



SERVICE LEVEL AGREEMENT

External Advocates: Magistrates' Court

2020

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Aim

The aim of this service level agreement is to establish a requirement for the service, receipt and presentation of digital information by external advocates when acting for the CPS in Magistrates' Courts or the Youth Court. It also provides details of the levels of service which the parties are expected to provide.

Digital working enables agencies to work more efficiently and effectively together, whilst continuing to deliver a high standard of service.

The overall objective of this SLA is to detail how the transfer of information between the CPS and external advocates will work through the use of CJSM secure email. It also sets expectations around how that data is handled and how cases should be presented digitally in court.

CPS Values

The CPS is a values led organisation and expects all employees and external advocates acting on behalf of the Service to behave in accordance with CPS values.

The CPS values are:



To be independent and fair

We will prosecute independently, without bias and will seek to deliver justice in every case.



To be honest and open

We will explain our decisions, set clear standards about the service the public can expect from us and be honest if we make a mistake.



To treat everyone with respect

We will respect each other, our colleagues and the public we serve, recognising that there are people behind every case.



To behave professionally and strive for excellence

We will work as one team, always seeking new and better ways to deliver the best possible service for the public. We will be efficient and responsible with taxpayers' money.

CPS Casework Quality Standards

The CPS Casework Quality Standards set out the benchmarks of quality that we strive to deliver in prosecuting crime for the public. There are four key standards:

- Victims, witnesses and communities
- Legal decision-making
- Casework preparation
- Presentation

The full Casework Quality Standards can be found on the CPS website:

<https://www.cps.gov.uk/publication/casework-quality-standards>

The standards provide the following benchmark of quality for casework preparation:

- Thinking ahead, anticipating and resolving issues
- Taking all appropriate steps to ensure that the right information is available to the advocate and or decision-maker at the right time, so that progress is made

- Communicating effectively and promptly with victims, witnesses, the police, the courts, defendants and their representatives and others who rely on us
- Complying with our procedural obligations such as those relating to disclosure, and those set out in the Criminal Procedure Rules, and holding other parties to account
- Continually reviewing the remand status of defendants, ensuring that custody time limit cases are dealt with in accordance with the national standard
- Recording digitally what we have done, promptly, in a way which is accurate and proportionate, so that our position is clear and work is not duplicated

The standards provide the following benchmarks of quality for oral and written presentation:

- Taking control of the case, commanding the confidence of the court and being pro-active
- Assisting the court, being fair and professional at all times
- Preparing properly so that each hearing can be suitably progressed
- Effectively engaging with victims and witnesses
- Understanding and representing the interests of victims, witnesses and the public
- Opposing bail where it is appropriate to do so, taking account of the risk posed to victims, the public and the course of justice.
- Anticipating and responding to challenges
- Presenting the prosecution case clearly, effectively and persuasively
- Recording digitally court hearing events, outcomes and actions, promptly, in a way which is accurate and proportionate, so that our position is clear and work is not duplicated
- To present cases digitally, this will include but is not limited to utilising Egress and Evidence.Com

The CPS expects all employed advocates and external advocates acting on behalf of the Service to meet the benchmarks of quality in respect of presentation.

Serious failure to comply or repeated non-compliance with the expectations may result in withdrawal of instructions, referral to the Circuit Advocate Liaison Committee (CALC) and /or a complaint to the relevant professional body.

Data Protection Act

For the avoidance of doubt, when the CPS provides (for whatever purpose) casework material or other data to external advocates, the CPS deems those people to be Data Controllers under the terms of the General Data Protection Regulation 2018. As such, the external advocate is responsible for ensuring that that data is handled in accordance with that Act. They are required to:

Take every step to ensure that personal data is not lost, accidentally misused or disclosed and not accessed by any other persons and abide by the rules of confidentiality at all times.

Adhere to best practice in terms of remote working. For example, know when not to use free public Wi-Fi and do not work in areas where the laptop screen can be overlooked, e.g., public transport, cafes.

Password protect any laptops and not leave them unattended in the courtroom or court building under any circumstances. Report any theft of a laptop containing any casework information to the relevant District Crown Prosecutor within 24 hours, and also report to the local Police Force.

