitting days would attract an accommodation allowance of £1200 at £120 per sitting day. If accommodation could be retained for twelve nights, to include the weekend, at £1200 or less, the LAA would consider this reasonable.

36. Where overnight expenditure can be reasonably justified (with receipts), taking into consideration all circumstances of the case, the following/rates will apply:

Overnight Expenses	**Rates (pre 1st September 2023)**
Overnight Hotel – London, Birmingham, Manchester, Leeds, Liverpool or Newcastle-upon-Tyne city centres	Up to £85.25 per night
Overnight Hotel - elsewhere	Up to £55.25 per night
Night Subsistence	Up to £21 per night
Personal Incidental	Up to £5 per night
Overnight (other than at a hotel)	Up to £25 per night

37. The overnight expenditure charges were uprated from the 1st September 2023, and for disbursements incurred from that date the following/rates will apply:

Overnight Expenses	**Rates**
Overnight Hotel – London, Birmingham, Manchester, Leeds, Liverpool or Newcastle-upon-Tyne city centres	Up to £100 per night
Overnight Hotel - elsewhere	Up to £65 per night
Night Subsistence	Up to £21 per night
Personal Incidental	Up to £5 per night
Overnight (other than at a hotel)	Up to £25 per night

38. The overnight expenditure charge were uprated from the 5th December 2024, and for disbursements incurred from that date the following rates will apply:

Overnight Expense	**Rates**
Overnight accommodation (hotel or serviced apartment) – London (inside M25)	Up to £165 per person per night (including VAT)
Overnight accommodation (hotel or serviced apartment) – elsewhere	Up to £100 per person per night (including VAT)
Overnight subsistence	£25 per night
Overnight (other than at a hotel)	£25 per night

39. The overnight expenditure charge were uprated from the xx March 2026, and for disbursements incurred from that date the following rates will apply:

Overnight Expense	**Rates**
Overnight accommodation (hotel or serviced apartment) – London (inside M25)	Up to £165 per person per night (including VAT)
Overnight accommodation (hotel or serviced apartment) – Birmingham, Manchester, Leeds, Liverpool and Newcastle upon Tyne	Up to £120 per person per night (including VAT)
Overnight accommodation (hotel or serviced apartment) - elsewhere	Up to £100 per person per night (including VAT)
Overnight subsistence	£25 per night
Overnight (other than at a hotel)	£25 per night

*note the personal incidental allowance has been removed and is now included in the overnight subsistence amount.

Congestion Charging(including Ultra Low Emission Zones) and Toll Roads

40. Where a solicitor's usual daily commute triggers a congestion charge/toll that charge should not be claimed on work done in relation to a case.

41. There is a general presumption that public transport will be used, however should a fee-earner drive into an area that triggers a congestion charge/toll (who does not normally do so), within charging hours, and specifically for the purposes of a case, they may claim for those costs incurred. Whenever a congestion charge/toll is incurred it is subject to reasonableness.

42. Fee–earners based at a solicitor's office outside a charging area may claim the congestion charge/toll as a disbursement, subject to the considerations outlined below as to its reasonableness.

43. The additional cost of a congestion charge/toll should be considered when deciding the reasonableness of travel by car. If public transport is widely available within an area, it is the solicitor's responsibility to note on the file the reasons why private transport was used. Where there is insufficient

evidence on the file in order to justify the use of private transport, the notional public transport mileage rate or the cost of public transport will apply.

44. If a solicitor undertakes a journey including a toll road, this may be deemed a reasonable disbursement. Evidence should be included on the file in order to justify why this was the most economical route.

45. If there is no charge for additional travel on the same day, the charge/toll should be claimed as a disbursement if it has been triggered only as a result of the work on the particular case, and would not otherwise have been incurred. Where several journeys are made on the same day, the Provider must ensure that a claim for the charge/toll has not been duplicated on more than one file. It is not necessary to apportion the charge between clients as it will be triggered by the first incidence of travel and should be credited to the first client attended.

46. The fund will only be responsible for a charge itself and will not pay any surcharge or penalty levied for late payment.

47. The charge is outside the scope of VAT so VAT cannot be claimed.

Travel to and from a Destination Police Station

43 As set out in para 9.75A of the SCC Specification, travel time may be claimed at the hourly rates specified in the Criminal Remuneration Regulations for attendances at specified Destination Police Stations. This travel time may be claimed in addition to the Police Station Fixed Fee or Escape Fee payable, may be claimed in both Duty Solicitor and Own Client attendances and is not capped to 45 minutes each way. The travel time may only be claimed where:

- The attendance is at a Destination Police Station in a Destination Duty Scheme. The Destination Police Stations and Destination Duty Schemes are set out in Annex A of the Guidance for Reporting Crime Lower Work; and
- The travel is from an Office in an associated Attending Duty Scheme. For Duty Solicitor attendances, this means it is travel to and from an Office that is a member of an associated Attending Duty Scheme. For Own Client attendances, this means it is travel to and from an Office whose postcode is within the associated Attending Duty Scheme as set out in the Duty Solicitor Postcode Tool. The Attending Duty Schemes are set out in Annex A of the Guidance for Reporting Crime Lower Work.

44 Where a provider in an Attending Duty Scheme covers Police Stations both within the Destination Duty Scheme and outside of it, travel time may only be claimed for attendances at the Destination Police Stations within the Destination Duty Scheme and not for attendances at the Police Stations outside of the Destination Duty Scheme.

Example:

- The rota for the Newark Attending Duty Scheme operates out of Mansfield Police Station.
- Mansfield Police Station is not a Destination Police Station, and Mansfield is not a Destination Duty Scheme, so travel time may not be claimed for attendances at Mansfield Police Station made under the Newark Attending Duty Scheme.

- Travel time may, however, be claimed for any attendances at any Destination Police Station within the Newark Destination Duty Scheme, where it is from an associated Attending Duty Scheme.

45. If a Provider outside of the Attending Duty Schemes is instructed to act in a Destination Duty Scheme Matter then they cannot claim the extra travel time. Furthermore, if they instruct an Agent/Police Station Representative in such a Matter, they cannot claim the extra travel time, regardless of the location of the Agent/Police Station Representative.

46. The extra travel time claimable is used in calculating whether a Police Station Matter is claimable as an Escape Fee Case (para 9.75C of the SCC Specification), furthermore, these costs are not capped at 45 minutes as in normal for Escape Fee Cases.

3.10 Non Legal Support Service for Defendants

1. Criminal Legal Aid exists to secure legal services for individuals subject to criminal investigations and criminal proceedings. As well as the services themselves, it funds expenses that are incidental or conducive to those services, such as travel costs for solicitors and experts.

2. Some support services are available for defendants or defence witnesses who are deemed to be particularly vulnerable. These services support and prepare the individuals for their appearance at court, and assess them for the equivalent of the special measures provided for victims and witnesses.

3. In exceptional circumstances it may be reasonable for the Provider to claim for defendant's travel expenses (please refer to section 8 below).

4. The Appeals Procedure on Costs Assessments

4.1 Basis of Assessments and Appeals

1. Any assessment made under 8.31 to 8.36, of the SCC Specification shall take place on the basis of determining whether work was actually and reasonably done and any disbursements actually and reasonably incurred. A determination will be made as to whether time spent is reasonable in accordance with the requirements of the Contract, having regard to the published Guidance, and applying the remuneration rates set out in the Criminal Legal Aid (Remuneration) Regulations applicable.

2. If a Provider or Counsel is dissatisfied with a decision made in relation to the assessment of contract work, it may be appealed to an Independent Costs Assessor subject to any informal review (see 4.4 below). The appeal must be made in writing (setting out full reasons) within 28 days of notification of the assessment decision, and must be accompanied by the file. Please refer to 8.20 to 8.30, of the SCC Specification

3. If the Provider has not complied with this requirement, or has not requested and subsequently granted an extension to this time frame (in accordance with 8.21, of the SCC Specification) then the Provider will lose their right of appeal.

4.2 Items Disallowed and Provision of Reasons

1. If an item is disallowed then a sufficiently detailed reason should be provided to enable the solicitor to challenge the decision on appeal. Reasons do not need to be lengthy but should provide a clear and coherent explanation of why an item was disallowed. This does not, however, preclude the LAA from reducing claims for work without specifically identifying those items of work disallowed.

An assessment on a global disallowance of costs is allowed (*R -v- The Supreme Court Taxing Office ex parte John Singh & Co.*- The Compendium

"...the notice of appeal ... essentially challenged the Determining Officer's right to stand back from the individual items in the bill and determine that the aggregate produced from those individual items, although not capable of being impugned as separate items, nonetheless produced a result which established that the time claimed was unreasonable. It seems to me that that must be one of the necessary functions of the Determining Officer, once he has carried out what might be called the audit exercise in relation to the individual items on the bill."

However, the decision must not be arbitrary and proper reasons should be supplied (*Miller Gardner (Solicitors) -v- Lord Chancellor [1997] 2 Costs LR 29*):

"The appeal does perhaps raise a general point as to the extent to which it is necessary for the Master, when following the Singh approach, to spell out his reasons in detail. However, I do not think it is possible to give a general answer. The nature of the exercise, being based on application of experience, rather than detailed analysis, inevitably involves an element of "feel", which it may not be possible to express very precisely. On the other hand it should not be seen as purely arbitrary".

2. Care must be taken not to penalise the solicitor twice. If the number of hours claimed is reduced as unreasonable, then a separate adjustment should not be made to the care and conduct percentage for the purposes of an enhancement calculation. The aim is to strike a balance between reasonable

remuneration for solicitors and protecting the fund against paying for more hours work than were reasonably necessary for the task. The taxing authority is entitled to look at the total hours claimed for each class of work done to assess globally what was reasonable.

Notification of Outcome

3. If an error occurs in the notification of the assessment of the claim the normal rules of estoppels apply. Reference should be made to the PoP CRIMLA 26 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

4.3 Appeals

1. Where an assessment is carried out after a credit has been given in relation to any Matter or Case, then that credit may be adjusted accordingly. This relates to assessments against Non-standard and Designated Area Non-Standard Fee claims where assessments are carried out on each individual claim.

2. The setting off of credits against Standard Monthly Payments will be without prejudice to the LAA's right to assess Claims. This relates to claims made on the solicitors' standard monthly submission where assessments are made on a Criminal Contract Compliance Audit.

3. If an appeal is lodged, or the solicitor requests the regional office to review the decision, then the original decision should be reviewed internally to see whether it is justifiable. Particular attention should be paid to the quality of the reasons provided for the original decision. If it is determined that the decision remains justifiable but for different reasons from those originally given, this should be recorded and the solicitor notified. If the Assessor decides to allow the costs disallowed on review, this should be recorded and the standard letter of notification should be sent.

4.4 Appeal to an Independent Costs Assessor

1. An appeal to an Independent Costs Assessor (ICA) is the separate and final stage of the appeals process.

2. On receipt of an appeal to the ICA from the solicitor or Assigned Counsel, the Legal Director will ask the regional office to forward the agenda item (with attachments) to be considered by the Assessor.

3. Following an internal review, if it is determined that the original decision remains justifiable the case should be referred to an ICA.

4. On review, the ICA may confirm the amount originally allowed, increase it or decrease it. All aspects of a claim are automatically "at risk" when an appeal is lodged as the ICA will look at the entire case afresh. The onus is on the solicitor or Counsel to ensure that any representations which he or she may have regarding any aspect of the claim are before the ICA and are not confined to the specific points raised in the appeal itself. The papers relating to the original claim and any supporting submissions made will be placed before the ICA as part of the appeal. The LAA also has the right to make written submissions to the ICA (8.23, of the SCC Specification) which will be copied to the Provider.

5. ICAs deal with most appeals on the papers only. Permission for an oral hearing may be granted in exceptional circumstances. If there is a hearing, the ICA need not adjourn if they are minded to reduce or disallow any aspect of the assessed claim (even if this did not specifically form part of the solicitor's or counsel's appeal). However, appeals administrators and Internal Reviewers should ensure that there is no breach of natural justice in such cases. Further clarification is provided by the PoP CRIMLA 28 and the PoP CRIMLA 53 see:

https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

6. The ICA may determine an appeal without considering the solicitor's file of papers provided that they have sufficient information to determine the appeal or the solicitor has been given an opportunity to submit the file and has failed to do so. Where doubt arises, it is good practice to adjourn to enable the file to be supplied. The ICA may determine an appeal on a sample of files and then direct that their decision applies to other outstanding assessments.

7. If the ICA is of the opinion that there must be an oral hearing, a solicitor or Counsel may attend the hearing of an appeal against a costs assessment at their own expense to support written representations. The ICA may also be of the opinion that an appeal is of such complexity or value that it must be dealt with by way of oral hearing before a panel of three Assessors.

8. The LAA may also be represented at the hearing. The purpose of the LAA representative's attendance will be limited to responding to any requests for clarification from the ICA or any representations made by the solicitor (8.26, of the SCC Specification).

9. Once the ICA has made a decision there is no further right of appeal.

5. Police Station and Criminal Investigations Work

5.1 *Regulations*

1. Police Station Advice and Assistance is provided under Part 2 of the Criminal Legal Aid (General) Regulations 2013. This should be read alongside Section 13 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which determines the Director of Legal Aid Casework, in the context of police station work, to fund such Advice and Assistance as it considers appropriate.

2. Police Station Advice and Assistance can be given either by a duty solicitor or the client's own solicitor. Criminal Legal Aid can only pay for advice if that Provider holds a Contract. Subject to local arrangements Duty work can only be claimed for a scheme for which the Provider is eligible.

5.2 *Scope*

1. The scope of Police Station Advice and Assistance is defined in the Criminal Investigations Class of Work (9.1 of the SCC Specification).

2. Police Station Advice and Assistance, Police Station Telephone Advice and Police Station Attendance (subject to certain limitations) can be provided to a client who:

a) is arrested and held in custody at a police station (under arrest by police or Revenue and Customs). If a constable (as defined in 1.1, of the SCC Standard Terms) is not present even though PACE may apply e.g. investigations by local authority, gas, water or electricity investigators, Post Office, Benefits Agency etc… payment cannot be made under these provisions; Free-Standing Advice and Assistance may be available but is subject to financial eligibility; or
b) is a volunteer (defined in regulation 12 of the Criminal Legal Aid (General) Regulations 2013. See also Point of Principle DS6; or
c) is a member of the armed forces being interviewed in connection with a Serious Service Offence (as defined in 1.2, of the SCC Specification).; or
d) is detained under Schedule 7 of the Terrorism Act 2000; or
e) is the subject of an identification procedure carried out by means of video recordings who is not present at a police station at the time the procedure is carried out, i.e. the witness is shown the video and asked to identify the suspect, the images to be used are initially selected by the police, the client is not in detention at the relevant time. Claims for such work will be assessed on the basis of reasonableness and whether the solicitor's attendance in the absence of the client materially progressed the case.

3. An interview with a client who is arrested and held in custody or a volunteer can take place at any premises. It does not have to be a police station and could be elsewhere. The crucial element of the definition is that a constable must be present.

5.3 *Unique File Numbers*

1. Providers must assign a Unique File Number for each Matter. A separate UFN must be assigned to each individual client advised at the police station even if they are co-suspects. This is because a separate claim is made for each client and the time spent must be apportioned where necessary (9.130, of the SCC Specification). Separate UFNs should be allocated if separate matters are being investigated.

2. The UFN will be the same throughout the life of the case.

3. If only Police Station Telephone Advice is given then the telephone note should be held on a central file by the Provider and each note will require a UFN to be assigned to it.

4. A DSCC reference number must be provided on the file.

5.4 *Duty and Own Solicitors and Representatives*

Introduction

1. Duty Solicitors and Representatives are defined in 1.1 of the SCC Standard Terms and 1.2 of the Specification respectively.

2. The Defence Solicitor Call Centre (*DSCC*) is an independent contractor which on behalf of the LAA deals with requests for Advice and Assistance at the Police Station.

Duty Solicitor Service Obligations

3. The service obligations of duty solicitors are at the police station are outlined in 9.37 to 9.42, of the SCC Specification.

Rota and Panel

4. The reference to *Rota* means a list of Duty Solicitors to provide Advice and Assistance or Advocacy Assistance at Magistrates' Courts and Police Station Advice and Assistance over a given period.

5. The reference to *Panel* or *Panel List* means an arrangement by which the DSCC telephones Duty Solicitors on a Duty Solicitor Scheme in sequence to identify a Duty Solicitor available to provide Advice and Assistance at a Police Station when the rota duty solicitor is not available.

6. A Duty Solicitor is usually on rota duty for all or part of the day. Rota Duty Solicitors are required to accept duty cases unless they are already dealing with a previous Duty case or there is a conflict of interest (9.47, of the SCC Specification).

7. Where there is a panel arrangement the Call Centre telephones the solicitors on the panel until finding one willing to take the case. Panel Duty Solicitors are not obliged to take a duty case offered to them but must use all reasonable endeavours to accept the Matters referred by the DSCC (9.20, of the SCC Specification).

Duty Solicitor Cases

8. Duty Solicitor work differs from own solicitor work, as it attracts higher hourly rates for calculating whether a case exceeds the Escape Fee Threshold, and for payment once the Threshold has been exceeded. Additionally, it entails different service obligations (for instance, it may not be undertaken by a probationary representative). If work is deemed to be Duty Solicitor work, then Duty Solicitor rates apply and compliance should be ensured with the relevant service obligations.

9. Work is always deemed to be Duty Solicitor work if both of the following apply: -

a) The case is accepted from the Defence Solicitor Call Centre, or accepted at the police station as Duty Solicitor and notified to the Call Centre and
b) The work takes place before the end of the duty period (for rota cases) or is initial advice (for panel and backup cases).

10. All other attendances shall be treated as own solicitor.

Duty Solicitor Serious Offence Rates

11. The Duty Solicitor serious offence rates only apply to claims relating to:

a) Attendances undertaken by a Duty Solicitor engaged by the Provider throughout a Duty Period; **and**
b) Attendances that take place after acceptance of a Matter up until the point when the Client is released from the initial continuous period of custody.

12. These rates can be used to determine whether a case meets the Escape Fee Threshold.

13. The list of offences to which this rate relates is exhaustive and is found in 9.96 (a), of the SCC Specification.

Duty Solicitor Unsocial Hours

14. Enhanced rates for unsocial hours can be used to determine whether a case meets the Escape Fee Threshold. "*Unsocial Hours"* means between the hours of 5.30pm and 9.00 am on any Business Day and any time on a day which is not a Business Day. The relevant rates are outlined in the Criminal Legal Aid (Remuneration) Regulations applicable.

Own Solicitors

15. Own solicitor police station attendances and police station telephone advice may be undertaken by a Representative (including a Solicitor who is also a Representative), or where the Contractor is a member of the VHCC Panel, a solicitor.

Probationary Representatives

16. Probationary Representatives cannot advise on indictable only cases save where the police start to investigate on the basis of an either way or summary-only case and they subsequently decide to investigate an indictable only offence and there is no suitable break in the interview for a solicitor or accredited representative to take over.

17. If a probationary representative advises the client on an indictable only matter, the claim will be nil assessed unless it was not clear at the point of initial attendance that the matter was indictable only, in which case payment is allowed up until the point when it became clear. The custody record may be used to establish this. The onus is on the Provider to justify why a probationary representative continued to advise the client in such circumstances. Payment will not usually be allowed for any work in relation to an indictable only matter.

18. A Probationary Representative must only provide Police Station Advice and Assistance for the Provider at which his or her supervising Solicitor is based (9.30, of the SCC Specification). Such staff are still in a training role and are therefore likely to require closer supervision.

Solicitor Agents

19. A solicitor agent may be used to undertake police station work (4.9 of the SCC Specification) subject to the rules about designation of fee-earners (2.30, of the SCC Specification). Cost effectiveness is a relevant factor in determining whether an agent should be instructed. Reference should be made to the PoP CRIMLA 31 see:

https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

5.5 *Criminal Defence Direct*

1. Matters which fall within the scope of Criminal Defence Direct are excluded from the scope of this Contract. 9.3, of the SCC Specification details the exclusions which apply.

2. A claim may be made for Police Station attendance on any Matter that is initially excluded if one of the conditions contained within 9.4, of the SCC Specification applies and the Sufficient Benefit Test is met.

3. In accordance with 9.90 (b), of the SCC Specification, the Criminal Defence Direct acceptance fee cannot be claimed separately. This forms part of the Police Station Fixed Fee claim but can be factored in to the calculation when determining the Escape Fee Threshold.

5.6 *Immigration*

1. Details as to how to proceed where it is apparent, or becomes apparent, that an immigration issue arises can be found in 9.58 to 9.63, of the SCC Specification.

Immigration Offence Cases

2. Duty solicitors must accept such cases when they are referred to them by the Call Centre and failure to do so could result in suspension or removal of the duty solicitor.

3. Where Advice and Assistance is provided and it is apparent, or becomes apparent, that an immigration issue arises, the Provider must give Advice and Assistance up until the point where the immigration authorities take over conduct of the case and it has been confirmed that no criminal offence or charge is being pursued. 9.62, of the SCC Specification outlines how this point should be determined and verified by the Provider.

Immigration Authorities Cases

4. If the immigration authorities are involved with a case and no criminal offence is being investigated then there is no requirement under the SCC to provide Advice and Assistance. The Provider should then refer the case back to the DSCC or otherwise consider whether it is practicable to refer the case to a local Provider with a contract in the Immigration and Asylum Category of Work.

5. Pursuant to 9.61, of the SCC Specification, Police Station Advice and Assistance must not be given where:

a) an individual is detained after entry and is served with illegal entry papers or a notice of intention to deport; or

b) an individual is detained by the immigration authorities on entry; or

c) an individual is arrested by police on behalf of the immigration authorities where no criminal allegations are made and is detained under the immigration authorities' administrative powers.

5.7 *Advice Abroad*

English Law

1. A solicitor may claim for Advice and Assistance given only in a matter of English law (Section 152 of the Legal Aid, Sentencing and Punishment of Offenders Act). If a suspect is being investigated or prosecuted by authorities outside of England and Wales, no payment can be made.

Investigations Abroad

2. If a police force in England or Wales or Revenue and Customs are investigating a case and require investigations to be conducted abroad (e.g. to interview a witnesses who is abroad or to conduct an identification parade) then payment can be made subject to the usual rules as to whether the expense is reasonable. An exception to this is for investigations by services police, which are not covered if an attendance takes place outside the UK (9.54 to 9.57, of the SCC Specification).

3. It should also be noted that it is possible to appoint a solicitor agent in connection with Police Station Advice and Assistance (4.9, of the SCC Specification). These rules also apply to investigations in Scotland.

Providing Advice and Assistance to witnesses

4. In the case of a witness who does not meet the definition of a volunteer, it must be demonstrated that they require advice regarding the risk of self-incrimination (Regulation 12(2) (i) of the Criminal Legal Aid (General) Regulations 2013).

5.8 *Payment for Police Station Work*

General

1. The costs of all Police Station Attendance work in a Matter should be submitted as a single claim and the relevant Police Station Advice and Assistance Fixed Fee will be paid.

2. The Police Station Advice and Assistance Fixed Fee covers all Police Station Attendance (pre-charge, but excluding Pre-Charge Engagement work) work provided to one Client in a single Matter.

3. Where the same Matter also includes Freestanding Advice and Assistance and/or Police Station Telephone Advice one Police Station Advice and Assistance Fixed Fee will be paid.

4. The Police Station Advice and Assistance Fixed Fees are set out in the Criminal Legal Aid (Remuneration) Regulations. The Fixed Fees vary by Duty Solicitor Scheme.

5. The relevant Fixed Fee is the fee for the Duty Solicitor Scheme in which the first attendance takes place irrespective of whether the Matter originated or is subsequently continued at a Police Station in a different Duty Solicitor Scheme.

Monthly Crime Lower Submission Guidance and Police Station/Duty Solicitor Scheme Codes

6. Work must be reported electronically through CWA, guidance for CWA can be found on the gov.uk website here:
https://www.gov.uk/government/publications/cwa-quick-guides

7. A consolidated list of Crime Lower billing codes and reporting crime lower guidance can also be found on the gov.uk website at: CWA codes guidance - GOV.UK (www.gov.uk)

8. The Police Station codes are required to pay the correct Police Station Advice and Assistance Fixed Fee.

9. The LAA are aware that new codes may be required for work carried out at locations that are not police stations and which do not have a separate code. In such circumstances, the Provider should contact their Contract Manager to notify them.

10. Scheme-specific "non-police station site" codes have been produced these codes should be used where the attendance takes place at a location for which there is not a designated code, either because the location is not a police station (e.g. attendance at railway station or hospital) or because the location is a new police station and a specific code is yet to be allocated.

Standby payments

11. Duty Solicitor Standby payments cannot be claimed.

5.9 *Separate Matters*

1. Work carried out for separate Clients should be treated as separate Matters. Work undertaken for the same Client may be treated as a separate Matter if it involves the provision of Advice and Assistance on a legal issue which can be deemed as genuinely separate legal problem.

2. Whether a genuinely separate problem has arisen will depend on the facts of each investigation. The fact that a Provider may be giving initial advice to the Client about potentially different remedies arising from the same set of originating circumstances does not in itself mean they are separate Matters.

3. The fact that circumstances have changed or developments have occurred as the case progressed will not mean that a separate Matter arises if the advice continues to be provided on the same overall legal issue.

4. Where separate Matters are claimed the Provider must record the reasons on file and be able to justify their decision on Assessment or audit.

5. Circumstances that are likely to be treated as a **single Matter:**

a) Where the two Matters are genuinely different problems requiring separate advice at the same time **on one occasion only**, then they should be treated as the same Matter, despite the fact that they would normally be treated as separate Matters.
b) Where two or more Matters **arise from the same set of circumstances**, the chances of them being separate Matters diminish.
c) Charges laid at the same time which are **likely to be dealt with under one Representation Order, or are likely to be heard together, or are likely to form part of the same Case,** should be dealt with as one Matter.
d) Advice given on related issues which could be considered to be **a "series of offences"** should be dealt with as **a single Matter**, rather than separate Matters.

6. For further guidance, please refer to the following table:

Scenario	Fees payable	Notes
One client arrested on one Matter	**One fee**	One fee will be paid per client per Matter.
Two clients arrested at the same time and advised by Provider.	**Two fees**	One fee will be paid per client per Matter. Note that both must be advised at the police station to trigger the Fixed Fee. If one is advised by telephone only the telephone advice Fixed Fee will be paid for that client.
Conflicts of Interest: e.g. Two clients arrested at the same time, but there is a conflict so the Provider can only act for one.	**One fee**	One fee will be paid for the client represented where the Provider becomes aware of a conflict of interest.
Client arrested for multiple offences - irrespective of whether they are linked or not. e.g. arrested for burglary committed on 20 January 2008 and rape committed on 10 August 1983.	**The starting point is that this will be one fee. In order for more than one fee to be paid there must be separate Matters.**	Separate Matters arise where the Client has **genuinely separate legal problems requiring separate advice.** Note: Where two or more Matters require advice **on one occasion only** they should be treated as the same Matter (reference should be made to 4.46 of the SCC Specification). An occasion can be defined as the same continuous period of detention (or attendance if in relation to a voluntary attendance). Where two or more Matters arise from the **same set of circumstances**, the chances of them being separate Matters diminish. Charges laid at the same time which are **likely to be dealt with under one Representation Order or are likely to be heard together, or are likely to form part of the same Case**, should dealt with as one Matter. Advice given on related issues which could be considered a **"series of offences"** should be dealt with as a single Matter.
Two Matters in total. No Further Action on one Matter, the other Matter charged.	**One fee**	Advice provided on separate Matters on one occasion only should be treated as a single Matter.
Two matters in total. One of those Matters charged the other bailed to return	**Two fees**	Two Matters advised on and advice continued on one of the Matters after first occasion. Two fees will be paid.
Three matters in total. One of those matters charged and Two bailed to return but to different dates	**The starting point would be two fees though three fees might be appropriate.**	As above. Three fees could be justified if the two bailed offences are charged at different occasions. If however the client is bailed to return on two dates and both are

Scenario	Fees payable	Notes
		charged on the second date then only one extra fee would be appropriate.
Any number of Matters. All Matters charged to same date	**One fee**	Charges laid at the same time which are **likely to be dealt with as one proceedings matter**, should dealt with as one Matter
Arrested on one offence; at police station arrested on further offences(s)	**One fee, unless they become separate Matters**	See above for guidance on separate Matters.
Post-charge ID procedure	**Paid at hourly rates**	Post-charge work and Advocacy Assistance on Warrants for Further Detention are paid at hourly rates.

5.10 *Police Station Telephone Advice*

1. A claim for Police Station Telephone Advice may not be made if Criminal Defence Direct has given telephone advice (9.106, of the SCC Specification)

2. If the client does not meet **one of the** criteria e.g. the client is not at the police station and telephone calls are made prior to the client being at the police station, no claim can be made under the police station telephone advice scheme. Payment can be made as freestanding Advice and Assistance if the client is financially eligible and the appropriate forms completed. In order to take into account the developing practice of communication between the police and practitioners taking place via email, such communication can be treated as a single telephone call, where for example it is made to ascertain the effectiveness of any bail back to the police station. The LAA recognises that such a practice is often more efficient and cost effective particularly where telephone contact with the police can be very difficult or impossible to effect.

5.11 *Attendance at the Police Station*

1. The Provider can only attend the Police Station and make a claim for Police Station Advice and Assistance Fixed Fee when the sufficient benefit test is satisfied.

2. The circumstances in which the test will be satisfied include:

a) to provide advice prior to and during interview
b) to advise at an identification procedure (including a video identification procedure when the client is not present)
c) when appropriate, to advise on the implications of the caution when the Client is charged with an offence
d) to advise when the advice may materially affect the outcome of the investigation and goes significantly beyond initial advice
e) to advise a client who complains of serious maltreatment by the police
f) to advise a vulnerable client where it is not possible to provide advice by telephone alone; or
g) to make representations when the police have or intend to refuse bail.

If none of the above is satisfied further justification for attending should be provided on the file.

3. A claim should not be made for an attendance where the advice could have been provided reasonably by way of telephone advice. If it is considered that the advice should have been provided by telephone then the claim will be limited to the police station telephone advice Fixed Fee.

4. If the solicitor was already at the same police station the claim should be for Police Station Telephone Advice rather than Police Station Attendance.

5. An attendance at the police station for an ineffective bail to return may be disallowed unless there is evidence of at least one check being made prior to attendance to establish whether or not it would be effective.

6. If the police indicate that an interview or identification procedure will take place at a specified time the solicitor or representative should only attend the police station in sufficient time prior to the allotted time to undertake reasonable steps that directly relate to the interview or identification procedure, e.g. taking instructions from the client, obtaining disclosure of evidence, attending the officer in the case.

7. When a client is bailed to return to a Police Station, this is also continuation of the same Matter (9.78 of the SCC Specification). Similarly, if a client is Released Under Investigation and then re-interviewed/arrested this is a continuation of the same Matter.

8. Should a client be released without bail then the Provider may bill the Matter at this point (4.47(a) of the SCC Specification).

