

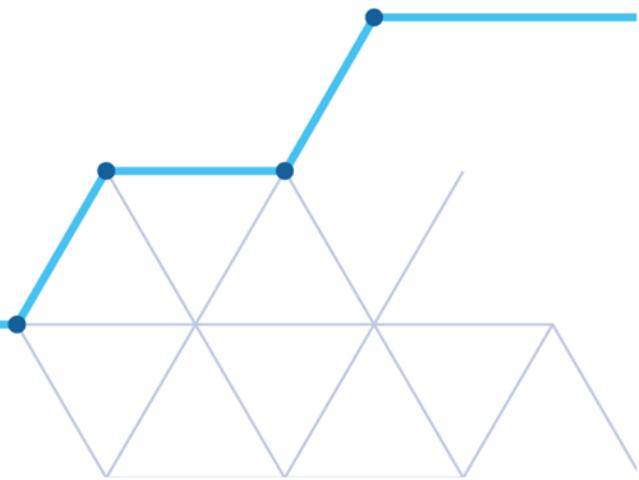


Ministry  
of Justice

# Amending the Advocates' Graduated Fee Scheme: Government Response

This response is published on 10 December 2018

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Ministry  
of Justice

## **Amending the Advocates' Graduated Fee Scheme: Government Response**

**A consultation response produced by the Ministry of Justice. It is also available at:**

<https://consult.justice.gov.uk/digital-communications/amending-the-advocates-graduated-fee-scheme>

## About this consultation response

**To:** This consultation response is aimed at anyone with an interest in the remuneration of Crown Court advocates in England and Wales. This will include, but is not limited to, members of the legal profession and their professional representative bodies, and members of the judiciary.

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An Impact Assessment, Equalities Statement, and Welsh language summary are available at:

<https://consult.justice.gov.uk/digital-communications/amending-the-advocates-graduated-fee-scheme>

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## Ministerial foreword

I am grateful for the relentless hard work of criminal defence advocates in ensuring that justice gets done. Crown Court defence advocates – both barristers and solicitor advocates – are critical to making our criminal justice system work and to upholding the rule of law.

The reformed Advocates' Graduated Fee Scheme (AGFS) implemented in April caused concern for many within the professions. We listened very carefully to these concerns, publishing a consultation on 31 August to allocate an additional £15m of spending to the scheme against 2016-17 AGFS spend.

The proposals that we set out in the consultation were designed to better pay for the work done by criminal defence advocates. Whilst respondents broadly welcomed these proposals, there were continuing concerns about elements of the scheme.

We greatly value the views of the professions and are making a number of changes to the scheme consulted on in response. These changes mean that we are allocating a further £8m of spending to the AGFS, bringing the overall level of additional spending on the scheme to around £23m against 2016-17 AGFS spend.

We also heard concerns about the timescale for implementation. We are therefore bringing forward our proposed 1% increase to fees to the date the new scheme comes into force. This will allow advocates to benefit from this change much sooner.

I know there will be continuing concerns about the structure of the AGFS, as well as broader concerns about payment for "work done" under the scheme. We recognise that there is scope to further improve the way criminal advocates are paid and we are committed to considering these concerns more fully. However, doing so will take time and we want to ensure that advocates can benefit from the enhanced fees set out in this response as soon as possible.

In the August consultation, we set out our plans to review the AGFS. In a change to these plans, we now intend to launch a broader review of criminal legal aid fee schemes in January 2019. In light of the Justice Select Committee's recent reports on criminal legal aid and disclosure in criminal cases, the Attorney General's review of disclosure, and broader changes across the criminal justice system, we believe it is the right time to think more widely about the future of criminal legal aid fee schemes. As I hope practitioners will agree, continuing concerns about the AGFS cannot be considered in isolation.

We must not underestimate the scale of this task. It will require patience. It will require the collection of new data and evidence. It will require us to think beyond "quick fixes". And most importantly, it will require the Government and legal professions to work together.

Finally, I want to thank all those who responded for their constructive engagement with the consultation. I hope you agree that the changes we have made demonstrate that your views really have made a difference.

**Lucy Frazer QC MP**  
**Parliamentary Under-Secretary of State for Justice**

## Executive summary

1. This is the Government response to the consultation on proposals for amending the Advocates' Graduated Fee Scheme (AGFS), which was published on 31 August 2018 and closed on 12 October 2018. The Government received 156 responses.
2. On 1 April 2018, following a full public consultation, the Government implemented a reformed AGFS. This was the tenth version of the AGFS or "Scheme 10". Following the publication of our Scheme 10 consultation response, practitioners from across the professions expressed concerns that fees within the scheme are too low to properly remunerate "work done". These concerns led to many barristers, and some solicitor advocates, refusing to accept instructions for work under Scheme 10.
3. We listened very carefully to these concerns, launching a consultation on a proposed "Scheme 11" on 31 August 2018. This consultation set out proposals to allocate an additional £15m of spending to the scheme, using 2016-17 AGFS data on caseload and spend as the "baseline" for the proposed changes. Through a range of targeted fee increases, the proposed Scheme 11 was designed to more fairly remunerate the "work done" by Crown Court defence advocates.
4. Whilst broadly welcoming the proposals put forward at consultation, respondents generally felt that the proposed Scheme 11 did not meet this objective. Concerns focused on:
  - the level of fees in the proposed Scheme 11, particularly for junior advocates, with respondents calling for further increases to fees;
  - a perceived delay in implementing Scheme 11, with consultees requesting compensation to mitigate the effects of this delay;
  - the structure of the proposed Scheme 11, with consultees proposing several amendments to the underpinning architecture of the AGFS; and
  - the need to apply Scheme 11 fees to Scheme 10 cases.
5. Having carefully considered consultees' concerns, we are proceeding with an amended version of the proposals set out at consultation. To address concerns about the level of fees and the delay to implementation, we are:
  - spending a further £8m on the scheme against the "baseline" of 2016-17 data, focused on better remunerating the "work done" by more junior advocates, bringing the estimated total additional spending on the scheme to around £23m more than actual spend on 2016-17 cases; and
  - bringing forward the proposed 1% increase to all fees from April 2019 to the coming into force date of Scheme 11, meaning that advocates benefit from this change sooner than originally proposed.

6. While we believe these changes will help us better meet our consultation objective of more fairly remunerating “work done”, we recognise that these changes do not address some of the wider concerns raised by consultees.
7. With regards to concerns about the structure of the AGFS – as well as more general concerns about payment for “work done” under the scheme – the Government recognises that there is scope to further improve the way we pay Crown Court defence advocates to better reflect the work they do. However, these concerns require further assessment, including the collection of new evidence and data. Given this, we will be considering these concerns as part of the review of the scheme.
8. In the August consultation, we set out our intent to start a review of the AGFS 18-24 months after the cessation of action by the Criminal Bar in June 2018. In a change to these plans, the Government now intends to begin a broader review of criminal legal aid fee schemes beginning in January 2019. This is in response to consultees’ outstanding concerns, the Justice Select Committee’s recent reports on criminal legal aid and disclosure in criminal cases, the Attorney General’s review of disclosure, and broader changes across the justice system including the modernisation work being undertaken by the Home Office, police, Crown Prosecution Service (CPS) and Her Majesty’s Courts and Tribunals Service (HMCTS). The Government believes the time is right for a more holistic review of criminal legal aid fee schemes.
9. The first phase will be a design phase to determine the scope and format of the review. As part of the design phase, we will be engaging the professions. We will also be carefully considering the wider concerns about the AGFS raised in response to the consultation.
10. In response to some consultees calling for Scheme 11 fees to apply to Scheme 10 cases, we consulted on the basis that any determination for criminal legal aid made after the date the new regulations come into force will be afforded the increase in fees. This is in line with the previous amending regulations on AGFS that came into force on 1 April 2018. It is also long-standing practice that new criminal legal aid fee schemes only apply in cases where a Representation Order was granted after the regulations came into force. Having carefully considered consultees’ views, we remain of the view that this practice should be maintained.

