

CDPP GENERAL CONTRACTUAL ARRANGEMENTS FOR COUNSEL ENGAGEMENTS

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A. INTRODUCTION

1. These general contractual arrangements apply to all counsel engagements by the Office of the Director of Public Prosecutions (CDPP) for the conduct of criminal prosecutions or related proceedings, in accordance with the relevant letter of engagement, as published at <https://www.cdpp.gov.au/counsel/briefings> at the time of entering into the engagement. They are in addition to the Briefing Terms and Conditions attached to the relevant letter of engagement.

A. GENERAL

2. Counsel is not an employee, partner or agent of the Commonwealth by virtue of the engagement. Counsel should not represent themselves as being an employee, partner or agent of the Commonwealth.
3. Counsel must comply with the [Commonwealth Supplier Code of Conduct](#) which outlines the Commonwealth's minimum expectations of suppliers while under contract with the Commonwealth. This code places a positive duty on counsel to take proactive action to prevent and discourage breaches of the code.
4. As a contracted service provider to the CDPP, counsel is subject to the [Privacy Act 1988 \(Cth\)](#) (*Privacy Act*) which requires compliance with the [Australian Privacy Principles](#) set out in the *Privacy Act*. Counsel must comply with the [CDPP Privacy Policy](#), which sets out how the CDPP complies with the *Privacy Act*.

B. APPLICABLE CDPP POLICIES

5. By accepting a brief from the CDPP, counsel commits to acting in accordance with and supporting the CDPP's compliance with the following policies:
 - 5.1. the [Prosecution Policy of the Commonwealth](#);
 - 5.2. the [Statement on Disclosure](#);
 - 5.3. the [Victims of Crime Policy](#);
 - 5.4. the [Right of Review Policy for Victims of Crime](#);
 - 5.5. the [Child Safety and Wellbeing Policy](#);
 - 5.6. the [Privacy Policy](#); and
 - 5.7. and any other legal policy or guidance document that the CDPP may, from time to time, provide to counsel or notify them about.
6. Counsel are requested to use any CDPP templates provided. The CDPP has a [Writing Style Guide](#) which contains information about specific terms and concepts that relate to the CDPP. Counsel are encouraged to familiarise themselves with this guide and apply it where practicable, subject to court rules, directions or practice notes.

C. TRAVEL ARRANGEMENTS

General

7. Counsel is responsible for all travel expenses incurred in relation to appearances within the metropolitan area of their principal chambers, being a location within 80 km of the central business district of counsel's primary chambers (**Primary Location**).
8. This Part applies where the CDPP briefs counsel to undertake work away from their Primary Location, in a location more than 80 km from counsel's primary chambers (**Secondary Location**). This includes appearing in court or attending for non-appearance purposes such as conducting a conference.
9. For required travel to a Secondary Location, the CDPP will also pay (either directly or by way of reimbursement) reasonable expenses associated with that travel.
10. Where counsel has more than one chambers, the CDPP will assume counsel are based in the city in which their principal chambers are located unless otherwise expressly agreed at the time of engagement.
11. The CDPP will not pay the costs of a partner and/or children accompanying counsel.

Travel loading

12. If counsel is required to travel to a Secondary Location, the CDPP will pay a fixed amount of \$550 (incl GST) for the first day of travel (including weekends), and \$165 (incl GST) for each additional day of travel (**Travel Loading**). In addition to Travel Loading, the CDPP will provide **separate reimbursement** for taxi/rideshare and public transport (see paragraphs 25 and 26 below), and may provide reimbursement for mileage (see [Private car use](#) below). The CDPP will be responsible for making separate arrangements (using approved government booking services) for air travel and accommodation (see [Air travel](#) and [Accommodation](#) below). No additional disbursements or expenses may be claimed arising from required travel beyond the fixed Travel Loading amounts.
13. For example:¹
 - 13.1. Counsel travels by car to a rural court that is 200 km from their Primary Location, appears for two hours, and returns home that same day. The CDPP will pay counsel a Half Daily Rate for the Court appearance, plus a Travel Loading of \$550 for the single day.
 - 13.2. Counsel travels by plane to a rural court that is 300 km from their Primary Location. Counsel flies on the Sunday night, appears for two full days on Monday and Tuesday, and two hours on Wednesday. Counsel flies home at 2:00 pm Wednesday afternoon. The CDPP will pay counsel their full Daily Rate for the appearances on Monday and Tuesday, and a Half Daily Rate for the appearance on Wednesday, plus a Travel Loading of \$1,045 for the four days (Sunday to Wednesday) (1 x \$550 + 3 x \$165).
 - 13.3. Counsel travels by plane from Melbourne to Sydney. Counsel flies on Monday night, appears for a full day on Tuesday, and flies home on Tuesday night. The CDPP will pay counsel their

¹ These examples do not include additional reimbursements or arrangements for taxi/rideshare, public transport, air travel or accommodation.

full Daily Rate for the Tuesday, plus a Travel Loading of \$715 for the two days (Monday and Tuesday) (1 x \$550 + 1 x \$165).

