



# **Very High Cost (Crime) Cases Arrangements 2010**

**Version 2 – 27 July 2010**

## 1. Introduction

- 1.1 The Legal Services Commission manages the VHCC scheme as part of the CDS.
- 1.2 These Arrangements are made by the LSC under section 3(4) of the Act and apply to cases where the Representation Order is granted on or after 14 July 2010. Cases where the Representation Order is granted before 14 July 2010 will operate under the previous VHCC panel contracting system.
- 1.3 These Arrangements outlines the process that needs to be followed Pre-Contract.
- 1.4 The rules relating to claims, assessment and remuneration of Pre-Contract work are set out in the 2010 VHCC Contracts.
- 1.5 Organisations and self-employed Advocates who wish to undertake VHCC Work must meet the requirements set out in these Arrangements.
- 1.6 There are separate set of arrangements formally establishing the VHCC Appeals Panel which can be found on the LSC Website.
- 1.7 We will only amend the Arrangements by agreement with the Consultative Bodies or in accordance with the principles and procedures set out in Clause 13 of the 2010 VHCC Contracts Standard Terms (as if the Arrangements were a contract document).

## 2. Definitions

- 2.1 In these Arrangements, the following expressions have the following meanings:

*“2010 VHCC Contracts”* means the 2010 VHCC Contract (for organisations) and the 2010 VHCC Contract (for self-employed Advocates);

*“Act”* means the Access to Justice Act 1999;

*“Advocate”* means a barrister in independent practice or a solicitor-advocate;

*“Applicant Organisation”* and *“Applicant”* means a single legal entity applying to deliver VHCC Criminal Defence Services;

*“Arrangements”* mean these arrangements made under the Act by us and *“VHCC Arrangements 2010”* has the same meaning;

*“Business Day”* means any day except Saturday, Sunday and any bank or public holiday in England and Wales;

*“Case”* means proceedings against a Client or Clients on one or more counts of a single indictment, of which an Applicant Organisation and/or Applicant has been instructed as their legal representative and the work the Applicant Organisation and/or Applicant undertakes for such Client(s) will be governed by the 2010 VHCC Contract;

*“Case Plan”* means the LSC’s current standard document, published on the LSC Website, to be submitted to the CCU at the start of stage 1 with the stage 1 Task List;

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“*Case Summary*” means a document that is prepared by the prosecution authority and which outlines a summary of the VHCC;

“*Category of Law*” has the same meaning as the legal definition of each Category of Law set out in a separate document called “Category Definitions 2010” which has been published on the LSC website;

“*CCU*” means the Complex Crime Unit, the department within the LSC responsible for managing VHCCs;

“*CDS*” means the Criminal Defence Service as defined in section 12 of the Act;

“*Client*” means an individual who has been assessed (by a competent person or body) as a person for whom, under the Act, VHCC Work may be performed and for whom the Applicant Organisation and/or Applicant are performing (or have performed) VHCC Work;

“*Client Care Letter*” means a letter to the Client setting out all relevant information as required under Rule 2.0 (Client Care) or its replacement in the Relevant Professional Body’s Code of Conduct;

“*Conclusion*” means either (i) the date the final Claim for the VHCC has been paid by the LSC and there is no appeal in respect of the payment; or (ii) the date the final payment is made on the VHCC following any decision made on appeal in respect of payment in accordance with this Contract; or (iii) the date of any decision to reject the appeal in respect of payment is made on the VHCC in accordance with this Contract;

“*Consultative Bodies*” means the Law Society and Bar Council;

“*Contract Report Form*” means such form as we may specify (in any format we specify, including electronic format) for making VHCC claims;

“*Contract Start Date*” means the date the Representation Order was granted or in the case of organisations who do not hold a separate LSC contract governing police station work done prior to the Representation Order date, the date that they were instructed ;

“*Declassification*” means where the case is no longer regarded as a VHCC and “*declassified*” has the same meaning;

“*Eligibility Criteria*” means in relation to organisations (and their employed Advocate), the criteria as set out in Annex A of these Arrangements and in relation to self-employed Advocates, the criteria as set out in Annex B of these Arrangements;

“*Equalities Legislation*” refers to the:

- Equal Pay Act 1970;
- Sex Discrimination Act 1975;
- Race Relations Act 1976;
- Disability Discrimination Act 1995;
- Employment Rights Act 1996;
- Human Rights Act 1998;
- Sex Discrimination (Gender Recognition) Regulation 1999;
- Part Time Workers (Prevention Of Less Favourable Treatment) Regulations

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2000;  
Fixed Term Employees (Prevention Of Less Favourable Treatment) Regulations 2000;  
Employment Act 2002;  
Employment Equality (Sexual Orientation) Regulations 2003;  
Employment Equality (Religion Or Belief) Regulations 2003;  
Gender Recognition Act 2004;  
Civil Partnership Act 2004;  
Equality Act 2006;  
Work And Families Act 2006;  
Employment Equality (Age) Regulations 2006; or

any other equivalent legislation in a foreign state where the Applicant Organisation employs staff or engages in business activities;

“*Experience*” means substantial involvement in the case. This would involve (but is not limited to) for example:

- (a) the overall supervision of the case; and/or
- (b) sole control of a number of important elements of the case, such as:
  - (i) instructing experts;
  - (ii) taking the client’s instructions;
  - (iii) instructing counsel;
  - (iv) identifying and dealing with complex legal issues;
  - (v) drafting legal argument documentation; or
  - (vi) trial preparation for/by counsel and/or advocacy.