### **Allocating the additional £8m of spending**

11. Reflecting consultees’ concerns, we are focusing the £8m of additional spending on a range of further fee increases for work typically undertaken by more junior advocates, both employed and self-employed. These fee increases are summarised below and set out in detail in Sections 2 to 5. All other fees will remain as set out in our consultation proposals and a complete list of all the changes the Government is making to the AGFS under Scheme 11 is provided at Annex 1.
12. For serious violence offences (category 3), we are increasing the basic fees for trials, guilty pleas, and cracked trials:
  - in band 3.3 by 20% when compared with Scheme 10 fees, rather than the 1% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £1,000 to £1,200);

- in band 3.4 by 13% when compared with Scheme 10 fees, rather than the 1% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £750 to £850);
  - in band 3.5 by 25% when compared with Scheme 10 fees, rather than the 13% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £600 to £750); and
  - in addition to these increases to basic fees in category 3, we are also re-banding s.20 cases from band 3.5 to band 3.4 (meaning, for example, that the basic trial fee for a junior alone or led junior undertaking a s.20 case increases from the Scheme 10 fee of £600 to £850).
13. For adult sexual offences (category 5), we are increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 5.1 by 6% when compared with Scheme 10 fees, rather than the 1% proposed at consultation (meaning, for example, that the basic trial fee for a leading junior increases from the Scheme 10 fee of £2,700 to £2,850).
14. For burglary and robbery cases (category 11), we are increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 11.1 by 17% when compared with Scheme 10 fees, rather than the 1% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £1,200 to £1,400); and
  - in band 11.2 by 18% when compared with Scheme 10 fees, rather than the 12% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £675 to £800).
15. For other offences against the person (category 13), we are increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 13.1 cases by 38% when compared with Scheme 10 fees, rather than the 13% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £1,300 to £1,800).
16. For public order offences (category 15), we are increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 15.2 cases by 87% when compared with Scheme 10 fees, rather than the 14% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £750 to £1,400); and
  - in band 15.3 cases by 42% when compared with Scheme 10 fees, rather than the 18% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £600 to £850).

17. For standard cases (category 17), we are:

- increasing the basic fees for trials, guilty pleas, and cracked trials in band 17.1 cases by 32% when compared with Scheme 10 fees, rather than the 19% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £550 to £725);
- increasing the refresher fee in band 17.1 by 33%, rather than the 18% proposed at consultation (meaning, for example, that the standard case refresher for a junior alone or led junior increases from the Scheme 10 fee of £300 to £400); and
- re-banding more than 40 offences from band 17.1 to higher bandings within the scheme, rather than just four as proposed at consultation, with resulting increases to the fees for those offences.

18. In terms of other changes to the scheme, we are:

- increasing the refresher fees in bands 3.5, 6.4, 6.5, 9.7, 11.2, and 15.3 to £400 to reflect the above noted increase to the band 17.1 refresher fee, creating a minimum refresher fee across the scheme of £400 (meaning, for example, that the band 6.5 refresher fee for a junior alone or led junior increases from the Scheme 10 fee of £325 to £400).
- restoring the phrase “very unusual” to the definition of special preparation, increasing the scope for more outlying cases within a banding to qualify for additional remuneration;
- increasing the ineffective trial fee by 27%, rather than the 18% proposed at consultation (meaning the fee increases from the Scheme 10 fee of £300 to £380);
- increasing the fees for appeals against conviction by 32%, rather than the 21% proposed at consultation (meaning, for example, the fee for a junior alone or led junior increases from the Scheme 10 fee of £250 to £330);
- increasing the fixed fee for elected cases not proceeded by 88%, rather than the 1% proposed at consultation (meaning an increase from the Scheme 10 fee of £194 to £365); and
- increasing the fee for appeals against sentence by 66%, rather than the 1% proposed at consultation (meaning the fee for a junior alone or led junior increases from the Scheme 10 fee of £150 to £250).

## Next steps

17. The Government will be laying a Statutory Instrument in Parliament today (10 December) to bring the new scheme into effect. On this basis, we anticipate that the new scheme will come into force on 31 December 2018.

## The structure of the response

18. The remainder of this paper is set out over six sections. *Section One* comprises an introduction. It summarises the consultation paper published in August, the main themes emerging in consultees' responses, and the Government's overall view.
19. *Section Two* deals with questions 1 to 3 of the consultation (fees in specific offences categories), *Section Three* with questions 4 to 8 (fees for junior advocates), and *Section Four* with question 9 (the 1% uplift to all fees).
20. *Section Five* deals with question 10 (the overall package of amendments). This section considers consultees' wider concerns, including those concerns about the underpinning structure of the current AGFS that we will seek to include as part of the review of criminal legal aid fee schemes. Finally, *Section Six* considers questions 11 to 13 (equalities).

## Section 1: Introduction

21. This paper sets out the Government response to our recent consultation on amending the Advocates' Graduated Fee Scheme (AGFS). The scheme set out in this document is the eleventh version of the AGFS since its inception and is referred to throughout the document as "Scheme 11".

### The consultation on Scheme 11

22. On 1 April 2018, the Government implemented a reformed AGFS. This was the tenth version of the AGFS or "Scheme 10" and superseded "Scheme 9". The introduction of Scheme 10 followed more than two years of close collaboration between the Ministry of Justice and the legal professions to develop a fairer, simpler and more modern approach for remunerating defence advocates in the Crown Court through legal aid.

23. Scheme 10 was subject to a full public consultation. We published our reform proposals on 5 January 2017<sup>1</sup> and our response on 23 February 2018.<sup>2</sup> While we heard concerns about elements of the scheme, many of which we responded to positively, consultees were generally in favour of the new structure.

24. However, following the publication of our consultation response, practitioners from across the professions expressed concerns that fees within Scheme 10 are too low to properly remunerate "work done". The strength of these concerns, coupled with wider concerns about the future of the professions and the criminal justice system more widely, led to many barristers – and some solicitor advocates – refusing to accept instructions under Scheme 10 following its implementation.

25. To better understand these concerns, Ministry of Justice officials spoke extensively to both individual practitioners and representatives of the Bar Council and the Criminal Bar Association (CBA) throughout April and May 2018. Concerns focused on the level of fees in relation to:

- fees in the specific offence categories of sexual offences involving children (category 4), dishonesty offences (category 6), and drugs offences (category 9);
- fees for junior advocates, both employed and self-employed; and
- fees more generally, with advocates specifically stating they wanted to see fee increases in the future.

26. We listened very carefully to these concerns, launching a consultation on a proposed Scheme 11 on 31 August 2018. The consultation document set out proposals to

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<sup>1</sup> Ministry of Justice, 5 January 2017, *Reforming the Advocates' Graduated Fee Scheme*. Available at: <https://consult.justice.gov.uk/digital-communications/reforming-the-advocates-graduated-fee-scheme/>

<sup>2</sup> Ministry of Justice, 23 February 2018, *Reforming the Advocates' Graduated Fee Scheme: Government Response*. Available at: <https://consult.justice.gov.uk/digital-communications/reforming-the-advocates-graduated-fee-scheme/>

allocate an additional £15m of spending to the scheme.<sup>3</sup> This £15m of additional spending was against a "baseline" of actual 2016-17 AGFS caseload and spend data. This means that the proposed Scheme 11 was designed to cost £15m more than actual AGFS spend in 2016-17 when modelled against that year's cases.

27. This consultation did not propose to make any changes to the structure of Scheme 10. Instead, we proposed a range of targeted increases to fees to better reflect and pay for the "work done" in relation to the three areas noted at paragraph 25. The proposals we put forward for distributing this additional expenditure are summarised below, and set out in detail in the consultation document published on 31 August 2018.<sup>4</sup> It should be noted that the figures presented at paragraphs 28 to 31 below do not include the 1% uplift to fees, which we originally proposed to implement separately in April 2019.
28. For sexual offences involving children (category 4), we proposed increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 4.2 by 11% (meaning, for example, that the basic trial fee for a junior alone or led junior would increase from £1,400 to £1,550); and
  - in band 4.3 by 50% (meaning, for example, that the basic trial fee for a junior alone or led junior would increase from £1,000 to £1,500).
29. For dishonesty offences (category 6), we proposed increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 6.1 by 6% (meaning, for example, that the basic trial fee for a leading junior would increase from £12,000 to £12,675);
  - in band 6.2 by 53% (meaning, for example, that the basic trial fee for a leading junior would increase from £7,500 to £11,440); and
  - in band 6.3 by 41% (meaning, for example, that the basic trial fee for a junior alone or led junior would increase from £2,000 to £2,825).
30. For drugs offences (category 9), we proposed increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 9.1 by 16% (meaning, for example, that the basic trial fee for a leading junior would increase from £7,500 to £8,700); and
  - in band 9.4 by 31% (meaning, for example, that the basic trial fee for a junior alone or led junior would increase from £2,000 to £2,625).
31. For junior advocates, both the junior bar and solicitor advocates, we proposed:
- increasing the basic fees for trials, guilty pleas, and cracked trials in standard cases (band 17.1) by 18% and the daily refresher fee by 17%;

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<sup>3</sup> Ministry of Justice, 31 August 2018, *Amending the Advocates' Graduated Fee Scheme*. Available at: <https://consult.justice.gov.uk/digital-communications/amending-the-advocates-graduated-fee-scheme/>

<sup>4</sup> Note that the percentage uplifts specified at paragraphs 28 to 31 differ to those in the original consultation because they have not been rounded.

