Review of Disclosure

Procedure for claiming for payment for Review of Disclosure (RoD)

(i) For Applying for Approval in Principle

(ii) Claim for Payment

Introduction

The Office of the Director of Public Prosecutions (ODPP) pays for RoD when there is significant work to review documentation other than on a court date.

Where the ODPP does not deem there to have been a significant amount of disclosure in a trial, the Department may not pay for RoD, or may request additional information as to why the defence team are making an application.

(i) Applying for Approval in Principle

1. No claims for RoD will be processed without prior approval in principle from the Criminal Legal Aid Unit in the Department of Justice, Home Affairs and Migration.

2. The application should only be submitted and signed by the instructing solicitor, on behalf of all members on the defence team using this Approval in Principle form. Handwritten applications for sanction will not be accepted.

3. The application should include the following:
   3.1. A complete list of names and the role of each member of the defence team. Comprehensive details of volume and type of disclosure being reviewed in the initial application for sanction. Descriptions such as "disclosure, papers, hard-drive" will not suffice.

   3.2. An appendix provided to the defence team by the ODPP detailing and listing the specific discovery items in the disclosure, Criminal Legal Aid Certificate and Court Order assigning a Documentary Junior to a case where relevant.

   Identification of what disclosure will be reviewed and by whom. The disclosure should be divided between the reviewers ensuring there is no duplication of work. Where there is any duplication of work, a valid explanation must be

provided to the Department as to why such duplication was necessary. For example, if a defence team need to view 50 hours of CCTV, it would be appropriate for one member of the team to view the entirety of the footage and subsequently identify relevant parts with the other members of the team only reviewing these relevant parts.

4. If a solicitor's firm is representing multiple co-accused, all applications must be submitted at the same time to the Department for review collectively.

   (a) Where any technical experts, translators etc. are required for RoD, as is current practice, prior sanction must be obtained from the Department by submitting a sanction request to clawitness@justice.ie before their services can be engaged.

   (b) The Department of Justice, Home Affairs and Migration will not pay for work reviewing materials contained in the Book of Evidence.

5. In the event that additional disclosure is given to the defence team at a later date the instructing solicitor shall submit another application form detailing the nature of the **additional** disclosure, and who will be carrying out which parts of the review.

6. The Department of Justice, Home Affairs and Migration will consult with the ODPP to ascertain the disclosure documentation for the case in question.

7. The Department of Justice, Home Affairs and Migration will make the decision on whether to grant Approval in Principle for Review of Disclosure based on the information supplied, and information it may receive from the ODPP.

8. Applications shall be emailed to the Criminal Legal Aid Unit in the Department of Justice, Home Affairs and Migration at email: CLADisclosure@justice.ie with the subject heading "Review of Disclosure application – DPP v defendant name".

   Please note: Granting of Approval in Principle does not automatically mean hours applied for will be paid. Each claim for payment will be reviewed individually. Officials from the Department of Justice, Home Affairs and Migration may request additional proof of the work carried out on disclosure.

(ii) Claims for Payment

When Review of Disclosure has been completed and if prior approval in principle was granted by the Department, only then can a claim for payment be submitted. All claims for payment must be submitted within 6 months of the completion of a trial.

14. The instructing solicitor will be responsible for the collation and submission of the claims for payment on behalf of all those on the defence team conducting RoD.

15. Accordingly, all parties who are entitled to make a claim for RoD shall forward to the instructing solicitor their invoice containing all the relevant details.

16. For each individual conducting RoD, their claim shall itemise what specifically has been reviewed, the number of hours, dates and times involved for each item reviewed and the total number of hours.

17. The rates the Department pays for Review of Disclosure are as follows**(*)**: Solicitor - €85.50 per hour. Trial Senior Counsel - €127.40 per hour. Trial Junior Counsel - €85.50 per hour. Documentary Junior - €85.50 per hour.

(*) These rates apply for work carried out after publication of this document. Previous rates will apply to work carried out prior to publication of this document.

18. All payment claims shall be submitted electronically on the Review of Disclosure Claim for Payment form. Handwritten payment claims will not be accepted.

19. Claims for payment shall be emailed to the Criminal Legal Aid Unit in the Department of Justice, Home Affairs and Migration at email: CLADisclosure@justice.ie with the Subject Heading “Review of Disclosure payment claim – DPP v defendant name”.