Experience does not include (for Litigators or Advocates) travel or waiting or (for Litigators) attendance at trial;

“*Fraud VHCC*” means a Very High Cost Case in which the offence with which the assisted person is charged is primarily, or substantially, founded on:

- (a) allegations of fraud or other serious financial impropriety; and
- (b) involves complex financial transactions or records;

“*Information Commissioners Office (ICO)*” is an independent authority sponsored by the Ministry of Justice, to oversee the Data Protection Act, the Freedom of Information Act and the Environmental Information Regulations;

“*Information Technology (IT) Systems*” means any personal and/or business IT systems accessible by the Applicant which holds, whether on a temporary or permanent basis, any personal data relating to a VHCC client;

“*Key Personnel*” means any person who has powers of representation, decision or control of an organisation including partners, directors and trustees;

“*Legal Services Commission*” or “*LSC*” means the Legal Services Commission established under the Act;

“*LSC Website*” means our website at [www.legalservices.gov.uk](http://www.legalservices.gov.uk) or such other url as we may notify;

“*Non-Fraud VHCC*” means a VHCC that does not satisfy the definition of a “*Fraud VHCC*”;

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*“Partnership Voluntary Arrangement or PVA ”* is a formal agreement with the partnership’s creditors to repay their debts either in full or more likely partially over a fixed period of time;

*“Peer Review”* means the independent assessment, by experienced peer practitioners, of the quality of advice and legal work provided by the Applicant Organisation;

*“Pre-Contract”* means work performed from the date the Representation Order was granted until the Stage 1 Start Date;

*“Prepared to Trial”* means that, where possible, all pre-trial work has been completed and the key issues/points to be raised at trial have been identified, whether or not the trial commences;

*“Pre Qualification Questionnaire”* or *“PQQ”* means a series of questions to be completed by each Applicant Organisation or Applicant to enable us to assess whether an Applicant Organisation or Applicant meets our minimum standards of suitability for a publicly funded legal aid contract and to gather certain other information;

*“Qualifying Case”* means, in relation to the Eligibility Criteria, a prosecution or defence case where:

- (a) when funded publicly, the Representation Order (or where applicable the date the case was committed to the Crown Court) was granted during the Qualifying Period, the LSC and/or prosecution agency classified the case as a VHCC and contracted the case;
- (b) when funded privately, the Representation Order (or where applicable the date the case was committed to the Crown Court) was granted during the Qualifying Period and the trial in that case lasted or was estimated by the court to last more than 40 days;
- (c) whether funded publicly or privately, the Representation Order (or where applicable the date the case was committed to the Crown Court) was granted during the Qualifying Period, which was notified to the LSC and/or prosecution agency with trial estimates of over 40 days and where the LSC and/or prosecution agency acknowledged the case satisfied the VHCC definition but decided not to contract;
- (d) whether funded publicly or privately, a case, not contracted as a VHCC, where the Representation Order (or where applicable the date the case was committed to the Crown Court) was granted during the Qualifying Period and the trial in that case lasted or was estimated by the court to last no fewer than 25 and no more than 40 days inclusive and:
  - (i) the case is prosecuted by the Serious Fraud Office; or
  - (ii) the case is a Terrorism Case.
- (e) whether funded publicly or privately, a case, not contracted as a VHCC, where the Representation Order (or where applicable the date the case was committed to the Crown Court) was granted during the Qualifying Period and the trial in that case lasted or was estimated by the court to last no fewer than 25 and no more than 40 days inclusive and at least two of the following criteria

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(i) to (iv) apply:

- (i) there are/were more than five defendants;
- (ii) there are/were at least 10,000 pages of served prosecution evidence;
- (iii) there are/were at least 10,000 pages of unused or third party material;
- (iv) the case is/was a fraud case or one primarily involving serious drugs offences (as covered by Part 6 Class B of the Criminal Defence Service (Funding) Order 2007) and the value of the fraud (as described in the indictment or prosecution case statement / summary) or drugs (as estimated by the prosecution authority) exceeds £1 million.

“*Qualifying Period*” means the six-year period preceding the date of the VHCC Accreditation Application;

“*Regulatory Body*” means the Law Society, the Solicitors’ Regulation Authority, Bar Council, Bar Standards Board or the equivalent organisation in a foreign jurisdiction;

“*Representation Order*” means the order issued by either the LSC or a court officer authorising the representation of a Client in accordance with the meaning given in section 14 of the Act;

“*Information for Applicants*” means the 2010 VHCC Contracts Accreditation Process – Information for Applicants (for organisations) and the VHCC Contracts Accreditation Process – Information for Applicants (for self-employed advocates) which are available on the LSC Website;

“*Serious Crime Case*” means a Case in which the main offence with which the assisted person is charged, whether at common law or under any statutory enactment, is a triable either way or indictable only offence;

“*Serious Fraud Office*” means the government department that investigates and prosecutes serious or complex fraud;

“*Serious Fraud Work*” means work done on a Case in which the main offence with which the assisted person is charged is primarily or substantially founded on allegations of fraud or other serious financial impropriety and involves complex financial transactions or records;

“*Specialist Legal Advice*” means giving legal advice where the representative is taking action on behalf of the clients in order to move the case forward. This includes negotiation and representing the client to third parties on the telephone, by letter or face to face. This also includes providing representation, litigation and/or advocacy services. It does not include triage or initial general advice.