Not leave any removable media, e.g., discs unattended in the courtroom or court building and place them in one of the court bags in the CPS room for City Sprint, approved CPS courier, to return to the CPS office.

Report any security breaches which the advocate becomes aware of to the relevant District Crown Prosecutor within 24 hours, in terms of the unauthorised disclosure of victim and witness personal details (disclosed to the court, YOT or defence). Make arrangements for the defence to destroy/delete any personal information sent to them in error and require them to confirm that they have not shared/provided a copy of the information to their client.

Adhere to data retention policy. Delete electronic case files from laptop devices soon after the conclusion of the day's hearing.

Only send emails containing casework information via secure email, e.g. CJSM.

Service Level Agreement

Provision of instructions

The CPS will:

Provide access to CPS specific guidance documents referred to in this SLA to External Advocates and it is the responsibility of Chambers to ensure Counsel are familiar with the guidance and provided with copies ahead of any court attendance.

Provide to the Instructed Advocate digitally relevant case material required for the hearing or court session by 4pm on the working day prior to the hearing, or as soon as practicable thereafter. The case material will include the most up to date digital Hearing Record Sheet (HRS), or a blank (but pre-populated) document in the event of a first hearing, and any instructions as to acceptability of pleas, basis of plea, decisions to stop the case or any other instructions.

Provide any case material that cannot be supplied in a digital format, e.g. CCTV discs, to the CPS room at court for collection by the advocate by 9.00am on the day of the hearing, using the secure method of delivery appropriate to the material concerned. Paper copies of statements for witnesses called to give evidence will also be provided. Wherever possible, this will be by prior agreement between the Instructed Advocate and the CPS.

Provide the Instructed Advocate with the details of CPS nominated legal and administrative contacts for each magistrates' court. The nominated legal contact will provide advice and assistance to the Instructed Advocate on any offers of plea, basis of plea or any other legal issue arising on the day of the hearing. The CPS administrative contact will assist with any non-legal issues that arise on the day of the hearing.

IMPORTANT: Any decision to stop or discontinue the case, or substantially alter or drop a charge must be made by the CPS lawyer.

Provide the External Advocate with the names and contact numbers of all Witness Care Units.

Pay a correct fee note within 10 days of receipt.

Provide all External Advocates with a copy of the Service Level Agreement,

Monitor compliance with the standards set out by this agreement.

Complete periodic individual quality assessments to assess advocacy skills.

Inform external advocates about any training or e-learning they are required to complete.

The Instructed Advocate will:

Act and behave in accordance with the CPS values.

Act in accordance with appropriate professional standards, published CPS guidance, the Criminal Procedure Rules and all current legislation and case law.

Understand and act in accordance with the expectations set out in the CPS Agent Pack. The Agent Pack will be updated periodically.

Comply with any specific CPS guidance or policy and present cases in accordance with the CPS National Standards of Advocacy.

Secure Communication

Material and information exchanged between the CPS and a chambers or solicitors' firm acting on behalf of the Instructed Advocate will be via secure method. The Advocate must have the requisite equipment that enables them to prosecute cases digitally. The equipment must be compatible with electronic material the CPS provides to them.

EGRESS and Evidence.com

Set up and use an EGRESS and/or Evidence.com or other cloud-based account to view and present evidence where necessary. Guidance is contained within the Agent's Pack.

Advocate booking

Upon acceptance of Instructions from the CPS Chambers or the Advocate's firm will allocate work appropriately to advocates (or pupils) with knowledge and experience commensurate to the advocacy being undertaken, providing assurances to the CPS where required.

They will inform CPS of the names of advocate(s) allocated to relevant court room(s) in advance of the hearing date, as per local agreements.

They will inform the CPS as soon as practicable before the hearing date if they are unable to provide cover for the hearings for which they have received instructions.

In the event of not being able to attend court through illness on the day of the hearing to notify chambers in the first instance to arrange alternative cover. If cover cannot be arranged then contact CPS as soon as possible, by no later than 8.30am on the morning of being deployed to court.