- increasing the basic fees for trials, guilty pleas, and cracked trials in a range of other offences bandings, including bands for dishonesty offences (category 6) burglary and robbery offences (category 11), firearm offences (category 12), other offences against the person (category 13), exploitation and human trafficking offences (category 14) and public order offences (category 15);
  - moving several offences (harbouring an escaped prisoner, the intimidation of witnesses, the intimidation of witnesses, jurors and others, and assisting offenders) out of the standard cases band at 17.1, and into the offences against the public interest band at 8.1, with the basic fees for trials, guilty pleas, and cracked trials in these cases increasing by more than 100% as a result;
  - increasing the fee for ineffective trials from £300 to £350, an uplift of more than 15%; and
  - increasing the fees for appeals against conviction by 20% (which would mean, for example, an increase from £250 to £300 for a junior alone or led junior).
32. And finally, we proposed implementing a 1% increase to all fees from April 2019 – including those fees noted at paragraphs 28 to 31 above.
33. This consultation was due to close after four weeks, on 28 September 2018. However, following a request from the Law Society for further analysis and data, we extended the consultation period by two weeks to give consultees sufficient time to review this additional material. The consultation thus closed after six weeks, on 12 October 2018.

## Summary of consultation responses

34. We received 156 responses to the consultation. While consultees broadly welcomed the proposed £15m of additional scheme spending, and the specific fee increases set out in the consultation paper, they generally felt that the proposals did not meet their objective of better paying for “work done”. Responses focused on five broad areas of concern, which are summarised below.

### *The level of fees in the proposed Scheme 11*

35. Firstly, the majority of consultees felt that the fees in the proposed scheme were too low to properly remunerate “work done”. For example, the Criminal Bar Association (CBA) said, “*The injection of £15m is no more than a ‘patch repair’ or ‘sticking plaster’ to begin to deal with some of the most significant problems but much more investment is required*”. Echoing this concern, the Bar Council stated, “*Whilst the Bar Council welcomes the £15 million of legal aid, even that sum is small, overdue, and only the beginning*”. Consultees made calls for further scheme spending, both within specific offence bandings and across the scheme more generally. Concerns about the overall level of spending on the scheme were an undercurrent throughout many of the consultation responses, regardless of the specific question being answered.
36. As part of these concerns, consultees raised specific concerns about the remuneration of junior criminal defence advocates. There was a consensus amongst these consultees that the fee increases proposed in the consultation did not go far enough. One respondent said, “*Any increase is welcomed but this still does not address the concerns over the sustainability of the criminal justice and the unfair levels of*

*remuneration particularly to solicitors and junior members of the Bar*". Such concerns extended from the most junior advocates, including solicitor advocates, to more mid-to-senior level junior advocates.

37. Consultees said that without further scheme spending to address these concerns, recruitment, retention, and diversity would be adversely affected. For example, the Law Society response said, "*Junior lawyers are either not entering the profession at all, or leaving it very quickly, because it is uneconomic to remain*". For this reason, there were general calls for further spending to be specifically targeted at junior advocates.

#### *The cost of the proposed Scheme 11 against more recent AGFS data*

38. Secondly, and related to these concerns, some respondents expressed concern that the £15m of scheme changes set out at consultation do not amount to £15m when modelled against more recent AGFS data. They highlighted that the proposed Scheme 11, when modelled against 2017-18 AGFS cases, is estimated to increase actual spend that year by £8.6m rather than £15m. Some of these respondents suggested this meant the Ministry of Justice was renegeing on its proposed allocation of an additional £15m of funding to the scheme. For example, the South Eastern Circuit's response stated that "*It is far from clear that the proposed increases even equate to an overall budget increase of £15m, indeed initial calculations indicate they fall far short of that amount and thus constitute a breach of the MoJ's commitment*". Some respondents said further increases to fees should be made to offset this apparent discrepancy.

#### *The timetable for implementing Scheme 11*

39. Thirdly, and although a minority concern, some consultees expressed concerns about delays to the implementation of Scheme 11. While the Government never publicly committed to a specific implementation date, some consultees expected Scheme 11 to be implemented by October 2018. These consultees said that the Government should seek to compensate the effects of this apparent delay. Consultees specifically suggested bringing forward the proposed 1% increase to all fees from April 2019 to the implementation date of Scheme 11. For example, in discussing the timetable for introducing Scheme 11 and the proposed 1% increase to fees, the Western Circuit's response noted that: "*It was envisaged that it would be passed into law in October. If this is not achievable, compensation should be provided to practitioners, who are currently working under the rejected Scheme 10 as part of the agreement reached with government. This can most easily be achieved by making the increase at the same time as the introduction of Scheme 11 and not delaying it to April 2019*".

#### *The structure of the proposed Scheme 11*

40. Fourthly, and although we did not consult on any proposals to reform the structure of the scheme, many consultees contended the structure of the AGFS means that fee payments do not always fairly reflect "work done". A central concern that ran through responses to a range of questions was Scheme 10's reduced reliance on Pages of Prosecution Evidence (PPE) as a proxy for payment. Many consultees felt that this change has led to unbalanced remuneration for more "paper-heavy" cases. For example, and echoing a view held by a significant number of consultees, one set of Chambers described PPE, "*as crucial a proxy in determining the complexity of a case and therefore the level of the fee to paid*." Other structural concerns that were

frequently raised across consultation responses included the relative fees for juniors compared with QCs, the relative fees for guilty pleas and cracked trials compared with full trials, and the lack of separate payment for considering unused material. These concerns were accompanied by calls for more fundamental reform of the scheme. Some respondents also specifically called for a more wide-ranging review of the AGFS or a review of criminal legal aid fee schemes more widely.

*The application of Scheme 11 fees to cases with a Scheme 10 Representation Order*

41. And fifthly, and again representing a more minority concern, some consultees said that practitioners were expending significant goodwill in working on Scheme 10 cases in the absence of the Scheme 11 fee increases. Some of these consultees proposed applying the Scheme 11 fees to some or all of the cases with Representation Orders granted under Scheme 10. For example, the Wales and Chester Circuit proposed that “*fee increases should be back dated to 1 April 2018, with additional payment being made on AGFS claims submitted from that date onwards as if they had been submitted under ‘Scheme 11’.*” The CBA response included a variation on this proposal, suggested that “*All hearings post the commencement date [of Scheme 11], with existing [i.e. Scheme 10] representation orders, should benefit from the enhanced rates, in addition to cases with a representation order post the commencement date.*”

## **Summary of the Government’s response**

42. Having carefully considered consultees’ views, we believe that positive action is needed to address many of the concerns noted above. The Government’s overall response to these concerns is set out below.

*The level of fees in the proposed Scheme 11*

43. In light of consultees’ concerns about the level of fees in the proposed scheme, we are further increasing a range of fees to better meet our consultation objective of more fairly remunerating “work done”. We consider consultees’ concerns for juniors’ remuneration to be a legitimate one and, as such, we are focusing these fee increases on cases and hearings that are more likely to be undertaken by more junior advocates. These changes mean that the final Scheme 11 design, when modelled against 2016-17 AGFS cases, is estimated to cost £23m more than the actual spend that year of £227m. This is £8m more than the £15m of additional spending proposed at consultation. Please see Annex A of the Impact Assessment (IA) published alongside this consultation response, and particularly tables 10 and 18, for further information. How we are targeting this additional spending is summarised at paragraphs 11 to 18, and detailed in Sections 2 to 5.
44. However, it should be noted that the primary cost estimate presented in the IA that accompanies this consultation response is one of £24m. This is because the main comparison in the IA is the estimated cost of Scheme 11 against the estimated cost of Scheme 10, modelled on 2016-17 cases, rather than the estimated cost of Scheme 11 against actual spend on 2016-17 cases paid under Scheme 9. This difference is further explained at paragraphs 55 to 56 of the IA.