“*Stage(s)*” means a specified period (normally 12 weeks) of a VHCC for which the Case Manager and the VHCC Contract Manager will agree a plan of VHCC Work and when used in conjunction with a number (for example Stage 1) means the next consecutive Stage;

“*Stage 1 Start Date*” means the date the contract was made, as specified in the 2010 VHCC Contracts. For the avoidance of doubt, this is not the Contract Start Date;

“*Task List*” means the standard LSC document sent electronically by CCU and prepared by the organisation or self-employed Advocate who are authorised to

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undertake VHCC Work, detailing the VHCC Work to be undertaken and is the Contract Report Form;

“*Terrorism Case*” means a case in which the main offence with which the defendant or defendants is or are charged, whether at common law or under any statutory enactment, is primarily, or substantially, founded on allegations of terrorism as defined in the Terrorism Act 2000;

“*VHCC*” means Very High Cost (Crime) Cases as defined in the Criminal Defence Service (General) (No. 2) Regulations 2001 (as amended);

“*VHCC Accreditation Application*” means the response from an Applicant Organisation to the Pre Qualification Questionnaire;

“*VHCC Accreditation Process*” means the application process for 2010 VHCC Contracts. Organisations and self-employed Advocates do not need to hold any other LSC contracts to apply;

“*VHCC Appeals Panel*” means a panel of committee members who will hear VHCC appeals;

“*VHCC Category Assessment Sheet*” means the standard LSC document prepared by the organisation to inform the LSC’s decision on the VHCC category;

“*VHCC Contract Manager*” means the CCU representative who will be responsible for the day-to-day running of each 2010 VHCC Contract;

“*VHCC Decision Letter*” means the letter that the CCU will send the organisation if the CCU agrees that a notified case falls within the definition of a VHCC;

“*VHCC Notification Request Form 2010*” means the form provided by the CCU to use when notifying the CCU as soon as it appears that a case will be, or is likely to be, a VHCC;

“*VHCC Supervisor*” is a partner, principal or employee of the Applicant Organisation who is authorised to and actively supervises in accordance with the VHCC Arrangements 2010;

“*VHCC Work*” means work reasonably and actually undertaken from the date of the Representation Order and where it is undertaken following the Stage 1 Start Date, it has been agreed in advance with the VHCC Contract Manager.

- 2.2 Paragraph headings in these Arrangements are inserted for convenience only and do not affect its interpretation.
- 2.3 Words denoting any particular gender include all other genders. Words denoting the singular include the plural and vice versa.
- 2.4 In these Arrangements, all references to any statute or statutory provision shall be deemed to include references to any statute or statutory provision which amends, extends, consolidates or replaces the same and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made there under and any conditions attaching thereto.

### **3. VHCC Eligibility Criteria**

- 3.1 Organisations and self-employed Advocates must meet the Eligibility Criteria to carry out VHCC Work on cases where the Representation Order is granted on or after 14 July 2010 except where the following exceptional circumstances apply:
- (a) the LSC has been unable to identify an organisation and/or a self-employed Advocate who meets the Eligibility Criteria; or
  - (b) taking into account the interests of justice, the interests of the client and the protection of public money, the individual circumstances of the case justify it; or
  - (c) the assessment by the LSC of the Applicant Organisation's and/or Applicant's VHCC Accreditation Application is pending or the subject of a reassessment.
- 3.2 Should the exceptional circumstances in paragraph 3.1 above apply, then organisations and self-employed Advocates who do not meet the Eligibility Criteria may, with the express written permission of the LSC, carry out VHCC Work on such cases.
- 3.3 Unless paragraph 3.2 of these Arrangements applies, where an organisation or self-employed Advocate does not meet the Eligibility Criteria as set out in these Arrangements, the LSC will: -
- (a) instruct that organisation to pass the VHCC to an organisation and/or a self-employed Advocate who has been accredited by the LSC through the VHCC Accreditation Process;
  - (b) specify a date from which they must not claim and the LSC will not pay them for any further work that they wish to undertake on that VHCC;
- 3.4 Where paragraph 3.3 of these Arrangements applies, if the organisation and/or the self-employed Advocate retain the case on a pro-bono basis then the organisation and/or self-employed Advocate must provide us with a signed confirmation from the Client that their Representation Order has been discharged and that they understand that their case will not be funded by the LSC from the date the Representation Order is discharged.
- 3.5 Rules on the VHCC Accreditation Process can be found in the Information for Applicants on the LSC Website.

### **4. Notification**

- 4.1 Organisations must notify us in writing of a potential VHCC as soon as it appears that the case will be, or is likely to be, a VHCC. If it does, or if the organisation is in any doubt, the organisation must notify the LSC within five Business Days of:
- (a) the earliest hearing at which the court sets a trial estimate; or
  - (b) the organisation identifying that the case will be or is likely to be a VHCC.

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- 4.2 If the requirements in paragraph 4.1 of these Arrangements are not met, and the LSC is likely to or will suffer financial loss as a result, the LSC may, in discharging its functions under the Act:
- (a) impose any sanction on the organisation in accordance with any other LSC agreement or contract;
  - (b) exclude the organisation from undertaking VHCC Work on the case that they failed to notify;
  - (c) where they persistently breach paragraph 4.1, exclude the organisation from undertaking future VHCC Work;
  - (d) where they persistently breach paragraph 4.1, reduce or refuse any payment to the organisation in relation to the case.
- 4.3 Organisations must notify the LSC by submitting a VHCC Notification Request Form 2010. A template VHCC Notification Request Form 2010 is available on the LSC Website. This is the only form of notification that will be accepted by the LSC.

