

## Scope of Services – Public Access Scheme

You have chosen to instruct a barrister on a direct/public access basis, they do not act in the same way as a solicitor would. A direct access barrister is not a solicitor. A solicitor usually charges by the amount of time worked on your case and for each email or telephone call. On instructing a direct access barrister you will have been quoted for specific agreed services to be delivered; for example, for a telephone conference and representation at a court hearing. You will have paid a fixed fee which will not increase unless you agree with the clerks at Clerksroom Direct that you will require further work at which point a further fixed fee will be due.

The specific agreed services are set out in the client care letter which you should review carefully. If this does not cover everything you want your barrister to do, then you should contact Clerksroom Direct on 0333 251 8052 or the barrister if you instructed them directly.

Barristers working on a direct access basis are required to comply with specific regulatory rules. It also means that the barrister is only instructed to deal with some aspects of your case and is not “on record” as acting for you – you are still acting as a litigant in person for your case.

If the barrister undertakes work outside of the scope of services agreed, this could create regulatory or contractual difficulties which in turn could mean that the services delivered are not covered by regulatory and insurance protections; this impacts you. Therefore, it is important that we establish clear parameters.

### What is included in the fee I have paid for services?

#### Consideration of hearing bundle

- Unless agreed otherwise, the client or other party is responsible for preparing the bundle for hearing in direct access cases. You should check the court order as this will direct who is to create the bundle. In most cases, the court will require a paginated bundle to be agreed with the other party and will have given directions as to what should go into the bundle and these directions must be followed.
- As you are a litigant in person, it is your duty to ensure any bundle is lodged with the court on time and that this is complete.
- The barrister will review the documents submitted ahead of any hearing so long as these have been sent in time to do so. In which case, they will discuss any queries or concerns with you and will alert you to any concerns they have or approach they recommend based on the documents they have viewed and the risks they consider may be present.
- However, if you have sent instructions far in advance of the hearing, the barrister may not review this until closer to the hearing. There are many possible reasons for this, one is that many barristers are in court every day on a number of cases, and it is more effective if the details of your case are fresh in the barrister’s mind. Additionally, details and circumstances of cases may change ahead of a hearing.
- If any documents are given to the barrister outside of the bundle or at the last minute, these may not be considered as to do so may not be easy to do and may affect the carefully prepared case. Alternatively, the barrister may consider that these do not affect the case but may not have time to communicate this to you before the hearing.

#### Prospects of success/merits of the case

- Unless the barrister has specifically included in the quotation, a fee for providing an opinion on the case generally, its merits or prospects of success, an opinion will not be included. This is because in order for a barrister to provide a formal opinion on the case, they will need to have sight of all evidence, case documents and will carry out significant research – these steps are required so that they can satisfy their regulators that they have complied with their professional duties.
- Therefore, just because a barrister is attending a hearing or drafting a document, does not mean that the case has prospects of success. The barrister will follow your instructions and advance your case. The exceptions to this are if they have advised otherwise and set out the risks to you or there is a point you wish to make which is untrue, incorrect or would impact upon the barrister’s duty to the court in the administration of justice – which they are bound to follow by their regulatory standards.

- Counsel's opinions are an independent view of the case, and these views may not necessarily concur with your own views or opinions concerning certain issues. Counsel will not generally amend an advice if you do not agree with it, save as to correct factual errors.
- If you wish to have a conference for advice on merits or a written opinion on the merits of your case, you will need to enter into a further arrangement and pay a further fee for this. You can arrange this through the Clerksroom Direct on 0333 251 8052 or by contacting the barrister if you instructed them directly.

#### Pre-hearing teleconference

- The barrister will invite you to a pre-hearing telephone or video conference or this may take place over a number of shorter calls. The length of the conference or calls will depend upon the case as each case is unique; although contractually, only one teleconference is included in the fee paid unless otherwise specified. The barrister will ensure all relevant matters are covered ahead of the hearing.
- Unless otherwise specified, the hearing will take place by telephone and will not be a meeting in person. If the barrister does agree to meet in person as they consider it essential for the case, there is likely to be an additional fee for this given the additional time and cost this will take.