9. If a client is rearrested/attends voluntarily on the same offence, then this is a continuation of the same Matter (9.72 of the SCC Specification) and is unaffected by the passage of time.

10. In both instances, above, a Provider must not claim a second Fixed Fee, but the costs incurred in relation to the re-arrest or the bailed return to the Police Station will be relevant in determining whether the Matter qualifies as an Escape Fee case.

11. Where the client is re-arrested and the Provider has already claimed the Fixed Fee, if the costs of the re-arrest work means the Matter qualifies as an Escape Fee case or increases the Escape Fee case costs already paid, the Provider can claim these additional costs.

12. Where a client has an outstanding bail, the Provider should not claim the Fixed Fee (or the Escape Fee if the case qualifies) until it is known no further work will be undertaken on the Matter (9.101(b) of the SCC Specification). However, if a client is Released Under Investigation or on pre charge bail, then the Provider may claim the Matter after a month has elapsed since the last work was undertaken, providing it is not known, at that point, whether further work is required (9.101(c) of the SCC Specification).

13. If the Provider is instructed by a client for the re-arrest and the Fixed Fee has already been claimed by another Provider for the initial Police Station attendance in the same Matter, the Provider may a claim a Fixed Fee if one of the specified circumstances set out at 9.64 of the SCC Specification are met. Where one of these specified circumstances are not met, a Provider cannot claim a Fixed Fee for the re-arrest if a Fixed Fee has already been claimed by another Provider for the initial Police Station attendance.

14. If the Provider is instructed by a client where a Matter has been claimed due to 9.101(c) applying, then any further work is considered a continuation of the same Matter. The Provider cannot claim a Fixed Fee in these circumstances, but additional fresh costs maybe claimed as an amendment to the original claim. Furthermore, if a new Provider is instructed in these circumstances, this will be a

continuation of the same Matter and they cannot claim a Fixed Fee within 6 months unless one of the specified circumstances set out at 9.64 of the SCC Specification are met.

15. The issuing of a new DSCC reference number does not automatically mean there must be a new fee. The DSCC have been instructed to ask the Police at the point of re-arrest if there was a previous solicitor (the Police should be aware of this). If there has been then they will ask whether the original Provider should be contacted. If so, then they will attend and that Matter will continue. If not, then the new Provider will be given a new DSCC ref number and may attend provided they are content that the exceptions listed in paragraph 9.64 are met.

16. A Provider will, however, not be in breach of contract if they in good faith claim a Fixed Fee for the re-arrest where unknown to them a Fixed Fee has already been claimed in the Matter, provided they can show they made reasonable enquiries of the client as to whether he or she had received previous Police Station Advice and Assistance in the same Case in the previous six months and recorded this on file (9.65 of the SCC Specification). If in doubt, a Provider must assume that previous Advice and Assistance has been given and ensure that any work they carry out reflects the fact that some work may already have been done on the Matter to ensure that there is no element of repetition.

17. When attending the police station solicitors and representatives should ensure that travel, waiting and attendance times are minimised.

18. The LAA accepts that, in some circumstances, the solicitor will attend the Police Station in good faith having been contacted by the DSCC. Where a solicitor responds to a call from the DSCC but, for circumstances out of the solicitor's control, no attendance takes place, a Fixed Fee is still claimable. A note should be kept on the file detailing the particular circumstances. Reference should be made to the PoP DS 4 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

19. There will be instances where the client has not requested Advice and Assistance pre-charge but subsequently indicates that they wish for representation once they have been charged with an offence. In such instances, and in accordance with Code C 6.1 of PACE, a solicitor may attend. A Fixed Fee would be applicable if the solicitor has been contacted by the DSCC and it is the client's first access to legal advice for this particular offence.

Travel and Waiting

20. The Provider must continue to record all profit costs, and travel and waiting time. The Provider must report all profit costs to the LAA when submitting a claim for Police Station attendance and any travel and waiting time when claiming a Police Station Escape Fee Case.

Disbursements

21. Disbursements, including mileage, will be payable in addition to the Police Station Advice and Assistance Fixed Fee where they have been actually and reasonably incurred.

22. The point at which the disbursement is incurred should depend upon the both the location of the client and the point at which the expert is instructed. Where a client is at the Police Station, the disbursement will usually be payable in addition to the Police Station Advice and Assistance Fixed Fee. Where a client has an effective bail to return, a disbursement would usually be payable in addition to fees incurred under Freestanding Advice and Assistance (which in most circumstances will be rolled up into the Fixed Fee claim). For example, if a second post mortem is required this would usually fall under Free Standing Advice and Assistance as the Pathologist is unlikely to be instructed whilst the fee earner is at the police station for the initial attendance.

23. Disbursements should form part of the same claim but will be paid separately and will not be taken into account when assessing whether the claim exceeds the Escape Fee Threshold.

24. Hotel expenses incurred by a Duty Solicitor whilst on a Police Station Duty Solicitor Rota are not recoverable.

Police Station Attendance (post-charge)

25. Whilst attendances at the police station may vary enormously they will generally conclude either by charges being made, the client being bailed pending further enquiries or released without charge.

26. Post charge Police Station Attendance is where a client is:

a) being represented in respect of a Matter or case; **and**
b) the Matter or case is in the proceedings class of work; **and**
c) a post-charge interview or identification procedure is arranged; or
d) the client is recharged following discontinuance or dismissal of the case; or
e) to make bail representations when the police have or intend to refuse bail.
f) The same UFN as the substantive Matter or case should be used.

27. Only actual travelling, waiting and attendance at the police station may be claimed. Any office-based work associated with the identification procedure or recharge must be claimed as part of the substantive claim that will be made in the Proceedings Class of Work.

28. If post-charge work is claimed where the Client is already represented on the same Matter or Case in the Criminal Proceedings Class of Work then the same UFN shall be assigned as the substantive proceedings.

29. Where the Client is arrested for breach of bail conditions or on a warrant following failure to appear at the Magistrates' Court or Crown Court the claim should be limited to Police Station Telephone Advice unless the Sufficient Benefit Test is satisfied i.e. attendance is required:

a) to provide advice prior to and during interview
b) to advise at an identification procedure (including a video identification procedure when the client is not present)
c) when appropriate, to advise on the implications of the caution when the Client is charged with an offence
d) to advise when the advice may materially affect the outcome of the investigation and goes significantly beyond initial advice
e) to advise a client who complains of serious maltreatment by the police
f) to advise a vulnerable client where it is not possible to provide advice by telephone alone; or
g) to make bail representations when the information the police have is incorrect.

Bail to Return

30. Whether an attendance fee is claimable for the effective bail to return will depend on the sufficient benefit test being satisfied. The circumstances in which the test will be satisfied include:

a) to provide advice prior to and during interview
b) to advise at an ID procedure
c) when appropriate, to advise on the implications of the caution when the Client is charged with an offence

d) to advise when the advice may materially affect the outcome of the investigation and goes significantly beyond initial advice
e) to advise a client who complains of serious maltreatment by the police
f) to advise a vulnerable client where it is not possible to provide advice by telephone alone; or
g) to make bail representations when the police have or intend to refuse bail.

If none of the above is satisfied further justification for attending should be provided on the file.

31. When a client is arrested for more than one offence, and is bailed to return on some, but not all, the solicitor may claim separate fees for those matters bailed to return only if the return dates are effective, the Sufficient Benefit Test is met and the solicitor attends the Police Station,

32. Pursuant to 9.89, of the SCC Specification, a Provider should not claim for an ineffective bail to return unless the solicitor has made reasonable efforts to establish whether they will be effective, but has been unable to do so.

5.12 *Pre Charge Advocacy Assistance*

Warrants of Further Detention

1. Advocacy Assistance is available for the following work:

a) Advocacy Assistance in a Magistrates' Court, High Court, before a judicial authority or a senior judge in connection with an application for a warrant for further detention, or for an extension of such a warrant, under sections 43 or 44 of the Police and Criminal Evidence Act 1984 or paragraphs 29 or 36 of Schedule 8 of the Terrorism Act 2000; or
b) Advocacy Assistance before a judicial officer on an application to extend detention in military custody under the Armed Forces Discipline Act 2000.

2. If Advocacy Assistance is provided and the Client has already received Police Station Advice and Assistance on the same Matter or Case, then the same UFN shall be assigned and the work may be claimed at the appropriate hourly rate separately to any claim for Police Station Advice and Assistance as Advocacy Assistance is not included in the claim for Police Station Advice and Assistance.. (9.104, of the SCC Specification).

Varying Police Bail

3. Advocacy Assistance is available for applications to vary police bail conditions (including "street bail" conditions) imposed by the police under sections 30CB or 47(1E) of PACE, as amended by the Criminal Justice Act 2003.

4. If Advocacy Assistance is provided and the Client has already received Police Station Advice and Assistance on the same Matter or Case, then the same UFN shall be assigned and the work may be claimed at the appropriate hourly rate separately to any claim for Police Station Advice and Assistance as Advocacy Assistance is not included in the claim for Police Station Advice and Assistance (9.171, of the SCC Specification).

Extensions to Police Bail

5. Advocacy Assistance under this Unit of Work is available as own Solicitor or, having represented the Client as Police Station, Duty Solicitor during the Criminal Investigation of a Matter. This Unit of Work relates to representing a Client who is subject to an application to a magistrates' court to extend pre-charge bail, either on written evidence or at an oral hearing, under sections 47ZF or 47ZG of PACE

6. If Advocacy Assistance is provided and the Client has already received Police Station Advice and Assistance on the same Matter or Case, then the same UFN shall be assigned and the work may be claimed at the appropriate hourly rate separately to any claim for Police Station Advice and Assistance as Advocacy Assistance is not included in the claim for Police Station Advice and Assistance (9.171, of the SCC Specification).

7. A separate claim can be made for Advocacy Assistance in relation to each application to extend bail (9.170(e) of the SCC Specification).

5.13 *Escape Fee Cases*

1. Cases that would receive a Police Station Advice and Assistance Fixed Fee may qualify as Escape Fee Cases where the actual costs of the case (excluding disbursements) exceed "the Escape Fee Threshold". Please refer to 9.92 to 9.94, of the SCC Specification for further information.

2. Escape Fee Cases are remunerated by the Fixed Fee plus payment by reference to hourly rates for the work which is carried out over the Escape Fee Threshold. Example:

Fixed Fee = £320
Escape Fee Threshold = £650
Costs of the Case (at hourly rates) = £1,500

Escape Fee Claim is therefore £1,170 (£1,500-£650 = £850 which is over and above the Escape Fee Threshold and is paid at hourly rates, in addition to the Fixed Fee of £320.)

3. In order to claim payment for an Escape Fee Case (i.e. claiming the amount in excess of the Escape Fee Threshold) the file must be submitted for assessment to the LAA's Business Delivery Centre in Nottingham along with a completed CRM18 Form.

4. The file and CRM18 Form can be submitted once the Investigation Matter has concluded.

5. Regardless of when the file and CRM18 Form are submitted the Fixed Fee will be paid following completion of the Crime Lower Monthly Submission claim.

6. Costs must be reported on the Crime Lower Monthly Submission exclusive of VAT (using the applicable rates set out in the Criminal Legal Aid (Remuneration) Regulations).

7. The value of the Fixed Fee and the value of the Escape Fee Threshold do not include VAT.

8. In order to receive additional payment for Escape Fee Cases the Provider must submit the claim on CWA **prior** to sending in the file and the CRM18 form for assessment. Once on CWA the sooner the file and claim form are submitted the sooner payment can be made.

9. Regardless of when the Escape Fee Case claim is submitted the Provider will be paid the Police Station Advice and Assistance Fixed Fee when it has been reported on the Crime Lower Monthly Submission. CRM18 claims are also not therefore affected by the rules on late claiming once the Fixed Fee claim has been submitted on the Crime Lower Monthly Submission. The Fixed Fee aspect of the case must be submitted within the contractual time frame but the CRM18 form can be submitted at any time after this.

5.14 *Transferring Solicitor*

1. Where the client is transferred a considerable distance from the place of the original attendance, the contractual position is that, in the majority of circumstances, it is in the best interests of the client for the solicitor originally instructed to retain the case for the duration of the investigation. This provides continuity of service to the client and prevents unnecessary and costly repetition of work.

2. For these reasons the contractual starting point for cases accepted by the Duty Solicitor is that they must be retained once accepted and the Duty Solicitor must continue to act for that client until the end of the investigation either personally or by using other suitable representatives within the Provider or instructing an agent.

3. However, there will be circumstances in which it is either not possible nor in the best interests of the client for the originally instructed solicitor to continue providing advice for the duration of the investigation.

4. The SCC sets out a number of circumstances in which the Duty Solicitor originally instructed may hand the case back to the DSCC for redeployment to another Duty Solicitor (9.44, of the SCC Specification).

5. Unless such exceptions apply, the contract requires the solicitor to retain the case, either personally or through a suitable local agent. If the solicitor is unable to instruct such an agent (or if any of the other circumstances detailed above apply) then a local Duty Solicitor will be deployed to attend the client and both solicitors may be able to claim a Fixed Fee for the work carried out.

6. A Client who has received Police Station Advice and Assistance from a Provider of solicitors and does not like the advice given and wants a second opinion does not have reasonable cause to transfer.

7. Where a client receives initial advice from the duty solicitor rather than his chosen representative either because of an administrative error on the part of DSCC / LAA or because the duty solicitor and own solicitor received simultaneous instructions from different parties this will constitute “reasonable cause to transfer”.

5.15 *Freestanding Advice and Assistance*

1. Freestanding Advice and Assistance is subject to financial eligibility. Evidence of means must be evidenced on the file.

2. Freestanding Advice and Assistance can be claimed separately at hourly rates where the Matter does not include Police Station Advice and Assistance.

3. Where the Matter consists of both Freestanding Advice and Assistance and Police Station Advice and Assistance the Police Station Advice and Assistance Fixed Fee covers both units of work.

4. Solicitors should record the actual costs of both units of work on the Crime Lower Monthly Submission and the total value of the claim will determine whether the Matter qualifies as an Escape Fee Case.

5. In instances where multiple defendants are represented, work should be apportioned appropriately to each co-defendant when submitting a claim.

6. Where the claim is only for Freestanding Advice and Assistance the claim code is INVA.

7. Where the claim is for both Freestanding Advice and Assistance and Police Station Advice and Assistance the claim code is INVC, INVD (Armed Forces) or INVJ (Immigration).

5.16 *Pre- Charge Engagement Advice and Assistance*

General

1. The Unit of Work covers work in respect of engagement with an investigator or prosecutor before charge in accordance with the Attorney General's Guidelines on Disclosure. It can take place from any point after the initial interview and the conclusion of the Investigation (9.109 and 9.110 of the SCC Specification). It does not replace Police Interviews, and nor should it be used to cover discussions regarding pleas to an allegation of serious or complex fraud. Nor does this engagement apply to formal agreements relating to the provision of information or evidence about the criminal activities of others.

2. Particular attention should be paid to 9.109 to 9.113 of the SCC Specification before a Provider commences a matter in this Unit of Work. The Sufficient Benefit Test must be satisfied in order for a Provider to provide Advice and Assistance in this Unit of Work (9.111 and 9.112 of the SCC Specification), see below. There is no financial eligibility test for this Unit of Work (9.113 of the SCC Specification).

3. Upper Limits apply to matters undertaken in this Unit of Work and are outlined in The Criminal Legal Aid (Remuneration) Regulations 2013. This Upper Limit applies to all work undertaken on a Matter including any preparatory work to determine whether it would be beneficial to the Client to undertake Pre-Charge Engagement and any subsequent work undertaken should there be an agreement (either formally or informally) between the Client and the prosecutors and/or investigators to undertake Pre-Charge Engagement. Any disbursements incurred under this Unit of Work will also need to be covered by the Upper Limit.

Scope

4. Paragraph 4 of Annex B of the Attorney General's Guidance on Disclosure provides the following examples of activities on which Pre-Charge Engagement might be undertaken:

a. Giving the suspect the opportunity to comment on any proposed further lines of inquiry.
b. Ascertaining whether the suspect can identify any other lines of inquiry.
c. Asking whether the suspect is aware of, or can provide access to, digital material that has a bearing on the allegation.
d. Discussing ways to overcome barriers to obtaining potential evidence, such as revealing encryption keys.
e. Agreeing any key word searches of digital material that the suspect would like carried out.
f. Obtaining a suspect's consent to access medical records.
g. The suspect identifying and providing contact details of any potential witnesses.
h. Clarifying whether any expert or forensic evidence is agreed and, if not, whether the suspect's representatives intend to instruct their own expert, including timescales for this.

Please note, this is not an exhaustive list, and Pre-Charge Engagement Advice and Assistance may be undertaken on similar activities conducted in accordance with Paragraph 4 of Annex B of the Attorney General's Guidance on Disclosure, for example consent on accessing third party records beyond medical records.

5. Furthermore, the Attorney General's Guidance on Disclosure makes it clear that pre-charge engagement should not be used as a means to frustrate or delay the investigation unnecessarily. In

particular, Pre-Charge Engagement is not intended to provide an opportunity for the suspect to make unfounded allegations against the complainant. Prosecutors and investigators will be alert to prevent this happening and investigators are not obliged to follow any line of inquiry suggested by the Provider: a line of inquiry should be reasonable in the circumstances of the case. Similarly, Providers must not undertake this Unit of Work if they suspect that the client simply wishes to frustrate or delay the investigation

Sufficient Benefit Test

6. Pre-charge engagement is a voluntary process and it may be terminated at any time. Depending on the circumstances, it may be appropriate for an investigator, the prosecutor, or the suspect's representative to initiate pre-charge engagement. An agreement to engage does not need to be in place before the Sufficient Benefit Test is met (9.112(b) of the 2025 SCC Specification). If an agreement is in place, this does not need to be in writing. A note on file confirming that the Police or CPS have agreed will suffice. This note should give details of the person who agreed and the date.

7. When applying the Sufficient Benefit Test reference must be made to paragraph 10 of Annex B of the Attorney General's Guidance on Disclosure which set out the potential benefits of Pre-Charge Engagement as follows:

a. Suspects who maintain their innocence will be aided by early identification of lines of inquiry which may lead to evidence or material that points away from the suspect or points towards another suspect.
b. Pre-charge engagement can help inform a prosecutor's charging decision. It might avoid a case being charged that would otherwise be stopped later in proceedings, when further information becomes available.
c. The issues in dispute may be narrowed, so that unnecessary inquiries are not pursued, and if a case is charged and proceeds to trial, it can be managed more efficiently.
d. Early resolution of a case may reduce anxiety and uncertainty for suspects and complainants.
e. The cost of the matter to the criminal justice system may be reduced, including potentially avoiding or mitigating the cost of criminal proceedings.

It is recognised that there may be other reasonable grounds as to why Pre-Charge Engagement may be potentially beneficial in accordance with the Attorney General's Guidance on Disclosure. Where there are, the other reasonable grounds should be noted on file.

8. The outcome of preparatory work to determine whether Pre-Charge Engagement might be beneficial will not always result in an agreement between the Client and the prosecutors and/or investigators to undertake Pre-Charge Engagement. It may be that you determine Pre-Charge Engagement would be beneficial but the prosecutors and/or investigators refuse to agree to Pre-Charge Engagement (9.109(a)(i) of the Specification). Alternatively, the outcome might be that you determine that Pre-Charge Engagement would not be beneficial (9.109(a)(ii) & (iii) of the Specification), either because of the facts of the case and/or the circumstances of the Client, for example because of mental health issues. Providers can self-grant this Unit of Work without completing application forms but a note of how the Sufficient Benefit Test is met must be kept on file (9.115 to 9.116 of the SCC Specification).

Claiming Pre-Charge Engagement and previous Advice and Assistance

9. A single Claim must be submitted for all Advice and Assistance undertaken under this Unit of Work for a Client in the same Matter irrespective of the number of attendances or occasions on which advice is given. A claim will have the same UFN as any Police Station Advice and Assistance in relation to the same Matter for the same Client but it must be claimed separately from any work in that Class of Work (9.128 of the SCC Specification).

10. Further to 9.117 of the SCC Specification, where a newly instructed Provider accepts instructions where another Provider has advised at the Police Station or has already provided advice on Pre Charge Engagement then the new Provider must consider when the advice was given, the nature of that previous advice and whether it is appropriate to advise in the circumstances. This consideration should be noted on file alongside the note confirming that the Sufficient Benefit Test is met.

11. It must be evident from the file that the Provider claiming for the work in this class of work has sought to ascertain whether previous Advice and Assistance has been provided in the same matter. If this is the case, and the client has been provided with Advice and Assistance previously, the Provider must explain why it is reasonable to incur limited further costs.

12. Should a Provider open a Matter and it later transpires that the client has already received advice on Pre Charge Engagement within six months, then the Provider will not be in breach of the Contract if they acted in good faith, having made reasonable enquiries with their client at the outset.

6. Proceedings

6.1 Definition of Criminal Proceedings

1. Representation is available for representation in "criminal proceedings" which are defined in Part 1, section 14, of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

2. Certain proceedings have been prescribed as criminal proceedings by Regulation 9 of the Criminal Legal Aid (General) Regulations.

Please refer to Appendix A for a table in relation to the method of funding for prescribed proceedings by legislation.

3. Proceedings that are prescribed under Regulation 9 of the Criminal Legal Aid (General) Regulations 2013 must be covered by a Representation Order granted by the Representation Authority. The interests of justice test will be applied by the Representation Authority in accordance with Section 16 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. These cases will be remunerated under the Undesignated Standard Fee or Designated Standard Fee schemes.

4. Applications for Representation Orders for prescribed proceedings should be made to the Legal Aid Agency in the same way that an application for a Representation Order for other criminal proceedings is made.

5. For information relating to prescribed proceedings in the Crown Court other than in appeals from the Magistrates' Court, refer to 10.126, of the SCC Specification.

6. Assessors should always ensure that the work claimed falls within scope as if it falls outside then the work cannot be remunerated under a Representation Order.

7. Regulation 19(2) of the Criminal Legal Aid (General) Regulations 2013 provides that certain proceedings are to be regarded as incidental to the main criminal proceedings from which they arise. This means no separate application for representation is required; as the Representation Order for either the Magistrates' Court or Crown Court proceedings will cover these cases.

8. Regulation 20(2) of the Criminal Legal Aid (General) Regulations 2013 provides examples of certain proceedings which are not to be regarded as incidental to the main criminal proceedings from which they arise.

6.2 Advocacy Assistance

1. For the following proceedings, Advocacy Assistance may be granted where the matter has not been dealt with under the duty solicitor scheme (9.161 of the SCC Specification):

a) Warrant of Further Detention (Pre-charge)
b) An Armed Forces custody hearing
c) Variation of Pre-charge bail conditions
d) Applications to extend Police Bail

6.3 Separate Types of Work under a Representation Order

1. Preparation, including taking instructions, interviewing witnesses, ascertaining the prosecution case, advising on plea and mode of trial, preparing and perusing documents, dealing with letters and telephone calls which are not routine, preparing for advocacy, instructing counsel and expert witnesses, conferences, consultations, views and work done in connection with advice on appeal or Case Stated.

2. Advocacy (including applications for bail and other applications to the court).

3. Attendance at court where Counsel is assigned (including conferences with counsel at court).

4. Travelling and waiting (travel and waiting may only be claimed in respect of Standard Fees and Non-Standard Fees in undesignated areas).

5. Routine letters written and routine telephone calls.

6. The Assessor shall consider the claim, any further particulars, information or documents submitted by the Provider and any other relevant information and shall allow such work as appears to have been reasonably done under the Representation Order (including any representation or advice which is deemed to be work done under that order) by a fee-earner.

6.4 Pre-Order Work

1. Work carried out prior to the grant of the Representation Order may be claimed on a case under the Representation Order if the conditions of 10.28, of the SCC Specification are met.

2. In order to enable the Assessor to determine whether Pre-Order work may be claimed the Provider must comply with 10.30, of the SCC Specification.

6.5 Pre-Order Cover(PROP); Early Cover (PROT) and Means Test Form Completion (PROU)

Scope and Qualifying Criteria

1. A claim for Pre-Order Cover, Early Cover or a means test form completion fee may be made if an application for a Representation Order has been made and refused and the requirements for the relevant "Cover" are met. The effective date of refusal is the date on which the Legal Aid Agency notifies the Provider in writing or by other means i.e. fax, email. The Provider must not claim for more than one of the above (10.97, of the SCC Specification).

Pre-Order Cover

2. Where an application for a Representation Order is made and refused on the Interests of Justice Test (irrespective of whether the Client passes or fails the Financial Eligibility Test), the Provider is limited to the amount of work and the total they may claim as set out in The Criminal Legal Aid (Remuneration) Regulations 2013. Please also refer to 10.98, of the SCC Specification.

Early Cover

3. Where an application for a Representation Order is made and refused due to the client's financial eligibility, the Provider's claim is limited to the Fixed Fee as specified in The Criminal Legal Aid (Remuneration) Regulations 2013. Please also refer to 10.105, of the SCC Specification for further information.

Means Test Form Completion

4. A claim may be made for a Means Test Form completion fee if the circumstances outlined between 10.107 a) to f), of the SCC Specification are applicable to the case.

6.6 Series of Offences

1. An Undesignated Standard Fee or Designated Standard Fee is payable for "*a case*" which may comprise of one or more types of proceedings. 10.56, of the SCC Specification sets out the test which should be used when determining whether any additional Standard Fee may be claimed.

2. Where the charges or information form part of a series of offences the test here is whether the offences exhibit some similar feature which would allow them to be described as a series of offences. A question which might assist is *"would these allegations have been tried together on a single indictment?"* A sufficient nexus **may** be demonstrated by the following facts:

a) That the charges are based on a system of conduct e.g. indecent assaults against children.
b) That the charges are similar in their nature and could have been tried together e.g. theft and handling.
c) But the test is **not** restricted to these possibilities.

3. The following factors would not, in themselves, prevent a series of offences being established:

a) Some separate hearings, possibly in different magistrates' courts.
b) The fact that the offences were committed some years apart.

4. The following factors would not in themselves make two or more charges part of a series of offences:

a) That all hearings were at the same court.
b) That only one Representation Order exists.
c) That offences were committed on the same day or dates close to each other.

5. A series of offences can be regarded as having ended when all outstanding charges or informations in respect of a defendant, or co-defendants, have been disposed of in some way by the court.

6. A breach of a community penalty or other court order (including the breach of an ASBO) is a criminal offence but should not generate a separate Standard Fee if the defendant is before the court for other reasons, irrespective of whether there is a link between the proceedings. Reference should be made to 10.57, of the SCC Specification.

7. When a breach proceeding is heard as a stand-alone matter, and in instances where the client is subject to no other criminal proceedings, then it will attract a Standard Fee.

8. There are a number of points of principle on the definition of a case, and a series of offences, contained within the Point of Principle Manual see.
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

Failure to surrender to bail

1. Below are some examples to assist determining whether a Standard Fee may be claimable (in the absence of the committal fee):

(a) The Defendant fails to answer bail between first appearance and the next scheduled date. The Defendant is arrested on a warrant and a Representation Order is granted covering not only the substantive offence but also failure to answer bail. The Defendant pleads guilty to failing to answer bail and is dealt with by the Magistrates by either a fine or custody. At the same Hearing where the failing to answer bail matter is dealt with by way of a fine or custody, the case is sent to the Crown Court.

The proceedings relating to failure to answer bail are incidental or ancillary to the main offence. They are not "specified proceedings" as set out in the 2022 Standard Crime Contract so do not trigger payment of a Magistrates' Court Standard Fee (see 16(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2013).

Sending proceedings – For cases with a Representation Order dated on or after 6th April 2010, cases sent for trial are remunerated as a Fixed Fee under the Litigator Graduated Fee Scheme (and under the Criminal Legal Aid (Funding) Order 2013). However, from 19th October 2020 a Sending Hearing Fixed Fee may be claimed (see below).

For cases with a Representation Order dated before 6th April 2010, or where the case is discharged prior to any Crown Court appearance, a magistrates' court category 3 Standard Fee was payable.

(b) The Defendant again fails to answer bail, again Legal Aid is granted for the new offence of failing to answer bail. The Defendant pleads not guilty to failing to answer bail and the trial dealt with on either the same date as the case being sent to the Crown Court or on a separate date.

Same answer as above. Bail offence proceedings are incidental to the main offence. If the case is sent for trial, there is no separate payment under the contract for the bail offence however, for Cases on or after 19th October 2020 this is rolled up into the Sending Hearing Fixed Fee claimed.

(c) The Defendant transfers representation to another Provider between the date of first appearance and the hearing at which the case is actually sent to the Crown Court for trial and is therefore represented by a new Provider at the sending hearing.

Both Providers are able to claim a Sending Hearing Fixed Fee.

Designated Area fees and work moving between courts

2. Where a Provider in an Undesignated Area conducts work on a case which is first heard in a court in an Undesignated Area and the case transfers to a court in a Designated Area then the Provider should claim the Undesignated Area court fees for the case.

3. Where a Provider in an Undesignated Area conducts work on a case which is first heard in a court in a Designated Area and the case transfers to a court in an Undesignated Area then the Provider should claim the Undesignated Area court fees for the case.

6.7 Sending Hearing Fixed Fees

1. Providers may claim a Sending Hearing Fixed Fee for cases that have a Representation Order dated on or after the 19th October 2020 and that are sent to the Crown Court for trial under section 51 of the Crime and Disorder Act 1998. Note, this fee is only claimable if a Case is sent for trial and does not apply to those sent for sentence.

2. The Sending Hearing Fixed Fee is a fixed fee that is claimed per case (10.122 & 10.123 of the SCC Specification) and travel and waiting may not be claimed (10.118 of the SCC Specification), reasonable disbursements, however, may be claimed (10.119 of the SCC Specification).

3. Where there is a change of Providers between the date of first appearance and the hearing at which the case is actually sent to the Crown Court for trial, both the original Provider and the new Provider are entitled to claim the Sending Hearing Fixed Fee (10.125 of the SCC Specification).

4. Should a Case be remitted back to the magistrates' court under paragraph 10(3)(a) or 13(2) of Schedule 3 to the Crime and Disorder Act 1998, then the Provider may make a claim for both the Sending Hearing Fixed Fee and the appropriate Standard Fee for the remitted Case (10.117 of the SCC Specification). The preparation and attendance in sending the case to the Crown Court prior to its remittal is remunerated under the Sending Hearing Fixed Fee, and should not be used in the calculation of the appropriate Standard Fee.

5. Where a Provider represents multiple defendants in the same proceedings, and their cases are sent to the Crown Court in different hearings, the Provider may claim a separate Sending Hearing Fixed Fees in respect of the preparation and attendance they undertook for each hearing (10.123 of the SCC Specification), a separate UFN should be applied to each claim.

6.8 Counsel

General

1. The effect of 8.41, of the SCC Specification is that Counsel (whether Assigned or Unassigned) may not be instructed on a private basis whilst legal aid is in place. Apart from the limited exceptions to the rule set out in 8.43, of the SCC Specification, a case may not be funded by legal aid and funded on a private basis at the same time. If the client wishes to instruct counsel privately then he or she must be warned of the consequences in writing in accordance with 8.41, of the SCC Specification and the court should be notified. Any Representation Order in place should be withdrawn with the client's consent (Regulation 16(c) Criminal Legal Aid (General) Regulations 2013). Work may only be claimed from the LAA up to the point when the case ceased to be funded by legal aid.