## 5. Classification

- 5.1 Upon receipt of a notification, the LSC will decide whether the case falls within the definition of a VHCC and, therefore, whether it can be conducted under the terms of the 2010 VHCC Contracts.
- 5.2 When making its decision, the LSC will consider the VHCC Notification Request Form 2010 submitted by the organisation and any other relevant information it may hold at that time.
- 5.3 For the purposes of classification only, a case means proceedings against all assisted persons named on an indictment unless exceptional circumstances apply, which make it unsuitable to be dealt with under the 2010 VHCC Contract (for organisations).
- 5.4 A case where the Representation Order is granted on or after 14 July 2010, will be deemed to be a VHCC where: -

In relation to organisations:

- (a) if the case were to proceed to trial, the trial would in the opinion of the LSC be likely to last for more than 40 days, and the LSC considers that there are no exceptional circumstances which make it unsuitable to be dealt with under the 2010 VHCC Contract (for organisations); or
- (b) if the case were to proceed to trial, the trial would in the opinion of the LSC be likely to last no fewer than 25 and no more than 40 days inclusive, and the LSC considers that there are circumstances which make it suitable to be dealt with under the 2010 VHCC Contract (for organisations) and:
  - (i) the case is prosecuted by the Serious Fraud Office; or
  - (ii) the case is a Terrorism Case.

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The LSC reserves the right to classify a case as a VHCC in circumstances outlined in 5.4 (b) where it considers that exceptional circumstances apply and it is necessary to discharge its functions under the Act.

In relation to Advocates:

If the case were to proceed to trial, the trial would in the opinion of the LSC be likely to last for more than 60 days, and the LSC considers that there are no exceptional circumstances which make it unsuitable to be dealt with under a 2010 VHCC Contract (for self-employed Advocates).

- 5.5 Where the case satisfies the definition of a VHCC for organisations, the LSC will issue a VHCC Decision Letter and a 2010 VHCC Contract (for organisations) to the organisation.
- 5.6 Where the case satisfies the definition of a VHCC for Advocates, and a self-employed Advocate has been instructed, the LSC will issue a VHCC Decision Letter and a 2010 VHCC Contract (for self-employed Advocates) to the self-employed Advocate.
- 5.7 Subject to the completion of any appeal or review against a classification, once a case has been classified as a VHCC, the presumption will be that it will remain so until the conclusion of proceedings, and the CCU shall be under no obligation to review the Case's classification. In exceptional circumstances and where there is new information and a change in circumstances, which could make it unreasonable for the Case to remain a VHCC, the CCU may consider declassification.

## 6. Contracting

- 6.1 If the LSC issues a 2010 VHCC Contract to the organisation and/or the self-employed Advocate, then that organisation and/or self-employed Advocate must submit a signed copy of the 2010 VHCC Contract (for organisations) and 2010 VHCC Contract (for self-employed Advocates) within fifteen Business Days from the date of the VHCC Decision Letter.
- 6.2 Where paragraph 5.5 applies, the organisation must within fifteen Business Days, unless otherwise agreed between the organisation and the CCU:
  - (a) nominate a VHCC Supervisor to have overall responsibility for the VHCC and complete the self-declaration form;
  - (b) submit a Case Plan and Stage 1 Task List (for organisations);
  - (c) submit a completed VHCC Category Assessment Sheet, which will be assessed by us in accordance with Annex C of these Arrangements;
  - (d) submit a copy of the Representation Order;
  - (e) submit a copy of the Case Summary (if available);
  - (f) submit a copy of the Client Care Letter; and
  - (g) submit a summary of the VHCC Work undertaken during the Pre-Contract stage.

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- 6.3 Where paragraph 5.6 applies, the self-employed Advocate must within fifteen Business Days, unless otherwise agreed between the self-employed Advocate and the CCU:
- (a) submit a Stage 1 Task List (for self-employed Advocates);
  - (b) submit a summary of the VHCC Work undertaken during the Pre-Contract Stage
- 6.4 When completing the Case Plan, the organisation must include the office from which they deliver VHCC Work on the VHCC.
- 6.5 Where paragraph 6.2(c) applies, the organisation is unable to use representations in support of one criterion as specified in Annex C, to support a second criterion.
- 6.6 Where paragraphs 6.1 is not complied with, the LSC will not pay for any work undertaken on the VHCC between the date of the VHCC Decision Letter and the date the 2010 VHCC Contract is signed.
- 6.7 If the organisation and/or self-employed Advocate does not wish to undertake the case or if the LSC serves notice that it does not intend to enter into the 2010 VHCC Contract with the organisation and/or self-employed Advocate, the organisation must notify the Client of his or her right to select another organisation and or self-employed Advocate who has been accredited by the LSC through the VHCC Accreditation Process . In these circumstances, unless the LSC directs otherwise, no further costs will be payable to the representative in respect of the case from such date as the LSC specifies.
- 6.8 Where paragraph 6.5 of these Arrangements applies and a VHCC is referred from one organisation ("transferor") to another organisation ("transferee"), where appropriate the transferee must use reasonable endeavours to continue to instruct any Advocate(s) currently representing the Client(s) who has been accredited by the LSC through the VHCC Accreditation Process.

