



**Five Pump
Court Chambers**

GUIDE TO DIRECT ACCESS

Thank you for instructing 5 Pump Court. We look forward to working with you.

This guide sets out some of the most frequently asked questions about direct access work. If you have any further questions, please do not hesitate to contact us and we will be happy to discuss the process with you.

Who will carry out your work?

We will agree which of our barristers will carry out your work. You may know which barrister you want to work with - if you do, please contact their Practice Manager directly to check their availability and cost. You can find out which Practice Manager to contact by checking the barrister's profile on our website (www.5pumpcourt.com/people) or you can call 020 7353 2532 or email clerks@5pumpcourt.com

If you are not sure which barrister to use, we will recommend a selection for you to choose from based on experience, availability and cost. You can check the profiles of those people who are recommended on our website and choose the one you feel will be best suited to deal with your case.

The barrister you choose will have suitable expertise and experience to undertake the work and will have undertaken direct access training. If for any reason they cannot carry out all the work you require, or if they want to suggest that another barrister carries out the work for you, we will let you know and will explain the reasons for it. However, another barrister will not carry out work for you unless and until you have agreed to this.

There may be times when professional commitments clash, for example your barrister may already have a court hearing booked in for another client on the day of your hearing. If your barrister identifies a possible clash of commitments which means that they are unable to work on your case then we will do our best to:

- Warn you as soon as possible;
- Suggest the name of another barrister within Chambers (of a suitable level of seniority and expertise) who is willing to accept your case under the same terms as this agreement. You would then need to decide whether you want to instruct that barrister.
- Help you find a barrister from other Chambers if there is not a suitable barrister within Chambers, or if you do not want this Chambers to continue working on your case.
- Discuss with you the costs of using another barrister.

Please note that our barristers are all self-employed, and not employed by Chambers.

Contacting your barrister

Once we have agreed which barrister you are using, we will let you have their contact details so that you can deal with them directly. They will respond to you as soon as they can but please note that our barristers are frequently in court, and that can sometimes mean that they are unavailable to other clients for a day or several days in a row. If you are not able to contact your barrister directly, you are welcome to leave a message with their Practice Manager, and the barrister will respond as soon as possible.

What work will be carried out?

The work to be carried out will be agreed in advance and set out to you in a letter which will also include details of the fee. Further details about fees are set out below.

If subsequent work is needed in your case (including further court appearances), there will need to be another agreement set out in another letter. We cannot guarantee that the same barrister will be available for all court hearings, but will try our best to ensure that they are.

The range of work which barristers can do

Barristers advise on the law, draft documents for clients to use and appear on behalf of their client before courts or other tribunals. Barristers do not handle client money or undertake the organisation or management of a case proceeding through a court.

Here are some examples of work which a barrister can and cannot carry out for you:

- A barrister can draft letters on your behalf but cannot send these from Chambers or on Chambers letterheaded paper - letters will normally have to be sent from you directly.
- A barrister can appear on your behalf to argue your case at a court or tribunal.
- A barrister can help you to draft a witness statement if one is required in your case, based on information which you give to them. They may also be able to help finalise a witness statement from another person based on the information that person has provided.
- A barrister can advise you on the need for expert evidence and on the choice of a suitable expert but cannot instruct an expert on your behalf.
- A barrister can draft formal court documents for you, but cannot serve court documents on other parties (send them to other parties) or file them at court on your behalf. You will need to take responsibility for serving formal court documents on other parties and filing them at court.
- A barrister can represent you in a court hearing, but cannot go on the court record or provide their address to the court as the 'address for service' of documents (the address which you are required to provide to the court for other parties or the court to send documents to you). You will be listed on the court record as a litigant in person. You will need to provide your own address as the 'address for service' of documents sent to you by the court and other parties.

If you are instructing one of our barristers without a solicitor, you must be sure that:

- You are able to do whatever is necessary for those matters that we cannot deal with; or
- You have made an arrangement with another person of suitable competence and experience to provide these services for you.

Your barrister will assess the work which needs to be done on your case. If they consider that a solicitor is required, they will advise you of that.

Circumstances when we may not be able to act for you

All barristers must follow the Code of Conduct in the BSB Handbook which is available here: <https://www.barstandardsboard.org.uk/the-bsb-handbook.html> The Code of Conduct requires barristers to consider whether a solicitor needs to be instructed in the interests of each client. If there comes a point at which a direct access barrister considers you need a solicitor, they will advise you of that. They will no longer be able to act for you without the involvement of a solicitor past that point. We will give you as much notice as possible if this is the situation and may be able to help you to find a solicitor with suitable expertise.

How much will it cost?

We usually agree a fixed fee for the work that is to be carried out (where the work is a hearing, this is called a brief fee). You will be sent a letter confirming what work has been agreed and what the cost will be. VAT will be charged on the agreed fee. If further work is required (which might include another hearing in the case), we will make a further agreement with you about that work and the fee. Please note that we require payment in advance for all direct access work.

