



## **CROWN PROSECUTION SERVICE – SPECIALIST ADVOCATE PANEL SCHEME**

### **SELECTION CRITERIA LEVELS 3 and 4**

#### **SPECIALIST PANEL – COUNTER TERRORISM**

##### **Introduction**

1. Entry to the CPS Counter Terrorism Advocate Panel at Level 3 and 4 is through this application process and is open to appropriately qualified barristers and solicitors who have a Higher Courts Advocacy qualification.
2. Advocates on the Counter Terrorism Specialist Panel advise on and prosecute serious and sensitive casework on behalf of the Counter Terrorism Division relating to:
  - i. Terrorism;
  - ii. Incitement to racial and religious hatred;
  - iii. Stirring up hatred based on sexual orientation;
  - iv. War crimes and crimes against humanity;
  - v. Official secrets cases; and
  - vi. Piracy and hijacking.

##### **Level 3 Panel Requirements**

3. Level 3 advocates will be required to demonstrate that they are able to competently undertake any of the work of a Level 2 advocate on the General Crime Panel and jury trials in more serious and onerous prosecutions falling within paragraph 2 above involving large volumes of evidence, international enquiries, disclosure challenges including the handling of sensitive unused material and PII applications; expertise in the operation of the Regulation of Investigatory Powers Act 2000 (RIPA 2000), and multi-handed prosecutions of up to four defendants. Level 3 advocates will also be expected to conduct straightforward appeals in the Divisional Court and Court of Appeal. Applicants must also be able to demonstrate expert up to date legal knowledge relevant to such prosecutions and appropriate standards of oral and written advocacy. They should be able to demonstrate that they are able to work well with others in this range of prosecutions. Applicants should also have sufficient knowledge of the Proceeds of Crime Act 2002 to be able to



deal with the confiscation issues raised in Level 3 prosecutions and other ancillary orders applicable to prosecutions of terrorist offences.

4. Generally, applicants to this panel have at least five years advocacy experience (this is a guide, not a criterion).
5. In order to score very highly applicants will be expected to demonstrate a range of competencies to excellent standards in respect of the breadth of casework expected to be undertaken at level 3, including:

#### **Advocacy**

- The ability to conduct advocacy in the range of cases identified in paragraph 2 above, often attracting local, national and international media attention
- Highly developed trial advocacy skills for jury trials in the Crown Court including opening, closing, sensitive witness handling and legal argument, quoting relevant key authorities
- Ability to deal with complicating factors such as abuse of process, PII, complex section 8 Criminal Procedure and Investigations Act 1996 (CPIA 1996) applications, special measures, presenting or challenging complex expert evidence and difficult or sensitive issues of law and/ or fact
- Ability to undertake advocacy in complex and voluminous multi-handed cases, and is able to effectively direct and manage a number of participants in the courtroom
- Able to manage extremely sensitive cases reliably, including cases in which witnesses require anonymity and special measures.
- Ability to be an effective led junior

#### **Advisory Work**

- The exercise of consistently sound judgement and case management strategies
- Demonstrates a strong knowledge of law and practice and up-to-date knowledge of law relevant to prosecutions at this level;
- Up to date knowledge of the law relevant to prosecutions at this level, including criminal procedural rules and evidential rules.



- Presents coherent skeleton arguments even in complex cases or addressing complex law, evidence or procedure
- Presents clear and succinct relevant written submissions demonstrating expertise

**PII and disclosure**

- In depth understanding of the disclosure regime and principles of Public Interest Immunity, RIPA 2000 and Legal Professional Privilege.
- Ability to handle sensitive matters in relation to investigation techniques and third party material
- Understands disclosure requirements even in the context of complex investigations and evidential situations

**Other Relevant Knowledge, Skills and Experience**

- IT skills – including the electronic presentation of evidence, word processing, use of e-mail and / or secure email
- The ability to conduct confiscation hearings in any of the proceedings in which the applicant may be instructed at Level 3.
- Obtaining and using evidence from abroad, jurisdictional issues, human rights, restraint and confiscation.
- Sufficient knowledge of confiscation and POCA 2002 to be able to handle confiscation as it may arise in any of the cases which fall within their competency.
- Relevant defence or regulatory work of an equivalent level, if any

**Appreciation of the Role of a CPS Counter Terrorism Panel Advocate**

- A knowledge of ethical standards e.g. completion of the Advocacy & Ethics element of the New Practitioners Programme.
- Understanding of diversity and cultural issues and proactive in addressing the needs of people from all backgrounds
- A willingness to work as part of a prosecution team undertaking the type of work listed at paragraph 2 without compromising professional independence



- Familiarity with, and understanding of, CPS policy guidance including the Code, the Farquharson guidelines and policies in respect of victims and witnesses, hate crime and VAW
- An appropriate understanding of the professional relationship between the CPS, the police, other agencies and Government Departments and the advocate
- Able to lead a prosecution team and manage the strategic direction of the case.