2. Under a Representation Order counsel can be instructed in two ways, either Unassigned, or, Assigned. Where the Representation Order specifically authorises the instruction of Counsel (under Regulation 16 of the Criminal Legal Aid (Determinations by a Court and Choice of Representative Regulations) 2013), he/she will treated as Assigned Counsel. In all other circumstances instructed Counsel will be treated as Unassigned.

Unassigned Counsel

3. A solicitor may instruct Unassigned Counsel but has a duty to ensure Counsel is of appropriate seniority and expertise. The professional relationship between the solicitor and unassigned counsel will be the same as that which exists in a privately funded case.

4. In cases where Counsel is unassigned, the fees of Counsel should be agreed in writing between the assigned solicitor and Counsel before submission of the claim. The Assessor should note any evidence contained on the file of the total agreed fee and VAT (10.34, of the SCC Specification).

5. In a Undesignated Non-Standard Fee and Designated Non-Standard Fee case, the solicitor's claim form should, in the "schedule of time spent" section, show the total time spent by unassigned counsel on attendances, preparation and advocacy and, if the proceedings are within the definitions for categories 1 or 2 (where either a Lower Standard, Higher Standard or Non-Standard Fee is being claimed), the travel time and waiting time.

6. When instructing or briefing counsel, it is the responsibility of the solicitor to ensure that adequate instructions and supporting documents are sent out in good time. The solicitor must advise Counsel of the UFN allocated to the case. The solicitor should send a copy of the Representation Order with Counsel's instructions and notify Counsel of any amendments to the order (10.31, of the SCC Specification). The onus is on Counsel to check that counsel's work is covered by the scope of the order.

Maximum Fee Principle

7. In cases where Unassigned Counsel is instructed, or an agent is used, the maximum fee principle always applies. This requires the Assessor to determine the costs which would have been payable to the Provider, had he or she undertaken the case without Counsel/Agent to ensure additional costs have not been incurred by instructing Unassigned Counsel/Agent.

8. To calculate the maximum fee, the Assessor will determine the amount of time that would have been spent on the case if the Provider had conducted the case throughout. The Assessor must look at the schedule of time spent to ascertain the total claimed by both solicitor and Unassigned Counsel. For example, the time expended producing the brief to counsel could be properly claimed as preparation time provided that it reduced the overall cost of the case by reducing the preparation time for Unassigned Counsel.

9. The Assessor should take note of any pre-hearing communications that would have been unnecessary had the Provider retained sole conduct throughout, as these will not be payable under the maximum fee principle.

Travel

10. Can only be claimed if the case fits within Standard Fee categories 1 or 2. No travel can be claimed in respect of a Designated Standard Fee or Designated Non-Standard Fee (i.e. fees claimable under the designated fee criteria).

11. The Assessor should ascertain where Counsel travelled from and to and consider how this compares with the distance that the solicitor would have had to travel and assessed accordingly.

Waiting Time

12. This can only be claimed if the case fits within Standard Fee categories 1 or 2. No waiting can be claimed in respect of a Designated Standard Fee or Designated Non-Standard Fee.

Assigned Counsel

13. Where Counsel is Assigned under a Representation Order in accordance with Regulation 16 of the Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013, Counsel must be paid directly by the LAA in accordance with the rates set out in the Criminal Legal Aid (Remuneration) Regulations 2013 and they must complete a separate Claim form.

14. Only one Counsel may be Assigned in the magistrates' court. An application to Assign Counsel must be made in writing to the court. If an application is refused, it may be renewed to the court orally.

15. The instructing solicitor must send a copy of the Representation Order with Counsel's instructions and must ensure that Counsel has a copy of any amended Representation Order Assigning Counsel. The solicitor must advise Counsel of the relevant UFN number (10.31, of the SCC Specification). The duty is on Counsel to check that any work undertaken is covered under the order. If the work is outside scope, Counsel will not be entitled to payment.

16. Assignment of Counsel is a factor which should be taken into account if a claim for enhanced rates is made. Reference should be made to the PoP CRIMLA 32 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

17. Assigned Counsel's claim must be submitted on a CRM8 with the Provider's Undesignated or Designated Non-Standard Fee claim. The Assessor must determine the appropriate amount payable to Counsel on the basis of the work reasonably done and the weight, seriousness, importance and complexity of the case with regard to the rates set out in the Criminal Legal Aid (Remuneration) Regulations 2013.

18. Assigned Counsel may argue that a case is so exceptional that the fees payable in accordance with the Criminal Legal Aid (Remuneration) Regulations 2013 would not provide reasonable remuneration for some or all of the work allowed. The Assessor may then consider allowing such an amount as appears to be reasonable remuneration for the relevant work (10.89, of the SCC Specification). In deciding whether to do so, the Assessor should take into account all the circumstances of the case, including a comparison with the generality of cases falling within the same category.

19. The onus is on counsel to demonstrate that this provision should apply and to provide full particulars in support of any claim under this section; failure to do so will result in the Assessor allowing the rates in the Criminal Legal Aid (Remuneration) Regulations 2013.

20. Counsel is expected to keep a proper record of time spent on a case to substantiate a claim. It is for counsel to draw all relevant matters to the attention of the Assessing Officer, particularly any unusual features of the case. If a proper note of time spent and the dates on which work was undertaken has not been made the claim must be disallowed.

Travel

21. Where it is proper to take into account counsel's travelling fees then the allowance is based on the expense actually and reasonably incurred in travelling to court from their home address or from the nearest local Bar town, whichever is the less.

22. Counsel's travelling and overnight expenses are not generally recoverable. However, where counsel is instructed to appear at a court which is not within 25 miles of chambers, the Assessor may allow counsel a reasonable amount to cover travelling and hotel expenses incurred, provided these do not exceed what a barrister from the nearest local bar would have incurred, unless Counsel can justify attendance having regard to all the relevant circumstances of the case (*R -v- Crittenden* - Supreme Court Taxing Office - Taxing Master's Decision).

23. Counsel's travelling expenses are generally payable if he or she attends a conference at prison, provided that such expenses are reasonable.

Research by Counsel

24. An assessing officer can assume that counsel, both leading and junior, are fully up to date with the substantive and procedural law in the field in which they hold themselves out as practicing. However, there will be cases which are so unusual or infrequent that counsel will require substantial preparation time (for researching the law and its application to the case in question). Unexpected points of law may arise at the beginning or during the course of a trial which necessitate adjournment for research and argument, or the case may involve European law, or the interpretation of new legislation. In such circumstances it may be justifiable to allow reasonable claims for time spent researching the law. Each case must be decided on its own facts and with regard to counsel's professional expertise (*Perry and Alexander -v- The Lord Chancellor [1994]* - The Taxing Compendium):

"We are in no doubt that this was a case where Counsel was entitled to spend time both in getting up the law and then applying it to the circumstances of the case. What was a reasonable time is a matter for the Taxing Master."

King's Counsel

25. Where a Representation Order Assigns Counsel, authority may be sought under 5.25 of the SCC Specification to instruct a King's Counsel alone in the magistrates' court. This is the only means by which a King's Counsel can be instructed under a Representation Order covering proceedings in a magistrates' court. Authority cannot be granted retrospectively.

26. If authority is granted, the justification for instructing King's Counsel cannot be challenged on assessment, unless the Provider knew or ought reasonably to have known that the purpose for which authority was given had become unnecessary or irrelevant, although the fees sought may be reduced.

27. It is permissible to privately fund a King's Counsel in the magistrates' court where prior authority has been applied for and is refused in accordance with the provisions of 8.41 and 8.43, of the SCC Specification.

28. A magistrates' court may make an order providing for the services of a King's Counsel with one junior in the Crown Court where the prosecution is brought by the Serious Fraud Office and a notice of transfer has been served under Section 4 of the Criminal Justice Act 1987. It may authorise a KC without a junior where the proceedings are a trial for murder and the order is made on committal, transfer or sending for trial (Regulation 22 of The Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013).

29. It is not permissible to assign more than one Counsel in proceedings in the magistrates' court (Regulation 17 of The Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013).

30. If the use of a King's Counsel is authorised, then this may be a relevant factor when considering any claim for enhanced rates. Reference should be made to the PoP CRIMLA 66 see: https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

31. The Criminal Legal Aid (Remuneration) Regulations 2013 permit a King's Counsel to make a claim for payment as junior, although this will rarely occur in practice *(R -v- Duzgun & Another [2000] 2 Costs LR 316).*

Employed Counsel

32. A barrister may work either in independent private practice (normally based in chambers) or as an employee of another organisation e.g. if a barrister is employed by a Provider. It is a question of fact whether a barrister is in independent practice (in which case, he or she cannot be classified as a fee-earner) or employed. Payment for work performed by employed barristers must be claimed at fee-earner rates.

33. The barrister will be paid at the rates and role applicable at the point in time such work was undertaken.

Attendance at Court with Assigned Counsel

34. Where a fee-earner attends behind an Assigned Counsel at court, or with Assigned Counsel in conference, the Provider can charge for his or her time at the prescribed remuneration rate for doing so (Criminal Legal Aid (Remuneration) Regulations 2013). This includes attending on a solicitor advocate

who acts instead of Counsel, where Counsel has been Assigned under the Representation Order. The solicitor advocate may be from the same Provider or a different Provider as the conducting solicitors (unless the solicitor advocate is only preparing an opinion or advice). However attendance on Counsel in the magistrates' court is not obligatory if the Provider is satisfied that it is reasonable in the particular circumstances of the case that counsel be unattended and, in particular, that the interests of the client and the interests of justice will not be prejudiced. If the Assessor considers that this test is satisfied and that the attendance is not reasonable then the costs of any attendance at court by the solicitor with counsel may be disallowed.

35. The onus is on the fee-earner to justify the reason for attending when costs are claimed. It may be reasonable for the fee-earner to attend where the client is a child, is vulnerable, or has inadequate knowledge of English or has a disability which could affect his or her understanding of the proceedings and ability to give instructions. The seriousness of the charge is also relevant, as is the likelihood of receiving a custodial sentence if convicted and the need for an accurate note of the proceedings. It will be taken into account by the Assessor that the role of the fee-earner who attends is not confined to taking a note of the proceedings but to assist counsel (and the court) by attending to witnesses and other parties and providing an accurate and independent note of discussions between counsel and the client/witnesses.

36. A solicitor is entitled to remuneration for work undertaken instructing Assigned Counsel. Reference should be made to the PoP CRIMLA 52 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

Advocacy

37. The advocacy rate applies where a fee-earner acts as an advocate. It covers time spent in court whilst the case is actually being heard, not adjournments or other waiting time.

38. Where magistrates retire from court to read and consider reports or to discuss and formulate their decision the time spent by the solicitor waiting for the magistrates to return may be claimed and allowed as advocacy. This applies unless the solicitor undertakes other work during that period in which case no remuneration should be allowed whilst that other work is being undertaken. The trigger is whether the solicitor has been “released” by the court.

Effective Trial Management Issues

39. The primary aim of the Effective Trial Management Programme (ETMP) is to reduce the number of ineffective trials by improving case preparation and progression from point of charge through to trial or earlier conclusion.

40. The Criminal Case Management Framework introduces the role of the Case Progression Officer. The LAA will pay for work undertaken in connection with the case progression officer where such work is done with the intention of progressing the matter regardless of whether it did in fact progress and/or as a direct consequence of a court order.

41. An example of such qualifying work would be the completion and submission to the court of a Plea and Case Management Hearing form that was introduced by the Lord Chief Justice’s Practice Direction on 22 March 2005 (amendment no.11 to the Consolidated Criminal Practice Direction (Case Management)).

42. An example of work that cannot be claimed and that is still treated as an overhead (and therefore not claimable) is time spent speaking to the court usher, e.g. asking when the case will be called or seeking to have the case moved to the head of the list. Claims of one unit or more, for such specific attendances, will need to be supported by clear evidence on the files as to why so long was taken.

6.9 Reviewing a File

1. Claims will often exhibit generalised attendance of the following nature e.g. “reviewing file” or “perusing and considering file” or “considering next steps”. As a general principle Providers would be expected to be reasonably familiar with their files. In order for such claims to be reasonable there must be some specific circumstances justifying the attendance in the particular case. This should be noted on the file if not readily apparent.

2. If it has been some time (usually at least a month) since any action has been taken on the file due to no fault of the Provider then it may be reasonable for that Provider to claim for some time refreshing his or her mind as to the salient points The time allowed would generally be limited to sufficient time to remind the fee earner of the key areas and will not involve having to read every letter and document on the file. The attendance notes should be linked to some particular development or need to take further action on the file. In complex cases more than a brief familiarisation may be required.

6.10 Advice on Appeal

1. A Representation Order issued for the purposes of proceedings before a Magistrates' Court allows the solicitor to give advice on the question of whether there are reasonable grounds for appeal from any determination in the proceedings and assistance in preparing a Notice of Appeal or making an application for a Case to be Stated. Such work will usually be carried out after the final hearing.

2. The Provider should be careful to check that the Representation Order may need to be amended in order to cover work in relation to advice on appeal.

3. A Representation Order issued by a Magistrates' Court also covers work undertaken in appealing to the Crown Court against a decision by Magistrates to extend a custody time limit under the Prosecution of Offences Act 1985 as this appeal will be incidental to the main proceedings.

4. An order granted by the Crown Court generally lapses once leave to appeal has been refused by a single judge in the Court of Appeal. It does not usually cover work undertaken on renewal of the client’s application for leave to appeal to the Court of Appeal *(RM Broudie & Co (a Provider) -v- Lord Chancellor [2000] 2 Costs LR 285* but also see for limited exceptions *Regina v Gibson (Ivano)* [1983] 1 WLR 1038*).* The unavailability of representation for a renewed application for leave to appeal against conviction following refusal by the single judge has been held not to breach Article 6 of the European Convention on Human Rights *(R –v- Oates [2002] EWCA Crim 1071 [2002] Crim LR 663)*.

6.11 Attendance at Police Station to open Master Tape

1. A Provider is entitled to be paid for attending at the police station if and when a master interview tape is opened and copied. This would be unusual as the police always make at least two copies of a tape when it is recorded. One copy is for the suspect and the other is retained by the police/CPS from which further copies may be made for the purposes of any prosecution. This point of principle would therefore only apply if the police copy of the tape is damaged or lost. Reference should be made to the PoP CRIMLA 49 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

Collection of tapes

2. The collection of tapes from a police station is not usually fee-earner work, however, if an undertaking is required before the police or Crown Prosecution Service will hand over a tape then a fee-earner is generally required to collect the tape and may be remunerated as such, provided that a copy of the undertaking or an attendance note providing justification is on file.

6.12 Attending Client in Custody

1. It will generally be reasonable to attend the client in custody to take initial instructions if there is no other means by which instructions can be taken e.g. at court. Where a client is pleading not guilty, it is good practice for the solicitor to attend the client in advance of the hearing to take full instructions in private. Courts are not always suitable venues to take instructions in private. Assessors must also take into account that legal visits are for a fixed duration and it is not always possible to deal with all matters in the time allocated by the prison. The prison may also be unable to allocate an appointment on the date requested. The Assessor must examine the relevant attendance notes or records of the work carried out to determine whether all of the visits were reasonable.

2. Attendances at a remand centre/prison must be justified and careful consideration should be given as to the reason for the attendance(s), particularly where the attendance(s) appear to pre-date the receipt of committal papers or where the attendance date is very close to the next hearing date or where there have been numerous attendances at the remand centre, but little evidence of any detailed instructions taken.

3. PoP CRIMLA 9 applies where the client appears in a local court, but is remanded in custody at a distance i.e. more than 50 miles away from the court, see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

4. PoP CRIMLA 21 applies where the solicitor represents a client in a non-local court and the client is remanded in custody at a distance, see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

5. If the client is aged under 18 or in some other way vulnerable that should be treated as an additional factor which may justify an attendance on a client in custody.

6.13 Attending Court and Adjournments

1. Assessing officers should consider the reasonableness of a solicitor's attendance at court in circumstances where an adjournment could have been sought through the clerk in advance but should be aware of local practice.

6.14 Representation and claiming Contempt in the face of Court Proceedings (Criminal Contempt)

Availability

1. Proceedings for contempt committed, or alleged to have been committed, by an individual in the face of the court come within the definition of criminal proceedings under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and therefore fall to be funded as part of Criminal Legal Aid (see Section 14 (g) of the Act). Unlike other criminal proceedings, the court before which the contempt takes place has power to grant a Representation Order. Neither the LAA nor the Provider has any power to do so. Any court can grant representation in these cases, whether it is otherwise exercising civil or criminal jurisdiction. The court will decide whether to grant a Representation Order applying the "Interests of Justice" test in section 17 of the Act. Representation in these cases is available without reference to the client's means.

2. Any solicitor or barrister can provide representation for contempt in the face of the court. Such representation is funded as part of Criminal Legal Aid but falls outside the Standard Crime Contract.

Payment

3. The LAA are the paying authority for all the courts except the Court of Appeal, Criminal Division. In those courts where the LAA are the paying authority, grants of representation are confirmed by the court by the issue and completion of the appropriate form (CRMCLAIM 11). This form can be located here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/435022/crm-claim-11.pdf

4. The solicitor or barrister submits the form, including the claim for payment, directly to the LAA's Nottingham Regional Office. Only that office processes these claims for payment.

5. The paying authority may, where it is of the opinion that there are exceptional circumstances, allow an assessed reasonable fee. The hourly remuneration rates appropriate to the Crown Court shall apply to proceedings in all courts save that of the magistrates' court.

6. If the representative seeks an assessed fee, the form allows him or her to:

a) indicate that he or /she wishes to apply for a non-Standard Fee;
b) give details of the exceptional circumstances of the case to justify the payment of a non-Standard Fee, such as work required to be undertaken by the court after the court hearing and before a further court hearing in the case;
c) give full details of the work done and time spent.

7. Only the Standard Fee will be authorised where it is not considered that there are exceptional circumstances.

6.15 Representation in proceedings in relation to breach of an injunction under Part 1 of the Anti- Social behaviour Crime and Policing Act 2014 ('ASBCPA')

1. This section applies to breaches of the following injunctions made under Part 1 sections 1 & 1A of ASBCPA 2014: injunctions made before 26 October 2026; and youth injunctions and housing injunctions made on or after 26 October 2026. These breaches are dealt with as contempt of court and are criminal for the purposes for legal aid. If the breach is in relation to an adult then it will be heard in either the county court or the High Court (depending on where the order originates), if the breach is in relation to a child (under 18) then it will be heard in the Youth Court.

2. This section does not apply to a breach of a respect order made under Part A1 section A1 of ASBCPA 2014. A breach of a respect order is a criminal offence, and an application for a representation order for these breaches should be made in the same way as for any other criminal offence.

3. Guidance is available for both crime providers and civil providers at Apply for legal aid for anti-social behaviour injunction breaches - GOV.UK on applying for a representation order for breaches of injunctions under Part 1 of ASBCPA.

4. Representation in breach proceedings will be paid in accordance with the rates set out Criminal Legal Aid (Remuneration) Regulations (as amended) 2013. The table in schedule 4 at paragraph 5A sets out the relevant rates When calculating whether the Higher Fee or the Lower Fee (as specified in table 5A) applies the following work should be used to determine core costs:

(a) any preparation;

(b) routine letters written and routine telephone calls;

(c) advocacy;

(d) work done by a fee-earner acting as Agent for the Solicitor named in the Representation Order; and

(e) Unassigned Counsel's preparation and advocacy

5. Further information on determining whether the Higher or Lower Fee apply can be found in 10.166 to 10.169 of the SCC Specification.

6. Travel and Waiting will be payable for travel to any venue in addition to the Higher or Lower Fee. Any Travel and Waiting costs should not be used to calculate whether the case becomes payable at hourly rates. Further information about claiming can be found in 10.166 to 10.169 of the SCC Specification.

6.16 Claiming Representations in Proceedings in relation to breach of an injunction under Part 1 of the Anti-Social Behaviour Crime and Policing Act 2014

1. This section applies to breaches of the following injunctions made under Part 1 sections 1 & 1A of ASBCPA 2014: injunctions made before 26 October 2026; and youth injunctions and housing injunctions made on or after 26 October 2026.

2. This section does not apply to breaches of respect orders made under Part A1 section A1 of ASBCPA 2014. A breach of respect order is a criminal offence and claims under representation orders for these breaches should be made in the same way as for any other criminal offence.

3. In Part 1 ASBCPA 2014 breach of injunction cases where the core costs do not exceed the Lower or Higher Fee Limits a Provider must submit a claim for the appropriate fee on their monthly submission. Where the using claim code PROV. core costs exceed the Higher Limit the Provider should submit this on a CRM7 paper form using claim code PROV or electronically using the Claim a Non-Standard Magistrates Court fee service. Civil Providers, or those operating under an Individual Case Contract should use the CRMCLAIM 11 form. Where Assigned Counsel has been instructed, a completed CRM8 including a note of taxation from counsel will be required.

4. Assigned Counsel rates can be claimed at £80.50 per hour for attendances, preparation and advocacy under 10.89 of the SCC Specification.

5. Note that where the case is in the county court and High Court, counsel will be automatically assigned however where the case is in the youth court, magistrates' court or Crown Court, Counsel in these cases will be unassigned as per 10.34 to 10.43 of the SCC Specification.

Series of Offences

6. If further breaches occur once a representation order has been granted (and on or before the hearing of the committal application) they are considered as a series of offences and will be covered by the existing representation order as they will form part of the criminal proceedings that representation has been granted for. If further breaches are committed after this hearing and are the subject of a fresh committal application, a fresh application for representation will have to be made.

Prior Authority

7. Prior Authority can be obtained by way of an application in writing to The NCAT or via email to Nationalcrimeteam@justice.gov.uk

8. Correspondence should be clearly marked as a Part 1 breach matter. The Provider will need to include the clients CNTP number and details of the expert to be instructed along with the quote for the work to be done.

6.17 Representation and claiming Civil Contempt of Court matters

1. Such proceedings are deemed to be criminal by virtue of Paragraph 9(v) of The Criminal Legal Aid (General) Regulations (as amended) 2013.

2. A Representation Order is required to provide representations in such proceedings, applications should be sent to the NCAT. Once the matter is concluded, the Provider should complete a CRMClaim11 and send this, with the full file of papers to the Magistrates Court Billing Team. When billing Counsel's fees a completed CRM8 and a note of taxation from Counsel is required.

3. Assigned Counsel Rates can be claimed at £80.50 per hour for attendances, preparation and advocacy under the 10.89 of the SCC Specification.

4. Note that where the case is in the county court, family court and High Court, Counsel will be automatically assigned however where the case is in the youth court, magistrates' court or Crown Court, Counsel in these cases will be unassigned as per 10.34 to 10.43 of the SCC Specification.

Cost limits

5. In accordance with paragraph 7(2) of Schedule 4 to the Criminal Legal Aid (Remuneration) Regulations 2013, the cost limitation in respect of this work for proceedings in the county, family and High Courts is £1,574.06. Should you need to extend this limit, email Nationalcrimeteam@justice.gov.uk Include details of the work already completed, what further work is required, and the new limit requested

Series of Offences

6. If further breaches occur once a representation order has been granted (and on or before the hearing of the committal application) they are considered as a series of offences and will be dealt with within the proceedings that representation has already been granted for. If further breaches are committed after this hearing and are the subject of a fresh committal application, a fresh application for representation will have to be made.

Prior Authority

7. Prior Authority can be obtained by way of an application in writing to The NCAT or via email to Nationalcrimeteam@justice.gov.uk

8. Correspondence should be clearly marked as a contempt matter. The Provider will need to include the clients CNTP number and details of the expert to be instructed along with the quote for the work to be done.

6.18 Domestic Violence Prevention Notices and Orders

1. A DVPN is the initial notice issued by the police in order to provide emergency protection to an individual believed to be the victim of domestic violence. This notice, which must be authorised by a police superintendent, contains prohibitions that effectively bar the suspected perpetrator from returning to the victim's home or otherwise contacting the victim.

2. The relevant statutory provisions are contained at sections 24-33 of the Crime and Security Act 2010.

3. A DVPN may be issued to a person aged 18 years and over if the police superintendent has reasonable grounds for believing that:

a) the individual has been violent towards, or has threatened violence towards an *associated person*, AND
b) The issue of the DVPN is necessary to protect that person from violence or a threat of violence by the intended recipient of the DVPN.

The *associated person* mentioned above does not have to consent to the issuing of a DVPN or DVPO.

4. Following an alleged breach of the DVPN, the police may arrest the individual without warrant and hold that person in custody pending the magistrates' court hearing of the DVPO application; this hearing must take place within 24 hours of the arrest for the alleged DVPN breach.

5. Within 48 hours of the DVPN being issued (excluding weekends and bank holidays), the police must submit an application to the magistrates' court for the DVPO. The Magistrates can make a DVPO if two conditions are met:

a) The court is satisfied on the balance of probabilities that the recipient has been violent towards, or has threatened violence towards, an *associated person and*
b) The court thinks that making the DVPO is necessary to protect that person from violence or a threat of violence by the recipient.

6. A DVPO may be in force for no fewer than 14 days beginning on the day on which it was made and no more than 28 days. An individual who breaches a DVPO may be arrested without warrant and held in custody to be brought before the magistrates' court within 24 hours.

7. Providers with a Standard Crime Contract will be able to represent eligible clients in receipt of a DVPN. There are several routes by which clients will access advice:

a) Following arrest and having been taken to the police station (from where the DVPN is almost always served), police station Advice and Assistance will apply and the solicitor can apply for a Representation Order for the DVPO hearing at the Magistrates court.
b) Having been issued with a DVPN, the client may approach a Crime contract holder who could provide free standing Advice and Assistance away from the police station. This is subject to a means and eligibility test as set out in the Contract Specification (Section 9). The Provider can subsequently apply for a Representation Order which will be subject to the usual 'Interests of Justice' test and means test.
c) The Magistrates Court duty solicitor scheme is available for clients who arrive for their court hearing without any prior representation in place. DVPOs have been added to the list of 'prescribed proceedings' for which the court duty solicitor can advise.
d) In the event of either a breach of the DVPN or DVPO, police station Advice and Assistance and the Magistrates' Court duty solicitor scheme will apply in the usual way.

6.19 Domestic Abuse Protection Notices (DAPNs) and Domestic Abuse Protection Orders (DAPOs)

A pilot for the above started on the week beginning 27th November 2024, and the number of pilot sites is expected to expand as the pilot progresses – see Annex E for a Summary of Criminal fees available.

Domestic Abuse Protection Notices

1. Like the existing DVPNs, the DAPN is a police-issued notice that will provide the person for whose protection the DAPN is sought with immediate protection following an incident by imposing prohibitions and requirements necessary to protect them from future domestic abuse or the risk of domestic abuse. These are issued by the police and will form part of the substantive Criminal Legal Aid Claim at the Police Station. The police must apply in the magistrates' court for a DAPO and the court must hear this within 48 hrs. If there is an adjournment then the DAPN remains in place until a DAPO is made. Criminal Legal Aid for the person against whom the DAPN is sought is available if there is a breach of a DAPN.

Domestic Abuse Protection Orders

2. Subject to the exception at paragraph 7 of this section 6.19, the making of a DAPO is covered by Civil Legal Aid, regardless of venue and including police led DAPO applications in the magistrates' court. Criminal Providers can undertake these cases under the Associated Civil Work Class of Work.

3. To apply for civil legal aid funding CCMS must be used (the form CW1 is used for controlled work, the relevant means test form should also be completed). These can be located on the website: https://www.gov.uk/legal-aid-for-providers/forms.

4. The civil means and merits test will also apply according to the civil legal aid specification. Further details about these can be found in the regulations. The relevant regulations are: The Civil Legal Aid (Merits Criteria) Regulations 2013, The Civil Legal Aid (Procedure) Regulations 2012 and the Legal Aid (Financial Resources and Payment for Services)(Legal Persons) Regulations 2013. These can be located here:
http://www.legislation.gov.uk/

5. Remuneration will be paid in accordance with the Civil Legal Aid (Remuneration) Regulations 2013 (as amended) and the civil legal aid specification.

6. For the avoidance of doubt, police-led DAPO applications in the magistrates' court are **not** in the scope of the court Duty Solicitor scheme. This is because Civil Legal Aid is available to the person against whom the DAPO is made for these applications. See paragraph 13 of this section 6.19.

Criminal Legal Aid for DAPOs made under section 31(3), (5) or (6) of the Domestic Abuse Act 2021 on conviction, acquittal or where the Crown Court has allowed an appeal against conviction

7. Where a DAPO is made under section 31(3), (5) or (6) of the Domestic Abuse Act 2021 (i.e., on conviction, acquittal or where the Crown Court has allowed an appeal against conviction), the Representation Order for the substantive proceedings covers the person against whom the DAPO has been made for the making of the DAPO and any subsequent variation or discharge of the DAPO.

8. In these instances, the work in relation to the DAPO will be rolled up into the appropriate Fee for the substantive proceedings.

9. Should, for whatever reasons, there be no criminal legal aid for the substantive proceedings then the Provider may apply for a Representation Order in the normal manner and make a standalone claim.

10. Where a DAPO is made under section 31(3), (5) or (6) of the Domestic Abuse Act 2021 (i.e., on conviction, acquittal or where the Crown Court has allowed an appeal against conviction), criminal legal aid is also available to the person against whom the DAPO has been made in the following appeals:

(a) an appeal under section 46(3) of the Domestic Abuse Act 2021 of a DAPO made under section 31(3), (5) or (6) of that Act as if it were a sentence passed on the person for the offence referred to in those existing criminal proceedings.

(b) an appeal under section 46(4) of the Domestic Abuse Act 2021 of a variation of the DAPO under section 44(2)(b) of that Act that is made in a case on conviction or acquittal or where the Crown Court has allowed an appeal against conviction (i.e., within section 31(3), (5) or (6)) as if the variation order were a sentence passed on the person for the offence referred to in those existing criminal proceedings.

11. The Provider may apply for a Representation Order for the appeal in the normal manner and make the normal standalone claim.

Criminal legal aid for breach of DAPN/DAPO

12. A breach of a DAPN is heard under section 26(2) of the Domestic Abuse Act 2021 as follows:

a) a stand-alone hearing under section 26(2)(a) of the Domestic Abuse 2021 held before the hearing for the DAPO application; or
b) a hearing under section 26(2)(b) of the Domestic Abuse Act 2021 held at the same time as the hearing for the DAPO application.

