

# A Guide to Peer Review – Crime Webinar – 9 July 2020

## FAQS & Useful Guidance

### Recorded Webinar and Slides

The recording of the webinar and the slides can be viewed on our website which can be accessed using the following link:

<https://dglegal.co.uk/services/training/#AGuidetoPeerReviewCrime>

### Detailed Guidance Notes

The detailed guidance notes produced by Geoff Bell have been distributed to everyone that registered for the webinar. If you would like a copy, please send us an [email](#).

### FAQS

**Q** You say that all crime firms are being peer reviewed because of a ministerial commitment. Why crime firms? Why just pick on crime firms?

**A** This was the ministerial commitment at the time and providers were aware when they tendered for a Crime Contract that they would have a Peer review during its lifetime. Requirements will be reviewed for any future Contracts.

**Q** I understand that if a firm fails with an appeal a fee is payable in the region of £1,400. If we win the appeal we will have incurred significant costs. Will the LAA pay our costs? If so, is this limited to £1,400?

**A** This does not form part of the peer review process. If a provider thinks they are entitled to a compensation claim there is a process for this, the details of which can be found here: <https://www.gov.uk/government/organisations/legal-aid-agency/about/complaints-procedure#compensation-claims>

**Q** Morale is rock bottom. Could you considering lowering the bar so we aren't expected to write time consuming long advice letters that the client never ever reads.

There are no current plans to lower the bar. In Geoff Bell's experience "long advice letters" need not be time-consuming if you use standard letters containing standard paragraphs. By spending a little time constructing these you can save yourself / your staff hours and on a daily basis, achieve consistency and make sure they don't forget important elements – such as advice on appeal – both right of and merits of. Just make sure that the letters are timely and tailored.

You should avoid:

- Standard letters which, for example, advise about Crown Court issues in respect of a summary only matter
- Legalese

**Q Have PR audits stopped because of Covid-19?**

A Peer review has always been undertaken remotely – either by submitting paper files or digital files. Peer review has been paused as part of the LAA’s COVID contingency response and providers have been notified that this will re-start from 1st August, focussing initially on priority reviews, e.g. second reviews which are now due after a first below competence review. The LAA have made it clear in their communications that if providers have difficulty accessing files due to COVID they should contact the Peer review team.

**Q Please can you provide the link to the scoring system on the web. Thanks.**

A The current link is as follows but please note that the guidance will shortly be updated.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/620110/independent-peer-review-process-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/620110/independent-peer-review-process-guidance.pdf)

**Q You mentioned "the components" of the file. Is that completely subjective, or is there a script, like the old "transaction criteria" at the start of franchising?**

A There is no script. The basic components of a file, whether paper or digitally presented, remain as follows:

- Correspondence
- Prosecution documents
- Defence documents
- Miscellaneous (incl. LA).

What is in there and how it is ordered is a matter for the practitioner. The more logically presented the less likely it will be misunderstood – whether by a colleague or a peer reviewer. Peer reviewers refer to this as the “pick-up” test. Another anecdote – Solicitor is on his way to court to deal with a client’s case when his journey comes to an abrupt end. A colleague rushes to his aid, grabs the file and attends the client at court. How quickly can he assimilate the information in the file and do a good job for the client?

**Q In future can files be sent digitally as we are trying to work with paperless files?**

A Digital files have always been accepted – although in Geoff’s experience they have never been popular amongst PR’ers – they tend to be quite soulless when compared to their “dog-eared”, paper-based counterparts. Each to their own. However, there is no reason why digital files cannot be presented in an ordered and logical fashion – ideally displaying a summary sheet of some sort at the beginning – or the end – or in the middle – which do you prefer?

Not many of us will enjoy reading a book from the middle to the end and then back to the beginning – why present a file like that?

**Q Does the review take account of whether the standard letters are understandable by a lay client rather than just whether they are legally correct?**

A Yes – most definitely. Legal speak (some of which we think of as normal speak) is frowned upon. You should be trying to get a clear message over and not demonstrating how clever you are – and the fact that the client may never read them is irrelevant.

