

# COVID-19 – CHANGES TO ADVOCATE FEE PAYMENTS



1. This fees bulletin provides guidance regarding the [temporary changes to CPS fee schemes](#) announced on 30 March 2020, aimed at supporting external advocates during the COVID-19 outbreak.
2. The five changes and implementation timetable is:

No.	Interim Change	Implementation
1	Settlement of outstanding GFS fees based on existing trigger points – see paragraph 7 below	Immediate and on-going
2	Reduction in new VHCC stage lengths	6 April 2020
3	Payment of concluded main hearings, where appropriate, and related fees in on-going cases – see table at paragraph 12 below	13 April 2020
4	Revised framework for GFS hardship payments	20 April 2020
5	Payment of a £500 Upfront COVID-19 Fixed Fee	4 May 2020

3. These interim measures will:
  - a. Provide payment for work done prior to the conclusion of a case where delays to proceedings are encountered;
  - b. Maintain timely payments for any work done throughout the affected period;
  - c. Take account of ongoing operational challenges for CPS and the Bar/chambers caused by remote working and possible reductions in workforce; and
  - d. Be phased to provide a steady cash-flow while avoiding an immediate spike in invoices/payments which could delay processing.

### **Timely Payment during the COVID-19 outbreak**

4. In order to maintain the timely payment of fees, the CPS will continue to adhere to the [Service Standard on the Timely Payment of Fees](#) but recognizes the operational challenges the current situation presents for both the CPS and chambers staff.
5. CPS Finance and Fees Teams have the capability to work remotely from home and will continue to process fees during the COVID-19 outbreak, liaising closely with chambers throughout this period.
6. In accordance with 3 c and d above, implementation of these changes has been intentionally staggered to maintain steady cash flow and support timely payment of fees. CPS Fees Teams will prioritise each interim change sequentially. **Chambers are asked not to submit claims for outstanding main hearings in on-going cases, hardship payments and COVID-19 Fixed Fees until the corresponding implementation date.**

**Settlement of outstanding GFS fees – Immediate and on-going**

7. Chambers are encouraged to continue invoicing as much of their work that has reached a normal payment trigger point as possible and reminded that there are a number of pre-existing circumstances under GFS which allow payment of fees prior to the conclusion of the case, namely:
- Following a trial where sentence is adjourned for more than 4 weeks, upon application from counsel to the CPS, subject to the Deferred Sentence provisions
  - Where a case is adjourned for a retrial
  - After the conclusion of each effective trial in cases involving multiple trials, upon application from counsel to the CPS
  - Where a warrant has been issued but has not been executed within 3 months of the last hearing

**VHCC stage lengths – from 6 April 2020**

8. New VHCC stages – all new VHCC stages commencing on or after 6 April 2020 will be one-month in duration, unless the instructed advocate(s) and CPS lawyer agree otherwise. This will allow greater frequency of payment for work actually done
9. On-going VHCC stages – VHCC stages agreed prior to 6 April will run for their agreed duration, typically 2-3 months. The advocate(s) may request payment on a monthly basis, however, upon provision of detailed work records and other relevant documentation. A completed VHCC stage plan reflecting all work done during the stage will be required in support of the final payment for the stage.

**Payment of concluded main hearings in on-going cases – from 13 April 2020**

10. With effect from 13 April, working together with chambers, the CPS will seek to identify and pay all outstanding main hearing and other related fees prior to the conclusion of the case, where those main hearings have already occurred and the outcome doesn't impinge on future main hearings. This will include outstanding fees for all linked defendants.
11. Notification of cases – from 13 April onwards, chambers' are invited to provide a schedule of qualifying cases to the relevant CPS Fees Team. Cases should containing the following information and be scheduled in chronological order to allow older cases to be prioritized for payment:
- Defendant name
  - URN
  - Indictment / T Number
  - Offence
  - Advocate Name
  - Chambers
  - Court
  - Last hearing date

Chambers should **not** submit individual invoices, unless requested to do so by the CPS Fees Team.