## Annex A - Eligibility Criteria for Organisations

1.	The Applicant Organisation and its Key Personnel must not be in breach of the provisions of regulation 23 (1) of the Public Contracts Regulations 2006 (as amended).
2.	<p>The Applicant Organisation and its Key Personnel must not have been convicted of:</p> <ul style="list-style-type: none"> <li>▪ Conspiracy within the meaning of section 1 of the Criminal Law Act 1977 where that conspiracy relates to participation in a criminal organisation as defined in Article 2(1) of Council Joint Action 98/733/JHA (as amended)</li> <li>▪ Corruption within the meaning of section 1 of the Public Bodies Corrupt Practices Act 1889</li> <li>▪ Corruption within the meaning of section 1 of the Prevention of Corruption Act 1906 (as amended)</li> <li>▪ The offence of bribery</li> <li>▪ Fraud, where the offence relates to fraud affecting the financial interests of the European Communities as defined by Article 1 of the Convention relating to the protection of the financial interests of the European Union, within the meaning of: <ul style="list-style-type: none"> <li>- the offence of cheating the Revenue</li> <li>- the offence of conspiracy to defraud</li> <li>- fraud or theft within the meaning of the Theft Acts of 1968 and 1978</li> <li>- fraudulent trading within the meaning of section 458 of the Companies Act 1985</li> <li>- defrauding the customs within the meaning of the Customs and Excise Management Act 1979 and the Value Added Tax Act 1994</li> <li>- an offence in connection with taxation in the European Community within the meaning of section 71 of the Criminal Justice Act 1993</li> <li>- destroying, defacing or concealing of documents or procuring the extension of a valuable security within the meaning of section 20 of the Theft Act 1968</li> </ul> </li> <li>▪ Money laundering within the meaning of the Money Laundering Regulations 2003</li> <li>▪ Any other offence within the meaning of Article 45(1) of the Public Sector Directive as defined by the national law of any relevant state.</li> </ul>
3.	At least one member of the Applicant Organisation's Key Personnel must be able to demonstrate at least one year's experience at a managerial level in the five-year period preceding the date of the VHCC Accreditation Application.
4.	At least one member of the Applicant Organisation's Key Personnel must be able to demonstrate at least three years experience delivering Specialist legal advice to the public in the five-year period preceding the date of the VHCC Accreditation Application.

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5.	The Applicant Organisation must have, or commit to having in place by the start date of the contract, a written complaints process and/or record/log of client complaints.
6.	Unless exceptional circumstances apply, the Applicant Organisation and its Key Personnel must not, in the three-year period preceding the date of the VHCC Accreditation Application, have received any client or non-client complaints (irrespective of what organisation the Key Personnel were working for at the time) that have been referred to and upheld and sanctions applied by an external Regulatory Body / complaints body in relation to any Category of Law for which public funding is available, irrespective of how the work was funded.
7.	Unless exceptional circumstances apply, the Applicant Organisation and its Key Personnel must not, in the three-year period preceding the date of the VHCC Accreditation Application, have claims for professional negligence from clients or non-clients (irrespective of what organisation the Key Personnel were working for at the time) that have been upheld and sanctions applied by the appropriate Regulatory Body / complaints body or of successful claims of professional negligence in relation to any Category of Law for which public funding is available, irrespective of how the work was funded.
8.	<p>Unless exceptional circumstances apply, the Applicant Organisations must be able to demonstrate that they have (or will have by the start date of the contract) the following insurance in place to protect them, their employees, and the public and to offer effective financial redress to clients:</p> <ul style="list-style-type: none"> <li>▪ Professional Indemnity Insurance at the level required by us as set out at Clauses 7.4 and 7.5 of the 2010 VHCC Contract Standard Terms.</li> <li>▪ Public Liability Insurance compliant with current applicable statutory requirements.</li> <li>▪ Employer's Liability Insurance compliant with the current applicable statutory requirements.</li> </ul>
9.	<p>Unless exceptional circumstances apply, the Applicant Organisations must comply with all relevant workplace legislation as it currently stands, and in particular, with the following:</p> <ul style="list-style-type: none"> <li>▪ Health and Safety At Work Act 1974</li> <li>▪ Equalities Legislation</li> </ul>

<p>10.</p>	<p>The Applicant Organisation must:</p> <ul style="list-style-type: none"> <li>▪ If the Applicant Organisation intends to be an employer during the life of the contract:             <ul style="list-style-type: none"> <li>- have written policies in place covering the Applicant Organisation as an employer and as a provider of services to clients, requiring compliance with the statutory obligations under the Equalities Legislation applicable in England and Wales (or equivalent legislation in the countries in which the Applicant Organisation employs staff);</li> <li>- have a written recruitment and selection policy and procedure that aims to ensure equality of opportunity in employment practices;</li> </ul> </li> <li>▪ Ensure that all current and/or likely clients in the local area(s) in which the Applicant Organisation operates:             <ul style="list-style-type: none"> <li>(i) have access to their service notwithstanding any disability;</li> <li>(ii) have any language needs (including but not limited to Welsh speakers) effectively catered for (e.g. by bi-lingual or translation service);</li> </ul> </li> <li>▪ Have adequate technical measures in place, including but not limited to its Information Technology (IT) systems, to keep personal data secure at all times;</li> <li>▪ Have written policies in place that cover Data Protection – the commitment of the Applicant Organisation’s Key Personnel and all managers to comply with the principles of the Data Protection Act 1998 as amended (or equivalent in the countries in which they operate) and the identification of the person who has overall responsibility for compliance and raising staff awareness;</li> <li>▪ Have written policies in place that cover Information Risk Management;</li> <li>▪ Have written policies in place that cover Information Security;</li> <li>▪ Have written policies in place that cover sanctions if the above policies are not complied with;</li> <li>▪ Provide training (and/or refreshers) and development on at least an annual basis for managers, staff and/or volunteers in equality and diversity obligations and the Applicant Organisation’s equal opportunity policies and procedures;</li> <li>▪ Have training (and/or refresher) plans in place to raise and continue to maintain awareness of data protection and information security policies and procedures within the Applicant Organisation; and</li> <li>▪ Be registered with the Information Commissioner’s Office as a data controller as required under the Data Protection Act 1998 as amended (or equivalent in the countries in which the Applicant Organisation operates), unless the organisation is exempt from registering.</li> </ul>
<p>11.</p>	<p>Unless exceptional circumstances apply, the Applicant Organisation and its Key Personnel must not have been / are not:</p> <ul style="list-style-type: none"> <li>▪ The subject of findings of unlawful discrimination by an Employment Tribunal, the Employment Appeal Tribunal or any other court or in comparable proceedings in any other jurisdiction, in the three-year period preceding the date of the VHCC Accreditation Application; or</li> <li>▪ The subject of formal investigations by the Equalities and Human Rights Commission (formerly Commission for Racial Equality, Disability Rights Commission) and the Equal Opportunities Commission or any comparative body in any other jurisdiction, in the three-year period preceding the date of the VHCC Accreditation Application.</li> </ul>