14. If counsel leaves for the Secondary Location earlier than necessary or delays return for reasons unconnected with work for the CDPP, the CDPP will not pay counsel additional travel loading.
15. To avoid doubt, the CDPP **will** pay Travel Loading for required travel to the following locations (including connections), as well as any locations further from the relevant metropolitan location than those listed:

| From | To | From | To |
|-----------------|--|-------------------|--|
| Adelaide | Port Pirie Victor Harbor | Hobart | Swansea Launceston Westbury |
| Brisbane | Beaudesert Gatton Landsborough Maroochydore Southport Toogoolawah Toowoomba Tweed Heads (NSW) | Melbourne | Ballarat Colac Bendigo Korumburra La Trobe Valley Morwell Shepparton Warragul |
| Cairns | Atherton Innisfail Mossman | Sydney | Bowral Gosford Katoomba Lithgow Newcastle Picton Wollongong Woy Woy |
| Canberra | Cooma Goulburn Wagga Wagga | Perth | Bunbury Collie Northam Narrogin |
| Darwin | Katherine | Townsville | Ayr Charters Towers Ingham Palm Island |

16. To avoid doubt, the CDPP **will not** pay Travel Loading for required travel to the following locations:

| From | To | From | To |
|-----------------|---|------------------|--|
| Adelaide | Mount Barker (SA) Murray Bridge Tanunda | Hobart | Huonville |
| Brisbane | Beenleigh Caboolture Ipswich | Melbourne | Geelong |
| Cairns | Mareeba | Sydney | Campbelltown Penrith Richmond Windsor |
| Canberra | Yass | Perth | Mandurah |

Remote travel

17. For very remote rural travel (distances greater than 500 km), the CDPP will pay an additional loading of \$220 (incl GST) for the first day of travel (**Remote Loading**).
18. For example, counsel from Sydney is briefed to appear in Bourke on a Monday. On Sunday Counsel flies to Dubbo and drives to Bourke, on Monday appears for a full day, on Tuesday drives to Dubbo and flies to Sydney. The CDPP will pay counsel their full Daily Rate for the Monday, plus a loading of \$1,100 for three days including the Remote Loading rate (Sunday – Tuesday) (1 x \$550 + 1 x \$220 + 2 x \$165).

Other travel expenses that are payable

19. In addition to Travel Loading and Remote Loading, the CDPP will also pay for or arrange the following additional expenses arising from travel.
20. Payments relating to travel expenses are in addition to fees paid for appearances, preparation and Travel Loading, and are not counted towards the maximum fee payable for the brief at the Daily Rate.

Air travel

21. The CDPP will make all arrangements for required air travel.
22. The CDPP is required by federal government domestic travel policy to select the flight with the lowest practical fare that meets the business needs and entitlements of the traveller. The CDPP is unable to take into account counsel's personal preference for a particular airline or aircraft type, access to airline lounges, or accumulating airline reward and loyalty points/status credits.
23. The CDPP will arrange airfares on the following basis:
 - 23.1. For junior counsel, the CDPP will book and pay for economy class flights. If the one-way flight is over five hours' duration, the CDPP will book and pay for a business class flight.
 - 23.2. For senior counsel, the CDPP will book and pay for business class flights for any flight sector that is over 90 minutes' duration. For any flight that is less than 90 minutes' duration, the CDPP will book and pay for an economy class flight.
24. Where counsel is required to attend a Secondary Location for multiple weeks, the CDPP will only cover the cost for the travel at the start and the end of the trip. If counsel wishes to travel between the Primary Location and a Secondary Location more regularly (for example, in long-running matters where counsel may wish to return home on the weekends), counsel are responsible for making their own arrangements for any additional return journeys at their own expense, unless negotiated and expressly agreed to by the CDPP.

Taxis and rideshare

25. The CDPP will reimburse counsel if they are reasonably required to use a taxi or rideshare service on arrival at a Secondary Location (for example, to travel to and from the airport to the court precinct/accommodation).

Public transport

26. The CDPP will reimburse counsel if they are reasonably required to use public transport to travel between a Primary and Secondary Location (for example a train from Melbourne to Shepparton, or the Sydney airport train to the Sydney CBD).