#### **Level 4 Panel Requirements**

6. Level 4 advocates will be required to demonstrate that they can competently prosecute all Counter Terrorism Division cases where a junior advocate alone is instructed in the Crown Court and beyond, whatever the issues and whatever the number of defendants. They will be expected to handle serious, complex, novel and difficult points of law and fact, often with an international dimension sometimes in opposition to leading counsel for the defence. They will be expected to demonstrate a consistently high quality of work whether working alone, with a second junior, or when led. In addition, they will have shown their ability in relation to sensitive issues relating to effective workings of one or more law enforcement or intelligence agencies, witnesses (e.g. where special measures employed) and in handling complex witness issues. They must demonstrate expert up to date legal knowledge relevant to such prosecutions and appropriate standards of oral and written advocacy. They will be expected to handle a wide range of Appellate and Administrative Court work. They should be able to demonstrate that they are able to work well with others in this range of prosecutions. Applicants should also be able to deal with the most complex issues involving confiscation orders under the Proceeds of Crime Act 2002.
7. Applicants to this level will generally have in the region of ten years advocacy experience (this is a guide, not a criterion).
8. In order to score very highly applicants will be expected to demonstrate a range of competencies to an excellent standard in respect of the breadth of casework expected to be undertaken at level 4, including:

#### **Advocacy**

- The ability to conduct highest quality advocacy in the range of cases identified at 2 above, often of the utmost gravity



- A superior grasp of trial advocacy skills for sensitive, high profile jury trials in the Crown Court including opening, closing, witness handling and legal argument often in complex multi-handed cases
- Ability to deal with highly complicating factors such as presenting or challenging complex and /or voluminous expert evidence and difficult or sensitive issues of law and/ or fact
- Presents highly proficient submissions to a standard of excellence before any tribunal including the Crown Court and Higher Courts.
- Ability to deal with complicating factors such as RIPA 2000, abuse of process, special measures, presenting or challenging complex expert evidence and difficult or sensitive issues of law and/ or fact
- Able to lead a prosecution case with skill and diplomacy in the face of hostile opponents
- A fluid articulate and intuitive advocate

#### **Advisory Work**

- Able to present highly proficient written submissions to a standard of excellence
- The exercise of consistently sound judgement including where under pressure
- Demonstrates expertise in law and practice and up-to-date knowledge of law relevant to prosecutions at this level;
- Assimilates the relevance of evidence quickly, even when working with voluminous or complex evidence.

#### **PII and disclosure**

- In depth understanding of the disclosure regime and principles of Public Interest Immunity and Legal Professional Privilege.
- Ability to handle complex and sensitive third party and PII issues
- Able to lead disclosure lawyers / officers and to plan and implement an effective disclosure strategy

#### **Other Relevant Knowledge, Skills and Experience**

- IT skills – including the electronic presentation of evidence, word processing, use of e-mail and / or secure email



- The ability to conduct confiscation hearings in any of the proceedings in which the applicant may be instructed at Level 4.
- Obtaining and using evidence from abroad, jurisdictional issues, human rights, restraint and confiscation.
- Sufficient knowledge of confiscation and POCA 2002 to be able to handle confiscation as it may arise in any of the cases which fall within their competency.
- Relevant defence or regulatory work of an equivalent level, if any

#### **Appreciation of the Role of a CPS Counter Terrorism Panel Advocate**

- Acts as a role model for others.
- Knowledge of ethical standards and a leader on issues of diversity and difference.
- Comprehends and successfully leads cases of the utmost gravity, complexity and sensitivity.
- Familiarity with, and understanding of, CPS policy guidance including the Code, the Farquharson guidelines and policies in respect of victims and witnesses, hate crime and VAW
- An appropriate understanding of the professional relationship between the CPS, the police, other agencies, Government Departments, and the advocate, particularly in cases where there has been lengthy and complex police investigations

#### **Evidence of competency**

9. Applicants should provide details of their knowledge, skills and experience on the application form under each heading. They should provide relevant examples based on criminal casework with specific reference cases advised on and prosecuted by the Counter Terrorism Division
10. When providing evidence to support their application, applicants should clearly state what role they played. For example, if they were led, what was their contribution to the case? In PII applications, what was the point they had to argue? Examples can be given of difficulties faced and how they were overcome.
11. Applicants should also indicate at what level they have security clearance, if at all and if not indicate a willingness to undertake such a process.



### References

12. Reliance will be placed on the references and referees should be chosen with care.
13. Those applying to join the Panel at Level 4 should provide three references. At least one reference, but no more than two, should be from members of the full-time judiciary. Those applying to the Panel at level 3 should provide two references with at least one from the full-time judiciary.
14. Applicants with significant prosecuting experience should provide at least one reference from an instructing lawyer. However, if you have not undertaken a significant amount of prosecuting work and are unable to supply such a reference, this should not prevent you from applying.
15. Referees should be in a position to speak with authority about the skills specified in the selection criteria. The assessment boards are aware it is generally more difficult for applicants to level 3 to find referees who can speak with authority on all of the required skills and allowances are made for this.
16. Referees will be asked to consider the competencies of the applicant against the broad selection criteria in respect of the level applied for under the following headings:
  - a. What is the extent of your knowledge of the applicant's work?
  - b. Analytical ability
  - c. Judgment
  - d. Written expression
  - e. Advocacy
  - f. Interpersonal skills
  - g. Legal knowledge
  - h. Additional information which would assist.