



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

### **SPECIALIST PANEL – FRAUD**

#### **SELECTION CRITERIA LEVELS 2, 3 and 4**

##### **Introduction**

1. Entry to the CPS Specialist Fraud Advocate Panel at Level 2, 3 and 4 is through this application process and is open to appropriately qualified barristers and solicitors who have a Higher Courts Advocacy qualification.

##### **Level 2 Panel Requirements**

2. Level 2 advocates will be required to perform any of the work of a Level 1 advocate and, in addition, straightforward non-jury work in the Crown Court and magistrates' court trials involving benefit fraud, Fraud Act offences and strict liability tax offences. Applicants must be able to demonstrate expert up to date legal knowledge relevant to such prosecutions and demonstrate appropriate standards of oral and written advocacy (including ability to deal with complicating factors such as expert evidence, significant disclosure/PII issues, confiscation and complex points of evidence or law) and should have demonstrated potential to appear as a junior in appropriate cases. 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 any confiscation issues raised in Level 2 prosecutions.
3. Generally, applicants will have in the region of 12 months trial advocacy experience, but please note this is a guide, not a criterion. While experience in specialisms is referred to in the form, allowance is made for the fact that it will be more difficult for level 2 applicants to show experience in a particular specialism. Applicants, are however, welcome to refer to specialisms in which they have an interest in gaining experience.
4. The criteria headings for assessment will be:
  - Advocacy
  - Advisory Work
  - PII and disclosure
  - Other relevant knowledge, skills and experience
  - Appreciation of the role of CPS Specialist Fraud Panel Advocate



5. In order to score very highly applicants will be expected to demonstrate excellent standards against a range of competencies in respect of the type of casework listed in paragraph 2, above, including:

**Advocacy**

- The ability to conduct trial advocacy efficiently and effectively in the range of fraud cases identified in paragraph 2 above
- Trial advocacy skills for jury trials in the Crown Court including opening, closing, witness handling and legal argument
- Sound understanding of evidential and criminal procedure rules, hearsay, bad character etc
- Appropriate use of language and questioning
- Ability to deal effectively with complicating factors such as special measures, expert evidence and complex points of evidence or law
- Acts appropriately to assist the court in the proper administration of justice, as required

**Advisory Work**

- Routinely exercises sound judgement
- Demonstrates a thorough knowledge of law and practice and up-to-date knowledge of law relevant to prosecutions at this level
- Presents clear and succinct written arguments citing relevant authorities
- Able to develop a clear case strategy

**PII and disclosure**

- An understanding of the principles of PII and CPIA and ability to put those principles in practice in fraud cases relevant to Level 2
- Accurately identifies evidence that should be disclosed and that affects the prosecution decision
- Able to deal with sensitive PII issues.

**Other Relevant Knowledge, Skills and Experience**

- IT skills – including the presentation of electronic 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 2.
- Obtaining and using evidence from abroad, jurisdictional issues, human rights, restraint and confiscation.
- Relevant defence or regulatory work of an equivalent level, if any

#### **Appreciation of the Role of a CPS Fraud Panel Advocate**

- A knowledge of ethical standards e.g. completion of the Advocacy & Ethics element of the New Practitioners Programme.
- Acts appropriately when handling issue of diversity or difference
- 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 violence against women and girls
- An appropriate understanding of the professional relationship between the CPS, the police, other law enforcement agencies and the advocate

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

6. Level 3 advocates will be required to demonstrate that they are able to competently undertake any of the work of a Level 2 advocate and jury trials in more serious and onerous fraud prosecutions involving large volumes of material, international enquiries, disclosure challenges including the handling of sensitive material and PII applications; legal expertise in benefit fraud, tax evasion and money laundering, 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.



7. Generally, applicants to this panel have at least five 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 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 fraud cases identified in paragraph 6 above, often attracting local 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, 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 with child or vulnerable witnesses
- 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 CPIA, Public Interest Immunity, Legal Professional Privilege and RIPA.
- Ability to handle sensitive matters in relation to investigation techniques
- 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 Fraud 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 6 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 law enforcement agencies and the advocate
- Able to lead a prosecution team and manage the strategic direction of the case.

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

9. Level 4 advocates will be required to demonstrate that they can competently prosecute all fraud 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, 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 the effective workings of one or more law enforcement agency or intelligence source, and issues of public concern. They must demonstrate expert up to date legal knowledge relevant to large and complex fraud prosecutions in a criminal, civil and regulatory context. They will have appropriate standards of oral and written advocacy and experience of handling and leading voluminous and lengthy cases. They will be expected to handle a wide range of Appellate and Administrative Court work, in particular judicial review proceedings. 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.
10. Applicants to this level will generally have in the region of ten years advocacy experience (this is a guide, not a criterion).
11. 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 fraud cases identified 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 abuse of process, 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
- 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 CPIA, Public Interest Immunity, Legal Professional Privilege and RIPA.
- Ability to handle complex and sensitive PII issues
- Able to lead disclosure lawyers / officers and to plan and implement an effective disclosure strategy in a criminal and civil context

#### **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 Fraud 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 law enforcement agencies and the advocate, particularly in cases where there has been lengthy and complex police investigations

#### **Evidence of competency**

12. 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 to fraud.
13. 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.

#### **References**

14. Reliance will be placed on the references and referees should be chosen with care.
15. 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 2 or 3 should provide two references. Level 3 applicants provide two references with at least one from the full-time judiciary; Level 2 applicants should provide two references with no more than one from the full-time judiciary.

16. Applicants with significant prosecuting experience should provide at least one reference from an instructing lawyer. However, if applicants have not undertaken a significant amount of prosecuting work and are unable to supply such a reference, this will not prevent them from applying.
17. 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 2 to find referees who can speak with authority on all of the required skills and allowances are made for this.
18. 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.