#### Representation at a hearing

- Whilst the barrister will try to meet you ahead of the hearing for a short discussion, this may not always be possible. There are a number of reasons for this ranging from transportation problems to the fact that the barrister considers it imperative for your case to speak to the other party or court staff. Rest assured, the barrister will have made sure they are fully familiar with the case before the hearing and will have spoken to you about any necessary matters.
- Each court hearing is different and whilst you may have included points that you would like the barrister to raise, this will not always be necessary or possible. For example, in some cases, a court will definitely not want to hear points repeated which have already been included in written evidence and to do so would risk annoying the judge – the barrister will get a sense of this from their experience. Equally, the barrister may get a sense in the hearing itself, based on their significant experience, of which points are likely to be given weight by the court and which are not. If you have any concerns, you should discuss these directly with the barrister during a break or after the hearing.
- Also, you may want to raise matters about your case generally at a hearing when in fact the hearing is about a very specific point or matter. The judge will not expect or want you or your barrister to raise these other matters as that is likely to confuse matters and use up the court's time unnecessarily. This type of approach is likely to frustrate the court or judge and make them less favourable to your case.
- Unless there has been time to consider and discuss additional points and submit these to the court in advance, the barrister is unlikely to be able to raise these during a hearing. In any event, doing so without fully considering the implications may be damaging to your case or may risk annoying the judge.
- After a hearing, the barrister will provide support in liaising with the other party and ensuring that any court order arising from the hearing is finalised in accordance with the court's decision. However, any matters outside of the court order or attempts to change the order of the court are not included in the scope of the service – and may also not be permissible.

#### Preparing documents

- Where your instructions to the barrister includes the preparation of documents, once the barrister has sent the drafted documents to you, please take your time and read these documents carefully and then email your barrister with details of **all amendments** required before you file and serve these.
- Your barrister will usually be prepared to make amendments once but there may be further fee for additional amendments.
- There may be some instances where your barrister is not prepared to make the amendments you request if the information you want to include is untrue or incorrect or if you are wishing to pursue a point which is not legally sustainable. This is because all barristers have a number of specific regulatory obligations towards the court which include not misleading the court, not wasting the court's time or abusing their role as an advocate. These obligations override any inconsistent obligations including to clients.

### Who is responsible for ensuring court deadlines and directions are met?

- As you are only engaging the barrister for a specific aspect of your case on a public access basis and because in the majority of cases, a barrister cannot go on the court record as acting for you, the responsibility for making sure that court deadlines and directions are met remains with you. Naturally, if you ask your barrister for advice or support, they will do their best to assist and will advise when they are unable to do so or where a further fee would be payable.
- Court orders will usually set out dates for compliance and if there is a breach a sanction is usually made by the court such as striking out the claim or ordering costs against you so it is very important that deadlines are met on time. If you cannot meet a deadline you may need to agree an extension with the other party or make an application to Court for more time.
- Your public access barrister will not be able to file and service documents for you. You can generally file at Court documents up to a certain size limit at Court by email (but please check with the Court before doing so as different Courts have different rules). The list of Court email addresses can be found here: <https://www.gov.uk/find-court-tribunal>
- If you need to send a copy to the other party, you must check first if they will accept service by email and if not, you will need to post a copy.
- Your barrister will unusually need to see copies of what you have sent to the Court. You sometimes may need to file and serve a certificate of service.

### Payment of court fees

- As you are a litigant in person, you are also responsible for payment of court fees. The majority of barristers cannot pay such fees or claim exemptions on your behalf on the court record as acting for you.
- You can find some useful guidance on court fees here: [Gov.uk court fees guidance](#)
- In some circumstances, it is possible to claim exemption on court fees and further information can be found here: [Gov.uk exemptions for court fees](#)

### Pro bono

- The barrister delivering the services may do some work over and above the work you have paid for on an 'pro-bono' basis to help you out. In these circumstances, they will tell you that the work they are doing is 'pro-bono'. They are not obliged in any way to deliver or continue these services.

### What if I want more services than this?

As stated in the client care letter, any subsequent or additional work will need another quote and another letter of agreement between us. Do feel free to contact Clerksroom Direct on 0333 251 8052 or the barrister if you instructed them directly to obtain a quotation.