13. Criminal legal aid is available to the individual issued with the DAPN in both a) and b). However, please note under b), criminal legal aid may only cover the hearing under section 26(2)(b) and does not extend to the hearing for the DAPO application happening at the same time. An application for a DAPO falls under the scope of civil legal aid and therefore, the hearing for the DAPO application happening at the same time may only be covered by civil legal aid. Conversely, civil legal aid granted for the DAPO application cannot extend to cover any DAPN breach hearing which falls under the scope of criminal legal aid. **This also means the Court Duty Solicitor must only undertake work in relation to a DAPN breach, and not a DAPO application, including when both are heard at the same time.**

14. Criminal legal aid is available to the person against whom the DAPO has been made for the enforcement of a breach of a DAPO, either as a criminal offence or as contempt of court proceedings in relation to the DAPO. Where the enforcement of the breach is heard in a civil court venue as contempt of court proceedings, the criminal legal aid available is not means tested. It is claimable on an Hourly Rates basis, and subject to an Upper Limit, as set out in paragraph 7 of schedule 4 of the Criminal Legal Aid Remuneration Regulations.

6.20 Closure Orders

1. The Anti-Social Behaviour, Crime and Policing Act 2014 introduced a new Closure Order that can be granted on a number of different grounds including: criminal behaviour, disorderly or offensive behaviour or serious nuisance. The new order consolidates previous powers to grant closure orders under the Anti-Social Behaviour Act 2003 and the Licensing Act 2003.

2. Closure orders issued under s.80 (5)(a) are prescribed as criminal for the purposes of legal aid. These Closure Orders are issued where the court is satisfied that *'a person has engaged, or (if the order is not made) is likely to engage, in disorderly, offensive or criminal behaviour on the premises'.*

3. Where the Order relates to criminal behaviour or criminal behaviour and a combination of the other grounds contained in section 80 (ASBCPA 2014) (e.g. nuisance or disorderly behaviour) the Order will be criminal for the purposes of legal aid. Where the order does not concern any criminal behaviour then only civil legal aid will be available.

5. A Representation Order is required to provide representations in such proceedings, applications should be sent to the NCAT. Once the matter is concluded, the Provider should complete a paper CRM7 and send this, with the full file of papers to the Magistrates Court Billing Team. Alternatively, you can use the Claim a Non-Standard Magistrates Court fee online service to make a claim and upload the file of papers digitally. When billing Counsel's fees a completed CRM8 and a note of taxation from Counsel is required.

6.21 Virtual Courts

1. The use of virtual courts has reduced to the point that they are rarely, if ever claimed. This section is therefore for information only.

2. In such cases, Advocacy Assistance must be granted at either the Police Station or the court building. The Sufficient Benefit Test is deemed to be satisfied if the Police have decided that the case is suitable to be dealt with in the Virtual Court and these cases are Non-Means Tested.

3. A CRM3 form must be completed and retained on the file. Only the signature of the solicitor is required and the form must be endorsed by the solicitor to highlight that the matter was a "Virtual Court Hearing".

4. A claim for a Virtual Court fee can be made if the criteria outlined at 10.28 (a) to (d), of the 2022 SCC Specification are satisfied. If these criteria are not satisfied, no separate Virtual Court fee is payable and the work undertaken on the Virtual Court hearing can be included in the calculation of the core hours to determine the final value of the Standard Fee.

5. A separate Virtual Court fee must not be claimed if the case is not disposed of at the Virtual Court and the Provider subsequently represents the Client under a Representation Order.

6. Virtual Court Fixed Fees are outlined in the Criminal Legal Aid (Remuneration) Regulations 2013. The fee is inclusive of travel but disbursements can be claimed in addition to the applicable fee.

7. An Unsocial Hours Fixed Fee is only applicable to cases where the court sits outside of the hours of 9.00am-5.30pm, Monday to Friday. If part, or all, of the court hearing sits outside of the hours of 9.00am-5.30pm, Monday to Friday, the Unsocial Hours Fixed Fee may be claimed.

8. The Unsocial Hours Fixed Fee is not claimable where only follow-up or ancillary work is undertaken outside of the hours of 9.30am-5.30pm, Monday to Friday. The court has to have been in session outside of Social Hours.

9. Claims should be submitted electronically to the LAA's Nottingham Regional Office. Instructions in relation to claiming Virtual Court fees can be found on the LAA's website see: https://www.gov.uk/government/publications/virtual-courts-claim-form

6.22 Low Value Theft

1. The Anti-Social Behaviour Crime and Policing Act 2014 amended the Magistrates Court Act 1980 reclassifying low value shoplifting offences (less than £200) as Summary Only offences, unless the defendant elects to go to Crown Court.

2. The Criminal Legal Aid (General) Regulations 2013 have been amended to allow Providers to continue to claim the either way fee where they represent clients in low value shoplifting cases (including cases where the defendant does not elect to go to Crown Court trial).

7. Prior Authority and the Assessment of Disbursements

7.1 General

1. Following consultation, maximum rates have been introduced for certain types of expert. For cases started on or after the 3rd October 2011, the rates for experts can be found in the Criminal Legal Aid (Remuneration) Regulations 2013.

2. Most experts prefer to agree their fees in advance and will refuse to work on the basis that the solicitor will pay them whatever is allowed on assessment. When the solicitor does agree a fee with an expert, there is a risk that without prior authority less than the agreed fee will be allowed on assessment.

3. The solicitor can eliminate this risk by applying in advance for prior authority to instruct the expert. Authority may be granted if the office is satisfied that instructing the expert is necessary for the proper conduct of the proceedings and the proposed fee is reasonable (see 5.25 to 5.34, of the SCC Specification).

In order to apply for prior authority, a Provider must submit a fully completed application the Apply for Prior Authority to Incur Disbursements online service. The online service is located on the LAA Portal under "Submit a crime claim" function.

4. For Advocate and Litigator travel claims in the Crown Court matters the provider may apply for prior approval (by E-mail) to crime.queries@justice.gov.uk note, when considering these applications the LAA do not assess the costs simply the reasonableness of travelling to court.

5. Where an application for prior authority for costs to be incurred under a Representation Order has been refused, and the Client has expressly authorised the Provider to incur the disbursement, a Provider may charge a fee to the Client privately for the respective disbursement (provided the disbursement in question satisfies the examples described at 8.43 a) to c), of the SCC Specification).

6. Applications for prior authority in the Crown Court are governed by The Criminal Legal Aid (Remuneration) Regulations 2013.

7. Prior authority for High Court proceedings may only be sought for the following proceedings:
   a) Representation against the grant of a voluntary bill of indictment.
   b) Representation in proceedings to quash an acquittal under the Criminal Procedure and Investigations Act 1996.
   c) Representation in proceedings under RSC Order 115 in Schedule 1 to the Civil Procedure Rules 1998 for confiscation or forfeiture.
   d) Representation in the High Court on an appeal by way of Case Stated.
   e) High Court bail applications.

8. A prior authority cannot be granted under 5.25, of the SCC Specification for work in Associated Civil Legal Aid cases. This is governed by the relevant Civil Legal Aid provisions.

9. A prior authority cannot be granted under 5.25, of the SCC Specification for work in the Court of Appeal. Applications for such work should be made directly to the Court in the manner they so request.

10. A solicitor is entitled to claim for the time spent in making an application for prior authority. An allowance of one to two units (6 to 12 minute's preparation time) may be made for completion of a straightforward application. More time may be required for a complex application requiring supporting evidence. Reference should be made to the PoP CRIMLA 67 see: https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

7.2 Experts

1. An expert is a person of any calling, profession or trade who is asked to give an independent and expert view on some technical aspect of a case because of their expertise, their costs are claimed as a disbursement.

2. Prior authority should not be granted to cover an expert's attendance at court to give evidence as witness expenses are generally paid from Central Funds.

3. See 5.33, of the SCC Specification for applications for prior authority that will be refused.

4. Prior to assessing experts' quotes, the Assessor should consider whether it is reasonable in principle to instruct an expert. Factors to be considered may include:

a) Whether expertise is capable of being attached to the area of knowledge in question.
b) Whether and how the expert's report may assist the defendant's case.
c) Whether the prosecution has instructed an expert, and the nature of that expert's report.

5. Factors that an Assessor should take into account when assessing a quote from an expert include:

a) Does the expert have the experience and skills necessary to give cogent advice in a case of this nature?
b) Are the proposed hourly rates reasonable and within the rates set out in Regulations?
c) Are the anticipated hours necessary?
d) Is it reasonable to instruct an expert based in that particular location?

6. Information that will need to be provided about the quote to enable the Assessor to make that assessment includes:

a) Advice from Counsel (if necessary)
b) Hourly rate of the expert for preparation and travel (generally around one third to one half of the preparation rate) – including lower level fee earners assisting the expert
c) The division of labour between the different levels of expert
d) The breakdown of hours required for reading case papers, analysis of information and preparation of report
e) Any anticipated disbursements.
f) The address where is expert is based/located, not their correspondence address (if different)
g) Any alternative quotes

7. The LAA will not pay the expert to produce a quote for the anticipated work. If the expert needs to undertake preliminary reading of case papers to produce a quote, the LAA will only pay for the time spent reading essential material (at an agreed formula per page), if the quote is accepted. This is on the basis that the reading is not duplicated post instruction and will be used by the expert to draft their report.

8. If the Provider wishes to instruct a second expert, the presumption will be that the LAA will not pay for this unless there are exceptional circumstances.

9. Criminal Prior Authority applications can be submitted in relation to medical reports. The PoP CRIMLA 3, as amended, outlines the circumstances where this may be appropriate:

"This guidance is written in order to clarify the circumstances in which applications for prior authority in criminal cases for the commissioning of medical reports may be considered. Such requests have been refused previously on the basis of point of principle CRIMLA3 on the assumption that the court may order the report and the costs would be met from Central Funds. The courts have recently given guidance which shows that the courts will only pay for written medical reports out of Central Funds in very limited circumstances.

Essentially, the Board's basic starting point in respect of medical reports is that if the court would normally pay the costs of the report out of Central Funds then it should do so, notwithstanding the existence of a legal aid order. The court will only pay for reports in certain very limited circumstances. These are:

1. the court has ordered the report to be prepared, and

2. the report is required for the purposes of determining whether to make a hospital or guardianship order, or a probation order requiring medical treatment for a mental condition.

If both these conditions apply then an application for prior authority should be refused. If they do not, then an application for prior authority may be granted, subject to the usual principles."

10. A non-exhaustive list of disbursements which may not be incurred, nor funding applied for by way of Prior Authority, can be found at 5.38, of the SCC Specification.

7.3 Defendant Expenses

1. A defendant's expenses for travelling to see a solicitor and travelling to court are not generally payable out of the fund. The travelling and other expenses of the defendant are personal expenditure which is not incurred by a fee-earner (*R -v- Arney* - The Taxing Compendium):

"Although the fares paid to the defendant are clearly travelling expenses they are not incurred for the purpose of giving legal aid. The defendant travels to court for the purpose of standing trial. The travelling expenses of a witness can be paid either by the solicitor and recovered by him under the Regulations or, alternatively, and as is more usual, pursuant to Regulation 11 of the Costs in Criminal Cases (Allowances) Regulations 1977. So long as there is no duplication of payment it is proper for the disbursement to be included in a solicitor's bill paid by him"

This case determined that the travelling expenses of the defendant are not incurred for the purpose of giving legal aid as the defendant travels to court for the purpose of standing trial.

2. Following the case of *R -v- Legal Aid Board ex parte Eccleston [1998] Divisional Court, 3 April (unreported)* regional offices may exceptionally receive applications for prior authority under the former Regulation 54(1)(e) of the General Regulations to fund the client's travel and other expenses to attend court, legal advisers or experts.

3. Where an application for such funding is made it should be submitted on using the Apply for Prior Authority to Incur Disbursements service via the LAA online portal.

The application should be comprehensive and should include as a minimum the following information and documents:

a) A fully completed Application for Prior Authority. This should clearly detail the particular exceptional circumstances and why authority for expenditure is sought from the LAA.
b) Full details of the defendant's capital, income, and outgoings to demonstrate impecuniosity.
c) Written evidence confirming that funds are not available from any other source, e.g. Department of Work and Pensions.
d) Confirmation that full enquiries or applications have been made to ascertain the availability of alternative funding but that it is not available and the reason(s) why. Where other agencies are involved with the defendant and as a result owe a duty of care to that person, written confirmation should be sought as to why they cannot assist with funding travel.
e) Finally, the application should set out, in the context of the Eccleston judgement and where relevant should plead in aid articles from the European Convention and the Human Rights Act 1998, arguments in support of their application given the circumstances of the case or the defendant.

4. If a defendant is acquitted, he or she may be granted a defendant's costs order to recover expenses incurred in the proceedings. This may include travel expenses. If the LAA grants prior authority to cover such expenses then any expenses covered by the prior authority shall not be recoverable from Central Funds. All other reasonable expenses may be recoverable under a defendant's costs order, which is submitted to the court.

7.4 Witness Expenses (including Prison Inmates)

1. Payment to a witness attending to give evidence is made from Central Funds, i.e. by the Lord Chancellor. This is because witnesses are assisting the court.

2. Prior authority should not be granted to cover the costs of production at court of defence witnesses who are in custody; although such costs may be allowed on assessment as they are not payable from Central Funds. Section 29 of the Criminal Justice Act 1961 empowers the Secretary of State to authorise the production of an inmate at any place in the UK if he or she is satisfied that the attendance of the inmate is desirable in the interests of justice. Guidance has been issued by the Prison Service to prison governors to the effect that where inmates are produced as prosecution or defence witnesses in criminal proceedings (other than at certain stages of private prosecutions), all productions should be undertaken at public expense.

7.5 Video Evidence of Defence Witnesses

1. Where a court has directed that a defence witness may give evidence by video recording, there is no question as to the reasonableness of incurring the associated costs under the defendant's Representation Order. Prior authority may be sought to cover such expenses and the amount is subject to the usual test of reasonableness.

7.6 Intermediaries

1. From 1 April 2022 the provision of intermediary services has been brought under contract by HMCTS under the HAIS framework (HMCTS Appointed Intermediary Services). The new framework introduces standardised booking processes, price controls and quality assurance checks to ensure the client is given the best communication support to allow them to give instructions and effectively participate in hearings - details and further information about the service can be found here.

2. While the LAA will continue to authorise reasonable hours for assessment of the client, preparation of the intermediary's report and any pre-trial out-of-court conferences, payment for this work will be made directly to the intermediary by HMCTS and claimed back from the LAA.

3. From 1st April 2022 the LAA will authorise costs for this work at the HAIS framework rates for preparation, travel and subsistence. Mileage can be claimed on assessment at a maximum of 45p per mile and VAT can also be claimed if applicable. Evidence of prior authority will be required to enable the payment to be processed by HMCTS. Prior authority cannot be granted by the LAA for an intermediary to attend Court.

4. In accordance with the judgement in the case *R v. G P and Others*, the LAA would expect any initial assessment as to whether a client requires an intermediary to be conducted in advance of the PTPH.

5. Costs for the intermediary's attendance at Court should be submitted by the intermediary to HMCTS and will be paid via HAIS.

6. Providers are expected to use intermediaries who are part of the HAIS contracted framework. Where a provider wishes to use the services of an off-contract intermediary, they must discuss this with HMCTS Contracted Services Division (HMCTSContractedServices@justice.gov.uk) with a valid reason for doing so. The Contracted Services division will consult with the judiciary where necessary.

7. Any intermediaries booked off-contract cannot be paid via HMCTS frameworks. The costs will be paid for by legal representatives and should be submitted to the LAA as a disbursement in the usual manner.

8. The HAIS framework does not apply to prison law and parole board cases.

7.7 Enquiry Agents

1. The instruction of an enquiry agent is for the fee-earner to determine based on the circumstances of the case. Reference should be made to CRIMLA 25 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

2. If an enquiry agent reasonably undertakes work that would normally be undertaken by a fee-earner, such as taking witness statements, the solicitor may include that work within the solicitor's profit costs claim. However, where an enquiry agent is used to trace a witness, which would not be regarded as fee-earning work; this should be claimed as a disbursement. If the work is claimed as a disbursement then the amount claimed must not exceed the amount that would have been paid as profit costs had the claim been made in that way (*Smith Graham -v- Lord Chancellor's Department [1999] QBD (unreported)* – Appendix Manual section 8) (see section 2.3).

3. The PoP CRIMLA 43 sets out how the fees should be claimed when the enquiry agent undertakes both activities together see.
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

7.8 Interpreters

1. Fees of interpreters required at court should not be allowed on assessment as these should be met from Central Funds. Guidance came into effect from October 2001 confirming who is responsible for arranging an interpreter to attend court proceedings. Fees for interpreters for conferences with clients are allowed on assessment, as these will not be covered by Central Funds.

2. The Police will arrange for an interpreter for a defendant who appears at court within two working days of charge. The Court will arrange an interpreter for the defendant in all other circumstances. In Youth Court cases, parents or other appropriate adults requiring interpreters will have that facility provided by and at the expense of the Court. The defence solicitor is responsible for arranging an interpreter for a defence witness, but the cost will be met from Central Funds. Prior authority should therefore not be granted in these cases. A fully qualified interpreter should be used whenever practicable.

3. The defence is responsible for obtaining interpreters for attendance on clients and witnesses during case preparation. Interpreters employed by solicitors during the preparation of the case may be allowed where appropriate (subject to assessment of reasonableness in terms of both the work undertaken and the amount). In criminal cases it is often not appropriate for the client to have to give instructions through a friend or relative as this can lead to misunderstandings. Claims for interpreter's fees should not be disallowed on this basis.

4. Where an interpreter is required at the police station, the police will appoint an interpreter whose role is restricted to interpreting for the purposes of the prosecution case. When a defence solicitor requires an interpreter to facilitate the provision of advice between a solicitor and a client, a different interpreter should be used, where practicable. This is to prevent contamination of evidence through confidential knowledge gained in private consultation with the client which could render the police interview inadmissible at court. The interpreter used by police may be called as a prosecution witness. Where this is not practicable the client may, through his or her defence solicitor, consent to the use of a police appointed interpreter. The requirements of the Quality Standard for the use of an expert must be considered. The interpreter employed by the defence may be selected from a list held by the police and the costs will be payable as a disbursement under Police Station Advice and Assistance provided that the expense is reasonably incurred and reasonable in amount.

5. If the solicitor or a member of his or her staff provides interpreting services directly, this cannot be charged as a disbursement unless there are separate contractual and payment provisions between the Provider and the person providing the service. The business providing this service must be a separate entity and those involved should have appropriate expertise. If undertaken "in house" this work would usually be claimed as part of profit costs.

6. The fees charged by interpreters can vary dependent on the language spoken and, in general, the fees charged for interpreting in more obscure languages are higher than in more common languages. In a legal aid case, just as in a privately funded case, a solicitor should aim to secure value for money when instructing any third party. This may, sometimes, involve obtaining competitive quotes where it is possible to do so. Prior authorities should not be refused solely on the basis that it would be less expensive to engage a non-registered interpreter however additional evidence would be required to justify a higher fee.

7.9 Translation of Prosecution Documents

1. If a defendant before the court does not have an adequate command of English, it may be necessary for the prosecution case papers to be translated into their native language. Following discussions with the Ministry of Justice and the Crown Prosecution Service (CPS) the LAA has been advised that there is European Convention on Human Rights case law to the effect that there is no automatic right for the defendant to receive written translations of all the documents in the proceedings (*Kamasinski -v- Austria [1991] 13 EHRR 66, Hayward -v- Sweden [1988] Application No. 14106/88*). The CPS takes the view that the onus is on the defence to identify and facilitate the translation of the necessary documents.

2. As a matter of good practice, the defence will generally wish to have a copy of Advanced Information/committal papers in the client's own language. In such circumstances, Assessors should assume that the prosecuting authorities will not bear the cost of translating such documents. The onus is therefore on the defence to justify whether, and to what extent, prosecution documents require translation.

Where a significant amount of translation work is required, the defence may seek a prior authority to cover the expenses.

7.10 Transcription

1. Home Office directions on taped interviews require that the Crown Prosecution Service informs the defence that it has had a transcript made in all cases where this is so. The defence can request a copy if it is considered appropriate. If the prosecution has not transcribed the taped interview and the police summary of the interview is insufficient for the purposes of the defence, prior authority may be sought to obtain a transcript if the transcription is undertaken by an outside agent and therefore involves a disbursement.

2. . The following rates will be allowed on assessment; £2.20 per minute for straight transcription and £4 for transcribing and translating The provisions above also apply to video recorded evidence as well as Court Transcripts when justified.

3. If the transcription is undertaken "in house" such work is deemed to be an overhead of the Provider which is not recoverable from the fund. When an outside agency is used, such expenditure can be authorised or paid, otherwise than as an office overhead. Reference should be made to the PoP CRIMLA 19 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

7.11 Purchase of Tapes/Records

1. In circumstances where it is reasonable for a solicitor to listen to the recorded interview, and the Assessor is satisfied that the police have charged for supplying a copy , that sum may be paid by way of disbursement. However, the Assessor may disallow the cost of this disbursement if a free and accessible copy exists.

2. Where a solicitor makes no claim for the cost of purchase, but nevertheless submits a claim for listening to a record, the Assessor should check that the work is adequately evidenced on file e.g. by an attendance note.

3. Code E of the PACE Codes of Practice requires the police to supply a copy of an interview record as soon as practicable to any person charged or informed that he or she will be prosecuted. One copy is usually provided to the suspect free of charge on release from custody. If a charge is levied by the police then that sum may be allowed as a disbursement provided the Assessor is satisfied that a disbursement voucher is available if the expense is £20 or over.

4. Where a record is mislaid or damaged, police may levy a charge for the provision of additional copies. If a solicitor rather than the client damages or mislays it, it would not be reasonable for the cost of obtaining a replacement to be claimed as a disbursement from the fund as the item has already been provided once free of charge.

7.12 Computer Aided Transcripts (LiveNote)

1. Selective use of computer aided transcripts in complex trials has become more common. In general, this issue arises in relation to the more complex criminal trial proceedings in the Crown Court where the role of the LAA are limited to considering applications for prior authority.

2. The LAA's position is that if the expenditure can be a disbursement (i.e. not an office overhead and thus an expenditure that can be used in other cases) all parties, including the court, prosecution and unassisted parties, should share in the costs of the system pro-rata. However, before granting prior

authority to cover such applications, the LAA expects the parties to attempt to quantify the costs savings and other benefits that use of the system will bring. The LAA would expect to see evidence of cost benefit before granting these applications.

3. The expenses that could be covered under a prior authority on a *pro rata* basis are:
   a) Defence costs of initial installation.
   b) Defence connection charges (the number of connections required may vary from case to case but would not normally exceed two even where more than one Counsel is assigned under the Representation Order).
   c) Transcript costs for the defence (one per solicitor and Counsel Assigned).
   d) Daily attendance fee (pro rata share).

4. Related costs the LAA will not meet:
   a) Training on the system - whether this is for solicitor or Counsel it would always be an overhead.
   b) Judicial training - this would be an area for the Ministry of Justice.
   c) Judge's connection costs - the Court Service must bear this cost.
   d) Subsistence and accommodation expenses for court reporters.
   e) Any more than two connections (unless representing more than one client).
   f) Hire of laptops. Where the hire of laptops is necessary to use Livenote at court, the hire fee may be deemed to be a disbursement if it can be demonstrated that it is a case specific expense. However, the costs of hiring laptops can represent a significant expense to the fund when set against the cost of outright purchase of such equipment and as such it will be difficult to demonstrate any overall cost saving. The LAA expects Providers that regularly undertakes these types of case to supply the appropriate hardware to support the use of new technology.
   g) Additional hard copy or disk copies of transcripts, or delivery charges.

5. Where prior authority is sought for computer-aided transcripts or other electronic evidence, all defence applications relating to the same proceedings must be submitted to the Criminal Cases Unit at 102 Petty France, London, SW1H 9AJ at the same time for determination (even if the cases are not subject to individual High Cost Case contracts). The onus is on the defence solicitors to notify the LAA of the number of defendants involved in the case so that appropriate arrangements can be made to co-ordinate the applications. Any such application(s) must be lodged as soon as a decision has been taken to use computer-aided transcripts in the case.

6. If an application is made close to the trial date an explanation should be provided for the delay. These types of application are often extremely high value and may be referred to an ICA, so ample time must be allowed for the LAA to determine such applications.

7.13 Electronic Presentation of Evidence at Trial (EPE)

1. Certain prosecuting authorities have developed and are implementing electronic case presentation systems (EPSs) for use in trials. These not only allow for electronic presentation of evidence in the court room, but also provide for electronic preparation of the prosecution case and service of the evidence on CD Rom.

2. Applications for prior authority relating to EPE will generally fall under 14 (1) (d) of The Criminal Legal Aid (Remuneration) Regulations 2013. The contents and the actual expense for which prior authority is sought must constitute a proper disbursement.

Training

3. The LAA does not consider that it can fund the cost of any training on using the system as the costs of training staff always amount to an overhead. If the initial installation fee also includes an element of training that is subsumed within the installation fee then that would be allowable under a prior authority.

Hardware (including laptops) and Software (including installation)

4. The cost of funding any computer hardware and software is not case specific as these are reusable and therefore it would amount to an overhead for which prior authority cannot be granted.

Defence Counsel

5. The same principles apply as above.

Defence Printing and Copying Costs

6. It is considered that the printing pages of material that can be viewed electronically is not a reasonable use of public funds. In exceptional circumstances, the cost of bulk printing or photocopying of electronically served evidence i.e. more than 500 pages, could in principle be authorised in advance under prior authority. However, questions will arise as to reasonableness. A paper copy may be made for the client, provided that he or she is unable to access the material electronically.

Courtroom Operator

7. At trial an impartial courtroom officer controls the images displayed and may provide technical support during the course of the trial. The LAA's view is that the role of the courtroom operator is primarily to assist in the presentation of the prosecution case at trial and it is difficult to see how this expense easily fits within the definition of a disbursement. For that reason, any pro rata costs of a courtroom operator will not be authorised under a prior authority and the LAA does not consider that they are recoverable costs under a Representation Order.

7.14 In-House Photocopying

1. Photocopying is not recoverable when done "in house" unless the circumstances are unusual or the documents to be copied are unusually numerous since this constitutes a general office overhead. Reference should be made to the PoP CRIMLA 1 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

7.15 Defence Post-mortems

1. The Home Office has issued a circular (No. 30/1999) and Memorandum of Good Practice in response to concern about the adverse impact of delay on the family of the deceased where a second post-mortem is necessary to assist the defence. The Memorandum of Good Practice requires all agencies involved in the case (including the defence) to seek to minimise delay to enable the body of the victim to be released for burial or cremation at the earliest opportunity.

2. Paragraph 25 of the Memorandum of Good Practice advises defence solicitors to seek prior authority from the LAA as soon as a suitably qualified pathologist has been identified where a second post-mortem is necessary.

3. In view of the serious consequences of an allegation of homicide for the accused, it will be exceptional for the Regional Office to refuse prior authority if a properly completed application has been made by the Provider. If an application is refused by the Regional Office, then steps should be taken to expedite consideration of the application by the ICA.

4. Regional Offices should also note from the Home Office guidance that it would rarely be reasonable for more than one defence post mortem to be carried out where there are co-defendants unless there is a conflict of interest which cannot be addressed by separate instruction to a single expert.

5. Mortuaries now often charge a fee for the use of their establishment and prior authority can be sought for this fee.

Charging for Retention of Bodies

6. It can be common for mortuaries to charge Providers for the cost of retaining bodies after the Home Office post-mortem examination has been performed and before the defence post mortem is carried out. Such storage requires bodies to be held in specific "ideal" conditions to prevent further decomposition prior to the defence examination. Additionally, the defence post-mortem, which is funded by the LAA, usually by way of prior authority, is limited to that examination only. It has not previously included reconstruction and cosmetic repair of the body before it is released to the family for burial. Such work is skilled taking up valuable time of the mortuary technicians. As the need for this extra work is occasioned by the examination by the defence appointed pathologist, mortuaries have concluded that it is proper to charge the defence for the cost of carrying out the work and the storage costs incurred.

7. In light of this change in practice by the mortuaries, the LAA shall pay the reasonable cost of charges incurred as outlined in the above circumstances. It will not authorise payment for the costs of any storage charges that have not been incurred directly by the defence. Such charges will be considered to have been incurred where retention occurs outside any time limit directed by the coroner and specifically requested by the defence in order to facilitate the carrying out of the defence post-mortem.

8. Claims for these costs should be made by way of a disbursement on the bill and will need to be supported by a copy of the invoice from the mortuary which should clearly show reasons for retention, the daily rate charged for retention and details of any reconstruction work carried out.

9. Files should also clearly demonstrate that reasonable efforts were made to have the defence post-mortem carried out at the earliest opportunity in accordance with the Home Office Circular No. 30/19-99 Post-Mortem Examination and the Early Release of Bodies.

7.16 Data Protection Act Searches

1. In certain circumstances the Data Protection Act 1998 can be used to obtain access to copy documents for a maximum fee e.g. copy bank statements. The requirement to disclose is limited to personal data concerning an individual.

7.17 Unused Material

1. Unused material is material that forms part of a criminal investigation but is not used by the prosecution for the purpose of criminal proceedings as it is not considered to be relevant e.g. statements taken from potential witnesses which do not form part of the prosecution case. Disclosure of this type of material was placed on a statutory footing by the Criminal Procedure and Investigations Act 1996 (CPIA), the supporting Code of Practice and the Attorney General's Guidelines. Cases predating the CPIA are still governed by the Common Law. The prosecution is under a duty to disclose information to the defence that does not form part of its case. In certain cases, this material can be voluminous which will affect case preparation time as the defence is obliged to consider unused material as it may include information relevant to the defence case.

2. In certain parts of the country the prosecution or police may levy a charge on the defence for copying and supplying this material for which prior authority may be sought. This type of expense will be

allowed on assessment provided that the usual test of reasonableness is met. In certain circumstances it may be more economical for the defence solicitors to attend the police station to view and make copies of this material directly.

3. A similar policy applies in some areas of the country for transportation of exhibits to a forensic science laboratory by police for defence examination. This type of expense should generally be allowed on assessment if it is unavoidable.

7.18 Payment on Account

1. An application for Payment on Account of a Disbursement for which a Provider has incurred liability in Criminal Proceedings in the Magistrates' Court, may be sought provided that the conditions in 10.90 to 10.94 of the SCC Specification are satisfied.

8. Applications for the Extension of an Upper Limit

8.1 General

In a number of classes of work in Criminal Legal Aid, an Upper Limit of funding applies to a matter. This can be extended following an application from the Provider for the extension to the Upper Limit.

You must use the Apply for an Extension of Upper Limit online service to make such an application. This service is located on the LAA Portal under "Submit a crime claim" function. An allowance of one to two units (6 to 12 minute's preparation time) may be made for completion of a straightforward application. More time may be required for a complex application requiring supporting evidence, up to 30 mins.

