



Neutral Citation No. [2026] EWHC 2246 (SCCO)

Case No: 13XC0001525

SCCO Reference: SC-2026-CRI-000044

IN THE HIGH COURT OF JUSTICE
SENIOR COURTS COSTS OFFICE

Thomas More Building
Royal Courts of Justice
London, WC2A 2LL

Date: 28 August 2026

Before:

COSTS JUDGE LEONARD

R

v

MAFUNE

**Judgment on Appeal under Regulation 29 of the Criminal Legal Aid (Remuneration)
Regulations 2013**

Appellant: **Kamrans Solicitors**

This appeal has been successful for the reasons set out below.

The appropriate additional payment, to which should be added the sum of £500 (exclusive of VAT) for costs and the £100 paid on appeal, should accordingly be made to the Applicant.

COSTS JUDGE LEONARD

1. This appeal concerns a claim for payment under Schedule 2 to the Criminal Legal Aid (Remuneration) Regulations 2013. The relevant Representation Order was made on 24 January 2025, and the 2013 Regulations apply as in force on that date.
2. Defence litigators such as the Appellant will be paid for their work by reference to the Graduated Fee provisions of Schedule 2. The Graduated Fee due is calculated, along with other factors, by reference to the number of served Pages of Prosecution Evidence (“PPE”). The PPE count is subject to a cap, which for present purposes is 10,000 pages, but it is open to litigators, in addition to the Graduated fee calculated by reference to the PPE count, to claim an additional payment for “special preparation”.
3. The definition of “pages of prosecution evidence” (“PPE”) is to be found at paragraph 1, subparagraphs (2)-(5) of Schedule 2:

(2) For the purposes of this Schedule, the number of pages of prosecution evidence served on the court must be determined in accordance with subparagraphs (3) to (5).

(3) The number of pages of prosecution evidence includes all—

- (a) witness statements;
- (b) documentary and pictorial exhibits;
- (c) records of interviews with the assisted person; and
- (d) records of interviews with other defendants,

which form part of the served prosecution documents or which are included in any notice of additional evidence.

(4) Subject to sub-paragraph (5), a document served by the prosecution in electronic form is included in the number of pages of prosecution evidence.

(5) A documentary or pictorial exhibit which—

- (a) has been served by the prosecution in electronic form; and
- (b) has never existed in paper form,

is not included within the number of pages of prosecution evidence unless the appropriate officer decides that it would be appropriate to include it in the pages of prosecution evidence taking into account the nature of the document and any other relevant circumstances.”

4. The special preparation provisions are to be found at paragraph 20 of Schedule 2:

“20.— Fees for special preparation

(1) This paragraph applies in any case on indictment in the Crown Court—

- (a) where a documentary or pictorial exhibit is served by the prosecution in electronic form and—

- (i) the exhibit has never existed in paper form; and
- (ii) the appropriate officer does not consider it appropriate to include the exhibit in the pages of prosecution evidence; or
- (b) ... where the number of pages of prosecution evidence, as so defined, exceeds 10,000,

and the appropriate officer considers it reasonable to make a payment in excess of the fee payable under Part 2.

(2) Where this paragraph applies, a special preparation fee may be paid, in addition to the fee payable under Part 2.

(3) The amount of the special preparation fee must be calculated from the number of hours which the appropriate officer considers reasonable—

- (a) where sub-paragraph (1)(a) applies, to view the prosecution evidence; and

- (b) where sub-paragraph (1)(b) applies, to read the excess pages,

and in each case using the rates specified...

(4) A litigator claiming a special preparation fee must supply such information and documents as may be required by the appropriate officer in support of the claim.

(5) In determining a claim under this paragraph, the appropriate officer must take into account all the relevant circumstances of the case.”

The Background

5. The information available to me as to the case against the Defendant is limited. I do not, for example, seem to have a copy of the indictment. I have taken most of my information on the background from the Appellant’s original special preparation claim, as submitted to the Legal Aid Agency (“LAA”)’s Determining Officer.
6. The Appellant represented Lawrence Mafune (“the Defendant”) in the Crown Court at Leeds. The case against the Defendant was that he had, in conjunction with one co-defendant, been involved in the supply of Class A and Class B drugs (there would also appear to have been a charge of taking a vehicle without consent).
7. The Defendant had been observed by the police driving his co-defendant to an address to which the co-defendant appeared to have delivered a large quantity of cannabis, found on a search of the premises. Two telephones, an iPhone and a Samsung phone, were seized and the Crown relied upon messaging extracts from those phones which included further evidence of dealing in cocaine. The Crown served comprehensive telephone download reports, extending to the full content of each phone, in spreadsheet format only: HC-220125-01 (the iPhone) and JAH-220125 (the Samsung).

