



Strategic Statement

Advocates, who choose to take instructions from the Crown Prosecution Service, accept the terms of the fee schemes applicable to that work and will be remunerated in accordance with the published fee schemes. The fee schemes provide clear guidance on fees to be paid across a wide range of scenarios and outcomes, providing certainty of remuneration for both CPS and the advocate. Occasionally disputes arise regarding interpretation of the fee schemes and the level of remuneration which results.

The purpose of the Advocate Fee Appeals Committee (the Committee) is to resolve disputes by reference to published fee schemes, in particular the Graduated Fee Scheme (GFS) and the Very High Cost Case scheme (VHCC).

Authority

For GFS cases the appeals process is outlined in Annex 6B of the Graduated Fees Manual of Guidance March 2012.

For VHCC cases the process is outlined in paragraphs 27.0.1 to paragraph 27.0.5 of the VHCC Terms of Appointment (version 6).

Objectives

The objective is to provide a process for appeal in relation to advocate fee disputes, which is accessible, open and transparent. The process will allow disputes to be resolved without undue delay.

The Committee will resolve advocate fee appeals unanimously, if possible, otherwise by majority decision, taking into account the reasons submitted by the advocate and CPS.

The decision of the Committee will be based on its consideration of the CPS fee schemes. The Committee does not have the remit to apply any discretion.

Process

1. The final stage of the internal process before submission to the Committee involves the CPS drafting a letter known as the Final Written Reasons. Upon the receipt of this letter the advocate can accept the fee detailed therein or indicate that he or she wishes to appeal the final decision of the CPS to the Committee.
2. The Committee exists to resolve fee payment issues that are referred to it after this stage of the process has been reached.
3. Decisions taken by the Committee will be on a majority basis. Whilst unanimity would be preferable, a decision will be binding that two of the Committee members agree upon.



4. The Committee represents the final decision on the matter being appealed. There can be no appeal either by the appellant or the CPS in relation to a decision by the Committee.
5. The Committee will not concern itself with appeals relating to the refusal by the CPS to make payments due to the late invoicing of claims. There is an avenue of appeal to the Area Business Managers in this regard.
6. In GFS cases advocates may appeal should they feel that the CPS has not properly applied the rules of the scheme as set out in the Graduated Fees Manual of Guidance and subsequent policy and guidance issued e.g. Fees Bulletins, in any given circumstance. Advocates may also appeal decisions in relation to the application of special and wasted preparation, other hourly paid work and the issue of travel and hotel expenses.
7. In VHCC cases the advocate may appeal to the Committee on the following issues:
 - a. the fee category assigned to the case;
 - b. individual areas of work submitted in the Stage Plan;
 - c. hours in dispute within the submitted Stage Plan;
 - d. the level of advocate allowed for any item of work;
 - e. disbursements;
 - f. the decision of the CPS to delay payment because of quality of work records;
 - g. the decision of the CPS not to remunerate the advocate for work done by an advocate previously instructed;
 - h. the decision of the CPS to refuse payment for work undertaken that is not specified in the Stage Plan;
 - i. the decision of the CPS to refuse to amend the Stage Plan;
 - j. the decision of the reviewing lawyer not to pay pre-committal / sending preparation;
 - k. appropriate levels of preparation during the trial.
8. Submissions to the Committee will be in writing. The Committee will consider the formal appeal document drafted by the appellant, the final response by the CPS, and either the Graduated Fees Manual of Guidance and annexes, and relevant Fees Bulletins, or the VHCC Terms of Appointment. Appellants do not have a right to make oral representations. However, if the committee wish to hear oral argument, they will invite the appellant to attend a hearing. In the event of an oral hearing, the CPS will be asked if they intend to make oral representations.
9. The Committee will either allow or dismiss the appeal in whole or part.
10. As referred to in paragraph 3, the Committee will only consider whether the CPS has followed its own guidance and made the appropriate payment. However, the committee may wish to make observations about the issues relevant to the appeal in circumstances where the scheme has resulted in an outcome which, in all the circumstances, the committee wish to comment upon. The CPS will then undertake to review those comments.



11. The Committee will meet quarterly to discuss all appeals before the panel. Appellants, should, therefore, realise that there may be a delay of up to three months between lodging their appeal and hearing the outcome.
12. The outcome of the appeal will be delivered by way of a ruling document that will be sent by e mail to the Appellant any additional payment required will be processed within 7 days.
13. The Terms of Reference will be reviewed by the Appeals Committee on a yearly basis to ensure the appeal process remains fit for purpose.

Reporting

Results of appeals will be published on the CPS web-site in anonymous form.

Membership

The Committee shall be formed of three members and be drawn from experienced prosecution barristers nominated by the Bar Council, a senior representative of the Crown Prosecution Service nominated by the Director of Public Prosecutions and a member of the Office of the Attorney General. The Head of Fees at the CPS will act as a non-voting Secretary to the Committee.

Frequency of Meetings

The Committee will convene on a quarterly basis to consider any fee appeals requiring resolution.

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