1. The following classes of work in Criminal Legal Aid have Upper Limits applicable to them:

    1. Freestanding Advice and Assistance in Criminal Investigations (work conducted outside the Police Station).
    2. Advice and Assistance for Pre-Charge Engagement
    3. Advocacy Assistance on a warrant of further detention.
    4. Advocacy Assistance for armed forces custody hearings.
    5. Advocacy Assistance in the magistrates' court in connection with an application to vary bail conditions.
    6. Own client work Pre-Order Cover (the Upper Limit in this class of work cannot be extended)
    7. Representation in Prescribed Proceedings in any court save for Prescribed Proceedings in the magistrates' court/youth court.
    8. Representation in the Crown Court under a Representation Order in Prescribed Proceedings on appeal from the magistrates' court.
    9. Advice and Assistance on appeals against conviction or sentence (where a newly instructed representative is not covered by an existing Representation Order) or applications to the Criminal Cases Review Commission (CCRC).
    10. Representation in the High Court in relation to Parole Board decisions referred to the High Court under section 32ZAA of the Crime (Sentences) Act 1997 or section 256AZBA of the Criminal Justice Act 2003.

2. The applicable Upper Limits to the classes of work outlined above are contained within the Criminal Legal Aid (Remuneration) Regulations 2013.

8.2 General Checks

1. Upon receipt of an application to extend the Upper Limit, the LAA will ensure that the following checks are undertaken:

a) All sections of the form are fully completed.
b) A breakdown of work undertaken to date is provided.
c) That the appropriate rates have been applied, in accordance with the Criminal Legal Aid (Remuneration) Regulations 2013.
d) The form is signed and dated by a solicitor or fellow of the institute of Legal Executives (FILEX).
e) The CRM1, 2, 3 or previous applications to extend the Upper Limit are provided as appropriate.

f) Check current version of the form is used.

If any of the above is missing or incomplete the form may be rejected and a request further information made.

8.3 Detailed Checks

1. If the existing Upper Limit has been exceeded by the Provider, the LAA should disallow any costs incurred in excess of that limit. If any further work requested is deemed reasonable, the application should then be part-granted by adding any further reasonable costs to the existing costs limit.

2. Justification should be provided detailing how the costs already incurred are reasonable and why the additional work requested is necessary and further to 5.5 of the SCC spec, the Provider should also ensure that the Qualifying Criteria (especially the Sufficient Benefit Test) continues to be met and that the proposed work is reasonable This will be checked on assessment.

3. Sufficient detail should be contained within the Provider's application in order to justify the work proposed. If this has not been provided, the LAA should reject the application and request a comprehensive breakdown.

4. Advice and Assistance should not be provided where the client has already received advice in the same matter within the last 6 months (unless the relevant exceptions listed in the SCC Specification have been met). Any relevant information relating to previous Advice and Assistance the client has received should be detailed on the application form.

8.4 Counsel

1. A Provider may request Counsel's advice in relation to a matter where an application to extend the Upper Limit is submitted. An extension in order to obtain counsel's advice can be granted, provided that it is reasonable and justification for requesting counsel's advice is detailed in the application.

2. When preparing an Advice, Counsel may need to consider key or relevant documents from the case papers, as well as a brief from the Provider.

3. If the Provider requests that both the solicitors and Counsel consider the papers in a case, the LAA should consider carefully whether the time should be allowed for both to read the papers depending on the respective roles being carried out. Solicitors cannot act as a post box for counsel nor can they incur unreasonable costs. Therefore the initial reading undertaken by them must be in order to identify the issues and advise the client generally. If the solicitor requires more specialist advice from counsel they should restrict further reading to the minimum necessary to instruct counsel. Counsel will need to read sufficient material to provide a professional opinion. Any duplication should be avoided if possible.

9. Rates & Payment

9.1 Enhanced Rates

General Principles

1. Para 10.82 of the SCC Specification sets out those circumstances where enhanced rates may be claimed. If enhanced rates are claimed, the solicitor must claim a Non-Standard Fee or Designated Non-Standard Fee, where appropriate. The onus is on the Provider to supply with the claim full details of how the work meets the criteria for enhancement. Please refer to 10.61 (b), of the SCC.

2. The fact that the Provider's client is charged with a rare or unusual offence will not, in itself, make the circumstances of the case exceptional. In (*R -v- Legal Aid Board ex parte R. M. Broudie & Co [1994] 138 S.J. 94)* the Divisional Court determined that "*exceptional* " means "*unusual and out of the ordinary*" and that "*exceptional*" means exceptional when compared with an ordinary criminal case, not exceptional when compared with other cases of the same type. Reference should be made to the PoP CRIMLA 36 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

3. Assessors should consider whether a factor on which a claim for enhancement is based substantially increased the burden on the Provider. Examples could include the character of the defendant, the weight and complexity of the case, the type of allegation, the degree of public interest, the need for expert evidence, difficulties with defence witnesses and the length of trial.

4. Enhancement may be applied to a class of work or an item or any combination e.g. all work up to a certain date may be allowed at an enhanced rate or all advocacy or advocacy on certain dates only. The case of *Miller Gardner (Solicitors) -v- Lord Chancellor [1997] 2 Costs LR 29* provides authority for this i.e. if an Assessor departs from the prescribed rate for one item or class of work then he or she does not have to depart from the prescribed rate for others.

5. Routine letters and telephone calls should be allowed at the rate prescribed in the Criminal Legal Aid (Remuneration) Regulations 2013 and will rarely warrant an enhanced rate. Non-routine letters and telephone calls which are as much a part of case preparation as attendances may attract enhanced rates in appropriate cases and should be claimed on a time basis.

6. If enhancement is allowed, care should be taken by the Assessor to ensure that it is restricted to the appropriate element(s) of the bill. Generally, only the attendance, preparation and advocacy elements are likely to attract enhancement. It is highly unusual for circumstances to arise which would warrant an enhancement on travelling, waiting, letters and telephone calls. In *R -v- Alwan [2000] 2 Costs LR 326*, it was held by the costs judge that letters and telephone calls (including routine ones) were an integral part of the case preparation and therefore attracted a 200% enhancement in an Inland Revenue corruption case.

7. Travel and waiting time may be enhanced when the time involved is disproportionate to the productive work connected to it *(Miller Gardner (Solicitors) - v - Lord Chancellor [1997] 2 Costs LR 29).* Reference should be made to the PoP CRIMLA 51 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

8. Para 10.81 to 10.84, of the SCC Specification provides the criteria for enhanced rates to be considered.

9. Points of Principle provide additional guidance on how to apply the criteria and what can be considered when assessing whether a claim merits an enhanced rate:

a) Solicitors able to speak a foreign language (CRIMLA 4)
b) Clients charged with murder (CRIMLA 20)
c) If the Court assigns Counsel, this may also be a relevant factor in determining whether to allow enhanced rates CRIMLA 32).
d) Work undertaken by unassigned counsel may form part of the solicitor's claim for enhanced rates. (CRIMLA 47 and also CRIMLA 17, 71, 60 and 66):

https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

10. The fact that a case involves work related to the Human Rights Act 1998 does not mean it automatically qualifies for enhanced rates. Each claim must be considered on its own merits.

11. Under the Contract there is no general entitlement for Counsel to submit a claim for payment at enhanced rates under paragraphs 10.83-10.85. However, under paragraph 10.89 where the exceptional circumstances of the case mean that the rates set out in the Criminal Remuneration Regulations would not provide reasonable remuneration for some or all of the work allowed the LAA may allow such amounts as appear to us to be reasonable remuneration for the relevant work (see paragraph 6.7.18).

9.2 Process on Receipt of a Claim for Non-Standard Fees and Escape Fee Cases

1. Prior to submission of a claim, the solicitor should check that the claim form has been correctly completed and contains a UFN. Failure to include all relevant supporting documents as referred to in 10.61, of the SCC Specification may result in rejection of the claim. The appropriate form must be signed by a Solicitor or a Fellow of the Institute of Legal Executives.

2. In Non-Standard Fee cases it is essential to consider the Provider's file. The more complex the proceedings and the higher the value of the claim, the more likely it is that Assessors will be assisted by the file when assessing the bill. Assessors must always consider the file if it is submitted with a claim, irrespective of the nature or value of the claim.

3. Certain documents should be submitted with a non-Standard Fee claim. These are the original Representation Order(s) (as amended) (this is the trigger for payment), any grants of prior authority and disbursement vouchers. The LAA reserves the right to request such further particulars, information or documents in support of a claim to enable the Assessor to determine the claim.

4. If the solicitor has lost or mislaid the Representation Order then a duplicate can be obtained from the court. A photocopy should not generally be accepted as the order marked "Board/LAA copy" is the authority entitling solicitors to payment. The court clerk has discretion as to whether a duplicate order should be issued (*R -v- Liverpool Justices ex parte R M Broudie & Co. (A Firm) [1994] 6 April, The Times*).

5. Where there is more than one defendant a Representation Order must be submitted for each defendant. Any amendments to the order should also be enclosed with the claim e.g. if Counsel is Assigned, change of solicitor or an order withdrawing representation.

6. If a wasted costs order was made by the court a copy must be enclosed.

7. Supporting invoices/receipts/vouchers must be submitted with any claim for disbursements (save for individual journeys of £20 or less in value and/or mileage claims). If prior authority has been granted, a copy of the letter should be included.

8. The Provider should submit a copy of the charge sheet, particularly where there are several offences (if this is available).

9.3 Late Claims

1. Para 4.48 and 8.3, of the SCC Specification requires a Provider to submit a claim for costs for work within three months of the conclusion of the case to which the order relates (subject to special provisions for warrants of arrest and deferred sentence hearings – see below).

2. The conclusion of the case is defined in 4.47, SCC Specification. A case will also end if a Representation Order is withdrawn and the effective date will be the date of notification of withdrawal. For the purpose of determining whether a claim has been submitted in time or not, the date of receipt by the Processing Centre (of a properly completed claim with its enclosures) shall be treated as the date of submission. Where work is claimed on the Crime Lower Monthly Submission, the relevant date is the "Date Class of Work concluded" which is completed by the Provider.

3. If the Provider ceased to act for the client, the relevant date will be when the client decides to act in person. If the Representation Order is transferred to a new solicitor then the date of the transfer is deemed to be the "conclusion of the proceedings" for the purposes of a claim by the original solicitor. Reference should be made to the PoP CRIMLA 75 see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

4. If a submitted claim is not properly completed, the claim will be rejected. The original submission date remains the relevant date for the purposes of the late claims rule. All related files must be submitted when any file is requested for audit assessment purposes (8.5 of the SCC Specification).

5. All claims made under the same Representation Order or relating to the same case or matter must be submitted together. If the Provider acts for more than one client in the same case and that case concludes at a different time for each client, then a single claim must be submitted once the case covering all relevant clients has concluded. The trigger date for submitting a claim is the latest date on which the proceedings concluded for all clients.

6. If a claim is received after the three month time limit has expired, the LAA are not obliged to pay it. Where a claim is submitted outside the three month limit, an explanation should be provided, stating whether there are circumstances which would justify not imposing a late claims penalty. Account must be taken of the effect of the monthly deadline for the submission of the Provider's Crime Lower Monthly Submission. If the claim would have been in time but for the fact that the Crime Lower Monthly Submission was not submitted until the appropriate stage in the month, no penalty should be imposed. In deciding whether there are such circumstances, each case must be judged on its own merits, although regard can be had to the Provider's history of late claims. Such circumstances might relate directly to the conduct of the case itself, e.g. where a co-defendant's case is awaiting disposal, or to the conduct of the Provider, e.g. oversight, loss of file, departure of fee-earner. If a Provider has a history of late claiming, then the circumstances are less likely to justify not imposing a late claims penalty.

7. The decision whether to impose a late claims sanction must be made in conjunction with the Provider's Contract Manager who must raise the issue with the Provider before imposing a sanction.

9.4 Supplementary and Amending Claims

1. Supplemental claims may no longer be submitted as additional amounts. Where an amendment is required (either for a supplementary claim or if there was an error in the original claim) then the Provider must make an application for such to the LAA. Guidance can be found here on how to make a claim amendment application:
https://www.gov.uk/guidance/submit-a-contracted-work-and-administration-cwa-claim-online

9.5 Wasted Costs Orders

1. If a Provider includes the work to which the order relates the LAA may disallow the amount of work done on assessment. In those circumstances, the amount disallowed will be that amount or the amount of the wasted costs order, whichever is the greater.

2. If a wasted costs order is made in the Provider's favour and they have received payment, they should deduct the amount of wasted costs paid from their claim if it relates to work covered by that claim. If they have not received payment of wasted costs at the time that they submit their claim, they may claim the full sum due and subsequently request an amendment to reduce their claim by the amount of any wasted costs as soon as such notification is received.

3. Where the Provider is able show that the costs to which the wasted costs order made in their favour relates to costs which would not otherwise be claimable from or payable from the Legal Aid Fund, they are entitled to keep those costs, provided they set out in writing to the LAA, the circumstances in which the wasted costs order was made. The LAA will then confirm that the Provider may keep those costs in addition to the costs payable for that Contract Work.

4. The fact that a wasted costs order has been made against the Provider or Counsel is a factor which the LAA may take into account on Assessment.

9.6 Withdrawal of Representation Orders

1. A Provider may claim for work undertaken up until the date of withdrawal of a Representation Order.

2. The time limit for submission of a claim runs from the date on which withdrawal of an Order came to the Provider's knowledge.

3. Where a Representation Order is withdrawn, the Provider should send, without delay, all papers and other material in their possession relating to the proceedings to the Client, but retain copies on file for Assessment purposes.

4. If representation is withdrawn during the course of the proceedings and there is no case outcome for Standard Fee or Designated Standard Fee purposes, a Non-Standard Fee or Designated Non-Standard Fee should be claimed by the Provider as they are entitled to be paid for the work undertaken (CRIMLA 45). A copy of the order withdrawing representation should be attached to the claim. However, if the order is not withdrawn until after the conclusion of the proceedings, there will be a case outcome and the appropriate category of Standard Fee or Designated Standard Fee must be claimed in the usual way, see:
https://www.gov.uk/guidance/legal-aid-points-of-principle-of-general-importance-pop

5. If an order is withdrawn and subsequently reinstated or granted afresh following a further application, the Provider is not entitled to claim for any work undertaken during the period when no legal aid was in force. A single Standard Fee or Designated Standard Fee will be payable in the usual way at

the conclusion of the case but Assessors should check that the claim for costs does not include work undertaken during periods not covered by the order. If the solicitor submitted a claim when the order was withdrawn, he or she would be entitled to submit a supplemental claim for work following reinstatement but it may be the same category for the purposes of a Standard Fee or Designated Standard Fee claim so unless a higher Standard fee or Non-Standard Fee is applicable only the additional disbursements will be claimable. The work undertaken satisfies the definition of a case as it effectively amounts to a series of offences.

6. If a Non-Standard Fee has already been claimed where an order is reinstated, the practitioner will need to liaise with the LAA's Nottingham Regional Office in order to remove that claim and replace it with the appropriate Standard Fee.

9.7 VAT

1. All rates outlined in the Criminal Legal Aid (Remuneration) Regulations 2013 are exclusive of VAT.

2. The following table provides applicable VAT rates for the billing of a case. The rate applicable is the rate in force on the date the case is claimed, not the date when the work was undertaken.

VAT Rate	Rate Start Date	Rate End Date	VAT Rate %
1	01/01/1985	31/03/1991	15.00
2	01/04/1991	30/11/2008	17.50
3	01/12/2008	31/12/2009	15.00
4	01/01/2010	03/01/2011	17.50
5	04/01/2011		20.00

3. Further guidance on VAT can be found in Part A, section 4 of the civil costs assessment guidance, see:

Costs_Assessment_Guidance_2024_SCC_-_Version_1a-_23_September_2024.pdf

10. Professional Obligations under the Proceeds of Crime Act 2002 (POCA)

1. Work done by a Provider to comply with their general professional obligations under POCA, including an internal consultation, is not claimable. Work that is client-specific however (and not an internal consultation) is more likely to be work that is directly involved in the provision of contracted legal services to the client and so may be claimed from the fund, subject to reasonableness.

2. In *Bowman- v- Fels* [2005] EWCA Civ 226 the Court of Appeal considered how s 338 of the Proceeds of Crime Act 2002 (POCA) affected lawyers involved in litigation. The Court of Appeal concluded that: '*… the proper interpretation of s 338 is that it is not intended to cover or affect the ordinary conduct of litigation by legal professionals.*' Full guidance on the impact of this legislation and *Bowman –v- Fels* can be found on The Law Society's website see:
http://www.lawsociety.org.uk/support-services/advice/practice-notes/aml/money-laundering-offences/

3. It is likely there will be a reduced number of reports made by litigation lawyers but reports and other POCA work cannot be discounted altogether. The LAA has set out its approach to what may be allowed as remuneration for work done under POCA.

Checking identity and making a risk assessment

4. Checking the identity of a client is a pre-instruction procedure whereby the solicitor must ensure they obtain proof of the client's identity. The cost of identification procedure will be borne by the Provider in any event, as it is a preliminary step to determine whether instructions can be accepted from that client.

Advice to the client about the solicitor's responsibilities under POCA

5. Advice to the client about the solicitor's responsibilities under POCA and to what extent these costs are chargeable will depend on why and when the work is being done. The Law Society recommends that solicitors change their client care letters to explain the law in this area, in general terms without reference to the client's particular circumstances. As it is an amendment to the Provider's standard client care letter it should not form a separate letter.

6. After initial instructions are received there may be other points at which the solicitor and client spend time on POCA issues, for example, considering another party's finances. Such time is chargeable to the fund, subject to the reasonableness test.

Making a report to NCA

7. Taking further instructions on whether an offence has or will be committed, considering whether to make a National Crime Agency report and/or making a report to NCA may be chargeable will depend on why and when the work is being done.

8. If the purpose of the work is to consider how to avoid an offence by the solicitor of failing to disclose, it is not allowable against the fund. This work does not benefit the client, and its performance has no effect on the question of whether the Provider can continue acting.

9. However, if the Provider has made a report to NCA and has to also consider whether it can continue acting and how to advise without 'tipping off', this work would be claimable, subject to reasonableness.

10. If the purpose of the work is to obtain consent from NCA (and therefore a defence to substantive money laundering offences) because the Provider is to receive monies from or otherwise concerned in suspected financial arrangements, it is claimable if the transaction or settlement is in the context of the case. This work can be properly described as directly involved in the provision of contracted legal services, as it may be a necessary part of the process.

11. If the reason for receiving monies or becoming concerned in arrangements is the collection of private payment for legal services, then by definition it is nothing to do with the LAA and is therefore not claimable.

12. If a Provider has to seek directions and guidance from the court as to whether or not they should continue as the client's solicitor, this will fall within the scope of proceedings. It is anticipated that directions would only be sought where there was a pending hearing and the solicitor was unsure whether to continue to act. In such cases, this is client specific work. However, an amendment to the scope of the certificate may be required if the existing scope limitation is not wide enough to cover this work. Whilst considering whether the Provider can continue to act is client specific work and will be allowed subject to reasonableness, considering whether the Provider has 'tipped off' is not client specific.

13. Once the NCA has conducted an investigation it may decide to initiate proceedings. This can include a production order served on a Provider for the release of client documentation. Whether this is chargeable will depend on the funding position. If the client is a former client, with no current relationship existing between client and solicitor, the work in complying with the order will be borne by the Provider. Where however the client is a current client with the benefit of legal aid, compliance with the order would be client specific.

11. Funding for Confiscation Proceedings

10.1 Confiscation pursued under either The Criminal Justice Act 1988 (CJA) and The Drugs Trafficking Act 1994 (DTA)

1. Where the Prosecution commence confiscation proceedings under either the CJA or DTA as a result of the case involving criminal conduct predating 23rd March 2003, the proceedings may span both the Crown and High Court jurisdiction and as such two separate representation orders may be required.

2. Following commencement of confiscation proceedings, and provided the instructed defence team hold a valid Crown Court representation order, all work up to and including the making of the confiscation order will be covered under that representation order provided they are heard within the jurisdiction of the Crown Court. This includes any work associated with varying a restraint order for a defendant.

3. Post the making of a confiscation order and where it becomes apparent the defendant will need to apply for a Certificate of Inadequacy (CJA), or the Prosecution make any other confiscation related application(s) to the High Court, the defence team will need to apply directly to the High Court for a representation order to be paid for any work connected to those proceedings.

4. The Crown Court representation order will only cover a defence team up to the lodging of the application with the High Court. All work post-lodging should be recorded and billed to the Senior Courts Costs Office at the Royal Courts of Justice.

5. Once the High Court has determined the outcome of the CJA or Prosecution application as appropriate, and the proceedings have subsequently been returned to the Crown Court jurisdiction, all work will revert to being covered and remunerated under the original representation order for the Crown Court.

6. Defence teams should note the following:

- where a post-confiscation order transfer takes place, the incoming team should ensure that they apply for and hold a valid Crown Court representation order, and where appropriate a High Court representation order, in order to claim payment. Failure to obtain both may result in work being disallowed in part or in full.

- any worked claimed in relation to post-conviction positive advice on appeal will be disallowed on assessment as it should be claimed elsewhere.

- the LAA's Crown Court means teams must be supplied with copies of all restraint orders, including variations, as well as copies of the confiscation order and associated schedule of assets.

  They should be emailed to ProceedsofCrime@justice.gov.uk with the defendant(s) name and MAAT number in the heading

The payment process for advocates and litigators crown court work is outlined at the end of this chapter.

10.2 Confiscation pursued under The Proceeds of Crime Act 2003 (POCA)

1. As all aspects of the proceedings are heard within the jurisdiction of the Crown Court, provided the defence team holds a valid representation order a claim may be submitted for assessment as outlined below.

10.3 Submission of Claims for Crown Court Work

1. All claims relating to Crown Court work should be submitted for assessment to the Criminal Cases Unit (CCU) (except an advocate claim where the countable pages of prosecution evidence are less than 51, which should be made to the AGFS team). They should be submitted with the supporting evidence as follows:

- Advocates should submit a Form PA1
- Litigators have an EPF assessment using Form PL1 or PL2
- VHCC cases should use the VHCC electronic claim form

Copies of the PA1, PL1 and PL2 forms can be found here:

https://www.gov.uk/government/publications/poca-forms-for-solicitors-and-advocates

Further information on VHCCs can be found here:

https://www.gov.uk/guidance/high-cost-cases-crime

10.4 Enforcement Proceedings in the Magistrates' Court

1. As these are a fresh set of proceedings instigated by the Prosecution all defence teams **must** apply for a fresh representation order, irrespective of whether they have previously represented the defendant(s) in the Crown Court and High Court if appropriate.

2. Where the case requires additional work outside of the magistrates' court, e.g. variation of a restraint order or CJA application, the defence **must ensure** they also hold a representation for the appropriate court, applying for a transfer of representation if they did not represent the defendant in that court.

10.5 Submission of Claims for Magistrates Work

1. Enforcement Proceedings are automatically Non-Standard Fixed Fees and should be submitted as follows:

Non-Standard Magistrates Court Claims – Litigator only cases
CRM8 – Litigators and Assigned Counsel cases

Where Counsel have been instructed they should submit their claim via the instructed litigator, who should include counsel's supporting evidence as part of their claim.

12. Appeals and Reviews Class of Work

12.1 General

1. The class of work "*Appeals and Reviews*" means work in respect of an appeal or review of a criminal conviction or sentence (where a newly instructed representative is not covered by an existing Representation Order), or applications to the Criminal Cases Review Commission (CCRC).

2. This class of work is governed by Section 11, of the SCC Specification. Particular attention should be paid to 11.3 to 11.7, of the SCC Specification before a Provider commences a matter in this class of work.

3. The Sufficient Benefit Test (SBT) must be satisfied in order for a Provider to provide Advice and Assistance in this class of work. Financial Eligibility Tests must also be applied at the time the client applies for Advice and Assistance.

4. Upper Limits apply to matters undertaken in this class of work and are outlined in The Criminal Legal Aid (Remuneration) Regulations 2013.

12.2 Scope, Previous Advice and Assistance and Matter Start Boundaries

1. In the Appeals and Reviews class of work, a Provider should not claim for Advice and Assistance provided to a client who has received Advice and Assistance for the same matter from another Provider within six months. Exceptions to this are outlined at 11.27, of the SCC Specification but such a claim should not be submitted if the circumstances outlined at 11.30, of the SSC Specification apply. For the avoidance of doubt "Previous Advice and Assistance" under this paragraph relates to previous Advice and Assistance provided under this Class of Work only; the restriction on undertaking a case within six months does not apply in those instances in which there is a transfer between a Provider acting under a Representation Order to one acting under the Appeals and Reviews Class of Work.

2. Regardless, where a newly instructed Provider accepts instructions where another Provider holds a Representation Order, the newly instructed Provider must consider Paragraphs 11.5 and 11.6 of the Specification and should set out on file its justification for granting Advice & Assistance and opening a new Matter.

3. Recording the justification for providing Advice and Assistance in this class of work is particularly important. There is an assumption that the client should have been advised in relation to their prospects of a successful appeal by the Provider who acted under the Representation Order in the client's Criminal Proceedings. Therefore, reasonable endeavours should be made to ascertain what advice was given by the any previous Provider whether under a Representation Order or under previous Advice and Assistance.

4. The following (non-exhaustive) list is the sort of information that a Provider should consider and evidence on file when considering whether the SBT is met when opening an Advice and Assistance file in this Class of Work:

- Details of the index offence;
- Whether the client pleaded guilty or was convicted after trial;

- Which court and dates the case proceeded/concluded;
- The date of and length of sentence;
- The name of trial solicitors/counsel including what advice they provided and when;
- Whether the client has already lodged an appeal and if so, when and what was the outcome;
- The client's instructions as to why they believe their conviction to be unsafe and/or their sentence is wrong.

5. It must be evident from the file that the Provider claiming for the work in this class of work has sought to ascertain whether previous Advice and Assistance has been provided in the same matter. If this is the case, and the client has been provided with Advice and Assistance previously, the Provider must explain why it is reasonable to incur limited further costs

6. It will almost never be necessary for the Provider to consider a large quantity of papers from the trial proceedings. A large proportion of these documents will be routine and the client's instructions should identify the areas of the case that the client is taking issue with. This should narrow the scope of the necessary work considerably. Any time undertaken to consider papers must be justified on file otherwise the time claimed may be reduced/disallowed on assessment.

7. In accordance with 11.38, of the SCC Specification, it is not reasonable for a Provider to provide Advice and Assistance in relation to a matter where it has previously been provided unless there are substantive issues outstanding or there has been a material development in the case. Justification for the decision to provide further Advice and Assistance should be evident on the file and 11.39 (a) to (d), of the SCC Specification must be adhered to.

12.3 Criminal Cases Review Commission (CCRC)

1. The CCRC's role is to review and investigate miscarriages of justice and it has the power to review a criminal conviction or sentence and refer the matter back to the Court of Appeal if appropriate. The CCRC is normally a last resort and, with some exceptions, can only be approached if the client has lost an appeal or leave to appeal has been refused.

2. The scope and qualifying criteria for cases heard by the CCRC is outlined at 11.20 to 11.24, of the SCC Specification.

3. The CCRC may ask for investigative work to be carried out for which an extension may need to be requested. The CCRC may also bear the cost of some experts' reports. Before granting an expert's report that the Assessor may ask the Provider to check that this is not something the CCRC will pay for.

4. The Provider should initially take instructions to ascertain whether the case is both suitable to be heard by the CCRC and whether the case meets the referral criteria applied by the CCRC. This would include taking instructions, considering any relevant papers, and the provision of any initial advice.

Transcripts

5. It is rare that the transcript of the entire case would be required and it is more common for the Provider to request the Judge's summing up, rulings pertinent to specific grounds of appeal (generally in conviction cases) and Judge's sentencing remarks (sentence cases). In the LAA's experience, transcripts of any other part of the trial are unlikely to be necessary and would require very particular justification.

6. Requests are commonly made for transcripts of evidence for specific witnesses. However, these are usually unnecessary if already adequately summarised by the Judge's summing up. Authorisation should only be given for transcripts necessary for the preparation of grounds of appeal. Decisions on other transcripts should be left to the Court of Appeal if the case is referred.

7. If the case has already been before the Court of Appeal, Providers should first determine if such a transcript already exists with the Court's papers which can be provided at a lesser cost.

12.4 Representation on an Appeal by way of Case Stated

1. The scope, qualifying criteria and payment in relation to representation on an appeal by way of Case Stated is governed by 11.44 to 11.55, of the SCC Specification.

2. Appeals by way of Case Stated are criminal proceedings within section 14(b) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. As such they are not prescribed as incidental to the magistrates' court proceedings and must therefore be covered by a separate application to the High Court for a Representation Order.

3. The original Representation Order covers the provision of verbal and written advice on appeal. It also covers making an application for funding for representation in the High Court, i.e. time spent completing the legal aid application form and any other work necessary before the grant of the order in the High Court.

4. Where the work is carried out but there is no current Representation Order assigned to the Provider the work is done within the Appeals and Reviews Class of Work. The relevant forms and costs limitations under this class of work apply.

5. The request for remuneration for the representation at the High Court should be made to the Senior Court Costs Office in the manner they so stipulate.

12.5 Appeals against Extradition

1. Appeals against extradition orders are heard in the High Court.

2. Given the work is in the High Court it is carried out under the Associated Civil Legal Aid Class of work. The Regulations governing the Processing Authority are dependent on the total costs of the claim and as such the claim should be submitted to either the LAA or the Senior Court's Costs Office in accordance with the applicable guidelines.

3. Where the Processing Authority is the LAA the relevant Civil Claim form should be completed and sent to the Nottingham Office. The Assessor in the Nottingham Office will assess the claim and notify the Provider of the sum they should enter on their monthly submission under the relevant claim code.

13. Prison Law

13.1 The Scope of Prison law

1. The following matters are in scope of the Prison Law Class of Work:

- Proceedings before the Parole Board; (also includes Representations made under section 254(2) of the Criminal Justice Act 2003 [CJA 2003] on recall to custody for a breach of licence conditions. It also includes applications and hearings before the Parole Board in relation to a reconsideration and for applications and hearings regarding setting aside the Parole Board final decision . For the avoidance of doubt this does not include HDC recall for breach of curfew [under s.255 of the CJA 2003], these cases are out of scope).

- Sentence Calculation cases where the date of release (or the date on which the individual must be referred to the Parole Board for consideration of a direction that the individual be released) is disputed (also includes Minimum Term review cases which will remain within the scope of sentence cases);

- Sentence cases which relate to referrals to Close Supervision Centres or referrals to Separation Centres Sentence cases before a directors Category A panel on legal issues arising in relation to a prisoner's classification as a Category A Prisoner, Restricted Status Prisoner or Inmate;

- Disciplinary cases that involve the determination of a criminal charge for the purposes of Article 6.1 ECHR (those before the Independent Adjudicator);

- Disciplinary cases that require legal representation as a result of the successful application of the "Tarrant Criteria";

- Parole Board cases relating to licence variation;

- Parole Board cases relating to IPP/DPP licence termination;

- Parole Board pre-tariff sifts and advancements for pre-tariff sifts which are made initially to the Secretary of State with a view to a referral to the Parole Board; and

- Parole Board reconsideration, set aside applications and referrals to the High Court.

