

Rebecca Lawrence
Chief Executive



Amanda Pinto QC
Chair of the Bar Council

By email

30 April 2020

Dear Amanda

Covid-19: CPS and self-employed Bar Statement of Principles

I wrote to you in March to outline temporary adjustments to our fee schemes designed at ensuring payment for work performed, where a normal invoice trigger point had not been reached. These changes were made in recognition of the ongoing challenges faced by the Bar due to the COVID-19 restrictions.

I am pleased to see that those changes are delivering against their aims. This is due in no small part to the commitment and hard work of colleagues across the CPS and within chambers and their willingness to adapt and work collaboratively.

This spirit of collaborative working has been evident right across the criminal justice system during this crisis as we all seek to continue delivering justice.

In support of those efforts, I write now to share a Statement of Principles which sets out how the CPS will work with the Bar over the coming months and a series of practical steps that may be taken. A copy of the statement is enclosed.

Implementation of the practical measures will be based on local business need. Discussions between CPS colleagues and Circuit Leaders are obviously ongoing but this Statement will provide a framework for those discussions and a mutual understanding of the CPS position.

Once again, thank you for your continued contribution in these difficult times, and to everyone who has assisted us with this work.

Yours sincerely,

REBECCA LAWRENCE
CHIEF EXECUTIVE OFFICER





COVID-19 STATEMENT OF PRINCIPLES

Background

1. The Covid-19 outbreak has presented an unprecedented challenge for the Criminal Justice System. The scale and seriousness of the situation will create significant difficulties for all parties involved in the criminal justice process.
2. The CPS has a long tradition of working closely with the self-employed Bar and will continue to do so over the months ahead as the outbreak and the recovery from it is dealt with.
3. As set out in the Chief Executive's letter on the 30 March, annexed to this document, our fee schemes have already been temporarily adjusted to ensure that prompt payment is received for work performed by the self-employed Bar.
4. These interim measures will:
 - Provide payment for work done prior to the conclusion of a case where delays to proceedings are encountered;
 - Maintain timely payments for any work done throughout the affected period;
 - Take account of ongoing operational challenges for CPS and the Bar/chambers caused by remote working; and
 - Be phased to provide a steady cash-flow while avoiding an immediate spike in invoices/payments which could delay processing.

Principles

5. The following principles will apply:
 - a. The safety of CPS staff and those instructed by CPS will be paramount over the period of the pandemic;
 - b. CPS Areas will continue to engage in close dialogue with the Circuit Leaders and other Bar representatives;
 - c. CPS Areas will implement the agreed national arrangements in relation to counsel fee payments to maintain cash flow by ensuring that the Bar is paid promptly for work done;
 - d. The principle of fair distribution will continue to apply; and
 - e. CPS Areas will work closely with the Bar to plan for the recovery from the pandemic and the resumption of 'steady state' operating.
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CPS Areas and the Bar

6. A number of practical steps will be taken by CPS Areas, although these have to be read in the context of reduced sitting patterns:
 - Each Area will appoint a single point of contact to resolve fee issues quickly;
 - CPS will continue to offer instructions to external agents, alongside in-house advocates, for magistrate’s court sessions, particularly as trials start again in magistrates’ courts;
 - CPS will continue to seek to offer instructions to external counsel in committal for sentence hearings in the Crown Court alongside in-house advocates;
 - CPS will continue to identify suitable cases at level 2, 3 and 4 to brief out to external counsel pre-PTPH;
 - Where external counsel is already instructed and the case adjourned for trial, CPS reviewing lawyers will work with counsel to review cases and identify opportunities to resolve them early, if appropriate, in conjunction with the court and defence;
 - CPS Areas will also make use of remote facilities such as Microsoft Teams to ensure that conferences can continue to take place with counsel to support case preparation and progression;
 - Where trial cases are “bulk adjourned” or otherwise unlikely to go ahead as planned, CPS will seek to have the court list those cases for case management hearings to identify opportunities for resolution or to make sure cases are trial ready, so trials can proceed at the earliest practical opportunity;
 - CPS Areas will continue to review business demand as measures to manage the Covid-19 outbreak unfold and will consider deployment and instruction of counsel in context to this demand; and
 - CPS is committed to minimising the build-up of cases with us during this challenging period. Charging decisions will continue to be made by Crown Prosecutors, in accordance with the Code. Depending on business need, we will deploy our own CPS resources flexibly and individual Areas may on occasion brief pre-charge advice out to the Bar where appropriate.

Review

7. The CPS will keep the position under review and discuss ongoing concerns at regular meetings with Circuit Leaders and other Bar representatives.