**Q Are briefs essential? We invite Counsel on CCDCS and send an email explaining essential issues.**

**A** A brief, in Geoff's understanding, is a document which passes information from a litigator to an advocate about a case upon which the advocate is being asked to do work.

The format of the document and the information which it contains is a matter for the litigator. The format may be anywhere between, say, an email and a traditional brief. The content may be a simple "...counsel has herewith the papers – get on with it" through to a detailed summary of the client, the prosecution case, the defence case, the issues raised etc. etc. It is a matter for the practitioner to decide. The important thing is that the file demonstrates that the practitioner has carried out his/her professional duty to the client.

**Q What happens if a firm fails in its appeal? Does contract for the firm get withdrawn?**

**A** If a firm score a '5', an immediate fresh peer review is arranged. If that review results in another '5' then the Contract Manager would seek to terminate the contract. If a '4' is scored, a second peer review will take place in around 6 months' time. If a further '4' is awarded then the Contract Manager would recommend terminating the contract. A provider can appeal any attempt to terminate the contract. Clause 27 of the Contract Standard Terms sets out the provider's appeal rights.

**Q Can you advise about time recording requirements in respect of large crown court cases where preparation of schedules is involved and telephone evidence is considered?**

**A** Rule 7.19 of the Contract Standard Terms requires you have an IT system which enables you maintain a time recording system for all Matters. Further, Rule 9.9. states:

*9.9 You must be able to provide Records about Contract Work and your performance under and compliance with this Contract (including Records in respect of time recording and invoicing) separately from other information about any other services you perform.*

There is no exception in the Contract for Crown Court work. Further, all cases over 10,000 pages in length require a record of time spent.

**Q When listening to one of your earlier webinars the general perception was that the crime contract is likely to be extended again due to no movement on ITTs which is usually done around about this time. That is accepted but what I wanted to know is if there was a sudden U-turn would I need anything specific in terms of IT infrastructure in place?**

The 2017 SCC was for three years with the proviso that it could be extended for up to two years. It was extended for 12 months only to March 2021 and at the time it was said that it would not be further extended. Will that now change? It seems inevitable given recent events but if not, Geoff cannot see that there could be any significant change to any part of the 2017 Contract including IT requirements.

**Q It would be interesting to see the guidance given to reviewers.**

**A** The guidance to PR's is mainly contained in documents available online – see LAA website. There are no "secret" documents – if there were they would have found their way out there! The best source of guidance for PR'ers is that gleaned from discussions with colleagues at their "consistence training" meetings which, sadly, have been all to infrequent in recent years.

Q Interesting insight into the perceptions of peer reviewers, i.e. the importance of the presentation of the file. We no longer use paper files. When we did they were dog eared and battered from having been used, for periods sometimes spanning years. I had never previously considered that aesthetics might be an initial influence on outcome.

A preference for the layout of a paper file being sent for review was mentioned. Is there a preference/guide for the preferred layout of a digital file? i.e. Index? Cover sheet?

A Apologies for impression that paper files preferred to digital and that “aesthetics” were influential in themselves. Either format is fine. What I was trying to say was that, whether the file is on paper or digital, presentation and layout should be considered. I would certainly favour a “front sheet” (index/cover sheet – call it what you will) as a summary of who was involved; what was the case about and what happened.

A digital file can be laid out in just the same way that a paper file can – in the same way that a book, whether read from paper or on a Kindle, is presentationally identical. Follow the traditional principles:

- Correspondence
- Prosecution documents
- Defence documents
- Miscellaneous (incl. LA).

Q I found every part useful. It was an opportunity to read the mind of peer reviewers.

A Oh dear! What else did you find in there? 😊

## Useful Guidance

- 🔗 Extract from LAA website re: Audit via Peer Review:  
<https://www.gov.uk/guidance/legal-aid-agency-audits>
- 🔗 Independent PR Process Document June 2017:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/620110/independent-peer-review-process-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/620110/independent-peer-review-process-guidance.pdf)
- 🔗 Improving Your Quality: A guide to common issues identified through Peer Review:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/490047/peer-review-quality.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/490047/peer-review-quality.pdf)