13.2 General Principles

1. It should be remembered that Assessors will assess the file based on information on the file. This includes any relevant information on the client and their status. The Assessor will not know if the client has any mental health issues for example, nor whether the client has been subjected to some other trauma that affects their ability to give instructions or understand information from their solicitor. This is particularly relevant in Prison Law Cases and therefore a short note on file should be used to explain why extra time and care is required in providing legal advice to this specific client and the work undertaken for them. The time standards in this guidance document assume a "standard" client that does not need this extra time and care and therefore when assessing claims for those clients that do, attendance and preparation times claimed may reflect this extra time and care.

2. As set out in paras 12.38 to 12.45 of the SCC Specification, Counsel can be instructed in Prison Law Cases. Should they be so, then this will form part of the solicitors claim for costs and the maximum fee principle applies.

3. Providers will need to consider the available dossier in the first instance. Should any issues be identified then further information can be sought about the client prison records or other relevant records obtained through a Subject Access Request (SAR). It would not be considered reasonable to consider all SARs, care should be taken to target issues from the dossier in the first instance. Case specific details should be provided when considering SARs and why such consideration is required.

4. There is a difference between reading and considering documents, such as the dossier for the purpose of progressing the case, and detailed consideration of documents by way of preparation for representations or a hearing. As a rough guide, it usually takes approximately 2 minutes per A4 page to read and consider the contents of a document. Simple documents may take less time to read, and documents of greater complexity may take longer (up to 3 minutes per page) either to read and comprehend, or to compare with other documents. If time is claimed reading a complex document, then a note on file evidencing this extra time would be required, noting the complexity of the document, and other documents referred to when considering it.

5. The length and content of any information taken from a prisoner should be considered, particularly if lengthy attendances are claimed. As a guide, it will normally take approximately one to two units (6 to 12 minutes) preparation to consider and dictate each page of a straightforward document.

6. More complex documents, such as the representations to the Parole Board may take longer per page (up to 18 minutes per page) or, longer in a particularly complex case or where a shorter document has taken longer to write and can be justified. Justification for claiming longer than 12 minutes per page should be on file (8.31 – 8.35 of the SCC Specification). The solicitor should justify why additional time was spent as part of the claim. Note, the use of double spacing and a larger font etc will make documents clearer to read but should not be used to unreasonably inflate the length, and therefore preparation time being claimed when drafting documents,

7. Any lengthy attendances should be capable of substantiation by reference to statements taken or a full file note or a letter to the client confirming the advice given. The time spent attending the client will not necessarily correlate with the length of any representations prepared. However, for longer attendances the Assessor would expect to see a more detailed justification on file e.g. attendance note etc. There may be circumstances affecting the client which may justify a longer than usual attendance e.g. language problems, mental disability, or the case itself may be complex (see para 13.2.1 above).

8. In December 2025, new Regulations were introduced that increased the rates for Prison Law Cases, these new rates apply on cases stated on or after the 22nd December 2025. This means that where the Provider has made the Determination that their client is financially eligible and their case passes the sufficient benefits test, cases with a Determination on or after that date will be claimable at those higher rates. Due to the nature of Prison Law files, the date the forms are signed may not reflect the actual date the Determination was made (for example if pre signature work was undertaken or in postal applications), and in such circumstances the UFN date should be used, provided it reflects the Determination date. Where there is any question over the date the Determination was made, this should be noted on file.

13.3 Evidence of Means

1. In accordance with the provisions outlined at 3.5 to 3.9, of the SCC Specification, full evidence of means must be provided to the Provider by the client as soon as practicable. This is inclusive of full evidence of any prison income the client may receive (though see point 5 below). Such evidence must be recorded on a CRM 1 and 2 and retained on the file. If reasonable attempts have been made to

contact the prison and no reply has been received, this should be clearly evidenced with the CRM 1 and 2.

2. If evidence that the client is financially eligible is not supplied then the case may not be claimed, see 3.7 of the SCC Specification. Similarly, it should not be assumed that as the client is a prisoner that he/she has no access to income and capital and that the means test will be automatically met. If there are difficulties in the prison providing the information requested then this should be clearly evidenced by the Provider.

3. Reasonable attempts must be made to gain the evidence of the clients' means. This will depend on the circumstances of the client and the evidence being sought, and without being overly prescriptive, the LAA would expect there to be at least one attempt to gain the evidence required, beyond the request at the point the file is opened, and the opening letter(s) are sent.

4. However, 3.6, of the SCC Specification details that, in some circumstances, a case can be claimed where the client's Financial Eligibility cannot be obtained. An example of this may be if there are difficulties with the prison providing the information requested. All such communication must be provided with the application forms if the file is claimed.

5. Likewise, it should not be automatically assumed that all prisoners are single, despite living physically apart from their partner. Where required, evidence of the partner's means will also need to be retained on file as this may need to be aggregated, subject to 3.6 of the SCC Specification.

6. Where the client is single no further evidence of means is required where their only source of income is their prison income. Reasonable endeavours should be made to ascertain this (a copy of the prisoner's account would not be required). A note should be made on the CRM2 and 3 in these circumstances. However, the capital assessment should be undertaken and the prisoner's income should be included on the form.

7. Furthermore, any one-off amounts given to the client, should be treated as capital, whereas ongoing "pocket" or subsistence money given to the client, perhaps from their friends/family, should be included in the income assessment.

8. Evidence must be supplied for both the client and their partner if their means are aggregated, in accordance with 3.8 of the SCC Specification.

9. Further guidance relating to the gathering of evidence of income and the aggregation of the partner's means can be found in Annex B.

13.4 Sufficient Benefit Test

1. The Sufficient Benefit Test must be satisfied before a Provider commences, or continues, to work on a Prison Law case:

> *"Advice and Assistance or Advocacy Assistance may only be provided on legal issues concerning English and Welsh law and where there is sufficient benefit to the client, having regard to the circumstances of the Matter, including the personal circumstances of the Client, to justify work or further work being carried out. There should be a realistic prospect of a positive outcome that would be of real benefit to the Client."*

2. The test requires that the Provider only works on cases that have a legal issue and has a realistic prospect of success.

3. A sufficient benefit is something that will leave the client in a better position than where he/she was before the case was brought. However, the cost benefit of a case must be addressed and cases that a notional privately paying client would not fund themselves cannot be claimed as contract work, 12.4 of the SCC Specification.

4. Para 12.6 of the SCC Specification confirms that a note must be kept on file explaining *how* the Sufficient Benefit Test is met in each case for the client in question. If it is not clear how the Sufficient Benefit Test has been met and there is no note detailing how it is then the file must be nil assessed, subject to PoP CLA56.

5. Para 3.1(b) of the SCC Specification states that the Sufficient Benefit Test must be applied when further contract work is undertaken.

6. Further detail about the Sufficient Benefit test in relation to each unit of work is set out below in paragraphs**, 13.6.6, 13.7.2, 13.8.2, 13.9.3, 13.9.4 and 13.10.8.**

7. As per paragraph 3.1.4 above, time maybe claimed when assessing the sufficient benefits test and exercising the Delegated Functions.

13.5 Unique File Numbers

1. Providers must assign a UFN for each Matter or Case.

2. The UFN is calculated with reference to the date the Provider first undertook work on a Matter or Case. 4.35 of the SCC Specification confirms that this date may be earlier than the date on which the UFN is assigned.

3 Should any telephone advice be included in a Matter or Case (as per 12.14 of the SCC Specification) then the UFN will be the date on which such telephone advice was provided, **not** necessarily the date the CRM2/3 was signed. Due to the nature of these cases the client will often not sign the forms on the same day as the Case commences and therefore the UFN does not need to match the date any such forms were signed by the client.

4. A different UFN is used when claiming a subsequent Advocacy Assistance fee in respect of a Parole Board Reconsideration Hearing as well as any subsequent Advocacy Assistance fee for a Parole Board Set Aside Hearing in Parole Board Cases.

13.6 Sentence Calculation

1. This type of case deals with the legal issues arising out of the client's sentence calculation. This matter type covers cases where the date of release (or the date on which the individual must be referred to the Parole Board for consideration of a direction that the individual be released) is disputed.

2. This unit of work does not cover any application to vary, discharge or appeal a prisoner's sentence; this work is covered by the Representation Order granted in the substantive matter or by a Representation Order granted to cover an appeal.

3. Under this unit of work a Minimum Term Review application to the High Court (this includes applications to the High Court to review child's HMP sentences) will be claimable as Advice and Assistance. The High Court also has the power to grant an oral hearing, should they do this then this will

also be in scope and claimable as Advocacy Assistance. Written representations to the High Court are to be claimed as Advice and Assistance.

4. Para 12.72 confirms that this unit of work does not cover advice on the recall to prison following a breach of licence; this may be funded as a parole board matter subject to the circumstances that are outlined in 12.91 of the SCC Specification.

5. It is important to remember that this unit of work will not be in scope if it is within 6 months of the client's sentence hearing. This would have been covered by the solicitor who represented them at the time of sentence. Advice and Assistance can only be provided under this unit of work if it has been at least 6 months since the date of the client's sentence hearing, as set out in 12.73 of the SCC Specification

6. The Sufficient Benefit Test is only capable of being satisfied if the work done on behalf of the client is covered by Regulation 12(2)(d) of the Criminal Legal Aid (General) (Amendment) Regulations 2013 and the client has already been unsuccessful in their attempt at resolving the complaint through the internal complaints system (and therefore the Sentence Calculation helpline which will be used by staff in addressing such complaints) as set out in 12.76of the SCC Specification.

7. Evidence must be included on file of the client's attempt to resolve the complaint through the internal complaints system and why this has not been possible. This could include a COMP1 form and a copy of the response and/or a COMP1A form and a copy of the response from the Governor, it can also include a note on file confirming that the Client has made attempts to resolve this themselves. In those instances in which there is no complaints process, a complaint is not required. For example, issues relating to the time period for a parole review that cannot be addressed internally by a Governor, as this is set by PPCS, the internal complaints system does not apply and evidence of a COMP1 is not required in these cases.

13.7 Referrals to Close Supervision and Separation Centres

1. These types of cases deal with legal issues that arise from a client's referral to either a Close Supervision Centre or Separation Centre.

2. Para 12.76 confirms that the Sufficient Benefit Test is met in relation to the client's initial referral to a centre and whilst they are in scope, any ongoing reviews do not automatically meet the requirements and the Sufficient Benefit Test must be met on each occasion.

3. Any ongoing review will be claimed under the same Fixed Fee as the original referral. It is accepted that these cases may require an ongoing need for legal assistance whilst the client is in a centre and as such the LAA is content for the Provider to claim the initial fixed fee at the point of referral and any ongoing reviews as a claim amendment should the Provider wish. Further information on making a claim amendment can be found here:
https://www.gov.uk/guidance/submit-a-contracted-work-and-administration-cwa-claim-online

Should the costs of the case escape the fixed fee system then an Escape Fee claim can be made in the usual manner. This can be further amended should further work be required on ongoing reviews; this will be assessed in the normal way by the LAA Case Management team.

3. Providers can "bank up" several review hearing claims into one claim amendment should they wish, though by doing this any such banking up could not be used to form a period of six months between claims for the purposes of 12.56(a) of the SCC, artificially creating the means of claiming a

fresh Fixed Fee. There is no upward limit on the number of times a claim can be amended and as these cases are still open the rules and time limits around late claiming do not apply.

5. Should a client wish to transfer solicitors during any point of a Close Supervision or Separation Centre Matter then the normal provisions for previous legal advice will apply (12.48 to 12.52 of the SCC Specification).

13.8 Category A Reviews

1. This unit of work covers legal issues arising in relation to a prisoner's classification as a Category A Prisoner (including cases before a directors Category A panel).

2. The Sufficient Benefit Test (12.2 of the SCC Specification) will need to be satisfied and a note setting out how this is met must be kept on file, further guidance can be found above in para 13.4 of particular note is the need for there to be a realistic prospect of success.

3. This unit of work covers both Advice and Assistance and, when necessary, Advocacy Assistance for Representation before a directors Category A panel and also representations to the Local Area Panel (LAP).

4. This unit of work also covers both Advice and Assistance and, when necessary, Advocacy Assistance for Representation before a directors Category A panel for Restricted Status Prisoners, Restricted Status Inmates as well as Category A Inmates.

13.9 Disciplinary Cases

1. This unit of work covers either disciplinary cases that involve the determination of a criminal charge for the purposes of article 6.1 ECHR or disciplinary cases before the prison governor where the prison governor gives permission for legal representation following the successful application of the "Tarrant" criteria.

2. Disciplinary cases that involve the determination of a criminal charge for the purposes of article 6.1 ECHR, covers disciplinary cases before an Independent Adjudicator. This will also cover cases for indeterminate sentence prisoners where extra days cannot be added but where the charge is otherwise so serious that it is referred to an Independent Adjudicator.

3. In circumstances in which a client is before the Independent Adjudicator for whatever reason the Sufficient Benefit test will be deemed to be satisfied automatically (12.82 of the SCC Specification).

4. In Disciplinary cases where the prison governor grants permission for legal representation following the successful application of the "Tarrant" criteria the Sufficient Benefit Test as set out in 12.2 will need to be satisfied and a note setting out how this is met must be kept on file.

5. Where a Disciplinary Case is heard remotely and the Provider is unable to ensure that the correct forms are completed prior to the hearing, then the SCC allows a Provider to claim for urgent work prior to signature as long as the forms are signed and returned to the Provider within 28 calendar days of being instructed (12.83 to 12.85 of the SCC Specification). The Provider will need to ensure that the Client is financially eligible prior to undertaking any such urgent work. A note on file is sufficient to show that the Provider made the relevant enquires at the point of instruction.

6. The Prison and Young Offender Institution (Adjudication) (Amendment) Rules 2023 introduced a new power that allows Independent Adjudicators to refer a Case back to the Prison Governor for internal adjudication. If referred back, the Governor can then decide to either hear the matter themselves or send it back to the Independent Adjudicator to determine. When a Case is referred back, it will remain in scope of Prison Law legal aid, however the Sufficient Benefit Test will need to be met for each individual item of work and it is considered unlikely that significant work will be required during the period that it is be considered by the Governor. However, limited work in relation to keeping the Client advised of progress would be claimable during this period. If the Prison Governor decides to hear the matter themselves the Provider should close the Case at this point. If the Governor decides to send the Case back to the Independent Adjudicator, then the Provider would be able to continue the Case and claim any costs from that point onwards.

13.10 Parole Board Cases

1. This unit of work covers all proceedings before the Parole Board. Prior to 21st February 2018 only those cases before the Parole Board that has the power to direct release will be in scope.

2. The scope of Parole Board cases also covers recall. This will include recall cases where representations are made to the Public Protection Casework Section (PPCS) who will assess the representations and decide whether to release the prisoner using the Secretary of State's executive powers of release or to refer the prisoner to the Parole Board.

3. The Parole Board Rules 2019 allow either the Secretary of State or the prisoner to request a Reconsideration Hearing or that the Parole Board's final decision is set aside where they consider that the original decision was irrational or otherwise procedurally flawed (or in the case of setting aside, that there has been an error in law or fact or new information has come to light or there has been a change of circumstances after the final decision was made). This application must be made within 21 days. Any determination by the Parole Board will be considered provisional until the time limit for making an application for reconsideration has lapsed or any such application has been dismissed. As this is a new stage in the proceedings before the Parole Board any work done in connection with making an application for reconsideration or setting aside the decision will be in scope.

4. Written representations in circumstances where either the victim (via the Secretary of State) or the prisoner applies for a Reconsideration or for a final decision to be set aside will be covered by the substantive Parole Board Case fee. If the Parole Board direct that a Reconsideration Hearing or a Parole Board Set Aside Hearing is to take place either on the papers or at an oral hearing then a subsequent Advocacy Assistance fee can be claimed from the point the decision to reconsider/set aside is served. See below for further details.

5. Advice and Assistance in recall cases will remain available where the Parole Board does not direct or list an oral hearing and the minimum time requirements (para 12.91 of the SCC Specification) are met.

6. Advice and Assistance is also available in circumstances where written representations are submitted to the PPCS considering a LISP4 in relation to an indeterminate sentence prisoner who has been removed from open conditions.

7 Advice and Assistance will continue to be available where written representations are submitted as part of the Member Case Assessment ('MCA') process.

8. In Parole Board cases the Sufficient Benefit Test will be deemed to be satisfied in all cases before the Parole Board.

9. 12.88(b) of the SCC Specification confirms that the pre-tariff sift and advancements for pre-tariff sift can be claimed under Advice and Assistance under this unit of work. For the avoidance of doubt, only work done in relation to the pre-tariff sift is claimable and no other sentence planning work is covered. Such claimable work and resulting MCA representations within six months would be claimed under the same file

10. 12.88(a) of the SCC Specification confirms that Guittard applications are not in scope. Such cases involve a recommendation for indeterminate sentence prisoners to be moved to open conditions and, as such, are not Parole Board cases.

11. Should the Parole Board recommend that the prisoner be moved to open conditions, reasonable work undertaken between the recommendation and the decision by the Secretary of State confirming the move can be claimed as part of the substantive Parole Board Case.

12. Applications to terminate licence conditions for individuals detained or imprisoned for public protection under paragraph 31A of the Crime (Sentences) Act 1997 are also in scope of Parole Board legal aid. Please note that where the Client has two concurrent Parole Board issues and one is an application to terminate such licence conditions (for example, they have also been recalled to prison), the two issues can be claimed as separate Parole Board Claims in accordance with Paragraph 12.19 of the SCC Specification.

13. When preparing for a Parole Board case, it is expected that the fee earner has taken the client's instructions as well as reading the dossier. The most up to date version of the dossier will need to read in full prior to the hearing, even where it has been read at an earlier stage in the case. Furthermore, if the hearing is delayed, consideration should be given to any time gap that would require that the Provider re-reads the dossier prior to any subsequent hearing. A note on file should be put on the file, detailing the length of any dossier considered, and if read a subsequent time, why. Any notes on points made will assist future reviews of the file and documents and this should save time and costs in any subsequent read throughs. To refuse to allow a solicitor to read all the dossier would be unreasonable as it would not enable the solicitor to obtain an overview of the whole case. This may be invaluable later in terms of subsequent cost savings and it would question the solicitor's judgement in a way that could be regarded as prejudicial to the Parole Board process

13.11 Advice and Assistance Fixed Fees

1. There is a single fee payable for all Advice and Assistance cases. The exception to this is for cases that cost more than the Escape Fee Threshold. Escape Fee Cases can be paid at the hourly rates set out in the Criminal Legal Aid (Remuneration) Regulations 2013.

2. The fee covers all Advice and Assistance on Sentence Cases. The fee also applies if the Provider starts an in-scope Category A, Disciplinary Hearing or Parole Board Case where it is not clear if there will be an oral hearing. When a provider is notified that a hearing is listed (i.e. notification has been received that the case will proceed to an oral hearing, even if the date of the hearing is not known at this

stage) the Provider should/must claim the Advice and Assistance fee then start an Advocacy Assistance Matter.

3. Where the provider is aware that an oral hearing has been listed (i.e. notification has been received that the case will proceed to an oral hearing) at the point of the client's initial instruction then no Advice and Assistance fee can be claimed (even if the date of the hearing is not known at this stage). The client should complete the Advocacy Assistance application forms.

4. In Disciplinary cases before a Governor Advice and Assistance will only be claimable where written representations are made as to why the Tarrant criteria apply and the outcome of those written representations is for the governor to grant legal representation.

5. In order to claim a Fixed Fee, the Provider must have worked on the case for 8 or more units of time (which amounts to the equivalent of 48 mins at the appropriate preparation hourly rate). No payment can be claimed for cases below this threshold. To calculate whether the profit costs incurred meet this threshold, include letters & calls at the routine letter & call rate. Non routine letters and calls will be claimed as preparation/attendance as normal.

6. Any written representations in relation to an application for a Parole Board Reconsideration Hearing or an application to set aside the decision form part of the existing Parole Board Proceedings. A Provider may not open a standalone Advice and Assistance claim to assist with an application for reconsideration, or set aside the decision, any work done must be claimed as part of the fee claimed for the substantive Parole Board Case, see paras 12.94, and 12.99 of the SCC Specification.

7. However, should a Provider be approached by a new client who did not receive either Advice and Assistance or Advocacy Assistance at their substantive Parole Board hearing, then the Provider may advise and submit an application for a Parole Board Reconsideration or to set aside a final decision under Advice and Assistance (paras 12.98 & 12.103 of the SCC Specification).

8. Where a Provider is instructed after a substantive Parole Board hearing but prior to there being an application for reconsideration then, subject to the Para 12.48 of the SCC Specification, they may provide Advice and Assistance in relation to them making an application to reconsider the Parole Board decision (para 12.97 of the SCC Specification).

9. Where a Provider is instructed after a substantive Parole Board hearing but prior to there being an application to set this decision aside then, subject to the Para 12.48 of the SCC Specification, they may provide Advice and Assistance in relation to them making an application to set aside the Parole Board decision (para 12.102 of the SCC Specification).

10. Where a decision to adjourn or defer the Parole Board process is made, then any subsequent work undertaken for that client will form part of the same Matter or Case and the costs both pre adjournment/referral and post adjournment/referral will be claimed together under the same Standard Fee (para 12.25 of the SCC Specification).

13.12 New Matters and Matter Start Boundaries

1. General provisions for starting a new Prison Law matter are outlined at 12.22 to 12.25, of the SCC Specification. Reference should also be made to the definition of a Case outlined at 1.2, of the SCC Specification and "Boundaries between Classes and Units of Work" at 4.36 to 4.46, of the SCC Specification.

2. Para 12.23 of the Specification indicates that additional Matters should not be artificially created where such work should be carried out under a single Matter. For example, in Disciplinary Matters, the

Provider should bear in mind the definition of a Case (i.e. where the client is before the Governor or Independent Adjudicator for two or more disciplinary breaches, which could be defined as one Case under 4.36 to 4.46, of the SCC Specification).

3. Para 12.19 of the SCC Specification confirms that a Provider must not start more than one Sentence Case or more than one Parole Board Case for a client at any one time, note there is an exception to this in relation to applications to terminate licence conditions on IPP Matters .

4. Para 12.54 of the SCC Specification also outlines the applicable circumstances once a Matter has been claimed and a Provider wishes to open a new Matter for a client.

13.13 The Relationship between Advice and Assistance and Advocacy Assistance

1. Para 12.20 confirms that where a client instructs you and it is clear that there will be an oral hearing then you may not make a claim for Advice and Assistance and may only claim for Advocacy Assistance.

2. If there is no oral hearing directed at the outset of the case or it is not clear that there will be an oral hearing then Advice and Assistance must be claimed until the point at which it becomes clear that the case will proceed to an oral hearing. In order to open an Advocacy Assistance file confirmation that the case will proceed to an oral hearing will be required, a date does not need to have been set. An Advice and Assistance file should not be closed until this confirmation is received. However, there is a 14 day period in which to respond to the MCA once an oral hearing has been directed. Should the Provider wish to respond to this decision, such work maybe claimed under any existing Advice and Assistance Matter as it will often take longer than 14 days to ensure the forms are completed for the Advocacy Assistance Case.

3. In some instances, a case will not progress to an oral hearing, concluding prior to this point (for example if the prisoner absconds or is released under another power). Where an oral hearing has been directed but does not take place, an Advocacy Assistance fee may be claimed. However, the LAA would normally expect the file to evidence fee earning work progressing issues that would have been relevant had a hearing taken place. For the avoidance of doubt, any administrative work, or work done on other issues not directly related to progressing the Oral Hearing (e.g. dealing with the client release under other powers /a withdrawal or any listing issues) would not be considered as preparation work for an oral hearing.

4. There is a presumption that all matters that relate to the following types of clients will progress to an oral hearing:

- Indeterminate lifer recall cases,
- Juvenile/young offenders; these must be progressed for an oral hearing if they cannot be released on the papers. This includes offenders who were under 18 when the review commenced, or when the decision to revoke the licence was made,
- Young adults aged under 21 at the point when their review commenced,
- Prisoners within a secure hospital setting or mental health unit,
- Indeterminate sentenced prisoners who are potential candidates for release.

Note that since November 2016 individuals detained or imprisoned for public protection can be released by the Parole Board on the papers.

5. Furthermore, in November 2025 the Prison Rules were amended to remove the presumption of an oral hearing in a number of case types. This was further amended in February 2026, which removed that 2025 amendment. As such, there were a number of prisoners who had been refused on the papers. PPCS wrote to all those prisoners affected, giving them the opportunity to ask to be re-referred back the

Parole Board for a fresh decision under the original Rules. Clients have potentially been disadvantaged by the change in the Rules between 16 December 2025 and 4 March 2026.

6. Those within the 28 day limit under Rule 20 will be able to appeal that decision as normal and this will be claimed as part of their existing Advice and Assistance Matter (if there was one). If there was no legal aid for the initial decision/or there is a transfer, a Provider can open this up under A&A in the normal manner.

7. Those outside of the 28 day limit (or those that did not have legal aid for the original decision) and where there wis a fresh referral the client can be advised under a fresh Advice and Assistance Matter (and this would include an application for this fresh referral). These cases can progress to an Oral Hearing and therefore Advocacy and Assistance as normal.

8. However, Advice and Assistance must be claimed for a Disciplinary or Parole Matter that involves any of these client types if there is no Oral Hearing listed (i.e. notification has not been received that the case will proceed to an oral hearing) at the point of instruction. Once a decision has been made to list an Oral hearing the Provider must claim the Advice and Assistance fee and then start a file for Advocacy Assistance.

9. For the avoidance of doubt, if the Parole Board directs a Reconsideration Hearing or a Parole Board Set Aside Hearing on the papers then any work in relation to this hearing must be claimed under a subsequent Advocacy Assistance Standard Fee **not** Advice and Assistance even though it is to be heard on the papers. This is an exception to other Parole Board Cases heard on the papers.

13.14 Advocacy Assistance Standard Fees

1. There are two Standard Fees payable for Advocacy Assistance cases – a lower Standard Fee and a higher Standard Fee. The cost of the case at hourly rates determines which fee applies. The costs that are taken into account are the profit costs of the case and the waiting costs, together referred to as “core costs” below.

2. If the core costs of the case are below the lower fee limit, then a lower Standard Fee is paid. If the core costs of the case are above the lower limit but below the higher fee limit then the higher Standard Fee is paid. If the core costs exceed the higher fee limit then the case is payable as a Non-Standard Fee at hourly rates.

3. In order to claim a Standard Fee the Provider must have worked on the case for 8 or more units of time (which amounts to the equivalent of 48 mins at the appropriate advocacy hourly rate). No payment can be claimed for cases below this threshold. To calculate whether the profit costs incurred meet this threshold, include letters & calls at the routine letter & call rate. Non routine letters and calls will be claimed as preparation/attendance as normal. Note that the 8 units above does not need to include an element of advocacy; it can be made up of attendance/preparation etc if no advocacy has been undertaken on behalf of the client.

4. As per 12.95 (or 12.100 for the purposes of a decision to set aside a Parole Board decision) of the SCC Specification, in cases where an application for reconsideration/set aside is made the Provider may submit their claim for the substantive Parole Board Case at the point that the Parole Board making a determination, either by dismissing the application or directing that there is to be a Reconsideration Hearing or Parole Board Set Aside Hearing, is served.

5. Where the Parole Board directs that a Parole Board Reconsideration Hearing or a Parole Board Set Aside Hearing will take place, either at an oral hearing or on the papers, a Provider may then claim a separate Advocacy Assistance Standard Fee for this Parole Board Case. All work undertaken from the

point the Parole Board/Parole Board Set Aside Panel directs that a hearing will take place must be claimed under the subsequent Advocacy Assistance Standard Fee.

6. In Parole Board Cases where a Parole Board Reconsideration Hearing or a Parole Board Set Aside Hearing takes place, (either on the papers or at an oral hearing), the Provider should record separate core costs for the work undertaken before and after the Parole Board/Parole Board Set Aside Panel directs that the Parole Board Reconsideration Hearing or Parole Board Set Aside Hearing will take place. Only the core costs from before this direction should be used to determine the level of the (first) Advocacy Assistance or Advice and Assistance Fee that should be claimed, and only the core costs from after the direction should be used to determine the level of the subsequent Advocacy Assistance Standard Fee. If a Case goes through both a Reconsideration and a set aside process, you can claim three Standard Fees, you must not combine costs from before and after either the Parole Board's directions that the Parole Board Reconsideration Hearing/Parole Board Set Aside Hearing will take place. As above, you must have also worked 8 or more units under each Standard Fee in order to claim any subsequent Standard Fees.

7. For the avoidance of doubt, the subsequent Advocacy Assistance Standard Fee should be claimed at the applicable Standard Fee for Parole Board Cases in the Criminal Legal Aid (Remuneration) Regulations.

13.15 Disbursements

1. Para 12.13 of the SCC Specification states that in Advice and Assistance Matters, where possible, the case should be conducted by way of correspondence with the client or by video link or telephone, if such facilities are available and it is appropriate to do so (it may not be if the client is under 18, or has some physical or mental impairment or in particular complex or sensitive cases for example). Details of which Prisons have a video link and how to request for a Prison video link can be found here: https://www.gov.uk/guidance/request-a-prison-video-link

2. Disbursements (including travel disbursements) are outside the fixed and Standard Fees for prison law and are paid separately as claimed.

3. Disbursements are subject to contract rules including reasonableness, and prior authority is required for any single disbursement costing more than £500. This should be sought using the Apply for Prior Authority to Incur Disbursements online service and selecting the Prison Law options. The Provider should also upload the CRM 1 and 2/3 where appropriate..

Note: the CRM4 eForm asks which type of work the case involves but does not include the option of selecting prison law. When using the form for prison law the Provider should leave this section of the form uncompleted and mark the form "Prison Law". The Provider should also submit the CRM 1 and 2/3 where appropriate.

4. Counsel's costs are **not** claimable as disbursements for fixed and Standard Fee (Advocacy Assistance) cases. Instead Counsel's time should be reported as part of the claim using the same hourly rates as apply to Provider's staff. However, in Advice and Assistance cases that have become Escape Fee Cases, Counsel can be paid as a disbursement In such cases, where counsel's costs exceed £500 you should apply for prior authority using the process outlined above.

13.16 Escape Fee Cases and Non-Standard Fees

1. Advice and Assistance cases with core costs higher than the Escape Fee Threshold, or Advocacy Assistance cases with core costs above the relevant higher fee limit will be paid at hourly rates.

2. For the purposes of calculating whether the case is an Escape Fee Case, profit and waiting costs are added together to produce the core costs:

Core costs = Profit costs + Waiting costs

3. Travel cost is not included in the calculation to determine whether a case is an Escape Fee Case. However, once a case has become eligible for payment at hourly rates, payment for travel time is claimable. This is limited to 1 hour for each journey (two journeys make a round trip) and Providers may claim this time for all journeys taken for the case. Once the case has qualified for payment at hourly rates, if the client is moved between prisons, the amount of travel time that can be claimed rises to 3 hours per journey, but this additional time may only be claimed for journeys made from that point onwards.

