



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

### **SPECIALIST PANEL – PROCEEDS OF CRIME**

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

##### **Introduction**

1. Entry to the CPS Proceeds of Crime Specialist 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 specialist proceeds of crime advocates will be required to perform any of the work of a Level 1 advocate on the General Crime list and, in addition, should have sufficient knowledge of the Proceeds of Crime Act 2002 to deal with straight forward restraint order and confiscation order applications (including ancillary orders thereto), applications to vary confiscation orders downwards or upwards and straightforward applications to appoint an enforcement receiver. Applicants must be able to demonstrate appropriate standards of oral and written advocacy (including ability to deal with complicating factors such as expert evidence, significant disclosure/PII issues, 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 to deal with any confiscation issues raised in Level 2 prosecutions, including third party determinations.
3. Generally, applicants will have in the region of 12 months proceeds of crime advocacy experience, but please note this is a guide, not a criterion.
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 a CPS Specialist Proceeds of Crime 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 advocacy efficiently and effectively in the range of cases identified in paragraph 2 above
- Contested advocacy skills for proceeds of crime applications 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 sensitive unused material, concealment and third party issues
- 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 disclosure and ability to put those principles in practice in cases relevant to Level 2
- Accurately identifies evidence that should be disclosed
- Able to deal with sensitive PII issues.

**Other Relevant Knowledge, Skills and Experience**

- IT skills – including 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.

**Appreciation of the Role of a CPS POC 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 confiscation
- An appropriate understanding of the professional relationship between the CPS, the police 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 specialist proceeds of crime advocate in more serious and onerous proceeds of crime applications under the Proceeds of Crime Act 2002 (including civil recovery), Criminal Justice Act 1988 (and as amended) and the Drug Trafficking Act 1994 before the Crown Court and High Court. 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 applications and proceedings 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, Criminal Justice Act 1988 (and as amended) and the Drug Trafficking Act 1994 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 proceeds of crime 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 proceeds of crime casework expected to be undertaken at level 3, including:

**Advocacy**

- The ability to conduct advocacy in the range of cases identified in paragraph 6 above, often attracting local media attention
- Highly developed proceeds of crime advocacy skills for contested proceedings in the Crown Court and High Court including opening, closing, sensitive witness handling and legal argument, quoting relevant key authorities
- Ability to deal with complicating factors such as presenting or challenging complex expert evidence and difficult or sensitive issues of law and/ or fact
- Ability to undertake advocacy in complex 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.
- 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 proceeds of crime applications and proceedings and civil litigation at this level;
- Up to date knowledge of the law relevant to proceeds of crime proceedings at this level, including criminal procedural rules, civil 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.
- Ability to handle sensitive matters in relation to investigation techniques
- Understands disclosure requirements even in the context of complex investigations and evidential situations in criminal and civil litigation

**Other Relevant Knowledge, Skills and Experience**

- IT skills – including word processing, use of e-mail and / or secure email
- The ability to conduct confiscation or civil recovery 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, confiscation and civil recovery.
- Sufficient knowledge of confiscation and POCA 2002 to be able to handle confiscation and civil recovery 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 POC 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 confiscation
- An appropriate understanding of the professional relationship between the CPS, the police 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 proceeds of crime applications under the Proceeds of Crime Act 2002 (including civil recovery), Criminal Justice Act 1988 (and as amended) and the Drug Trafficking Act 1994 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, 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 and in handling complex witness issues. They must demonstrate expert up to date legal knowledge relevant to such proceeds of crime proceedings 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, Criminal Justice Act 1998 (and as amended), the Drug Trafficking Act 1994 and civil recovery cases under the Proceeds of Crime Act 2002.
10. Applicants to this level will generally have in the region of ten years proceeds of crime 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 specialist proceeds of crime casework expected to be undertaken at level 4, including:

#### **Advocacy**

- The ability to conduct highest quality advocacy in the range of cases identified above, often of the utmost gravity
- A superior grasp of trial advocacy skills for sensitive, high profile proceeds of crime proceedings in the Crown Court and High 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 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, 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 Public Interest Immunity.
- Ability to handle complex and sensitive PII issues
- Able to lead disclosure lawyers / officers and to plan and implement an effective disclosure strategy in criminal and civil litigation

**Other Relevant Knowledge, Skills and Experience**

- IT skills – including word processing, use of e-mail and / or secure email
- The ability to conduct confiscation or civil recovery 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 or civil recovery to be able to handle confiscation or civil recovery 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 POC 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 confiscation
- An appropriate understanding of the professional relationship between the CPS, the police 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 and civil casework.
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.