*The cost of the proposed Scheme 11 against more recent AGFS data*

45. It was noted by some consultees that the proposed Scheme 11 does not amount to £15m of additional spending when applied to more recent AGFS data. The position is that when the Government agreed to consider a further £15m spending on the scheme in May 2018, we agreed with the leaders of the Bar Council and CBA that this additional scheme spending would be against a “baseline” of 2016-17 AGFS data. The 2016-17 data was the most recently available data when we began developing the consultation proposals and therefore provided the basis for the proposed Scheme 11. The IA that accompanied the consultation paper clearly shows that the proposed scheme changes would have increased actual spend on 2016-17 AGFS cases by £15m.
46. However, after these decisions were taken, but before we published the consultation document in August, data on 2017-18 AGFS caseload and spend became available. We were transparent about this development. The consultation IA showed that the proposed Scheme 11 would have increased actual spend on 2017-18 AGFS cases by £8.6m. As we highlighted, this is because any given year is likely to have a different case mix compared to other years, resulting in the proposed scheme changes costing more or less in different years.
47. Given this, the final Scheme 11 design set out in this document and the IA continues to use a “baseline” of 2016-17 AGFS data. However, and as set out in the attached IA, it should be noted that while the final Scheme 11 design is estimated to increase actual spend on 2016-17 AGFS cases by £23m, it is also estimated to increase actual spend on 2017-18 AGFS cases by £15m. Please see table 18 of the IA for details.

*The timetable for implementing Scheme 11*

48. We acknowledge respondents' concerns about the delay to implementing Scheme 11. In response, we are bringing forward the 1% increase to all fees from April 2019 to the coming into force date of Scheme 11. This means that Representation Orders granted on or after this date will benefit from at least a 1% increase to Scheme 10 fees.

*The structure of the proposed Scheme 11*

49. While we acknowledge consultees' concerns about the structure of the scheme, exploring these fully in the short-term would not be possible. Many of the more structural concerns and proposals put forward by respondents would require new data collection and analysis and/or more fundamental reform of the AGFS. However, we are committed to further considering consultees' concerns about the structure of the AGFS – as well as broader concerns about the effectiveness of the scheme in more fairly remunerating “work done” – as part of the review of the scheme. We provide a summary of some of the main structural concerns raised by respondents at Section 5. As set out at paragraphs 51 to 55 below, we are making a significant change to our plans for the review. We hope these plans will reassure practitioners that their wider concerns about the structure of the AGFS will be carefully considered.

*The application of Scheme 11 fees to cases with a Scheme 10 Representation Order*

50. With regards to some consultees calling for Scheme 11 fees to apply to Scheme 10 cases, we consulted on the basis that any determination for criminal legal aid made after the date the new regulations come into force will be afforded the increase in fees.

This is in line with previous amending regulations on AGFS that brought Scheme 10 into force on 1 April 2018. It is also the practice to date to provide that new criminal legal aid fee schemes only apply in cases where a Representation Order was granted after the regulations came into force. Furthermore, there is no power in the primary legislation to make provisions in regulations that have retrospective application. Having carefully considered those responses which called for existing Scheme 10 cases to benefit from the revised Scheme 11 fees, we remain of the view that the practice to date should be maintained.

## The review of the scheme

51. In our August consultation paper, we set out our commitment to a formal review of the scheme beginning 18-24 months after advocates began accepting instructions for work under Scheme 10 in June 2018. We also set out our intention to work closely with the professions to determine the scope and format of this review and, further to this, to begin gathering real-time information on how the scheme is operating from early 2019.
52. Building on these plans, we will now be undertaking a broader review of criminal legal aid fee schemes. This is in response to not only the wider concerns raised by respondents, but also the Justice Select Committee's recent reports on criminal legal aid<sup>5</sup> and disclosure in criminal cases<sup>6</sup>, the Attorney General's review of disclosure<sup>7</sup>, and broader changes across the justice system including the modernisation work being undertaken by the Home Office, police, Crown Prosecution Service (CPS) and Her Majesty's Courts and Tribunals Service (HMCTS). In light of these developments, the Government believes a more fundamental review of criminal legal aid fee schemes is needed.
53. The review will consider criminal legal aid throughout the life cycle of a criminal case. This will include pre-charge advice at the police station, advice and advocacy services in the Magistrates' Court, and litigation and advocacy services in the Crown Court through the AGFS, the Litigators' Graduated Fee Scheme (LGFS) and Very High Cost Case (VHCC) scheme. We intend to begin this review in January 2019, and will begin engaging the professions on next steps shortly. The first phase of the review will be a design phase to determine its scope and remit. As part of this design phase, we will carefully consider the wider concerns about the AGFS raised by respondents.
54. Even with the increased scope set out above, we would seek to deliver a final report, including any recommendations, towards the end of the Summer in 2020. Alongside this, we would seek to share emerging findings with the professions throughout the review process.

<sup>5</sup> Justice Select Committee, July 2018, *Criminal Legal Aid*. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/news-parliament-2017/criminal-legal-aid-report-published-17-19/>

<sup>6</sup> Justice Select Committee, July 2018, *Disclosure of Evidence in Criminal Cases Inquiry*. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/inquiries/parliament-2017/disclosure-criminal-cases-17-19/>

<sup>7</sup> Attorney General's Office, November 2018, *Review of the Efficiency and Effectiveness of Disclosure in the Criminal Justice System*. Available at: <https://www.gov.uk/government/publications/review-of-the-efficiency-and-effectiveness-of-disclosure-in-the-criminal-justice-system>

55. Regardless of the final scope and remit of the review, it is important to highlight that the ability to deliver against this timetable would be dependent on the legal professions working with us to gather, build, provide and share qualitative and quantitative evidence which must go far beyond the billing data we currently use.

### **The final Scheme 11 fees**

56. The fee increases we are bringing forward from consultation, alongside the additional fee increases set out in this document, means that we are making a considerable number of amendments to Scheme 10 fees. Annex 1 provides the full list of these changes, Annex 2 sets out the Scheme 11 fee tables, and Annex 3 sets out the full fee tables under Scheme 10. Annex 4 shows how the final Scheme 11 fees would affect fees for certain types of cases compared with both Scheme 9 and Scheme 10. These are the same case studies used in the August consultation. We encourage practitioners to examine these annexes.

57. In addition, it should be noted that throughout this response the impact of our changes to basic fees is illustrated through reference to the basic fees for trials. As has hopefully been made clear, the corresponding fees for guilty pleas and cracks also increase in line with the case outcome relativities that underpin the scheme.

58. Furthermore, we also show the impact of the new fees for all types of advocate (junior alone or led junior, leading junior, and QC). This is primarily for information only. Many of the cases and hearings where we are making changes would not meet the relevant criteria outlined at Regulation 18 of The Criminal Legal Aid (Determinations by a Court and Choice of Representative) Regulations 2013 for a Representation Order to be extended to account for more than one junior advocate. Given this, the inclusion of fees for QCs should not be seen as indicative of spend being allocated to this cohort of advocates. As set out in the IA, and reflecting the broad consensus of consultation responses, junior advocates – both employed and self-employed – benefit most from the changes we are making.

## Section 2: Fees in specific offence categories

59. As set out in the original consultation and at paragraphs 28 to 30, we proposed a range of targeted increases to fees to better remunerate the “work done” in cases involving sexual offences involving children (category 4), dishonesty offences (category 6), and drugs offences (category 9). The responses to the relevant consultation questions are summarised immediately below. Given some of the thematic similarities in consultees’ responses to these questions, we provide a single Government response to the concerns raised at the end of this section.