The level of the fee charged will depend on a number of factors including:

- The amount of work required (including the length of any hearing and the amount of preparation work required for that hearing);
- The level of experience of the barrister you are instructing;
- The complexity and urgency of the work;
- Whether travel is required.

If your barrister has to travel to court, we will add the cost of the train fare to your fees or a mileage rate if they travel by car. If they are required to stay overnight (for example for a hearing of more than one day outside London) we will also add the cost of the hotel and meals to your fees.

Occasionally, we will charge on the basis of an hourly rate rather than a fixed fee. We will try to give an estimate of the number of hours required, but this is not always easy to predict and may change as the work is carried out.

The level of the fee or hourly rate charged will depend on a number of factors including:

- The amount of work required;
- The level of experience of the barrister you are instructing; and
- The complexity and urgency of the work.

If you are instructing a barrister to represent you at a trial which will last for more than one day, then we will agree a brief fee for the first day which will include all preparation and attendance at court on the first day, and a refresher fee for subsequent days. Payment of both brief fees and refreshers is required before Counsel undertakes significant preparation work for the hearing.

We occasionally act under the terms of Conditional Fee Agreements (also known as no win no fee agreements) but only where a solicitor is involved. If you want your barrister to act on a no win no fee basis, you will need to instruct a solicitor rather than using direct access.

We require payment of fees in advance. Payment can be made by bank transfer or credit card (we do not accept American Express). If payment is not made, and fees remain outstanding 30 days after we send you a fee note, then interest will be payable on the outstanding amount at 2% above the Barclays Bank base rate.

Please note that if you are instructing a barrister to represent you at a hearing, then you must sign and return the terms of business and pay our fees 14 days in advance of that hearing (unless you agree something different with us). If this is not done, we reserve the right to cancel your booking.

Timescales

It is very difficult to give accurate timescales for cases because a lot will depend on the attitude of the other side, and delays which might be caused by the courts themselves.

There are strict deadlines in relation to when a case has to be started, and the steps which have to be taken in a case. The court may make an order which sets out a timetable for a case, and the dates put forward have to be complied with. You must make a note of the dates that you are given to take different steps by and ensure that you comply with them.

Legal Aid

It is possible that you may be eligible for legal aid. However, barristers cannot do legal aid work unless they have been instructed by a solicitor. If you want to talk to someone in more detail about getting legal aid, you should contact a solicitor who does legal aid work. They will be able to advise you about the availability of legal aid for your case. You can find out more information at <https://www.gov.uk/legal-aid> If you want to find out whether you are likely to be eligible for legal aid, you can check at <https://www.gov.uk/check-legal-aid>

If you do not qualify for legal aid, you might like to consider whether you have any insurance policies that might cover your legal fees, or if the fees may be paid by someone else, for example a trade union.

If you are eligible for legal aid, our barristers can still advise and represent you if:

- You make an informed decision not to seek legal aid;
- You make an application for legal aid but it is rejected;
- You decide not to take up an offer of legal aid (perhaps because you consider that the level of contribution you will be required to make is too much).

We will ask you to sign to confirm that you have decided not to seek or accept legal aid if it appears that you would be eligible for it.

Conflicts of interest

We are obliged to carry out conflict checks within Chambers before we can confirm that our barristers can act in a case. We ask that the full names of each party involved in the case are provided as soon as possible so that we can undertake those checks. If Counsel is not able to act, then we will confirm that to you as soon as possible.

There are times when barristers from this Chambers will act for more than one party involved in a case. This is not unusual, and we have strict procedures in place to deal with the situation so that we can be sure no confidential information is given to the wrong barrister.

We will notify you if any other member of Chambers is acting for another party in your case and will explain how our ethical wall policy will apply. If you have any concerns, you are welcome to contact the Practice Manager dealing with the case, or our Chambers Director.

Cancellation

You have the right to cancel the contract with us before any work is carried out. You will lose the right to cancel this contract if the services have been performed at your express request within the cancellation period. If the work has been partially completed, we will charge a fee which reflects the amount of work that has been undertaken.

Documents

Please do not send us original documents. If original documents are provided, they will be copied and returned to you. We may make a reasonable charge to you for producing photocopies. Our barristers keep copies of any documents provided for their professional records in accordance with our Privacy Notice.

General obligations

The information which you give to your barrister will be received in professional confidence. This means it will be kept confidential unless you agree that it can be shared. The only exception is that statutory and other legal requirements may mean that your barrister has to disclose your information to governmental or other regulatory authorities, without your consent and without telling you that this has been done.

Complaints

We hope that you will be pleased with the service provided. However, if there is any problem please let us know as soon as possible so that we can put things right. You are welcome to email our Chambers Director at clarekelly@5pumpcourt.com or our Practice Managers at clerks@5pumpcourt.com

If this does not solve the problem, you should follow our Complaints Procedure (details are available on request and can be found on our website). The first stage of the process is to make a complaint to Chambers so that we can investigate.

We hope that this has answered your questions, but if you would like to know anything else about direct access, please don't hesitate to contact us.