8. The Defendant admitted to supplying Class B drugs, but denied doing so in conjunction with his co-defendant. He denied supplying cocaine. He said that an analysis of the messages on his phones would show that there was no evidence of either. In due course he admitted to supplying cocaine over a period which, as an analysis of the data demonstrated, was shorter than that alleged by the Crown.
9. According to the Written Reasons supplied by the Determining Officer under Regulation 28(8) of the 2013 Regulations, the non-electronic PPE count in this case was 871 (Mr Barton, counsel for the Appellant, supplied a slightly different figure from the DCS. but issue was not taken on this appeal with the Determining Officer's figure, so I will use that).
10. It was accepted that HC-220125-01 and JAH-220125 took the total PPE count, including electronic PPE, to in excess of 10,000, and the Appellant received a Graduated Fee calculated on the basis of a PPE count of 10,000. It would follow that 9,129 pages of electronic evidence were included within the PPE count for the purposes of calculating the graduated fee.
11. It is the Appellant's special preparation claim, under Schedule 2 paragraph 20(b), for consideration of the electronic PPE in excess of 10,000 pages, that is in issue in this appeal.

The Criteria

12. The first step in considering a special preparation claim under paragraph 20(1)(b) will normally be to determine the total PPE count, including insofar as appropriate electronic PPE. Otherwise, it will not be possible to identify the number of PPE in excess of 10,000, and to judge against that number the reasonableness of the of special preparation claim.
13. I will refer briefly to three key authorities on determining the PPE count where electronic evidence is involved. The first is the judgment of Holroyde J (as he then was) in *Lord Chancellor v SVS Solicitors* [2017] EWHC 1045 (QB). The focus of that judgment was on service, but whilst emphasising that decisions must be case-specific Holroyde J identified, at paragraph 50(viii) of his judgement, a key criterion for the inclusion of served electronic evidence within the PPE count. That was whether it was of central importance to the trial and not merely helpful or even important to the defence.
14. The second is the judgment of Mrs Justice Nicola Davies DBE (as she then was) in *Lord Chancellor v Edward Hayes LLP & Anor* [2017] EWHC 138 (QB).
15. Davies J concluded that, given the importance to the prosecution in that particular case of text messages, it was incumbent upon the defence team to look at all the underlying data from which the prosecution had extracted the evidence upon which it relied. The defence needed to test the veracity of text messages, to assess the context in which they were sent, to extrapolate any data that was relevant to the messages relied on by the Crown, and to check the accuracy of the data finally relied on by the Crown. The underlying data should accordingly (although never formally served) be included

within the PPE count.

16. It follows that where key prosecution evidence is extracted from a particular category of electronic data, one would normally expect all of the electronic evidence in that category (in *Hayes*, messaging data) to be included.
17. There is one important qualification to that principle, explained in the decision of Cotter J in *The Lord Chancellor v Lam & Meerbux Solicitors* [2023] EWHC 1186 (KB).
18. In order to explain the application of *The Lord Chancellor v Lam & Meerbux Solicitors* in this case, I should mention that spreadsheets are designed for use on screen rather than on paper. Typically they comprise a collection of individual “worksheets” showing bodies of data in rows and columns, and they offer multiple options for the on-screen organisation and presentation of that data.
19. In spreadsheet telephone download reports discrete bodies of data, for example messaging or call records, are typically organised into separate worksheets, identified and accessed by a “tab” at the bottom of the screen.
20. Because spreadsheets are designed for use on screen rather than on paper, deriving a page count from a spreadsheet is a notoriously unreliable process. The starting point is usually to view a print preview and to note the number of resulting “pages”, but that number can change dramatically depending upon the way in which the data is organised and presented.
21. It is also typical of evidence served in spreadsheet form that a printout will produce large numbers of blank pages, pages containing scraps of data and pages wholly or partly comprising obviously irrelevant material. In such cases, as a Cotter J has made clear, it is appropriate to reduce the PPE count to take account of that, applying a principle of “sensible approximation”.