### **Q1: Do you agree with the proposed increases to basic fees in bands 4.2 and 4.3? Please state yes/no and give reasons.**

60. Around 38% of respondents agreed with the proposal to increase the basic fees in bands 4.2 and 4.3, with around 53% of respondents disagreeing. The remaining respondents did not answer the question or gave a caveated “yes/no” answer. Regardless of their “yes/no” response, many respondents were concerned that the proposed fees were still inadequate to properly remunerate “work done”. As with the responses to subsequent questions, respondents frequently framed their concerns within the context of fees across the board being too low. Respondents called for further increases to the proposed fees, as well as increases to fees more generally.
61. Some consultees also raised specific concerns about the banding of offences within category 4. For example, some respondents raised concerns about the placement of child exploitation offences in band 4.2, noting that these can be exceptionally complex cases with significant volumes of evidence and multiple child complainants. Concerns were similarly raised about the inclusion of child sex offences committed by children in band 4.3, with some respondents noting that these cases necessitate a greater level of skill and expertise than other cases within the band. It was proposed that these band 4.2 and band 4.3 offences should be re-banded into category 4.1. Other respondents felt the proposed increases to band 4.2 and 4.3 merited proportionate increases to band 4.1 cases and category 5 cases.
62. Linked to these concerns, some respondents also emphasised the additional complexity entailed in cases involving child defendants, witnesses, or victims – which is of particular relevance to category 4 cases. There were proposals to provide higher remuneration in these cases. For example, some respondents suggested moving cases involving child defendants, witnesses, or victims to a higher banding or introducing a new bolt-on fee for these cases
63. Some respondents also queried the definition of “child” in category 4, requesting confirmation that the Legal Aid Agency (LAA) define a “child” as being under 18 in line with wider domestic and international definitions.
64. Many consultees also used their responses to this question to highlight wider concerns about the changes to the AGFS implemented under Scheme 10. While concerns principally focused on the weight given to PPE to determining fees, some respondents also expressed concerns about the case outcome relativities that underpin the scheme. Some respondents also raised concerns about payment for considering unused material.

65. With regards to PPE, some respondents voiced concerns about the removal of PPE as a key proxy for complexity under Scheme 10. These consultees felt that PPE remained a valid proxy for the complexity of a case and the amount of work required, particularly for cases with high volumes of PPE. There were calls to give greater weight to PPE in determining the fees payable for category 4 cases, as well as cases across the scheme more generally.
66. Some respondents also thought that we should reconsider the case outcome relativities (i.e. between guilty pleas, cracked trials, and trials) that underpin the scheme. They felt that guilty pleas and cracked trials were underpaid, with some respondents suggesting that the relativities do not support fair payment for "work done" or early case resolution. Some said we should reconsider the relativities as they apply to category 4 cases, as well as cases in wider offence categories.
67. Some respondents also felt that the consideration of unused material is not properly remunerated in category 4 cases, or across the scheme more widely. There were calls to address this issue.

**Q2: Do you agree with the proposed increases to basic fees in bands 6.1, 6.2, and 6.3? Please state yes/no and give reasons.**

68. Around 34% of respondents agreed with the proposal to increase the basic fees in bands 6.1, 6.2 and 6.3, with around 56% of respondents disagreeing. The remaining respondents did not answer the question or gave a caveated "yes/no" answer. Echoing the concerns raised in response to Q1, many respondents said the fees proposed were still inadequate to properly remunerate the "work done" in these cases. Respondents called for further increases to fees, mostly in general terms.
69. Further reflecting the responses to Q1, some respondents also raised concerns about the structure of the AGFS in their response to this question. Once more, these concerns focused on the weight given to PPE in determining fees, the case outcome relativities, and payment for considering unused material. For example, some respondents proposed lowering the PPE thresholds within the existing fraud bandings to more fairly reward "work done". For the same reason, other respondents suggested introducing a new bolt-on fee based on the number of PPE in the case.
70. Related to these concerns about PPE, some respondents also raised concerns about the PPE threshold at which fraud cases qualify for consideration under the special preparation provisions. These consultees suggested that the current threshold of 30,000 PPE is too high and that this threshold should be amended. For example, some respondents proposed lowering the threshold to 10,000 PPE, in line with most other categories within the scheme, to ensure fairer remuneration for "work done".

**Q3: Do you agree with the proposed increases to basic fees in bands 9.1 and 9.4? Please state yes/no and give reasons**

71. Around 33% of respondents agreed with the proposed increase to the basic fees in bands 9.1 and 9.4, with around 57% of respondents disagreeing. The remaining respondents did not answer the question or gave a caveated "yes/no" answer. Reflecting the key themes emerging in the responses to Q1 and Q2, many respondents said the proposed fees remained too low to sufficiently reward the "work done" in these types of cases. Respondents also again raised concerns about the weight given to PPE in determining fees, the scheme relativities, payment for

considering unused material, and the PPE thresholds at which cases become eligible for consideration under the special preparation provisions.

#### *Government response*

72. The Government has carefully considered the views of respondents concerning the proposed fees for these cases, and intends to proceed with the fees consulted upon. While we note the concerns about the level of fees raised by consultees, these fees have been subject to significant uplifts in many cases. We believe these increases are proportionate to our objective of better remunerating the “work done” in these cases.
73. Respondents also queried the definition of “child” in category 4, requesting confirmation that the LAA define a “child” as being under 18 in line with wider domestic and international definitions. The LAA has confirmed that this is the definition used by operational caseworkers when assessing payment for cases.
74. Some consultees also specifically emphasised the additional complexity entailed in cases involving child defendants, witnesses, or victims and proposed enhanced fees for these cases. While the Government sees some merit in this proposal, we would require new data collection and analysis to fully assess its validity and feasibility. Given this, such a change would not be possible within the short-term and we intend to consider this issue further as part of the review of review of the criminal legal aid fee schemes.
75. With regards to the broader structural concerns raised by consultees, the Government currently remains of the view that the changes implemented under Scheme 10 best meet the principles that underpinned these reforms. As such, we are not making any changes to the treatment of PPE in the AGFS, the special preparation thresholds for dishonesty and drugs cases, or the case outcome relativities. That said, the Government recognises that more needs to be done to assess these concerns. Given this, we intend to consider these concerns further as part of the scheme review.
76. On the issue of unused material, we are aware of the recommendations put forward in the Justice Select Committee’s recent reports on criminal legal aid and the disclosure of evidence in criminal cases, as well as the Attorney General’s recent review of disclosure procedures. We recognise that data in this area is limited, and are committed to working with the professions to develop an evidence base, and give this issue full consideration as part of the review.
77. With this response in mind, the final Scheme 11 basic fees for trials within the specific bands consulted upon are set out at Tables 1, 2, and 3 below. The final Scheme 11 fees are inclusive of the 1% uplift to all fees and we provide the Scheme 10 fees for comparison.

**Table 1: Scheme 10 and final Scheme 11 basic trial fees in bands 4.2 and 4.3**

Band	Scheme 10 – basic trial fee			Scheme 11 – basic trial fee		
	Junior Alone/ Led Junior	Leading Junior	Queen’s Counsel	Junior Alone/ Led Junior	Leading Junior	Queen’s Counsel
4.2	£1,400	£2,100	£2,800	£1,565	£2,350	£3,130
4.3	£1,000	£1,500	£2,000	£1,515	£2,275	£3,030

**Table 2: Scheme 10 and final Scheme 11 basic trial fees in bands 6.1, 6.2, and 6.3**

Band	Scheme 10 – basic trial fee			Scheme 11 – basic trial fee		
	Junior Alone/ Led Junior	Leading Junior	Queen's Counsel	Junior Alone/ Led Junior	Leading Junior	Queen's Counsel
6.1	£8,000	£12,000	£16,000	£8,485	£12,730	£16,970
6.2	£5,000	£7,500	£10,000	£7,700	£11,550	£15,400
6.3	£2,000	£3,000	£4,000	£2,855	£4,285	£5,710

**Table 3: Scheme 10 and final Scheme 11 basic trial fees in bands 9.1 and 9.4**

Band	Scheme 10 – basic trial fee			Scheme 11 – basic trial fee		
	Junior Alone/ Led Junior	Leading Junior	Queen's Counsel	Junior Alone/ Led Junior	Leading Junior	Queen's Counsel
9.1	£5,000	£7,500	£10,000	£5,860	£8,790	£11,720
9.4	£2,000	£3,000	£4,000	£2,650	£3,975	£5,300

### Section 3: Fees for junior advocates

78. As set out in the original consultation and at paragraph 31, we proposed a range of targeted fee increases to better remunerate the “work done” by more junior advocates. The consultation responses to each of the questions that accompanied these proposals are summarised below, followed by the Government response. While some respondents raised concerns about the structure of the AGFS in response to these questions, these are not considered here. These concerns and the Government response are set out in Section 2 and Section 5.

**Q4: Do you agree with the proposed increases to fees in the standard cases category? Please state yes/no and give reasons.**

79. Around 38% of respondents agreed with this proposal, with around 53% of respondents disagreeing. The remaining respondents did not answer the question or gave a caveated “yes/no” answer. Whether answering ‘yes’ or ‘no’, respondents appeared to welcome the proposed increases but were concerned that they were insufficient to properly remunerate the “work done” by more junior advocates. Some consultees raised concerns about the impact of the proposed level of fees on the sustainability of the junior end of the profession. They felt that the level of fees here and elsewhere within the scheme could discourage new entrants to the professions – with negative consequences for diversity. There were calls for the fees to be increased to a higher level than proposed.