12. The below table below shows the approach to be taken for all main hearing types

No.	Hearing type	Payable
1	Guilty plea – adjourned for sentence	Yes

2	Guilty plea – adjourned for a Newton Hearing	No
3	Cracked trial main hearing (single defendant / single indictment)	Yes
4	Cracked trial main hearing – multi-defendant/multiple indictment case arising out of a single core bundle of evidence where the indictments in respect of all co-defendants/cases have been resolved	Yes
5	Cracked trial main hearing – multi-defendant/multiple indictment case arising out of a single core bundle of evidence where the indictments in respect of any co-defendants/case are unresolved	Yes – unelected cracked trial fee only, plus defendant uplifts, where applicable
6	Cracked trial – adjourned for Newton Hearing	No
7	Effective trial – concluded	Yes
8	Effective trial – adjourned for re-trial beyond 7 days	Yes
9	Effective trial – part-heard in accordance with the Section 28, fitness to plead/stand trial or preparatory hearing arrangements	No
10	Trial Stood Out – trial adjourned or bench warrant issued	Yes
11	All fixed fee related to 1 to 10 above	Yes
12	All calculated fees (excl. Special Preparation) related to 1 to 10 above	Yes
13	Travel and hotel expenses or travel time	Yes

**Hardship payments under GFS – from 20 April 2020**

13. With effect from 20 April 2020, the thresholds for hardship payments under GFS will be temporarily revised to introduce a sliding scale commensurate to the four advocate levels as follows:-
- Level 4 = £4,000
  - Level 3 = £3,000
  - Level 2 = £1,500
  - Level 1 = £500
14. Payment will be based on work actually done and demonstrated by the advocate and must therefore be supported by detailed work records or other proof of case preparation, such as written advocacy, schedules etc. Applicants should also provide details of any outstanding fee claims or previous payments made in the case.
15. Payment will not be made for sums less than those set out above or where the payment of outstanding fees in an on-going case (para. 10 to 12) or a UCF (para. 17 to 28) provides appropriate remuneration for the work undertaken on the case to date.
16. All hardship claims must be referred to the CPS Head of Fees for approval, via the Case Auditor.

**Upfront £500 COVID-19 Fixed Fee (UCF) – from 4 May 2020**

17. In view of the unprecedented circumstances caused by the COVID-19 outbreak, with effect from 4 May 2020 the CPS will introduce a new Upfront COVID-19 Fee of £500 (Fee Code: UCF), deductible against the main hearing fee payable at the conclusion of the case.

<u>Example 1</u>			
Counsel instructed (junior alone) – False imprisonment / 2 defendants (Scheme E – Standard Fee)			
Date	Description / Outcome	Fees payable (excl. VAT)	Total (excl. VAT)
20 May 20	Payment of UCF following request from chambers	<ul style="list-style-type: none"> <li>▪ UCF fixed fee = £500</li> </ul>	£500.00
23 Nov 20	Listed for trial – both defendants plead guilty	<ul style="list-style-type: none"> <li>▪ Cracked trial fee = £1,080</li> <li>▪ Defendant uplift = £162</li> <li>▪ UM1 fee = £60</li> </ul>	£1,242.00
13 Dec 20	Sentence	<ul style="list-style-type: none"> <li>▪ SHR fixed fee = £126</li> <li>▪ Defendant uplift = £18.90</li> </ul>	£144.90
		Upfront UCF fee paid	£500.00
		Total fees payable for the case	£1,446.90
		Reconciled amount payable at the conclusion of the case	£946.90

18. Qualifying cases – the UCF will be payable, upon request from chambers, to the instructed advocate in any case affected by the on-going restrictions, which has had an effective PTPH and been formally adjourned for trial but has yet to have a main hearing.
19. The Instructed Advocate is under **no obligation to claim the UCF**. Where the UCF is not requested by chambers the fees will be paid in full either at the end of the case or at an alternate payment trigger point.
20. Notification of cases – from 4 May onwards, chambers are invited to provide a schedule of qualifying cases to the relevant CPS Fees Team. Cases should contain the following information and be scheduled in chronological order based on PTPH date to allow older cases to be prioritized for payment:
- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>▪ Defendant (first name and surname)</li> <li>▪ URN</li> <li>▪ Indictment / T Number</li> <li>▪ Offence</li> </ul> | <ul style="list-style-type: none"> <li>▪ Advocate Name</li> <li>▪ Chambers</li> <li>▪ Court</li> <li>▪ Last hearing date</li> </ul> |
|---|---|
21. Chambers should **not** submit individual invoices, unless requested to do so by the CPS Fees Team.
22. Instructed Advocate – the instructed advocate is defined as the advocate formally instructed by the CPS at the time of the PTPH.
23. Multiple indictments – a single UCF will be payable in each case. A ‘case’ under GFS is defined as one or more counts on a single indictment.
24. Multiple defendants – a single UCF will be payable in each case, regardless of the number of defendants. Defendant uplifts do not apply.
25. Returned briefs – in circumstances where the instructed advocate in receipt of the UCF returns the brief to another advocate, the advocate originally instructed, as defined at 22 above, will be paid the full main hearing fee minus the £500 UCF. Reconciliation will take place on a counsel-to-counsel basis with the ‘Instructed Advocate’ responsible for remunerating the advocate who prosecutes the main hearing.
26. Reconciliation – the UCF will be deductible from the main hearing fee payable at the conclusion of the