Private car use

27. For any travel to a Secondary Location, in appropriate circumstances, the CDPP may give written approval for Counsel to use their private car to travel to a Secondary Location. When approved, the CDPP will reimburse counsel at a rate equivalent to that set by the Australian Taxation Office for claiming a deduction for car expenses via the [cents per kilometre method](#).
28. The CDPP will only reimburse expenses on a per kilometre basis up to the cost of a reasonably comparable flight to the same location.

Accommodation

29. Where counsel is required to travel to a Secondary Location for two or more days, the CDPP will book and pay for accommodation up to a rate equivalent to the applicable Senior Executive Service accommodation rate (**Accommodation Rate**) for the relevant location.²
30. The CDPP will reimburse counsel who wish to book their own accommodation up to the applicable Accommodation Rate per night.
31. Where counsel arranges their own accommodation, they may only seek reimbursement for actual expenses. The CDPP will not pay any reimbursement where counsel makes other accommodation arrangements (for example, staying with friends or family). In addition, the CDPP will not reimburse any accommodation cancellation costs or losses arising out of travel arrangements that are no longer required for the purposes of the engagement (eg if the hearing date is vacated).

D. RECORDS MANAGEMENT REQUIREMENTS

Record keeping requirements

32. While undertaking work for the CDPP, counsel are required to maintain proper records relating to the engagement. Counsel must not transfer, permit the transfer of custody or ownership of, or allow the destruction of, any Commonwealth record (as defined in the [Archives Act 1983 \(Cth\)](#)) without the prior written consent of the CDPP.

Access to records and assistance

33. Counsel agrees to provide the CDPP with reasonable assistance to access documents and other records associated with the engagement, or any review of counsel's or the CDPP's performance of the engagement. This includes in connection with a request made under the [Freedom of Information Act 1982 \(Cth\)](#) or an audit or review by the Australian National Audit Office.
34. Unless such access is required for an urgent purpose, the CDPP will provide reasonable prior notice to counsel.

² The applicable rates are available on request.

35. If requested by counsel, the CDPP will reimburse counsel's substantiated reasonable cost for complying with the CDPP's request, unless the access is required for the purpose of a criminal investigation into counsel, or their support staff.

E. SECURITY AND SAFETY

36. While performing duties under the engagement (including any travel), counsel must:
- 36.1. take reasonable care for their own health and safety;
 - 36.2. take reasonable care that their actions or omissions do not adversely affect the health and safety of others;
 - 36.3. ensure they do not do anything that creates a risk, or increases an existing risk, to health and safety of themselves and others;
 - 36.4. comply with, so far as they are reasonably able to, any reasonable instructions from the CDPP that allow the CDPP to meet its obligations under the [Work Health and Safety Act 2011 \(Cth\)](#); and
 - 36.5. co-operate with reasonable policies and procedures notified by the CDPP relating to work health and safety at the workplace (as defined in the [Work Health and Safety Act 2011 \(Cth\)](#)).
37. When accessing any Commonwealth office, area or facility, counsel must comply with any security and safety requirements communicated to counsel by the CDPP, including those which counsel is (or should be) reasonably aware of. Counsel must ensure their support staff are aware of, and comply with, such security and safety requirements.
38. If directed by the CDPP, counsel and/or their support staff are required to undertake a security briefing and/or workplace site induction prior to being able to work inside a Commonwealth office, area or facility.
39. Counsel must report all hazards, incidents or injuries which occur in the course of the engagement as soon as reasonably practicable (within 24 hours). This includes any event that has affected (or has the potential to affect) any CDPP worker or visitor in a physical or psychological manner. Counsel should make reports to whs@cdpp.gov.au.

F. INFORMATION SECURITY REQUIREMENTS

General

40. Counsel must be aware of, and comply with, their security obligations as contractors to a Commonwealth entity. These obligations apply to all information held by and/or created by counsel and their support staff relating to the engagement, in addition to the information processing systems on which they work.

Australian Government Protective Security Policy Framework

41. The following requirements are required for compliance with the Australian Government [Protective Security Policy Framework \(PSPF\)](#) which underpins the CDPP's policies and procedures for the protection of information in both electronic and paper-based formats.