4. All Escape Fee Cases and Non-Standard Fees are subject to assessment.

Payment = ((Profit costs + travel + waiting) +VAT) + ((disbursements) + VAT)

It is unlikely to be justified in any event for the solicitor to travel to attend on a client at a significant distance, involving a one way travelling time of more than one hour in the absence of exceptional circumstances, for example where the solicitor is already engaged on a matter and the client having been in custody at a local centre is moved to a prison further away. Even where a longer time could be apportioned between a number of clients on a particular occasion, this will not justify a longer travelling time because it will not necessarily always be possible to apportion in the same way on all occasions. A longer travelling time of up to three hours one way may be justified if the client has moved to another prison establishment (see 12.30 of the SCC Specification) and at the time of the move the case had already reached the Escape Fee threshold (see 12.31 of the SCC specification). 13.17 Judicial Review

1. Judicial Review in Prison matters is generally considered an avenue of last resort once all other avenues have been explored. Once the appropriate complaints avenues have been fully exhausted, Judicial Review may be a viable avenue to explore. Legal Help is only available for something that is unlawful, irrational, or procedurally incorrect.

2. In such cases, Legal Help can be available to the client under Associated Civil Legal Aid (subject to the relevant means and merits assessments). A Legal Help file may be opened in order to draft a letter before claim. If the matter is not resolved following the letter before claim, full representation can be granted, provided that the prospect of success and cost benefit criteria for Judicial Review have been met. When a certificate is granted, a claim for any work conducted under Legal Help may then be submitted. Legal Help should not be utilised to take the client through the complaints procedure as this is out of scope of Criminal Legal Aid.

3. Fixed Fees are outlined as per the Criminal Legal Aid (Remuneration) Regulations 2013. Should the cost of a case exceed the Escape Fee Threshold, then an EC-Claim 1 form should be submitted to the appropriate regional office.

4. You may seek Counsel's opinion as to whether a matter would be challengeable by way of Judicial Review but you must provide a note on file setting out why this is justifiable.

5. For matters that are out of scope of the amended crime contract (i.e. those Prison Law matters that are no longer covered such as treatment) Associated Civil Legal Aid will not be available for matters started after 2nd December 2013. These matters may be covered by the Public Law Category of civil legal aid, subject to the relevant means and merits tests being satisfied. A Judicial Review case relating to a no longer in-scope prison law matter may also be started under the civil contract as long as the Provider holds a civil contract and has new matter starts available.

13.18 Exceptional Case Funding (ECF)

1. The Lord Chancellor has recognised that exceptional case funding (ECF) may be available for the following categories of case (subject to satisfaction of the relevant statutory criteria):

- Mother and baby units;
- Licence conditions/resettlement; and
- Segregation.

A decision on whether funding should be made available in any individual case falls to the Director of Legal Aid Casework, acting independently, in applying the statutory guidelines in respect of ECF.

2. Guidance on how to apply for Exceptional Case Funding (including the Lord Chancellors guidance on the ECF criteria) can be found here:
https://www.gov.uk/guidance/legal-aid-apply-for-exceptional-case-funding

3. ECF cases are claimed as Misc. case under the Civil Contract. If a Provider does not hold a Civil Contract and if they are successful in applying for ECF for the above types of case then they will be granted an Individual Case Contract (ICC) to cover this work and access to the civil element of CWA to bill it.

4. Any Provider that has a case that escape the Fixed Fee that wish to claim those fees will need to complete an EC claim 1 form. These are processed by the following team:

Mental Health Unit, Immigration & Asylum: Controlled Work and Escaped Fee Claims
Legal Aid Agency
Level 6, The Capital
Union Street
Liverpool L3 9AF

Email: Liverpool@justice.gov.uk

DX: 745810 Liverpool 35

Email: mhu-ec@justice.gov.uk

Phone: 0151 235 6750

The EC Claim 1 form can be found here:
https://www.gov.uk/government/publications/escape-fee-case-claim-forms

13.19 Parole Board referrals to the High Court

1. This Unit of Work covers release decisions referred to the High Court under section 32ZAA of the Crime (Sentences) Act 1997 for those serving life sentences and section 256AZBA of the Criminal Justice Act 2003 for those prisoners serving fixed term prison sentences.

2. Regardless of the type of sentence, this work is covered by a Representation Order that is granted by the Providers' Delegated Functions (4.4(i) of the SCC Specification). The Representation Order covers work by a litigator and advocate (see paragraph 11 in relation to King's Counsel). Annex F gives an example of a template that Providers can use for these cases. It is not mandatory that Providers use this template as long as any Representation Order used covers the following information:

- the client's name,
- whether this relates to s32ZAA or s25AZBA,
- the date of grant and,
- the Provider details.

3. As these relate to High Court proceedings, there is no means test for this Unit of Work (12.105 of the SCC Specification).

4. As per 12.106 of the SCC Specification, the Interests of Justice test will be deemed to be met on the point you receive notification that your client's case has been referred to the High Court for a review. You should keep a copy of this referral on file as evidence that the IoJ test is met.

5. Furthermore, you should keep a copy of your Representation Order on file, you must also send a copy of this to your client (12.107 of the SCC Specification). Should the client indicate an alternative address or that he or she would prefer not to have a copy of the Representation Order sent to them, then this should be noted on file accordingly.

6. Claims under this Unit of Work are subject to an Upper Limit. Like all Upper Limits, this follows all of the usual rules for Upper Limits (5.5 to 5.16 of the SCC Specification and above) and includes all costs for a Case, including enhancements, Counsel and Disbursements. You can apply to extend the Upper Limit, see section 8 for further details; applications to extend the Upper Limit need to be sent to the following E-mail address:

highcourtextensions@justice.gov.uk

7. When submitting a request to extend the Upper Limit, Providers should send the following information:

- Account number
- Next hearing date
- Costs incurred to date
- Requested costs (including disbursements, Counsel, etc)
- If this includes any experts instructed, then you must submit a quote from the expert.

- Costs should be broken down to show number of hours requested, hourly rates and give an indication what the further work relates to

You should not use the CRM5, Apply to Extend the Upper Limit online service for these cases.

8. Case costs for this Unit of Work must be sent to the Senior Courts Cost Office for Assessment. This should include details of any Extensions granted. Further information can be found here

https://www.gov.uk/courts-tribunals/senior-courts-costs-office

9. The hourly rates for this work are found in a table in para 7(2) of schedule 4 of the Criminal Legal Aid Renumeration Regulations 2013, as amended. This includes a higher rate for preparation for those Offices in London alongside the standard London rates. Should a Provider whose Office is in London undertake a Case in London, then they can claim this higher preparation rate. If a Provider, whose Office is outside of London, undertakes a Case in the High Court in London then they can claim the National rate and not the higher preparation rate.

10. Counsel will be Assigned in these cases. Costs for Counsel should be sent, along with the Providers claim and will be Assessed by the Senior Courts Cost Office. Junior Counsel can be claimed at the hourly rate of £103.50. King's Counsel (see below) can be claimed at the hourly rate of £207.

11. Should there be a change of Provider, then the second Provider should apply at the Court for a transfer for a Representation Order. The First Provider will claim their costs at the point of transfer as the second takes over and continues the Case. Both claims will be hourly rates and costs should not be duplicated between the two Provider claims.

12. Similarly, should you require King's Counsel then you should apply at the Court.

13. The Representation Order granted will cover advice on the grounds of appeal, but should you wish to act in relation to an appeal a decision made by the High Court, then you need to make an application to the Court of Appeal (Civil Division) for a Representation Order. If you did not act in relation to the referral decision then you will need to apply to have the Representation Order transferred first, there is no Advice and Assistance under the Appeals and Reviews Class of Work for these cases.

14. Associated Civil Legal Aid

Providers undertaking Associated Civil Legal Aid Work will be required to use the Civil Case Management System (CCMS). The following guidance provides information on how to set up and use CCMS for those that do not already have access:

https://legalaidlearning.justice.gov.uk/mod/resource/view.php?id=157

14.1 Legal Help and Legal Representation – Judicial Review or Habeas Corpus

1. For information relating to the scope, qualifying criteria, application procedures, payment see Chapter 13 of the SCC Specification.

14.2 Legal Help and Legal Representation – Proceeds of Crime Act 2002

1. For information relation to the scope, qualifying criteria, application procedures, payment see section 13, of the SCC Specification.

Types of Funding Available

2. Where Criminal Legal Aid is available, the client must have been charged with an offence or to be under Criminal Investigation. If the client has not been charged, or is not a defendant (i.e. a wife of a suspected drugs dealer or some other affected third party) then Associated Civil Legal Aid may also be available.

The following table should assist in relation to Proceedings under the Proceeds of Crime Act 2002:

Status of Client	Proceedings	Funding
Charged with or convicted of a Criminal Offence	Confiscation, Restraint or Receivership under Part 2 of the Act	Covered under the original Representation Order, but will need to have the order extended if the substantive case was in the magistrates' court. If no Representation Order is in place, apply to the Crown Court for a new one. This also covers Certificate of Inadequacy Proceedings in the Crown Court for the defendant only.
Accused of an offence/under criminal investigation	Confiscation, Restraint or Receivership under Part 2 of the Act	Advice and Assistance under CRM1-2, but only provides for work outside of Court and outside of Police Station Advice.

Status of Client	Proceedings	Funding
Neither charged nor accused of a criminal offence.	Confiscation, Restraint or Receivership under Part 2 of the Act	Associated Civil Legal Aid. Apply for Exceptional Complex Cases Unit, London Regional Office.
All Clients	Confiscation, Restraint or Receivership under Part 5 of the Act	Associated Civil Work. Apply for Exceptional Funding to the Exceptional Complex Cases Unit, London Regional Office.
Affected Third Parties post conviction	Recipient of S18A request or affected by a Certificate of Inadequacy application in the Crown Court	Associated Civil Work. Apply to the Exceptional Complex Cases Unit, London Regional Office.
All Convicted Clients	Enforcement Proceedings in the magistrates' court	Fresh Application for a Representation Order

The following table should assist in relation Proceedings under the Drug Trafficking Act 1994 or Criminal Justice Act 1998:

Status of client	Proceedings	Funding
Charged with or convicted of a Criminal Offence	Confiscation, Restraint, Receivership in magistrates' or Crown Court	Covered under the original Representation Order, but will need to have the order extended if the substantive case was in the magistrates' court. If no Representation Order is in place, apply to the Crown Court for a new one.
Defendant	Confiscation, Restraint, Certificate of Inadequacy or Receivership in the High Court	Apply to the High Court for a Representation Order
Affected Third Party	Confiscation and Restraint	Associated Civil Work. Apply to the Exceptional Complex Cases Unit, London Regional Office.

14.3 Legal Help and Legal Representation in relation to proceedings sought in respect of respect orders (Part A1 section A1), youth injunctions (Part 1 section 1) or housing injunctions (Part 1 section 1A) under ASBCPA 2014

1. This unit of work covers the application, variation, discharge and appeal of a respect order (Part A1 section A1), youth injunction (Part 1 section 1) or housing injunction (Part 1 section 1A) made under the Anti-Social Behaviour, Crime and Policing Act (ASBCPA) 2014. These will be a civil proceeding and therefore civil legal aid will apply.

2. To apply for civil legal aid funding CCMS must be used (the form CW1 is used for controlled work, the relevant means test form should also be completed). These can be located on the website https://www.gov.uk/legal-aid-for-providers/forms. Guidance on CCMS can be found on the Legal Aid Learning website at Civil legal Aid – Legal Aid Learning.

3. The civil means and merits test will also apply. Further details about these can be found in the regulations. The relevant regulations are: The Civil Legal Aid (Merits Criteria) Regulations 2013, The Civil Legal Aid (Procedure) Regulations 2012 and the Legal Aid (Financial Resources and Payment for Services)(Legal Persons) Regulations 2013. These can be located here: http://www.legislation.gov.uk/

4. For respect orders and housing injunctions, proceedings will take place in the County Court or the High Court. For youth injunctions proceedings will take place in the in the Youth Court. Legal aid funding must be applied for by completing the relevant civil forms in accordance with the relevant civil contract in force at the time. Further details about civil contracts can be found on the website.

5. Remuneration will be paid in accordance with the Civil Legal Aid (Remuneration) Regulations 2013 (as amended)

6. Travel and waiting will be available where travel to a civil venue is necessary (e.g. where you represent a client in the relevant proceedings in relation to this unit of work either in the County Court or the High Court). This will be paid in accordance with the civil regulations.

14.4 Legal Help and Legal Representation in relation to proceedings for injunctions sought in respect of gang related violence and drug-related activity arising under Part 4 of the Policing and Crime Act 2009

1. This Unit of Work concerns Civil Legal Services (as described under subparagraph 38(1) of Part 1 of Schedule 1 to the Act) in relation to proceedings for an injunction sought in respect of gang related violence and drug related activity arising under Part 4 of the Policing and Crime Act 2009 known as "Gang injunctions". For the avoidance of doubt this includes Civil Legal Services (Legal Help and representation) in proceedings for such injunctions in the youth court and magistrates' court.

2. To apply for civil legal aid funding CCMS must be used (the form CW1 is used for controlled work, the relevant means test form should also be completed). These can be located on the website

https://www.gov.uk/legal-aid-for-providers/forms .

3. The civil means and merits test will also apply. Further details about these can be found in the regulations. The relevant regulations are: The Civil Legal Aid (Merits Criteria) Regulations 2013, The

Civil Legal Aid (Procedure) Regulations 2012 and the Legal Aid (Financial Resources and Payment for Services)(Legal Persons) Regulations 2013. These can be located here:

http://www.legislation.gov.uk/

4. Remuneration will be paid in accordance with the Civil Legal Aid (Remuneration) Regulations 2013 (as amended)

5. Travel and waiting will be available where travel to a civil venue is necessary (e.g. where you represent a client in the relevant proceedings in relation to this unit of work either in the County Court or the High Court). This will be paid in accordance with the civil regulations.

15. SOCPA Agreements and Criminal Legal Aid funding

1. Sections 71 to 75 of The Serious Organised Crime and Police Act 2005 ('SOCPA') came into force on 7th April 2005 and establish a statutory framework to replace earlier arrangements for regulating agreements made with offenders who have offered to assist the investigation or prosecution of offences committed by others.

2. This note sets out the procedures to be followed in all cases in which a specified prosecutor is considering making a formal agreement:

a) not to prosecute a person (an immunity notice under s. 71);
b) not to use certain evidence (a 'restricted use' undertaking under s. 72);
c) setting out in writing the terms under which a defendant who, with a view to obtaining a reduced sentence under s.73, is willing to assist an investigation or prosecution; or
d) setting out in writing the terms under which a prosecutor agrees to refer a case back to court for a review of sentence (s.74).

Advice at the Police Station

3. Offenders who have offered to assist the prosecuting authorities will be offered a formal agreement and whilst Legal Advice is not a pre-requisite for this process it is preferable and the client will be offered independent legal advice. The offender will be briefed by a member of the SOCPA who has the powers of a constable so this advice will be covered by the Police Station Fixed Fee, (if the client attends either as a suspect or a volunteer).

4. During the initial interview with the investigator they will try to identify areas that the client could assist them with and identify what areas, if any, of un-prosecuted criminal activity needs to be addressed later.

5. This process is handled in confidence and it is not unusual for a Provider to be approached to handle these cases directly. Currently it would appear that the Police are contacting solicitors directly and not contacting the DSCC as per the normal process. The solicitor will need to contact the DSCC within 48 hours to obtain the reference number in the normal manner. The DSCC is able to issue a reference number under an alias so the confidentiality of this process should not hinder the issuing of a number. These will be logged at the DSCC as a SOCPA matter rather than the actual offence(s).

6. Clients will be given aliases and they will be interviewed in secret locations often old Police Stations (that have proper facilities for housing clients securely). The correct Police Station reference for billing the Fixed Fee would be the station from which the officers travelled from.

7. By their nature these cases are likely to breach the Escape Fee threshold and the question therefore arises as to how these costs can be assessed and the work evidenced. The CPS will produce a full file of papers for the hearing; the only document missing from this will be the actual signed agreement. There is therefore no reason why solicitors cannot produce a file and evidence the work as normal.

Funding at Courts

8. If the client was granted a legal aid Representation Order for the main trial proceedings, the Representation Order will extend to cover the section 74 hearing under SOCPA on the basis that it is 'incidental' to the substantive proceedings. This applies even if there has been a gap of several years between the original trial and the section 74 hearing. In some cases the client may have instructed new solicitors since the case for which he was sentenced. This can be overcome by using the provision governing the transfer of the Representation Order - the relevant statutory reference is the Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013.

Change of litigator

9. Regulation 14 (3) (b) outlines that where there is “some other compelling reason why effective representation can no longer be provided by the original Provider”, the Representation Order may be transferred to another Provider.

10. If the client was not granted a legal aid Representation Order for the main trial proceedings at the Crown Court but now wishes to be funded by legal aid at the section 74 hearing, the client must submit a legal aid application to the LAA. The section 74 hearing comes within scope of the criminal legal aid scheme courtesy of section 14 (b) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The legal aid application will not be subject to Crown Court means testing, but will have to pass the 'Interests of Justice' (merits) test.

11. Where the original case for which the client was sentenced was a VHCC case, those representing the client can contact the VHCC case manager who handled the client’s original case contract.

12. This guidance is mirrored in the Criminal Legal Aid Manual, Annex D, which can be found here: https://www.gov.uk/government/publications/criminal-legal-aid-manual

13. The LGFS scheme allows a separate Fixed Fee for these cases, and these hearings are covered by standard appearance Fixed Fee under the AGFS.

Annex A: Funding for Prescribed Proceedings

Where any order listed in the table below is made on conviction or sentencing, funding for the making of the order falls under the representation order issued for the offences that resulted in the conviction. Any subsequent variation, renewal, discharge or appeal of the order is funded as per the table.

Legislation	Section	Nature of Order	Method of Funding
		Civil Proceedings in a magistrates' court arising from failure to pay a sum due or to obey an order of that court where such failure carries the risk of imprisonment	Representation Order
Crime and Disorder Act 1998	8(1)(b) and 8(1)(c)	Parenting Orders made on conviction of a child	Representation Order
Crime and Disorder Act 1998	9(5)	Application made to discharge or vary a Parenting Order made under s8 (1) (b) or 8(1) (c).	magistrates' court: Representation Order Crown Court: Representation Order
Crime and Disorder Act 1998	10	Appeal against a Parenting Order made under s8 (1) (b) or s8 (1) (c).	Crown Court: Representation Order
Football Spectators Act 1989	14B, 14G, 14H and 21B	Football Banning Order sought by relevant authority.	Representation Order
Football Spectators Act 1989	14D and 21D	Appeal against a Football Banning Order made under s14B, s14G, s14H or s21B.	Crown Court: Representation Order

Legislation	Section	Nature of Order	Method of Funding
Anti-Social Behaviour Crime and Policing Act 2014	80(5)(a)	Closure Orders: Sought by relevant authority in relation to closure orders where the accused has engaged in or is likely to engage in disorderly, offensive or criminal behavior on the premises. This includes proceedings under s.82 and 83 of the Act.	Representation Order
Anti-Social Behaviour Crime and Policing Act 2014	84	Appeal against a Closure Order made under 80(5)(a).	Crown Court: Representation Order
Sexual Offences Act 2003	97 and 100	Proceedings relating to notification orders and interim notification orders.	Representation Order
Sexual Offences Act 2003	101	Appeals against notification and/or interim notification orders made under s97 or s100.	Crown Court: Representation Order
Sexual Offences Act 2003	103A, 103E and 103F	Proceedings relating to sexual harm prevention orders and interim sexual harm prevention orders.	Representation Order
Sexual Offences Act 2003	103H	Appeals against sexual harm prevention and/or interim sexual harm prevention orders made under s.103A, 103E or 103F	Crown Court: Representation Order:
Sexual Offences Act 2003	122A, 122D and 122E	Proceedings relating to sexual risk orders and interim sexual risk orders.	Representation Order

Legislation	Section	Nature of Order	Method of Funding
Sexual Offences Act 2003	122G	Appeals against sexual risk and/or interim sexual risk orders made under s.122A, 122D and 122E.	Crown Court: Representation Order
Powers of Criminal Courts (Sentencing) Act 2000	Part 1A of Schedule 1	Proceedings relating to Parenting Orders for failure to comply with orders under s20 of that Act.	Representation Order
Protection from Harassment Act 1997	5A	Proceedings relating to restraining orders on acquittal.	Crown Court: Representation Order
Serious Crime Act 2007	19, 19A, 20 and 21	Proceedings relating to Serious Crime Prevention Orders. Criminal Legal Aid is available for those who have a Serious Crime Prevention Order imposed on them at the Crown Court when convicted, acquitted or where they have successfully appealed their conviction.	Crown Court: Representation Order
Serious Crime Act 2007	24	Appeals against Serious Crime Prevention Orders	Court of Appeal: Application made direct to Court of Appeal
Criminal Justice and Immigration Act 2008	100, 101, 103 and 104	Proceedings relating to Violent Offender Orders and interim Violent Offender Orders	Representation Order
Criminal Justice and Immigration Act 2008	106	Appeals against Violent Offender and/or interim Orders made under s100, s101, s103 or s104	Crown Court: Representation Order

Legislation	Section	Nature of Order	Method of Funding
Crime and Security Act 2010	26, 27 and 29	Proceedings relating to Domestic Violence Prevention Notices or Domestic Violence Prevention Orders under s.26, 27 and 29	Representation Order
Tribunals, Courts and Enforcement Act 2007	13	Proceedings relating to an appeal against a decision of the Upper Tribunal in proceedings in respect of— (i) a decision of the Financial Services Authority; (ii) a decision of the Bank of England; or (iii) a decision of a person in relation to the assessment of any compensation or consideration under the Banking (Special Provisions) Act 2008 or the Banking Act 2009;	Representation Order
Anti-Social Behaviour Act 2003	20 and 28	Proceedings relating to parenting orders— (i) in cases of exclusion from school; or (ii) in respect of criminal conduct and anti-social behaviour;	Representation Order
Anti-Social Behaviour Act 2003	22 and 26	Appeal against a Parenting Order made under s.20 or 28.	Crown Court: Representation Order

Legislation	Section	Nature of Order	Method of Funding
Sexual Offences Act 2003	97, 100, 101	Magistrates' and Crown Court breach proceedings	Representation Order
Stalking Protection Act 2019	1, 4, 5	Proceedings relating to the making, varying, renewing or discharging of a stalking protection order or interim stalking protection order	Representation Order
Stalking Protection Act 2019	7	Appeal against a stalking protection order or interim stalking protection order made, varied, renewed or discharged	Crown Court: Representation Order
Offensive Weapons Act 2019	14, 26 & 27	Proceedings relating to stand alone applications for knife crime prevention orders (KCPOs) Only in relation to KCPOs applied for and made in the metropolitan police district for the pilot running to 23:59, 31 March 2023 (thereafter legal aid is available for a further 6 months for reviews and applications to vary and discharge a KCPO)	Representation Order
Offensive Weapons Act 2019	28	Appeals relating to stand alone applications for knife crime prevention orders (KCPOs) Only in relation to KCPOs applied for and made in the metropolitan police district for the pilot running to 23:59, 31 March 2023 (thereafter	Crown Court: Representation Order

Legislation	Section	Nature of Order	Method of Funding
		legal aid is available for a further 6 months for appeals)	
The Sentencing Act 2020 (Sentencing Code)	342H	Proceedings relating to the variation, renewal and discharge of serious violence reduction orders (SVROs)	magistrates' court: Representation Order Crown Court: Representation Order
The Sentencing Act 2020 (Sentencing Code)	342I	Appeals relating to serious violence reduction orders (SVROs)	Crown Court: Representation Order Court of Appeal: Representation Order
Serious Disruption Prevention Orders (SDPOs) under the Public Order Act 2023	21, 28 and 29	Application of an order, applications to vary, renewal or discharge an order and appealing an order.	magistrates' court: Representation Order Crown Court: Representation Order Court of Appeal: Representation Order
Domestic Abuse Protection Notices (DAPNs) & Domestic Abuse Protection Orders (DAPOs) under the Domestic Abuse Act 2021	26 (2) (DAPN) & 31 (3) (5) & (6), 44 (2) (b), 46 (3), 46 (4) (DAPO)	Breaches of DAPNs, DAPOs made on the criminal magistrates' court's or the Crown Court's own motion including any subsequent variations, discharges and appeals, & breaches of DAPOs	See Annex E

Annex B: Financial Eligibility

1. Introduction

1. The LAA has delegated the assessment of means to service Providers in accordance with section 5 of the Legal Aid Sentencing and Punishment of Offenders Act 2012. Reference should be made to the Criminal Legal Aid (General) Regulations 2013 and the Criminal Legal Aid (Financial Resources) Regulations 2013.

2. Regulation 5 of the Criminal Legal Aid (Financial Resources) Regulations 2013 provides circumstances that the Advice and Assistance (including Advocacy Assistance) may be granted without reference to the financial resources of the individual.

3. Where a right to representation is sought in accordance with the Legal Aid Sentencing and Punishment of Offenders Act 2012 and its supporting regulations, all applicants will also need to satisfy the interests of justice test set out in s.16 of Legal Aid, Sentencing and Punishment of Offenders Act 2012.

2. How are means assessed?

4. The financial limits for eligibility for the various levels of service are fixed in the Criminal Legal Aid (Financial Resources) Regulations 2013. There are both income and capital limits which can vary for different levels of service.

5. The Provider of the service has, as a first step, to determine the client's financial eligibility on information provided by the client in order to complete a CRM1, CRM2 (both Advice and Assistance), CRM3 (Advocacy Assistance) form or the Apply for Criminal Legal Aid online service.

6. Further information and guidance as to whether a client is Financially Eligible for legal aid can be located on the website at the following address:
https://www.gov.uk/guidance/criminal-legal-aid-means-testing

7. An eligibility calculator, is also provided on the website at the following address:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/314808/LAA-financial-eligibility-calculator-for-criminal-legal-aid.xlsm

This can be used before an application for legal aid is submitted to the magistrates' court in relation to Criminal Proceedings.

8. Where the capital or income details in the application form are not completed or are incomplete (which includes striking through or leaving boxes blank) then a claim for costs will be assessed at nil (see 4.24 of the SCC Specification).

3. Does the client qualify financially?

9. Where applicable, a client's disposable income and disposable capital must both be within the eligibility limits in the Criminal Legal Aid (Financial Resources) Regulations 2013 at the time the application form is signed. If either disposable income or disposable capital is above the limit, the client will not be eligible for funding.

10. All reasonable steps must be taken to verify the information about income and capital provided by the client. It is good practice for clients to have the importance of giving a full and fair picture emphasised to them when they are applying for funding (see 3.5 to 3.9, of the SCC Specification).

11. The Legal Aid Manual also provides detailed information in relation to client eligibility and the application process in Criminal Proceedings. This document will be used by LAA caseworkers when processing applications for legal aid and can be located here: https://www.gov.uk/government/publications/criminal-legal-aid-manual

4. Evidence of Means

12. Satisfactory evidence as to means will need to be supplied and a copy kept on file. Examples of satisfactory evidence for income are set out in the table below. This list is not exhaustive and other evidence may be accepted provided it is reasonably sufficient to establish the client's and (if aggregated) their partner's income during the calculation period.

13. Written evidence that does not refer directly to the calculation period itself may be accepted as confirmation of the client's statement of their income during that period where it seems reasonable to do so. This might be for example where the client produces a letter from the Department Of Work and Pensions confirming their award of benefit – this may well be dated some time before the start of the calculation period. In such cases, Providers should try to ensure that the evidence the client provides is the most up to date in the client's possession – such as the last letter confirming an up rating of benefit.

14. In the case of the self-employed, corroborative evidence may sometimes not relate directly to the calculation period. Accounts may not have been prepared for that period but earlier accounts can be used to back up the client's statement of drawings from the business for personal use, as opposed to business expenses, if no more up to date evidence is available.

15. Where the income consists of a benefit or tax credits, the evidence must show the type of benefit or tax credit in payment and where relevant the amount. Clearly the amount will be irrelevant if the benefit is Income Support, Income-Based Jobseekers Allowance, Income-Related Employment and Support Allowance, Guarantee Credit (under s.1(3)(a) of the State Pension Credit Act 2002(a)) or Universal Credit. In lieu of written evidence suppliers may telephone the relevant agency, e.g. Department Of Work and Pensions or HM Revenue and Customs as appropriate, whilst the client is in attendance to confirm details of type and amount of benefit or tax credit, and current entitlement. A note of that conversation including the relevant details, along with any unique reference number and name of person spoken to, will be acceptable evidence on audit.

16. Examples of acceptable (and unacceptable) evidence for income.

Source of income	**Satisfactory evidence**
Employed (P.A.Y.E.)	Most recent payslip(s).
Self Employed	Bank statements or working accounts/cash book showing drawings. Most recent tax assessment or set of accounts.
State Benefits (various) – Direct Payment of benefit to Client's bank / building society / post office card account	1) Recent bank / building society statement – however benefit type must be specified on the statement; 2) original benefit notification letter supported by a recent bank statement where the notification letter is more than 6 months prior to the date of the application; 3) most recent letter notifying a change in benefit amount (no more than 6 months old); 4) if the client can only provide a bank statement which does not specify the benefit.

Source of income	Satisfactory evidence
Income Support – IS	See Direct Payments information above. Alternatively a letter from the Department Of Work and Pensions coning the client was in receipt of IS at time of applying for Legal Aid. [Order Books are now largely obsolete – however if a current order book is held, a copy of the front of the benefit book showing the type of benefit and the date of the last payment order (or if not clear, include copy of second page / inside cover confirming benefit in payment)].
Income-Based Jobseekers Allowance (IBJSA)	See Direct Payments information above. Alternatively a letter from the Jobcentre Plus / Department Of Work and Pensions confirming the client was in receipt of IBJSA at time of applying for Legal Aid.
Income-Related Employment and Support Allowance (IRESA)	See Direct Payments information above. Alternatively a letter from the Jobcentre Plus / Department Of Work and Pensions confirming the client was in receipt of IRESA at time of applying for Legal Aid.
Prisoner's Income	Any income earned in Prison should be taken into account. However subject to paragraphs 13.3.5 and 13.3.7 above if the client is single then this evidence of income will not be required from the prison in question. A client's certification would be sufficient in these circumstances.
Source of income Satisfactory evidence Guarantee Credit (under s.1(3)(a) of the State Pension Credit Act 2002(a))	See Direct Payments information above. The Award Letter together with the Award Calculation Sheet (or the clerical versions of these forms) should be accepted as satisfactory evidence of claim (if no more than 6 months old). Otherwise any relevant correspondence from the paying agency in the client's possession would be acceptable such as a Statement of Entitlement that explains how the client's Pension Credit has been worked out.
Universal Credit	See Direct Payments information above. Award notification letter should be accepted (if no more than 6 months old), Alternatively a letter from the Jobcentre Plus confirming receipt.
Working Tax Credit and Child Tax Credit	A copy of the most recent Tax Credit Award Notice issued to the client should be accepted as satisfactory evidence of the claim. Otherwise any relevant correspondence from the paying agency (HM Revenue and Customs) in the client's possession would be acceptable. Bank Statements are also acceptable evidence. (NB Evidence must also be obtained of the client's other income, e.g. salary).