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12.	<p>Unless exceptional circumstances apply, the Applicant Organisation and its Key Personnel (as applicable) must not have been / are not:</p> <ul style="list-style-type: none"> <li>▪ The subject of adverse findings, disciplinary sanctions, or other controls or restrictions on their authority to practice relating to act(s) of grave misconduct or breach of professional duties in the course of their business or profession imposed by the Legal Complaints Service (LCS), Solicitors Regulation Authority (SRA), Solicitors' Disciplinary Tribunal, Bar Council, Bar Standards Board (BSB), Adjudication Panel, Disciplinary Tribunal or any equivalent Regulatory Body or complaints body (including, but not limited to, restrictions on solicitors' practising certificates and SRA regulatory agreements) at any time;</li> <li>▪ In a state of bankruptcy, compulsory winding up, administration, composition with creditors, Individual Voluntary Agreements (IVA), Partnership Voluntary Agreements (PVA) or subject to similar proceedings under the law of any other state;</li> <li>▪ In receipt of a notice to terminate any contract due to fault (ie. breach of contract) in the three years preceding the date of the VHCC Accreditation application, in relation to any contract with a public sector organisation (including the LSC);</li> <li>▪ Received a notice to terminate due to fault in the three years preceding the date of the VHCC Accreditation application that includes terms preventing them from applying for any other contract with a public sector organisation (including the LSC);</li> <li>▪ Convicted of any criminal offence other than those deemed spent under the Rehabilitation of Offenders Act 1974, or any equivalent legislation;</li> <li>▪ The subject of any intervention by the SRA or any equivalent process by another Regulatory Body in the three years preceding the date of the VHCC Accreditation application;</li> <li>▪ Upon written request, failed to repay any overpayments, payments on account or other sums owed to a public sector body for which it provides services (including the LSC) by any applicable deadline; or</li> <li>▪ Upon written request, failed to adhere to a repayment agreement.</li> </ul>
13.	<p>Unless exceptional circumstances apply, the Applicant Organisation, its Key Personnel (and any organisation for whom any of the Key Personnel are or were directors/partners/trustees or have or had powers of representation, decision, or control) have, in each of the last three years preceding the date of the VHCC Accreditation Application (or, if the Applicant Organisation has been trading for less than three years, in each full trading year to date) discharged all its/their liabilities in regard to the following within six months of them falling due:</p> <ul style="list-style-type: none"> <li>▪ VAT</li> <li>▪ National Insurance Contributions (Class 2 and/or Class 4)</li> <li>▪ Corporation Tax or Income Tax.</li> </ul>
14.	<p>The Applicant Organisation must hold and comply with the Specialist Quality Mark (SQM) or Lexcel quality mark or commit to achieving the SQM within the designated timescales.</p>

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15.	The applicant must have been assessed in its most recent Peer Review as: a) PR3 minimum on a general crime work Peer Review; or b) "Threshold Competence or Better" on a Peer Review that includes VHCC contracts.
16.	The Applicant Organisation and/or any of its Key Personnel or employees must have Experience of:  a) At least three Qualifying Cases, at least two of which must have been Prepared to Trial; or b) 500 hours on Qualifying Cases conducted in the Qualifying Period.
17.	The Applicant Organisation must have at least one VHCC Supervisor in place for each VHCC from the Stage 1 Start Date to the Conclusion of that VHCC.
18.	Each VHCC Supervisor must be either a partner, solicitor, solicitor-advocate or employed barrister and:  a) have eight years' post-qualification experience; and either b) where the case is a Non-Fraud VHCC, 1,050 hours conducted within the three year period preceding the date of the VHCC Supervisor application on Serious Crime Cases; or c) where the case is a Fraud VHCC, 1,050 hours conducted within the three year period preceding the date of the VHCC Supervisor application on Serious Crime Cases, with at least 700 of those hours on Serious Fraud Work.

## Annex B - Eligibility Criteria for Self-Employed Advocates

1.	The Applicant must not be in breach of the provisions of regulation 23 (1) of the Public Contracts Regulations 2006 (as amended).
2.	<p>The Applicant must not have been convicted of:</p> <ul style="list-style-type: none"> <li>▪ Conspiracy within the meaning of section 1 of the Criminal Law Act 1977 where that conspiracy relates to participation in a criminal organisation as defined in Article 2(1) of Council Joint Action 98/733/JHA (as amended)</li> <li>▪ Corruption within the meaning of section 1 of the Public Bodies Corrupt Practices Act 1889</li> <li>▪ Corruption within the meaning of section 1 of the Prevention of Corruption Act 1906 (as amended)</li> <li>▪ The offence of bribery</li> <li>▪ Fraud, where the offence relates to fraud affecting the financial interests of the European Communities as defined by Article 1 of the Convention relating to the protection of the financial interests of the European Union, within the meaning of: <ul style="list-style-type: none"> <li>- the offence of cheating the Revenue</li> <li>- the offence of conspiracy to defraud</li> <li>- fraud or theft within the meaning of the Theft Acts of 1968 and 1978</li> <li>- fraudulent trading within the meaning of section 458 of the Companies Act 1985</li> <li>- defrauding the customs within the meaning of the Customs and Excise Management Act 1979 and the Value Added Tax Act 1994</li> <li>- an offence in connection with taxation in the European Community within the meaning of section 71 of the Criminal Justice Act 1993</li> <li>- destroying, defacing or concealing of documents or procuring the extension of a valuable security within the meaning of section 20 of the Theft Act 1968</li> </ul> </li> <li>▪ Money laundering within the meaning of the Money Laundering Regulations 2003</li> <li>▪ Any other offence within the meaning of Article 45(1) of the Public Sector Directive as defined by the national law of any relevant state.</li> </ul>
3.	The Applicant must be able to demonstrate at least three years experience delivering Specialist Legal Advice to the public in the five-year period preceding the date of the VHCC Accreditation Application.
4.	The Applicant or if the Applicant is a member of Chambers, the Applicant's Chambers must have, or commit to having in place by the start date of the contract, a written complaints process and/or record/log of client complaints.