case. Both the UCF and the corresponding main hearing fee will be payable to the Instructed Advocate, as defined at 22 above.

27. In circumstances where two or more indictments are joined after the payment of the UCF, the CPS will reconcile the UCFs with the main hearing fee ultimately paid at the conclusion of the case.

<i>Example 2</i>			
Counsel instructed (junior alone) – one defendant – 2 indictments (scheme D – Standard Fee)			
<ul style="list-style-type: none"> <li>▪ Indictment A – Theft in excess of £100,000</li> <li>▪ Indictment B – False Accounting</li> </ul>			
Date	Description / Outcome	Fees payable (excl. VAT)	Total (excl. VAT)
15 May 20	Payment of 2 x COV fixed fees following request from chambers	<ul style="list-style-type: none"> <li>▪ Indictment A = £500</li> <li>▪ Indictment B = £500</li> </ul>	£1,000.00
5 Oct 20	Mention – application for joinder granted	<ul style="list-style-type: none"> <li>▪ OHA - £91.00 fixed fee</li> </ul>	£91.00
10-17 Nov 20	Trial – 6 days – defendant convicted	<ul style="list-style-type: none"> <li>▪ Base Fee = £1,570</li> <li>▪ Daily Fees = 5 x £520</li> </ul>	£4,170.00
13 Dec 20	Sentence	<ul style="list-style-type: none"> <li>▪ SHR fixed fee = £126</li> </ul>	£126.00
UCFs paid			£1,000.00
Fees payable			£4,387.00
Reconciled amount payable			£3,387.00

28. In circumstances where separate UCFs are paid in cases which are subsequently resolved at the same main hearing, resulting in payment of a lower overall fee than the UCFs already paid, the advocate will be required to reconcile the amounts paid against the overall payment for the case and make any adjustment necessary.

<i>Example 3</i>			
Counsel instructed (junior alone) – one defendant – 2 indictments (A and B) each containing a single count of burglary (scheme E – Standard Fee)			
Date	Description / Outcome	Fees payable (excl. VAT)	Total (excl. VAT)
15 May 20	Payment of 2 x UCF following request from chambers	<ul style="list-style-type: none"> <li>▪ Indictment A = £500</li> <li>▪ Indictment B = £500</li> </ul>	£1,000.00
10 Dec 20	Defendant listed for trial on Indictment A – pleads guilty to both indictment A and B	<ul style="list-style-type: none"> <li>▪ Indictment A = £675 + £60</li> <li>▪ Indictment B = £67.50</li> </ul>	£802.50
8 Jan 21	Defendant sentenced	<ul style="list-style-type: none"> <li>▪ Indictments A &amp; B = £126</li> </ul>	£126.00
UCFs paid			£1,000.00
Fees payable			£928.50
Reconciled amount payable to CPS by counsel			-£71.50

29. Timely payment – CPS payment systems will be updated to facilitate the new payment, with implementation likely to occur in early May 2020 with payments in existing cases made over the following 2 months, subject to completion of interim changes 1 and 3.

**Further enquiries**

30. Further guidance will be issued in due course to CPS Fees Teams outlining the arrangements relating to the internal reconciliation of UCFs.
31. Should you have any queries regarding this bulletin or any other fee related matter, please contact your Case Auditor or the [CBU@cps.gov.uk](mailto:CBU@cps.gov.uk)

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