80. Some consultees also used their response to this question to highlight a range of offences that they believe are inappropriately categorised into band 17.1 given their relative complexity and seriousness. We consider these specific calls for offences to be re-banded as part of our summary and response to Q6.

*Government response*

81. The Government has accepted the strong consensus that further increases should be made to the fees for standard cases to better reflect the “work done” by the more junior advocates who generally undertake this work. To address respondents’ concerns, we are increasing the basic fees for trials, guilty pleas, and cracked trials in band 17.1 cases by 32% overall when compared with Scheme 10 fees, rather than the 18% proposed at consultation. In addition, we are increasing the refresher fee for band 17.1 cases by 33% overall, rather than the 17% proposed at consultation.

82. Table 4 below shows the effect of this change on basic trial fees within band 17.1, whilst Table 5 shows the effect on daily refresher fees.

**Table 4: Scheme 10 and final Scheme 11 basic trial fees in band 17.1**

Band	Scheme 10 – basic trial fee			Scheme 11 – basic trial fee		
	Junior Alone/ Led Junior	Leading Junior	Queen’s Counsel	Junior Alone/ Led Junior	Leading Junior	Queen’s Counsel
17.1	£550	£825	£1,100	£725	£1,090	£1,450

**Table 5: Scheme 10 and final Scheme 11 refresher fees in band 17.1**

Band	Scheme 10 – refresher fee			Scheme 11 – refresher fee		
	Junior Alone/ Led Junior	Leading Junior	Queen's Counsel	Junior Alone/ Led Junior	Leading Junior	Queen's Counsel
17.1	£300	£450	£600	£400	£600	£800

83. To reflect the increase to the refresher fee in band 17.1, we are also increasing the refresher fee in a number of higher bands, bringing the minimum refresher fee across the scheme to £400:

**Table 6: Scheme 10 and final Scheme 11 refresher fees in bands 3.5, 6.4, 6.5, 9.7, 11.2 and 15.3**

Band	Scheme 10 – refresher fee			Scheme 11 – refresher fee		
	Junior Alone	Leading Junior	Queen's Counsel	Junior Alone	Leading Junior	Queen's Counsel
3.5	£325	£490	£650	£400	£600	£800
6.4	£350	£525	£700	£400	£600	£800
6.5	£325	£490	£650	£400	£600	£800
9.7	£350	£525	£700	£400	£600	£800
11.2	£360	£540	£720	£400	£600	£800
15.3	£325	£490	£650	£400	£600	£800

**Q5: Do you agree with the proposed increases to basic fees in bands 6.4, 6.5, 11.2, 12.1, 12.2, 12.3, 13.1, 14.1, 15.1, 15.2, and 15.3? Please state yes/no and give reasons.**

84. Around 37% of respondents agreed with this proposal, with around 51% of respondents disagreeing. The remaining respondents did not answer the question or gave a caveated “yes/no” answer. Many consultees welcomed the proposed increases to the fees within these various offences bands. However, irrespective of their ‘yes’ or ‘no’ response, many respondents felt the proposed fees were still too low to fairly reward “work done” in these cases. Many respondents made general calls for these fees to be further increased.

85. Alongside these more general calls for further increases to the proposed fees, some consultees made more specific proposals. For band 11.2 cases, some consultees proposed increasing the refresher fee to a level akin to the fee payable for a band 9.7 refresher. There were also proposals to allow an advocate undertaking a category 11 case to elect for payment at the relevant rate for a category 6 dishonesty case if the relevant value of the robbery or burglary would attract a higher fee category 6 rate, which is further discussed in Section 6.

86. For category 12 cases, some consultees suggested that the importation and onward distribution of firearms into England and Wales should be treated similarly to drugs cases and be paid equivalent fees given the relative complexity of these cases.
87. For category 13 cases, some consultees suggested increasing the basic trial fee for juniors in band 13.1 cases by at least £200 more than proposed. These consultees noted that these cases often involve multiple defendants and complex and high volumes of evidence and thus warranted better payment for "work done".
88. For category 14 cases, there were calls to increase the band 14.1 junior brief fee to £2,300 against the proposed £1,500, given the inherent demands of these cases.
89. For category 15 cases, some consultees suggested that the work required of band 15.2 cases warranted remuneration equivalent to band 15.1 cases, and the work required of band 15.3 cases warranted remuneration equivalent to band 15.2 cases.

*Government response*

90. Having carefully considered consultees' views, we believe that some of the fees we proposed at consultation need to be further increased to better reflect "work done". We believe there is particular merit to further increasing the fees in band 11.2, 13.1, 15.2 and 15.3, and we are therefore:
- increasing the basic fees for trials, guilty pleas, and cracked trials in band 11.2 by 18% when compared with Scheme 10, rather than the 13% proposed at consultation meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £675 to £800);
  - increasing the basic fees for trials, guilty pleas, and cracked trials in band 13.1 by 38% when compared with Scheme 10, rather than the 12% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £1,300 to £1,800);
  - increasing the basic fees for trials, guilty pleas, and cracked trials in band 15.2 by 87% overall when compared with Scheme 10, rather than the 14% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £750 to £1,400); and
  - increasing the basic fees for trials, guilty pleas and cracked trials in band 15.3 by 42% when compared with Scheme 10, rather than the 18% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £600 to £850).
91. Table 6 shows the final basic trial fees for juniors for those bands of offence we consulted upon as part of Q5.

**Table 6: Scheme 10 and final Scheme 11 basic trial fees in bands in bands 6.4, 6.5, 11.2, 12.1, 12.2, 12.3, 13.1, 14.1, 15.1, 15.2, and 15.3**

Band	Scheme 10 – basic trial fee			Scheme 11 – basic trial fee		
	Junior Alone/ Led Junior	Leading Junior	Queen's Counsel	Junior Alone/ Led Junior	Leading Junior	Queen's Counsel
6.4	£750	£1,125	£1,500	£1,010	£1,515	£ 2,020
6.5	£650	£975	£1,300	£810	£1,215	£1,620
11.2	£675	£1,015	£1,350	£800	£1,200	£1,600
12.1	£2,000	£3,000	£4,000	£2,120	£3,180	£4,240
12.2	£1,200	£1,800	£2,400	£1,315	£1,975	£2,630
12.3	£800	£1,200	£1,600	£910	£1,365	£1,820
13.1	£1,300	£1,950	£2,600	£1,800	£2,700	£3,600
14.1	£1,500	£2,250	£3,000	£2,325	£3,490	£4,650
15.1	£1,400	£2,100	£2,800	£1,615	£2,425	£3,230
15.2	£750	£1,125	£1,500	£1,400	£2,100	£2,800
15.3	£600	£900	£1,200	£850	£1,275	£1,700

**Q6: Do you agree with the proposed re-banding of several offences – harbouring an escaped prisoner, the intimidation of witnesses, the intimidation of witnesses, jurors and others, and assisting offenders – from the standard cases category to the offences against the public interest category? Please state yes/no and give reasons.**

92. Around 60% of respondents agreed with our proposal to re-band these offences, with around 27% of respondents disagreeing. The remaining respondents did not answer the question or gave a caveated “yes/no” answer. Many respondents appeared to welcome the proposal and the accompanying increases to fees. However, some consultees felt that the proposed increases are still inadequate to properly remunerate the “work done” in these cases and that further increases are needed.
93. Some consultees also queried the material impact of this proposal, noting that the proposed re-bandings involved offences that are rarely charged in Crown Court trials.
94. In response to this question and Q4, some respondents also highlighted other offences that they believe should be moved out of band 17.1 to achieve fairer remuneration for their relative complexity and seriousness. Respondents suggested a range of offences that they felt should be subject to upward re-banding, including offences such as threatening with an article with a blade, possession of an offensive weapon on school premises, harassment and stalking, and burglary offences.

#### *Government response*

95. We have listened carefully to these views, and are proceeding with the re-bandings proposed at consultation. The Government remains of the view that this change will more fairly remunerate the “work done” in these cases. With regards to respondents’

concerns about the material impact of this change, we note that the Government's decision to re-band these offences is to meet our consultation objective of more fairly rewarding "work done". This decision has not been driven by the relative volume of these offences compared with other offences.