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5.	<p>Unless exceptional circumstances apply, the Applicant must not, in the three-year period preceding the date of the VHCC Accreditation Application, have received any client or non-client complaints that have been referred to and upheld and sanctions applied by an external Regulatory Body / complaints body in relation to any Category of Law for which public funding is available, irrespective of how the work was funded.</p>
6.	<p>Unless exceptional circumstances apply, the Applicant must not, in the three-year period preceding the date of the VHCC Accreditation Application, have claims for professional negligence from clients or non-clients that have been upheld and sanctions applied by the appropriate Regulatory Body / complaints body or of successful claims of professional negligence in relation to any Category of Law for which public funding is available, irrespective of how the work was funded.</p>
7.	<p>Unless exceptional circumstances apply, the Applicant or if the Applicant is a member of Chambers, the Applicant's Chambers must be able to demonstrate that they have (or will have by the start date of the contract) the following insurance in place to protect them and the public and to offer effective financial redress to clients:</p> <ul style="list-style-type: none"> <li>▪ Professional Indemnity Insurance at the level required by the LSC.</li> <li>▪ Public Liability Insurance compliant with current applicable statutory requirements.</li> <li>▪ Employer's Liability Insurance compliant with the current applicable statutory requirements.</li> <li>▪ Membership of the Bar Mutual Indemnity Fund, in accordance with the Bar Code of Conduct.</li> </ul>
8.	<p>Unless exceptional circumstances apply, the Applicant or if the Applicant is a member of Chambers, the Applicant's Chambers must comply with all relevant workplace legislation as it currently stands, and in particular, with the following:</p> <ul style="list-style-type: none"> <li>▪ Health and Safety At Work Act 1974</li> <li>▪ Equalities Legislation</li> </ul>
9.	<p>The Applicant must:</p> <ul style="list-style-type: none"> <li>▪ If a member of Chambers, ensure that the Chambers during the life of the contract: <ul style="list-style-type: none"> <li>- has written policies in place covering the Chambers as an employer and as a provider of services to clients, requiring compliance with the statutory obligations under the Equalities Legislation applicable in England and Wales (or equivalent legislation in the countries in which the Chambers employs staff);</li> <li>- has a written recruitment and selection policy and procedure that aims to ensure equality of opportunity in employment practices;</li> <li>- has written policies in place that cover Data Protection – the commitment</li> </ul> </li> </ul>

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	<p>of the Chambers to comply with the principles of the Data Protection Act 1998 as amended (or equivalent in the countries in which they operate) and the identification of the person who has overall responsibility for compliance and raising staff awareness;</p> <ul style="list-style-type: none"> <li>- has written policies in place that cover Information Risk Management;</li> <li>- has written policies in place that cover Information Security;</li> <li>- has written policies in place that cover sanctions if the above policies are not complied with;</li> <li>- provides training (and/or refreshers) and development on at least an annual basis for managers, staff and/or volunteers in equality and diversity obligations and the Chambers equal opportunity policies and procedures;</li> <li>- has training (and/or refresher) plans in place to raise and continue to maintain awareness of data protection and information security policies and procedures; and</li> <li>- be registered with the Information Commissioner’s Office as a data controller as required under the Data Protection Act 1998 as amended (or equivalent in the countries in which the Chambers operates), unless the Chambers is exempt from registering.</li> </ul> <ul style="list-style-type: none"> <li>▪ Ensure that all current and/or likely clients in the local area(s) in which the Applicant operates:             <ul style="list-style-type: none"> <li>(i) have access to their service notwithstanding any disability;</li> <li>(ii) have any language needs (including but not limited to Welsh speakers) effectively catered for (e.g. by bi-lingual or translation service);</li> </ul> </li> <li>▪ Have adequate technical measures in place, including but not limited to its Information Technology (IT) Systems, to keep personal data secure at all times;</li> <li>▪ If the Applicant is not a member of Chambers, they must ensure they meet the criteria 9 above unless exceptional circumstances apply.</li> </ul>
<p>10.</p>	<p>Unless exceptional circumstances apply, the Applicant must not have been / is not:</p> <ul style="list-style-type: none"> <li>▪ The subject of findings of unlawful discrimination by an Employment Tribunal, the Employment Appeal Tribunal or any other court or in comparable proceedings in any other jurisdiction, in the three-year period preceding the date of the VHCC Accreditation Application; or</li> <li>▪ The subject of formal investigations by the Equalities and Human Rights Commission (formerly Commission for Racial Equality, Disability Rights Commission) and the Equal Opportunities Commission or any comparative body in any other jurisdiction, in the three-year period preceding the date of the VHCC Accreditation Application.</li> </ul>
<p>11.</p>	<p>Unless exceptional circumstances apply, the Applicant must not have been / is not:</p> <ul style="list-style-type: none"> <li>▪ The subject of adverse findings, disciplinary sanctions, or other controls or restrictions on their authority to practice relating to act(s) of grave misconduct or breach of professional duties in the course of their business or profession imposed by the Legal Complaints Service (LCS), SRA, Solicitors’ Disciplinary Tribunal, Bar Council, Bar Standards Board (BSB), Adjudication Panel,</li> </ul>