17. Unacceptable evidence as to means

Source of Income	Unsatisfactory evidence
	Copies of the ES40 (signing on card) or jobseekers agreements – these are not evidence of receipt of benefits – they merely show the client has at some time registered as available for and actively seeking work. The debit card of a Post Office card account. The Award Letter for Employment and Support Allowance does **not** provide satisfactory evidence of the client being in receipt of a passporting benefit simply by virtue of the standard paragraph on page 4 which states: 'this payment of ESA is based on your National Insurance contribution record and any additional amounts the law says you need to live on. We call this contribution-based and income related ESA...' This statement appears on all award notices irrespective of the type of ESA in payment. Bank statements are not sufficient evidence of salary/wages from employment as it does not show gross earnings and may include deductions that are not allowed under the legal aid rules. The Award Letter or the "short version" Statement of Entitlement will not be accepted by itself as evidence that the Guarantee State Pension Credit is in payment where the form does not specify the type of Pension Credit received. [Order books are largely obsolete, however if a book is held, the front cover only of an order book is unacceptable if it does not show the type of benefit or, where the client is not passported, the amount received]. This list is not exhaustive.

18. For capital, the client's statement and signature on the application form will normally be sufficient evidence, but other documentary evidence of disposable capital must be obtained in cases of doubt (e.g. statements for current accounts, savings or other financial accounts; independent valuations for property or items of value, share certificates etc). In general terms, suppliers should obtain evidence of capital if they have reason to believe, whether through previous dealings with the client, the circumstances of the case, wealthy lifestyle indicators, or otherwise, that the client may have capital in excess of the limit or may have acted to deprive themselves of capital; particular care should also be taken on cases where a client declares capital just under the eligibility limits.

19. Generally the client's means should be assessed together with the accompanying evidence. Clients should be asked to bring the evidence with them at their first appointment.

20. The Standard Crime Contract sets out the circumstances when you may assess the client's means without the accompanying evidence in 3.6, of the Specification.

21. Exceptionally, the personal circumstances of the client (such as age, mental disability or homelessness) may make it impracticable for any evidence to be supplied. In such cases, eligibility can be assessed without evidence. However, the attendance note must give the reason why evidence could not be obtained and Providers must be prepared to justify this on audit if necessary.

22. Whether or not it is impracticable to obtain evidence will depend on the circumstances of the case. Those who are homeless, or who are in detention will have particular difficulty in supplying evidence. For asylum seekers, there may be a difference between those who apply for Legal Aid when they have just arrived in the country and cannot be expected to provide evidence, and those who apply when they have been in the country long enough to receive benefits/vouchers or to work, who can provide evidence. It may on occasion prove impracticable to obtain evidence of a partner's income, for example where the partner refuses to provide the information despite repeated requests. In such circumstances the Provider will rely on the best estimate that the client can give of their partner's means for the purposes of aggregation. The Provider must record the justification for lack of evidence on the file.

23. It is important to remember in this context that the evidence to be supplied must relate to the time of application, so that it is the client's circumstances at that time that are relevant in judging whether or not it was impracticable to obtain evidence.

24. Some clients will state that they have no access to any income or capital. It would be for the Provider to decide whether such a statement was credible and whether or not it was therefore impracticable to obtain evidence of means. However, a note of the circumstances should be kept on the file. Clients without any income at all are likely to be those whose circumstances have recently changed. This might be where, for example, they have just separated from a partner or have applied for benefit. The Provider should enquire how the client is meeting their day-to-day expenses. If a client states that a relative or friend is supporting them, a letter from the relative or friend should be obtained identifying the nature and extent of support.

25. If at the time of the application the client is in receipt of a Restraint Order, a full copy of that order and any subsequent response(s) by the client, should be provided as evidence for assessing their means and capital when available. Should assets be seized but the relevant Order is not available at the point of granting Legal Aid then a note should be made on file to this affect. On receipt of the Restraint Order, a full copy of that order and any subsequent response(s) by the client should be provided.

26. If they subsequently become subject of a Restraint Order post the granting of a representation order, or have any other change in financial circumstances, then copies of all documents evidencing that change should be submitted via the e-form portal as soon as practicable. Guidance on how to submit additional evidence can be found here: https://www.gov.uk/guidance/legal-aid-crime-eform

Annex C: LAA COVID-19 Contingencies

In March 2020, the LAA published a number of contingencies to help Providers during the COVID-19 pandemic. This annex details the published contingencies, including dates of when they came into force, alongside any significant amendments during the COVID-19 period.

Video remand hearings (published 12th May 2020)

In response to the coronavirus (COVID-19) outbreak, HMCTS rolled out the use of Video Remand Hearings (VRHs).

VRHs rolled out in response to the COVID-19 outbreak were not designated as Virtual Courts under the existing contract arrangements. The LAA did not set up Virtual Court Duty Schemes for these VRHs, and the Virtual Court appearance fee was not claimable for them.

This meant VRHs were funded in the same way as when a remand hearing takes place face to face at court; either under a representation order or covered by the Court Duty Solicitor.

Existing Virtual Court Schemes continued to operate as normal, and the Virtual Court appearance fee should be claimed as per the usual rules for these Cases.

As confirmed in the LAA's financial relief for legal aid practitioner's guidance (see below), if a hearing was conducted by video link because of the outbreak when it would normally be conducted face to face, Providers could claim for this as a face to face hearing.

Claiming police station attendance fee (published 14th April 2020 and amended as the Protocol was amended and extended)

In response to the COVID-19 pandemic, a joint interview protocol was in place between National Police Chiefs' Council, Crown Prosecution Service, The Law Society, Criminal Law Solicitors' Association and London Criminal Courts Solicitors' Association setting out guidance on police station interviews during the outbreak.

The LAA confirmed in response to the protocol that a provider may claim the Police Station Attendance Fixed Fee appropriate to the location where they attended remotely under this protocol, and their remote attendance:

- went beyond the advice normally provided under Telephone Advice Fixed Fee
- covered the advice and assistance usually provided in person at the Police Station

Examples of this might include considering police disclosure, where provided, with the client, and advising the client on their case for the interview. Where this Advice and Assistance resulted in the provider preparing a written statement under Annex B of the protocol as an alternative to an interview, the Police Station Attendance Fixed Fee may also be claimed.

The contingency confirmed that a file note should be kept confirming the Advice and Assistance provided. Advice previously claimed under the Telephone Advice Fixed Fee needed to be claimed under that fee. As before, a provider could not claim the Telephone Advice Fixed Fee and the Police Station

Attendance Fixed Fee in the same Matter. Also, the Fixed Fee claimed should cover all work under the same Matter. A Defence Solicitor Call Centre reference number was required as normal.

From 17 May 2021 revisions to the protocol (Version 3) applied which meant that it would no longer apply to suspects who are children (under 18) or vulnerable adults.

The protocol was further updated on the 4th October 2021 (Version 4), with the presumption that all attendances will be face to face unless one of four exceptions applied;

a. The detainee was confirmed or believed to be COVID-19 positive.

b. The detainee exercised their right to speak to a named legal representative/firm or Duty Solicitor (where the Duty Solicitor is unable to make alternative arrangements for another representative to attend) and the legal representative/Duty Solicitor was confirmed as COVID-19 positive or was self-isolating as per government advice.

c. Some other exceptional reason applied where, in consultation with all relevant parties (legal representative and appropriate adult if required) it was the belief of the Custody Officer, that due to those exceptional reasons it would have not be practical, possible, or desirable for an in person attendance by the legal advisor in that individual case to safely take place, having regard to any relevant health or safety issues arising, or likely to arise. If the legal representative raised this exception and the Custody Officer disagreed, then the legal representative could appeal this decision with an officer not below the rank of Superintendent. Once a decision had been made and any appeal heard, then the Custody Officer was to record the decision and reasons (including any information made available to them) on the Custody Record.

d. Where in consultation with all relevant parties (legal representative and appropriate adult if required) the Custody Officer, (who is responsible for the welfare and health & safety for all who attend the custody suite) agreed that the police in the individual case concerned are unable to meet their obligations set out in the protocol. If the legal representative raised this exception and the Custody Officer disagreed, then the legal representative could appeal this decision with an officer not below the rank of Superintendent. Once a decision had been made and any appeal heard, then the Custody Officer was to record the decision and reasons (including any information made available to them) on the Custody Record.

For the avoidance of doubt, where the protocol applies, if an interview takes place remotely and this remote attendance goes beyond what is normally covered by the Telephone Advice Fixed Fee, and advice given covers advice and assistance usually provided face to face at the Police Station, then a Police Station Attendance Fixed Fee may be claimed.

Assessing financial eligibility where a client cannot attend (published 14th April 2020)

The Contract Specification allows a Provider in certain situations to assess means without accompanying evidence where it is not practicable to do so:

- section 3.6 crime
- section 3.24 civil

Where a client is staying at home, it may still have been possible to collect evidence by email or post. The contingency confirmed that reasonable efforts to collect evidence should still be made and recorded, before assessing without evidence if that was not possible.

The contingency confirmed that when assessing Crime Applications under any scheme, it will exercise the same discretion as above. Providers should submit what evidence they have available and highlight any issues they have had collecting other documentation.

Using digital signatures (published 14th April 2020).

Digital client signatures are acceptable as an alternative to handwritten ('wet') signatures and meet our contract requirements.

The Law Society has guidance and practice notes in this area:

- Signing and exchanging documents
- Execution of a document using an electronic signature

The LAA would accept all digital methods which meet the requirements outlined as Simple Contracts in the Law Society practice note.

Text messages were not considered an acceptable method of digital signature and are not covered by the Law Society.

In situations where it was not possible to directly obtain a client signature, the Provider needed to make a note on the file explaining why, countersigned by a Supervisor. The Provider should also make a note on the relevant form itself, explaining the specific reason why a signature cannot be obtained. Simply referring to COVID-19 was insufficient. In these circumstances, the Provider needed to provide express evidence (for example email exchanges or telephone attendance notes) demonstrating that the client formed the appropriate intention to sign and submit the application form, or showed that they had been directly appointed by a court or tribunal to act for the client.

In order to avoid delays or issues with processing, the Provider was required to seek a signature at the earliest possible opportunity. If this was not possible to secure a client signature (including a digital signature), where it is clear that reasonable attempts have been made to secure the client's signature and they had provided evidence of the client's intention to sign the form or that they had been appointed to act for a client by a court or tribunal, a Claim may be submitted.

Application evidence requirements (published 14th April 2020)

The LAA adopted a flexible approach for certain types of evidence.

This was because the LAA recognised that some applicants might struggle to obtain the evidence of:

- their own or their partner's income
- their outgoings (such as mortgage statements) in certain circumstances

The LAA accepted photos or screen-shots of evidence for these when applicants provide a suitable explanation e.g. self-isolation.

Face to face hearings via video, telephone or written representations (published 7th April 2020)

For hearings conducted by video link, telephone or via written representations when they would have normally been conducted face to face, Providers could claim for this as a face to face hearing. This applied to hearings in both the Crown Court and magistrates.

Prison video link disbursements (published 9th April 2020)

Where it is necessary, Providers can claim for the cost of setting up a video link to prison in lieu of travelling to see their clients. They would need to provide evidence of any disbursements claimed in excess of £20.

Travel and mileage (published 27th March 2020)

The LAA confirmed that Providers can claim 45p per mile where they have had to use private transportation to socially distance or due to a lack of available public transport. It was agreed that there will be a need for Providers to make travel claims from home locations during the COVID-19 period and this will be allowed. This applied to both crime lower and crime higher work. However, it should be noted that the 40 kilometre rule still applied to all AGFS claims as set out in the Regulations.

Note, this contingency changed how travel may be claimed, it did not change when travel may be claimed. For example, it did not allow a Provider to claim travel in circumstances in which travel would not normally be claimable, i.e. when acting as a Court Duty Solicitor on a business day.

On the 4th April 2022 the LAA confirmed that as the situation remained variable, and whilst COVID-19 domestic restrictions had been removed in England, there may well have been good reason why someone has to use private transport even when public transport is available. As a result, the LAA will continue to be flexible on the issue of the use of private transport. Providers need to continue to keep a record of the reasons why private transport has been used and need to submit that as part of their claim. The reasons given need to be Case specific rather than generic, for example simply stating that the use of private transport is due to COVID-19 would not be sufficient.

Similarly, the LAA's continued flexibility on whether providers could claim travel from home rather than their offices has been retained. Providers need keep a record of the reasons why travel from home rather than an office was used and have to submit this as part of their claim.

Annex D: Sending Hearing Fee Guidance

Introduction

Sending Hearing Fixed Fees were introduced as part of the Criminal Legal Aid Reform accelerated measures in October 2020.

They apply to Cases where the Case has been sent/committed to the Crown Court for trial and the magistrates' court Representation Order has been granted on or after **19 October 2020**.

About the Fee

- The Sending Hearing Fixed Fee is claimable by the litigator only.
- The Fixed Fee only applies to Cases that have been sent or committed to the Crown Court for trial.
- The Fixed Fee does not apply to Cases that have been committed to the Crown Court for sentence or for any breaches or appeals that take place in the Crown Court.
- There is no escape fee mechanism available.
- For Representation Orders granted between 19 October 2020 and 29 September 2022 the Fixed Fee is £181.40 excluding VAT.
- For Representation Orders granted on or after 30 September 2022 the Fixed Fee is £208.61 excluding VAT.
- For Representation Orders granted on or after 22nd December 2025 the Fixed Fee is £229.47 excluding VAT.

Claiming for the Fixed Fee

The Fixed Fee itself should be claimed via CWA using the claim code **PROW**.

The Provider should use one of the outcome codes below when making a claim on CWA:

CP27 (Case sent to the Crown Court for trial on an either way offence) or
CP28 (Case sent to the Crown Court for trial on an indictable only offence).

Scenarios Table

A table of scenarios has been devised to address the most common queries. The underlying principles that inform each of the scenarios are as follows:

- The starting position is that a Provider may only claim one Sending Hearing Fixed Fee in a Case, under the one Fee, one Case principle.
- In some scenarios, a Provider may choose to claim a Standard Fee instead of a Sending Hearing Fixed Fee, in line with the one Fee, one Case principle.
- The only scenarios in which a Provider may claim more than one Fee in a Case is where the SCC Specification sets out a specific exception to the one Fee, one Case principle.

All scenarios are based on the proceedings constituting one Case. Where proceedings constitute more than one Case, a Provider may claim a Fee(s) for each Case in accordance with the relevant scenario for that individual Case. A Case is defined in 1.1 of the Standard Terms as:

"Case" means all the work carried out under this Contract in Criminal Proceedings and Prison Law for all Clients represented by you in those proceedings in respect of:

(a) one offence (that is an offence for which the Client is charged or summoned or otherwise required to appear in court); or
(b) more than one offence, where one or more charges or informations are preferred or laid at the same time: or where
(c) the offences are allegedly founded on the same facts or form part of a series of offences.

There are 5 sets of scenarios listed in the table:

1. Court Duty Solicitor (scenario A)
2. Single Client / Single Case (scenarios B – D)
3. Multiple Clients / Single Case (scenarios E – G)
4. Remittals – Single Client / Single Case (scenarios H – I)
5. Remittals – Multiple Clients / Single Case (scenarios J-K)

Scenario	Fees Payable	Rationale
1. Court Duty Solicitor		
A. Where a Case is sent to the Crown Court for trial at a hearing at which the Client is represented by the court Duty Solicitor.	No Sending Hearing Fixed Fee is payable. The work undertaken by the court Duty Solicitor in sending the Case to the Crown Court for trial should be billed under their court Duty Solicitor hourly rates claim.	10.14 of the SCC Specification: *'For the avoidance of doubt, when acting as Court Duty Solicitor, where the case is sent to the Crown Court, you may make an application for Representation in the Crown Court, but you may not claim the Sending Hearing Fixed Fee'*.
2. Single Client / Single Case		
B. Representing one Client in one Case where all proceedings are sent to the Crown Court for trial at the same hearing.	One Sending Hearing Fixed Fee	10.122 of the SCC Specification: *'Where a Representation Order is issued to a Client in respect of more than one charge, offence or information, the Claim for payment of a Sending*

		Hearing Fixed Fee covers all the charges, offences or informations that form part of one Case.'
C. Representing one Client in one Case where all proceedings are sent to the Crown Court for trial at different hearings.	One Sending Hearing Fixed Fee	10.122 Specification sets out that a Sending Hearing Fixed Fee is for payment of '*all the charges, offences or informations that form part of one Case'.* A single Sending Hearing Fixed Fee therefore covers payment for where the proceedings in a Client's Case are sent to the Crown Court for trial at different sending hearings.
D. Representing one Client in one Case where some proceedings are sent to the Crown Court for trial and others stay in the magistrates' court (including those that are later committed to Crown Court for sentence).	One Sending Hearing Fixed Fee **or** One Standard Fee	10.122 of the SCC Specification: *'Where a Representation Order is issued to a Client in respect of more than one charge, offence or information, the Claim for payment of a Sending Hearing Fixed Fee covers all the charges, offences or informations that form part of one Case.'* Therefore, a Standard Fee cannot also be claimed. 10.69 of the SCC Specification: *'Where a Representation Order is issued to a Client in respect of more than one charge, offence or information, the Claim for payment of a Standard Fee must cover all the charges, offences or information that form part of one Case.'* Therefore, a Sending Hearing Fixed Fee cannot also be claimed.

3. Multiple Clients / Single Case		
E. Representing multiple Clients in one Case where all proceedings are sent to the Crown Court for trial at the same hearing.	One Sending Hearing Fixed Fee	10.123 Specification: *'Only one Sending Hearing Fixed Fee is claimable where you represent a number of defendants whose cases are sent to the Crown Court for trial at the same hearing.'*
F. Representing multiple Clients in one Case where all proceedings are sent to the Crown Court for trial at different hearings.	One Sending Hearing Fixed Fee for each sending hearing i.e., multiple Sending Hearing Fixed Fees may be claimed.	An exception to the one Fee, one Case principle is inferred at 10.123 of the SCC Specification. The exception is set out 6.7.5 of CBAM: *'Where a Provider represents multiple defendants in the same proceedings, and their cases are sent to the Crown Court in different hearings, the Provider may claim a separate Sending Hearing Fixed Fee in respect of the preparation and attendance they undertook for each hearing (10.123 of the SCC Specification), a separate UFN should be applied to each claim.*
G. Representing multiple Clients in one Case where some proceedings are sent to the Crown Court for trial and some proceedings stay in the	One Sending Hearing Fixed Fee	An exception to the one Fee, one Case principle is set out at 10.124 of the SCC Specification:

magistrate's court (including those later committed to the Crown Court for sentence).	*and* One Standard Fee	*'Where you represent multiple defendants and some of their cases are sent to the Crown Court and some remain in the magistrates' court (for example a youth), you may only claim one Sending Hearing Fixed Fee plus the Litigator's Graduated Fee for the cases that are sent to the Crown Court, and the appropriate Standard Fee for the cases that remain in the magistrates' court.'*
4. Remittals - Single Client / Single Case		
H. Representing one Client in one Case where all proceedings are sent to the Crown Court for trial at the same/different hearings. Some/all of the proceedings are then remitted back to the magistrates' court.	One Sending Hearing Fixed Fee *and* One Standard Fee	One Sending Hearing Fixed Fee is payable for when the proceedings are sent to the Crown Court for trial - scenarios B & C. An exception to the one Fee, one Case principle is set out at 10.117 of the SCC Specification, in that a Standard Fee may also be claimed for the work undertaken in the magistrates' court post remittal. 10.117 of the SCC Specification: *'Proceedings in a magistrates' court following a remittal under paragraph 10(3)(a) or 13(2) of Schedule 3 to the Crime and Disorder Act 1998 may be claimed separately under the appropriate Unit of Work.'* 6.7.4 of CBAM:

		Should a Case be remitted back to the magistrates' court under paragraph 10(3)(a) or 13(2) of Schedule 3 to the Crime and Disorder Act 1998, then the Provider may make a claim for both the Sending Hearing Fixed Fee and the appropriate Standard Fee for the remitted Case (10.117 of the SCC Specification). The preparation and attendance in sending the case to the Crown Court prior to its remittal is remunerated under the Sending Hearing Fixed Fee and should not be used in the calculation of the appropriate Standard Fee.
I. Representing one Client in one Case where some proceedings are sent to the Crown Court for trial and others stay in the magistrates' court (including those that are later committed to Crown Court for sentence). Some/all of the proceedings sent to the Crown Court for trial are then remitted back to the magistrates' court.	One Sending Hearing Fixed Fee *and* One Standard Fee (for post remittal work only)	In line with the exception to the one Fee, one Case principle set out at scenario H, a Provider may claim one Sending Hearing Fixed Fee for the pre-remittal work and one Standard Fee for the post-remittal work. In line with the one Fee, one Case principle, a Provider may instead claim one Standard Fee for all work, both pre and post remittal, in the magistrates' court.

	or One Standard Fee (includes pre and post remittal work)	
5. Remittals - Multiple Clients / Single Case		
J. Representing multiple Clients in one Case where all proceedings are sent to the Crown Court for trial at the same/different hearing(s) and some/all proceedings are then remitted back to the magistrates' court.	One Sending Hearing Fixed Fee for each sending hearing *and* One Standard Fee (for post remittal work only)	In line with the exception to the one Fee, one Case principle set out at scenario F, a Provider may claim one Sending Hearing Fixed Fee for each sending hearing. In line with the exception to the one Fee, one Case principle set out at scenario H, a Provider may also claim one Standard Fee for the post-remittal work.

K. Representing multiple Clients in one Case where some proceedings are sent to the Crown Court for trial at the same/different magistrates' court hearing(s) and some proceedings in the Case stay in the magistrates' court (including those later committed to the Crown Court for sentence). Some/all of the proceedings sent to the Crown Court for trial are then remitted back to the magistrates' court.	One Sending Hearing Fixed Fee for each sending hearing *and* One Standard Fee (for the proceedings that remained in the magistrates' court and the post remittal work)	In line with the exception to the one Fee, one Case principle set out at scenario F, a Provider may claim one Sending Hearing Fixed Fee for each sending hearing for the pre-remittal work. In line with the exceptions to the one Fee, one Case principle set out at scenarios F& H, that allow for a Standard Fee to be claimed in addition to the Sending Hearing Fixed Fee(s), a Provider may also claim one Standard Fee. The Standard Fee would cover the work undertaken in respect of proceedings that stayed in the magistrates' court and for the post remittal work in respect of the proceedings that were first sent to the Crown Court for trial.

Annex E: Domestic Abuse Protection Notices and Domestic Abuse Protection Order Summary Table[1].

This table sets out the criminal legal aid available to the person against whom the DAPO is sought. Civil legal aid is also available for the person against whom the DAPO is sought and the person for whose protection the DAPO is sought. You should refer to the 2024 Standard Civil Contract DAPO Pilot Specification for details.

Venue & type of proceedings	Type of funding	Where to apply	Upper limit?	Separate Matter/Case?	How to claim costs	Appeal funding		Variation/discharge of DAPO	Upper limit?	How to Claim
Police Station (DAPN)	Police Station Fixed Fees	N/A	No	Unlikely to be a separate Matter, will generally be rolled up into the substantive Police Station claim.	Via CWA	N/A		N/A	N/A	N/A

[1] **NOTE**: DAPOs are innovative multi-jurisdictional civil orders that can be made in existing criminal proceedings as well as family and some civil proceedings alike. This means that there are a range of different legal services which could be applicable to different parties for breach of a DAPN and for DAPOs. As part of the preparatory work for the pilot, and during the pilot itself, The Ministry of Justice and the Legal Aid Agency will continue to monitor and review the existing legislation and operational implications underpinning publicly funded legal services for DAPNs and DAPOs.

Venue & type of proceedings	Type of funding	Where to apply	Upper limit?	Separate Matter/Case?	How to claim costs	Appeal funding		Variation/discharge of DAPO	Upper limit?	How to Claim
				Note, after the DAPN is issued, there should be an application by the Police within 48 hours for a DAPO to be issued by the court, this will be covered by civil legal aid.						
Mags court (DAPN – arrest following a breach of a DAPN, under s.26(2)[2] Domestic Abuse Act 2021)[3]	Magistrates' court Standard Fee	Representation Order. Means tested Eform application See section 25 of CLAM	No	Can be a standalone claim though will likely be rolled up into any other proceedings being heard together	Via CWA	.		N/A	N/A	N/A

[2] Note, breach of DAPN hearings under s.26(b) were added into scope of criminal legal aid on 21/05/2025. Prior to then, if a perpetrator was brought before the court for a breach at the same time as a DAPO application, then this hearing was not in scope of criminal legal aid and an application for ECF funding was required. This included instances in which a DAPO application hearing was adjourned and the breach of the DAPN was heard (or any subsequent hearings relating to breach of bail conditions for the DAPN).

[3] Unless otherwise stated, criminal legal aid will also apply to situations where the defendant is remanded to custody following breach of bail conditions after a s.26(2) breach of DAPN, a s.39(1)breach of DAPO or a s.43 offence related to breach of notification requirements (sections under the Domestic Abuse Act 2021).

Venue & type of proceedings	Type of funding	Where to apply	Upper limit?	Separate Matter/Case?	How to claim costs	Appeal funding	Variation/discharge of DAPO	Upper limit?	How to Claim
				Note, any application for a DAPO at this point will be covered by civil legal aid.					
Mags Court (DAPO on their own motion)	Magistrates' court Standard Fee	Order will be made by the court and any work will be incidental to the substantive proceedings and covered by the Representation Order in existence for those, there is no need to make a fresh application. A standalone application is possible should there be no	No	Will be rolled into other proceedings, or claimed as a standalone Standard Fee if there are no other criminal proceedings for which criminal legal aid funding was granted.	Via CWA	Appeal to the Crown Court as set out in section 6.19.10 and covered by the Crown Court fee schemes.	Variation or discharge of this DAPO: Covered by existing Rep Order. If no existing representation order a new eform is required which will be means tested Will often be rolled into other proceedings as these will form part of the same Case. However, standalone applications may be	No	Via CWA

Venue & type of proceedings	Type of funding	Where to apply	Upper limit?	Separate Matter/Case?	How to claim costs	Appeal funding		Variation/discharge of DAPO	Upper limit?	How to Claim
		Representation Order for any substantive proceedings.						claimed under Standard Fee.[4]		
Crown Court (DAPO on their own motion)	Crown Court Fee Schemes	Order will be made by the court and any work will be incidental to the substantive proceedings and covered by the Representation Order in existence for those, there is no need to make a fresh application.	No	Will be rolled into other proceedings or claimed as a standalone Fee if there are no other criminal proceedings for which criminal legal aid funding was granted.	Via CCD	Appeal to the Court of Appeal as set out in 6.19.10 and costs will be covered in the normal manner.		Variation or discharge of this DAPO: Covered by existing Rep Order. If no existing representation order a new eform is required which will be non- means tested Claimed under Crown Court Advocacy	Yes	Via CWA

[4] Note, prior to 21/05/2025, where the court sought to vary/discharge a DAPO under s.44(2)(b) of the Domestic Abuse Act then this was not in scope of criminal legal aid and an application for ECF would have been required. Similarly, should there have been an appeal on the variation under s.46(4), prior to this date, then this was not in scope of criminal legal aid.

Venue & type of proceedings	Type of funding	Where to apply	Upper limit?	Separate Matter/Case?	How to claim costs	Appeal funding		Variation/discharge of DAPO	Upper limit?	How to Claim
		Again, a standalone application is possible should there be no Representation Order for any substantive proceedings.						Assistance with hourly rates.[5]		
Mags Court (a breach of a DAPO as a criminal offence)	Magistrates' court Standard Fee	Representation Order application – means tested eform application	No	Depending on other proceedings being heard together, likely to be standalone Case	Via CWA	Appeal to the Crown Court in the normal manner.		N/A	N/A	N/A
Crown Court (a breach of a DAPO as a criminal offence)	Crown Court Fee Schemes	Representation Order application – non means tested eform	No	Depending on other proceedings being heard together,	Via CCD	Appeal to the Court of Appeal and costs will be		N/A	N/A	N/A

[5] Note, prior to 21/05/2025, where the court sought to vary/discharge a DAPO under s.44(2)(b) of the Domestic Abuse Act then this was not in scope of criminal legal aid and an application for ECF would have been required. Similarly, should there have been an appeal on the variation, under s.46(4), prior to this date, then this was not in scope of criminal legal aid.

Venue & type of proceedings	Type of funding	Where to apply	Upper limit?	Separate Matter/Case?	How to claim costs	Appeal funding		Variation/discharge of DAPO	Upper limit?	How to Claim
				likely to be standalone Case		covered in the normal manner.				
County/family Court (a failure to comply with the DAPO or otherwise in contempt of court in relation to the DAPO as contempt of court proceedings)	Hourly rates	Representation Order - non means tested application – evidence must be provided	Yes	Will be a standalone Case	Magistrates Court Billing Team	Appeal and costs will be covered in the normal manner		N/A	N/A	N/A
High Court (a failure to comply with the DAPO or otherwise in contempt of court in relation to the DAPO as contempt of court proceedings)	Hourly rates	Representation Order non-means tested application – evidence must be provided	Yes	Will be a standalone Case	Magistrates Court Billing Team	Appeal and costs will be covered in the normal manner.		N/A	N/A	N/A
Mags Court (offences related to notification - s.43 Domestic Abuse Act 2021)	Magistrates' court Standard Fee	Representation Order application – means tested eform application	No	Depending on other proceedings being heard together, likely to be standalone Case	Via CWA	Appeal to the Crown Court in the normal manner.		N/A	N/A	N/A

Venue & type of proceedings	Type of funding	Where to apply	Upper limit?	Separate Matter/Case?	How to claim costs	Appeal funding		Variation/discharge of DAPO	Upper limit?	How to Claim
Crown Court (offences related to notification - s.43 Domestic Abuse Act 2021)	Crown Court Fee Schemes	Representation Order application – means tested eform application	No	Depending on other proceedings being heard together, likely to be standalone Case	Via CCD	Appeal to the Court of Appeal and costs will be covered in the normal manner.		N/A	N/A	N/A

Annex F: Representation Order Template for High Court Parole Board Proceedings.

Legal Aid Agency

[Applicant's Name]

[C/O Details, if applicable]
[Building Name, if applicable]
[Street Number and Name]
[City]
[Postcode]

Date of Order : [DD/MM/YYYY]
UFN : [DDMMYY/XXX]
Date of Birth : [DD/MM/YYYY]

Representation Order in the High Court

In accordance with the Legal Aid Sentencing and Punishment of Offenders Act 2012, you are granted legal aid for High Court proceedings relating to [section 32ZAA of the Crime (Sentences) Act 1997/section 256AZBA of the Criminal Justice Act 2003] (delete as appropriate).

This order covers work by a litigator and advocate (including advice and assistance regarding an appeal but excluding the actual appeal proceedings).

The litigator/Solicitor appointed is:

[Solicitor's Name]

[Provider Name]

[Building Name]

[Street Number and Name]
[City]
[Postcode]

[Firm name] - On behalf of the Director of Legal Aid Casework