They will notify the CPS (contact details to be provided) by 4.30pm on the day prior to the hearing with case details of any trial cases not received.

They will manage the receipt, handling, deletion and destruction of digital material in accordance with the Attorney General's Guidelines on Information Security and Government Work.

Case Preparation

Read and prepare cases by a target time of no later than 8.30am on the day of hearing and contact CPS with any known case progression or decision making queries by 9am on the day of the hearing (or during the day as issues arise). Obtain the authority of the CPS contact and discuss, where relevant:

- Any change to current charges, including basis of plea
- Any issues in relation to custody time limits
- Bail appeal cases
- Any issues in relation to costs
- Media interest handling
- Adverse case outcomes
- Any other issue where the Instructed Advocate seeks advice and assistance

Robustly and thoroughly conduct cases in accordance with the principles of Transforming Summary Justice, disclosure obligations and Criminal Procedure Rules and Practice Directions. Where appropriate refer to the Courts overriding objective and the case management duties of all parties necessary.

Attendance at Court

Attend court promptly to allow for sufficient time to read and prepare the listed cases, speak to the Legal Advisor and defence to discuss any issues in the case. Where appropriate contact the nominated legal contact by 9am on the day of the hearing to discuss any case progression or decision-making queries. Obtain the authority from the nominated legal contact and discuss where relevant:

- Any change to current charges
- Any plea offer
- Any issues in relation to custody time limits
- Bail appeal cases
- Stopping a prosecution
- Any issues in relation to costs
- Media interest handling
- Adverse case outcomes
- Issues with court listings
- Any other issue where the external advocate seeks advice and assistance

Where an additional charge has been authorised at court, a copy of the new charge will be served on the Legal Advisor and defence.

Speaking to Witnesses at Court

In accordance to the Speaking to Witnesses at Court guidance, the Instructed Advocate will meet with the victims and witnesses prior to trial and ensure that: -

- They introduce themselves;
- Court and trial processes are explained, including special measures if appropriate
- A copy of their statement is provided to the victim/witness;
- They make themselves aware of the victim's preference to read their Victim Personal Statement (VPS) in open court, and inform the court;
- Any issues that they have are dealt with.

The Instructed Advocate will keep them informed of case developments, likely delays in accordance with the Victims Code and Prosecutors Pledge, and speak with them after conclusion of the case if the victim/witness requests it.

If a witness fails to attend to give evidence the expectation is that enquires are made with the CPS or the WCU as to why the witness had not attended.

A detailed record should be made of the conversations had with witnesses at court and enquires made in relation to any witness who fails to attend court on the HRS.

Digital Presentation

Prosecute cases in court from digital devices using only security approved mobile equipment. To ensure full security the device should be setup to go into sleep mode when not in use and a password required to access it.

Be responsible for ensuring that any electronic device used is configured with appropriate security for handling sensitive personal data, including full hard disk encryption, up to date software including anti-malware software, securely configured firewalls etc. Passwords should be strong (a minimum of 9 characters, including upper and lower case, number and symbols).

Be responsible for the safekeeping of any device holding data supplied by the CPS, ensuring that such devices are fully secure for the whole period of time it might be out of the owner's possession.

Ensure that any on-line means of communication or removable media is acceptably secure. Many file-sharing 'Dropbox' type services may have very limited security assurance, and would therefore be inappropriate for handling case material. Removable media such as USB sticks are easily lost, so used as a last resort, and be encrypted to the necessary standard.

Printing

Printing relevant material for the purpose of a trial should be only by exception and provided by agreement between the Instructed Advocate and local CPS or court. The Instructed Advocate is responsible for the return of any printed material to the CPS for destruction.

Case Transfer

If required to assist other courts by taking cases from another court, the Instructed Advocate will not accept any cases without discussing with a CPS prosecutor. This will ascertain whether a case is suitable for transfer. Transferred cases could include overnight remand work.

Court Finishes Early

If court finishes early (before 1pm) notify the CPS in case redeployment is possible.

Adjourned and part-heard cases

Where a matter goes part heard fix a further trial date taking into account the victim's and witnesses' availability and also their own availability as they will be the prosecutor for the continued hearing. They will also inform the CPS of the part-heard trial date.