42. Counsel must be familiar with the security classification system prescribed in [Part 9.2 of the PSPF Guideline](#), which applies to all CDPP documents, including those held or created by counsel in the course of their engagement.
43. By way of example, the following materials are classified at a **minimum** of “OFFICIAL”:
 - 43.1. the brief of evidence and any supporting records provided to counsel;
 - 43.2. any formal record counsel create in the course of their CDPP engagement;
 - 43.3. any correspondence sent to or from CDPP staff members, investigators, defence representatives or the Court; and
 - 43.4. working documents created by counsel in the course of their CDPP engagement.
44. Those materials may also be classified as OFFICIAL: SENSITIVE depending on the circumstances. For example, any material for which there is a likely claim of privilege is classified as OFFICIAL: SENSITIVE.
45. However, that classification may be different or varied if the record contains legal advice or is otherwise subject to a higher security classification, for example because of its content.
46. This Part applies **only** to records that are classified as OFFICIAL or OFFICIAL: SENSITIVE. If counsel is engaged in a matter involving information that is classified as PROTECTED or above, additional requirements under the PSPF apply and the CDPP will make separate arrangements with counsel, in addition to these terms and conditions.
47. Counsel must have appropriate security measures in place to minimise risk of loss, destruction or unauthorised access to CDPP information, whether in electronic or paper format.
48. Counsel must maintain a computing environment suitably secured for handling material provided by the CDPP, and that their Information and Communications Technology (**ICT**) systems are adequately protected from cyber threats. This includes using software security (firewalls and antivirus software) that is kept up to date
49. The CDPP will not provide additional software to secure counsel’s ICT systems. If counsel uses cloud-based storage for the records they create and receive in the course of the engagement, that cloud-based storage must meet minimum security requirements. The [Commonwealth Hosting Certification Framework](#) publishes a list of certified providers.
50. Counsel must ensure relevant data is appropriately backed up and recoverable. The CDPP is not responsible for data loss due to inadequate or faulty system backups.
51. Counsel must ensure they, and their support staff, are aware of good security practices in handling materials supplied by the CDPP both in paper format and in electronic format held on its ICT systems. This includes:
 - 51.1. using strong passwords or passphrases and changing them on a regular basis; and
 - 51.2. considering privacy and security when working on mobile devices outside of the workplace.

52. Counsel must immediately notify the CDPP on discovery of any inadvertent or unauthorised access, use, modification or disclosure of information, data, documentary materials or records, whether in paper or electronic format.

G. CONFIDENTIALITY, FRAUD AND CORRUPTION

Personal Information

53. Counsel agrees to provide the CDPP with relevant information (including personal information) relating to counsel, or their support staff, for the purposes of preventing, detecting, investigating or dealing with any security incident or fraud relating to an engagement.
54. When providing personal information of a natural person under this section, the CDPP warrants it will have obtained the consent of, or provided reasonable notification to, the person in accordance with the *Privacy Act*.
55. Nothing in these clauses limits or derogates from the CDPP's obligations under the *Privacy Act*.

Confidential information

56. The CDPP acknowledges that counsel is bound by the applicable confidentiality rules prescribed by the conduct rules in the relevant jurisdiction.
57. The CDPP may at any time require counsel to arrange for counsel's support staff to give a written undertaking relating to non-disclosure of the CDPP's confidential information in a form acceptable to the CDPP.
58. Nothing in these terms and conditions prevents the CDPP from disclosing information for the purposes of managing the engagement or if it is required to disclose the information by law, a Minister or a House or Committee of Parliament, or for accountability or reporting purposes.

Offences and fraud

59. Counsel must ensure that their support staff engaged in connection with this engagement are aware of the information contained in this Part.
60. Counsel acknowledges that the giving of false or misleading information to the Commonwealth is a serious offence under s 137.1 of the [Criminal Code \(Cth\)](#).
61. Counsel must take all reasonable steps to prevent and detect fraud in relation to the performance of this engagement. Counsel acknowledges the occurrence of fraud will constitute a breach of this engagement.
62. If an investigation finds that counsel or counsel's support staff have committed fraud, or counsel has failed to take reasonable steps to prevent fraud, counsel must reimburse or compensate the CDPP in full.

Public Interest Disclosure

63. Counsel should be familiar with the [Public Interest Disclosure Act 2013 \(Cth\)](#) (*PID Act*), which provides that public officials, including service providers under a Commonwealth contract, who

suspect wrongdoing within the Commonwealth public sector may raise their concerns under the *PID Act*.³

National Anti-Corruption Commission Act 2022 (Cth)

64. Counsel acknowledges in accepting this engagement, they are a contracted service provider for the purposes of the [National Anti-Corruption Commission Act 2022 \(Cth\)](#) (*NACC Act*).
65. Counsel must comply with any reasonable request, policy or direction issued by the CDPP and otherwise cooperate with the CDPP in relation to any action taken by the CDPP required or authorised by the *NACC Act*.

³ Information for disclosers is available at <https://www.ombudsman.gov.au/Our-responsibilities/making-a-disclosure>.