96. The Government has accepted many respondents' views that there are several other offences within band 17.1 that should not be categorised as standard given their comparative seriousness and complexity compared to other cases categorised as standard. Following careful review, we are re-banding more than 35 additional offences from band 17.1 into higher bandings to better reflect their relative complexity and to ensure that they are more fairly remunerated given the work required.
97. These offences and their new banding are listed below. We also provide their offence number as set out in the *Banding of offences in the Advocates' Graduated Fee Scheme: Version 1.1* document<sup>8</sup>. We have published an updated version of this document to reflect these changes, which can be found on GOV.UK.<sup>9</sup> A link to this document is also provided on the consultation page.
98. First, we are re-banding several more serious violence, weapon, and harassment offences into band 3.4. These changes will mean, for example, that the junior alone and led junior basic trial fee for these offences increases from the Scheme 10 fee of £550 to £850. The specific offences we are re-banding are:
- possession of offensive weapon on school premises (offence number 556);
  - threatening with an article with blade or point or offensive weapon (offence number 557);
  - causing bomb hoaxes (offence number 574);
  - putting people in fear of violence (offence number 783);
  - stalking involving fear of violence or serious alarm or distress (offence number 784);
  - breach of a restraining order (offence number 785);
  - controlling or coercive behaviour (offence number 827); and
  - intentionally doing an act capable of encouraging or assisting the suicide or attempted suicide of another (offence number 842).
99. Secondly, we are re-banding several less serious violence, weapon, and harassment offences into band 3.5. These amendments will mean, for example, that the junior alone and led junior basic trial fee for these offences increases from the Scheme 10 fee of £550 to £750. The specific offences we are re-banding are:

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<sup>8</sup> *Banding of offences in the Advocates' Graduated Fee Scheme: Version 1.1*. This document is available at: <https://www.gov.uk/government/publications/banding-of-offences-in-the-advocates-graduated-fee-scheme>

<sup>9</sup> *Banding of offences in the Advocates' Graduated Fee Scheme: Version 1.2*. This document is available at: <https://www.gov.uk/government/publications/banding-of-offences-in-the-advocates-graduated-fee-scheme>

- racially or religiously aggravated common assault (offence number 540);
- racially or religiously aggravated intentional harassment, alarm or distress (offence number 541);
- racially or religiously aggravated harassment, alarm or distress (offence number 542);
- racially or religiously aggravated harassment and stalking (offence number 543);
- having an article with a blade or point in a public place (offence number 555); and
- possession of an offensive weapon (offence number 767).

100. Thirdly, we are re-banding several adult sexual offences into band 5.3. These changes will mean, for example, that the junior alone and led junior basic trial fee for these offences increases from the Scheme 10 fee of £550 to £1,010. The specific offences we are re-banding are:

- solicitation by men (offence number 834);
- soliciting (offence number 835);
- exposure (offence number 836);
- failure to comply with a Notification Order (offence number 837); and
- breach of a Sexual Harm Prevention Order (offence number 838).

101. Fourthly, we are re-banding the offences of public nuisance (offence number 504), harming witnesses, jurors and others (offence number 568), and conveying List A prohibited items into prison (offence number 769), as well as several passport and identity offence documents into band 8.1. These changes will mean, for example, that the junior alone and led junior basic trial fee for these offences increases from the Scheme 10 fee of £550 to £1,210. The specific passport and identity document offences we are re-banding are:

- making a false statement to obtain a passport (offence number 550);
- having in possession or control identity documents with improper intent (offence number 674);
- making or having in possession or controlling apparatus/article/material designed/adapted for making false identity documents (offence number 675);
- having in possession or controlling a false/improperly obtained/another person's identity document or apparatus for making false identity documents (offence number 676);
- making/using or attempts to use a false registration card, alter a registration card etc. (offence number 679);

102. Fifthly, we are re-banding either way burglary offences to band 11.2. This change will mean, for example, that the junior alone and led junior basic trial fee for these offences increases from the Scheme 10 fee of £550 to £800.
103. And finally, we are re-banding several more complex regulatory offences into band 16.3. These changes will mean, for example, that the junior alone and led junior basic trial fee for these offences increases from the Scheme 10 fee of £550 to £1,010. The specific offences we are re-banding are:
- drunkenness in an aircraft (offence number 449);
  - unlicensed or unauthorised air traffic controllers (offence number 450);
  - several offences under the Computer Misuse Act 1990 (offences numbers 516, 517, 518, 519); and
  - several offences under the Consumer Protection from Unfair Trading Regulations 2008 (offence numbers 521, 522, 523, 524, 525).

**Q7: Do you agree with the proposed increase to fees for ineffective trials? Please state yes/no and give reasons.**

104. Around 59% of respondents agreed with the proposed increase to fees for ineffective trials, with around 31% of respondents disagreeing. The remaining respondents did not answer the question or gave a caveated “yes/no” answer. Many respondents welcomed the proposed increase, emphasising that an advocate can undertake extensive preparation work only for a trial not to proceed due to circumstances completely out of the advocate’s control. However, many respondents also considered that the proposed fee was still too low to properly reflect the “work done” in preparing the case and suggested that a higher fee would be more appropriate. Some of these respondents proposed alternatives, such as increasing the fee to the level of a daily refresher fee for the relevant banding of offence, paying the full brief fee for the relevant banding of offence, or tying the fee payable to the estimated length of trial.

*Government response*

105. The Government has carefully considered the views of respondents concerning the fees for ineffective trials and is making a positive change. We are increasing the ineffective trial fee by 27% overall, rather than the 18% proposed at consultation. This change means the fee will increase from the Scheme 10 fee of £300 to £380. We believe this change will help us better meet our consultation objective of more fairly remunerating “work done”.

**Q8: Do you agree with the proposed increase to fees for appeals against conviction? Please state yes/no and give reasons**

106. Around 63% of respondents agreed with the proposed increase to appeals against conviction, with around 27% of respondents disagreeing. The remaining respondents did not answer the question or provided a caveated “yes/no” answer. Many respondents welcomed the proposed increase, indicating that it would better reflect the complexity of the work required for these hearings. Some highlighted that this change would be particularly welcomed by the most junior end of the profession.

Other respondents felt that the fee was still too low to properly remunerate the “work done” in these cases and indicated that a higher increase would better reflect the work required. Some consultees proposed increasing the fee to the level of a daily refresher fee for a standard category case (band 17.1). Others suggested a range of higher fees.

*Government response*

107. Having carefully reflected on the responses received, we have decided to make a change to the scheme consulted upon. To better reflect the advocacy work required in appeals against conviction, we are increasing the fees for appeals against conviction by 32% overall, rather than the 21% proposed at consultation. This will mean the fee for a junior alone or led junior increases from the Scheme 10 fee of £250 to £330.

## Section 4: The 1% uplift to fees

108. At consultation, we proposed to increase all fees under the scheme by 1% on cases with a Representation Order dated 1 April 2019 or later, establishing this in law. The responses to the relevant consultation question are summarised below, followed by the Government response.

**Q9: Do you agree that fees across the scheme should be increased by 1% on cases with a Representation Order dated on or after 1 April 2019? Please state yes/no and give reasons.**

109. Around 30% of respondents agreed with this proposal, with around 61% of respondents disagreeing. The remaining respondents did not answer the question or gave a caveated "yes/no" answer. Regardless of whether they agreed or disagreed with the proposal, most respondents indicated that the proposed increase was insufficient and should be greater than 1%. Some respondents made alternative proposals, with a range of suggested increases put forward. Many respondents also said that fees within the scheme should be subject an annual increase, linked to inflation or another metric. Others suggested an annual pay review.
110. Some respondents also expressed concerns about the timing of the proposed 1% increase. Feeling that Scheme 11 is being implemented at a slower pace than the professions originally anticipated, these respondents suggested that the 1% increase be applied to all cases from the coming into force date of the scheme to compensate for this delay.

### *Government response*

111. The Government has carefully considered the views of respondents concerning the 1% uplift to all fees. Within the context of current financial constraints, we cannot commit to a more significant percentage increase to fees or annual increases. That said, we will continue to keep this position under close review.
112. The Government will, however, be taking positive steps in relation to the timing of the 1% increase. We acknowledge respondents' concerns and are bringing forward the proposed 1% increase to all fees to the coming into force date of Scheme 11. This means that Crown Court defence advocates will benefit from this change much sooner than originally proposed.
113. Practitioners should note that in applying the 1% increase to fees, we have maintained past practice and rounded this increase to the nearest £5 for guilty pleas, cracked trials, full trials, and refresher fees and to the nearest £1 for ancillary fees - with the exception of the ancillary fees paid at an hourly rate, where we have rounded to the nearest penny.