Where a new trial date is to be fixed contact the Witness Care Unit to obtain the up to date witness availability (if not on file) before agreeing the new trial date. Alternatively, speak to the witnesses, if present at court, to obtain their availability and record on the electronic hearing record sheet.

Case Management

Be responsible for ensuring that all necessary steps are taken to agree evidence and progress cases in court at first hearings, or subsequent hearings where case management is discussed in accordance with local Agent's pack.

Appeals against the grant of bail

Where a bail appeal is appropriate give oral notice of the appeal before the hearing concludes and immediately speak to the nominated CPS legal contact to seek further guidance and instructions.

Custody Time limits

The effective management of Custody Time Limit cases is a priority for the CPS as it is integral to maintaining public safety and confidence. All external advocates are expected to exercise extreme care to ensure that CTL cases are dealt with properly and expeditiously. Please note that CTLs also apply to youth defendants remanded in to the care of a Local Authority. Guidance on how to deal with CTLs is contained within the Agent's pack.

Agree and announce CTL expiry dates in court in all cases including where CTL extensions have been granted. (CTL Area Guidance is contained in the Agents Pack.)

Where a CTL extension is refused by the Court and the instructed advocate has been unable to obtain authorisation in advance, give oral notice of the appeal before the hearing concludes and immediately speak to the *nominated CPS contact* to seek further guidance and instructions.

Costs orders

Where the court seek to make an order for wasted costs against the CPS:

- resist that order in accordance with the Wasted Costs Guidance
- seek further guidance from the nominated CPS legal contact
- refer the court to Criminal Procedure Rule 45.8 and insist that written notice and a schedule of costs be provided, if not already served by the Defence
- promptly inform the CPS nominated legal contact of the outcome of any wasted costs, including any advice on the potential of the appeal

Hearing Record Sheet

Complete an electronic hearing record sheet for every new case that will be provided with case papers, or update the existing electronic hearing record sheet from any earlier hearing, provided with the case papers.

Return all completed electronic hearing record sheets to the secure email address identified on the file by 5pm on the day of hearing or by 10am the following day if the hearing goes beyond 5pm. Guidance on what is to be detailed in an electronic hearing record sheet is contained within the Agent's pack.

Copy in the VLU email address in the HRS return if we have dropped or substantially altered charges at the hearing to ensure Victim Code compliance.

Secure Handling of Material

Return any non-digital case material to the CPS using a secure and appropriate method of delivery, ensuring the material arrives back with the CPS within 24 hours of the conclusion of the hearing.

Return to the CPS any non-digital material received or created at Court by scanning and securely emailing to the CPS with the endorsed electronic hearing record sheet (HRS). Examples may include Section 10 admissions, basis of plea, defence statements.

The original paper document should be safely returned to the office using the most appropriate method.

Ensure that case material is safely and securely deleted from mobile equipment, and returned or securely destroyed if held in physical form, as soon as reasonably practical after the hearing, unless the advocate needs to retain it for a limited period pending a possible appeal.

Training

Register with the Prosecution College and utilise this resource where appropriate.

Complete Prosecution College E-Learning courses where directed to do so.

Wherever possible attend periodic training sessions organised by the CPS.

Payment

Submit a valid & correct invoice to within 10 working days after the conclusion of the court session in accordance with the CPS Service Standard. A valid and correct invoice should contain the following items:

- a unique identification number
- your company name, address and contact information
- the company name and address of the customer you're invoicing
- a clear description of what you're charging for
- the date the goods or service were provided (supply date)
- the date of the invoice
- the amount(s) being charged
- VAT amount if applicable
- the total amount owed

Representing the CPS

The Instructed Advocate should not criticise the CPS in any way in open court or to defence representatives or other court users, such as the Witness Service or court legal advisors. If they have any concerns about the performance of CPS or the management of the case he/she will raise those concerns with the nominated CPS legal contact.

Where the media in court have expressed an interest in a case, the Instructed Advocate will refer the media to the National or Local media contact, via the CPS News Centre.

The Instructed Advocate should not respond to any questions from the media or make comment via social media.