The Claim

22. The scope of this Appeal is less clear to me than it might be. According to the original special preparation claim on form LSP2, as submitted to the LAA, The Appellant claimed for 342 hours and 36 minutes of Grade B time reviewing HC-220125-01 and JAH-220125, with a total of 199,425 pages, limited to “the Chats tabs”.
23. The worklogs produced in support of this appeal, however, record that the relevant fee earner (Mr Akbar) spent 342 hours and 36 minutes on HC-220125-01 alone, reviewing 199,425 pages of “Chats” (one of 12 worksheets in spreadsheet HC-220125-01).
24. Separately recorded are 32 hours 48 minutes working on the “Applications Usage” worksheet on JAH-220125, claimed at 14,376 pages, and another 63 hours 24 minutes on the “Chats” worksheet of JAH-220125, claimed at 12,654 pages.
25. Judging from the correspondence the Appellant does appear to wish to claim for time spent on JAH-220125, including time on the “Applications Usage” worksheet, but the claim as submitted to the LAA seems always to have been limited to 342 hours and 36 minutes on 199,425 pages of “Chats” alone.

The Determining Officer's Decision

26. The Determining Officer made no mention of these apparent anomalies in the Appellant's special preparation claim. Taking the total claim (correctly) to be for 342 hours and 36 minutes of special preparation, he appears to have taken a broad approach based upon the proposition that "Regulation 20(3) requires payment only for hours reasonably required to review non-PPE electronic exhibits... only non-PPE elements can properly fall within the special preparation provisions".
27. He also appears to have taken the view that where any part of a given body of electronic evidence has been allowed within the PPE count, none of it could also found a claim for special preparation.
28. He has accordingly allowed 60 hours' work for reviewing "non-PPE" "residual content".
29. I have difficulty in understanding the logic of this approach. The Determining Officer appears to have overlooked paragraph 20(1)(b) of Schedule 2.
30. Nor has this ever been a claim for reviewing "non-PPE residual content". It is, expressly, a special preparation claim, as expressly provided for under paragraphs 20(1)(b) and 20(3) of Schedule 2, for the review of electronic PPE where the total PPE count exceeds 10,000 pages.
31. It is to be expected that some of the electronic evidence in question will have been included within the PPE count for the purpose of calculating the Graduated Fee due to the Appellant, up to the 10,000 page limit. The point of assessing a claim under paragraph 20(1)(b) of Schedule 2 is to assess the work reasonably required to review PPE in excess of that.

Conclusions

32. I cannot allow on this appeal more than 342 hours and 36 minutes of special preparation, because that has from the outset been the limit of the claim that has been made.
33. Similarly, I cannot allow anything for reviewing the "Applications Usage" worksheet in spreadsheet JAH-220125, because it does not seem to have been part of the original claim for payment.
34. Quite apart from that, I have seen nothing to suggest that any extracts from the "Applications Usage" data were ever relied upon by the Crown, nor have I any other reason to suppose that any part of that data was of central importance to the case. It may have been of interest to the Defence, but that is not the test for inclusion within the PPE count. As the "Applications Usage" data does not qualify as PPE, it could not in any event have founded a claim under paragraph 20 (1)(b) of Schedule 2.
35. As for "Chats", it is accepted, consistently with *Hayes*, that this body of data falls within the PPE. Provided the total claim stays within the necessary limit of 342 hours and 36

minutes, I see no reason to exclude consideration of the “Chats” worksheet in JAH-220125.

36. I have both spreadsheets, and by using some basic filtering techniques to remove, for example, “messages” with no content and obviously irrelevant data, the “Chats” page count on HC-220125-01, as shown on a print preview, comes down to 61,800 pages. Using the same basic filtering techniques to the “Chats” data on JAH-220125 I have derived a page count of 4,512 pages. This gives a total of 66,312 “pages” of “Chats”, as reviewed by the Appellant.
37. If one deducts from that the 9,129 pages included within the PPE count, we have a claim for 342 hours and 36 minutes for reviewing (by my count) 57,183 pages of PPE in excess of the 10,000 page cap.
38. Whilst special preparation claims are paid for time reasonably spent, not on a “minutes per page” basis, it is useful to note by way of cross-check that this comes to less than half a minute per page. Even given that it is possible (as I have found) to scroll through the data quite quickly, and even taking into account the difficulty of deriving an accurate page count for a spreadsheet, that does not seem to me to be an unreasonable figure. Obviously the total claim is large, but so was the body of data to be reviewed.
39. For those reasons, this appeal succeeds. The Appellant should be remunerated for 342 hours and 36 minutes of special preparation.