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	<p>Disciplinary Tribunal or any equivalent Regulatory Body or complaints body (including, but not limited to, restrictions on solicitors' or barristers' practising certificates and SRA/BSB regulatory agreements) at any time;</p> <ul style="list-style-type: none"> <li>▪ In a state of bankruptcy, compulsory winding up, administration, composition with creditors, Individual Voluntary Agreements (IVA), Partnership Voluntary Agreements (PVA) or subject to similar proceedings under the law of any other state;</li> <li>▪ In receipt of a notice to terminate any contract due to fault (ie. breach of contract) in the three years preceding the date of the VHCC Accreditation application, in relation to any contract with a public sector organisation (including the LSC);</li> <li>▪ Received a notice to terminate due to fault in the three years preceding the date of the VHCC Accreditation application that includes terms preventing them from applying for any other contract with a public sector organisation (including the LSC);</li> <li>▪ Convicted of any criminal offence other than those deemed spent under the Rehabilitation of Offenders Act 1974, or any equivalent legislation;</li> <li>▪ The subject of any intervention by the SRA, BSB or any equivalent process by another Regulatory Body in the three years preceding the date of the VHCC Accreditation application;</li> <li>▪ Upon written request, failed to repay any overpayments, payments on account or other sums owed to a public sector body for which it provides services (including the LSC) by any applicable deadline; or</li> <li>▪ Upon written request, failed to adhere to a repayment agreement.</li> </ul>
12.	<p>Unless exceptional circumstances apply, the Applicant (and any organisation for whom the Applicant is or was a director/partner/trustee or has or had powers of representation, decision, or control) has, in each of the last three years preceding the date of the VHCC Accreditation application (or, if the Applicant has been practising for less than three years, in each full practising year to date) discharged all their liabilities in regard to the following within six months of them falling due:</p> <ul style="list-style-type: none"> <li>▪ VAT</li> <li>▪ National Insurance Contributions</li> <li>▪ Corporation Tax or Income Tax.</li> </ul>
13.	<p>The Applicant must only accept instructions on a case classified as a VHCC where they are appropriately qualified and skilled to act in that case in accordance with the Relevant Professional Body's Code of Conduct.</p>

## Annex C - VHCC Category Criteria

### VHCC Fraud

- Category 1: all 4 criteria from Block A are met, and all 4 a's from Block B  
Category 2: 2 criteria from Block A are met and at least 2 a's or b's from Block B  
Category 3: All other fraud VHCCs  
Category 4: non-fraud VHCCs only

#### Block A

1. The defendant's case is likely to give rise to:
  - a) national publicity; and
  - b) widespread public concern;
2. The defendant's case requires highly specialised knowledge;
3. The defendant's case involves a significant international dimension;
4. The defendant's case requires legal, accountancy and investigative skills to be brought together.

#### Block B

1. The value of the fraud as described in the indictment and/or the prosecution case statement/summary exceeds:
  - (a) £10m
  - (b) £2m
2. The volume of prosecution documentation, which consists of:
  - witness statements
  - exhibits
  - interview transcripts
  - pre-interview disclosure/advance information
  - Notices of Further Evidence ("NFEs") exceeds:
    - (a) 30,000 pages
    - (b) 10,000 pages.

Unused material will not be considered for the purposes of this criterion, nor will evidence which has yet to be served.

3. The total costs of representing the defendant(s) are likely to exceed:
  - (a) £500,000
  - (b) £250,000.
4. The length of the trial is estimated at:
  - (a) over 60 days

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### VHCC Non-fraud

Category 1: Terrorism cases uplifted from category 2.

Category 2: For cases not involving drugs, all 4 criteria from Block A are met and 2 a's from Block B; or for serious drugs cases, 3 criteria from Block A and 2 a's from Block B.

Category 3: 3 criteria from Block A are met and at least 1 a or b from Block B.

Category 4: All other VHCCs.

If the case is primarily founded on allegations of terrorism, apply an uplift of one category.

#### Block A

1. Pursuant to statute, the case must be a class 1 or 2 offence.
2. The maximum sentence for the offence is imprisonment for life or over 30 years, per statute.
3. The case is likely to attract national interest.
4. Either:
  - (a) Where the offence is of a violent or sexual nature, there must be multiple victims; or
  - (b) if the offence is of a violent or sexual nature and there is only a sole victim, there must be something significant about the crime; or
  - (c) if the case involves drugs, their total value is estimated by the prosecuting authority to exceed £10m; or
  - (d) the case in which the main offence with which the defendant is charged, whether at common law or under any statutory enactment, is primarily founded on allegations of terrorism as defined in the Terrorism Act 2000.

#### Block B

1. The volume of prosecution documentation, which consists of:

- witness statements
- exhibits
- interview transcripts
- pre-interview disclosure/advance information
- Notices of Further Evidence ("NFEs")

exceeds:

- (a) 10,000 pages
- (b) 5,000 pages

Unused material will not be considered for the purposes of this criterion, nor will evidence which has yet to be served.

2. The total costs of representing the defendant(s) are likely to exceed:
  - (a) £400,000
  - (b) £200,000