## Section 5: Other matters

114. The tenth question of the consultation asked for views on the overall package of scheme amendments. As part of this, we asked consultees to share any alternative proposals for amending the scheme. As had been noted, many consultees provided these proposals as part of their wider responses, rather than in direct response to Q10. We nevertheless consider these proposals in this section.

**Q10: Do you agree with the overall package of scheme amendments we have set out in this consultation document? Please state yes/no and give reasons. If you have alternative proposals, we would welcome case studies and examples to illustrate these.**

115. Around 12% of respondents agreed with the overall package of scheme amendments, with around 76% of respondents disagreeing. The remaining respondents did not answer the question or gave a caveated “yes/no” answer. Regardless of their “yes/no” response, respondents were generally in favour of the proposals but expressed strong concerns about the adequacy of the overall level of additional spending. Many respondents felt the level of additional spending proposed simply wasn’t enough to properly remunerate the “work done” by Crown Court defence advocates. There were calls for a general increase in spending. Particular concerns were raised about the impacts of the proposed fees on junior advocates.

116. Some respondents also made specific proposals for amending the scheme to better reward “work done”. These proposals broadly fell into two categories. First, increases to existing fees principally focused on better reflecting the “work done” by more junior advocates. And secondly, scheme changes that would require further data collection and analysis to assess their feasibility and/or would require changes to the underpinning structure of the AGFS. In terms of those proposals that would entail increases to existing fees, the main proposals put forward by respondents were to:

- increase fees adult sexual offences (category 5), and particularly cases falling within band 5.1 cases;
- increase fees for serious violence offences (category 3), and particularly cases falling within bands 3.3, 3.4, and 3.5, alongside proposals to re-band s. 20 cases into band 3.4;
- increase the fee for elected cases not proceeded;
- increase ancillary fees, including the fees for appeals against sentence, Plea and Trial Preparation Hearings (PTPHs), sentencing hearings, and standard appearances; and
- extend the special preparation provisions, including proposals to reintroduce the phrase “very unusual” to the definition of special preparation.

117. In terms of those proposals that would require further data collection and analysis and/or structural changes to the scheme, some of the main concerns raised by respondents were discussed in Section 2. These were:

- place greater weight on PPE as a proxy for payment, through either the restoration of a per page payment system, the introduction of a new “bolt-on” fee or enhancement based on agreed page count thresholds, or the implementation of a system similar to that used by the Crown Prosecution Service (CPS); and
- amend the case outcome (i.e. guilty plea, cracked trial, and full trial) relativities that underpin the scheme, to increase spending on guilty pleas or cracked trials in some or all cases; and
- introduce separate payment for the consideration of unused material.

118. Alongside these proposals, respondents suggested a range of other such changes to better remunerate “work done”. The main ones were:

- amend the advocate type (i.e. junior alone or led junior, leading junior, and QC) relativities that underpin the scheme, to increase spending on junior advocates;
- remove the ‘trial must last five days’ rule from the wasted preparation provisions, but maintain the 8 hours of wasted preparation requirement and other conditions;
- for serious violence offences (category 3), pay the case a band 3.2 fee if it involves an allegation of serious harm against a child aged under 5, and a band 3.1 fee if it involves an allegation of serious harm against a child under 2 years;
- for robbery and burglary offences (category 11), allow the advocate to elect payment at the relevant rate for a dishonesty offence (category 6) if the relevant financial value of the robbery or burglary would attract a higher fee in category 6;
- introduce a new “bolt on” fee or other fee enhancement for cases that involve child defendants, witnesses, or victims;
- introduce a new “bolt-on” fee or other fee enhancement based on the number of witnesses in the case;
- introduce a new “bolt-on” fee or other fee enhancement for cases involving those with mental health issues and the vulnerable;
- introduce a new “bolt-on” fee or other fee enhancement for cases involving multiple complainants, especially in child sex offence (category 4) cases;
- remunerate all conferences and site viewings separately; and
- introduce a reformed payment system based on hourly rates.

*Government response*

119. We have listened very carefully to the wide-ranging views and proposals expressed in response to the overall package of scheme amendments. With regards to the

proposed increases to existing fees, we are making several positive changes to address consultees' concerns and better pay for "work done".

120. To better reflect the general complexity of these cases, we are increasing the basic fees for trials, guilty pleas, and cracked trials in band 5.1 cases by 6% when compared with Scheme 10 fees, rather than the 1% proposed at consultation. This change means, for example, that the basic trial fee for a leading junior increases from the Scheme 10 fee of £2,700 to £2,850.
121. To address concerns about the level of remuneration for category 3 cases, we are increasing the basic fees for trials, guilty pleas, and cracked trials:
  - in band 3.3 by 20% when compared with Scheme 10 fees, rather than the 1% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £1,000 to £1,200);
  - in band 3.4 by 13% when compared with Scheme 10 fees, rather than the 1% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £750 to £850); and
  - in band 3.5 by 25% when compared with current fees, rather than the 13% proposed at consultation (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £600 to £750).
122. We are also re-banding s.20 cases from band 3.5 to band 3.4 to better reflect the relative complexity of these offences. This means the fee for a junior alone or led junior in these cases will increase from the Scheme 10 fee of £600 to £850.
123. Given consultees' legitimate concerns about elected cases not proceed, we are also increasing the fixed fee for elected cases not proceeded by 88%, rather than the 1% proposed at consultation. This will increase the fee payable in these cases from £194 to £365 – equivalent to the new fee for a standard case guilty plea – and alongside the changes to the criteria for the payment of these cases that we made as part of Scheme 10, we believe that this change will better reflect "work done".
124. With regards to respondents concerns about ancillary fees, we have considered these carefully and are making a positive change. Specifically, we are increasing the fee for appeals against sentence by 66% overall, rather than the 1% proposed at consultation. This will mean that the fee for a junior alone or led junior increases from the Scheme 10 fee of £150 to £250. While the Government has listened to respondents' concerns about some of the wider ancillary fees, we note that the fees for standard appearances, sentencing hearings, and PTPHs were subject to significant uplifts following the original consultation on Scheme 10.
125. In response to respondents' proposals to reconsider the special preparation provisions, we are also making a change. We are restoring the phrase "very unusual" to the definition of special preparation. Special preparation can again be

claimed where a substantial amount of additional work was necessary because of the very unusual (or novel) factual or legal issue<sup>10</sup>.

126. With regards to the other proposals put forward by consultees, the Government acknowledges that some of these may have merit in ensuring that the scheme pays more accurately for "work done". However, these proposals would require new data collection and analysis to assess their validity and feasibility and/or more structural changes to the scheme. Doing this would take time, and the Government recognises that advocates would like to see the revised Scheme 11 fees implemented as soon as possible. Given this, we intend to consider these issues and others as part of the proposed review of criminal legal aid due to commence in January 2019.
127. However, we recognise that some of these proposals are underpinned by a desire to ensure that cases that are atypical for their band are more fairly rewarded. In the short-term, we believe the reintroduction of the phrase "very unusual" to the definition of special preparation will provide some scope to address this issue.
128. The Government is also making a positive change in response to respondents' concerns about the fees for burglary and robbery offences (category 11). As well as the further increase to band 11.2 fees noted at paragraph 90, we are also increasing the basic fee in band 11.1 to better reflect the "work done" in these cases. We are increasing the basic fees for trials, guilty pleas, and cracked trials in band 11.1 cases 17% when compared with Scheme 10 fees, rather than the 1% proposed at consultation. This change means, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £1,200 to £1,400.

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<sup>10</sup> It should be noted that the term "factual issue" was erroneously removed from the regulations in the SI that implemented Scheme 10. Alongside the restoration of "very unusual", we are therefore restoring "factual issue" to the regulations. In addition to this change, we are making three other clarificatory amendments to the regulations: the fee payable where a guilty plea is entered at a PTPH is amended from a fixed fee to a guilty plea fee; the 20% uplift to fees for each additional defendant that the advocate represents at a hearing is extended to PTPHs and Further Case Management Hearings (FCMHs); a graduated fee, rather than a fixed fee, will be also be payable in cases where the defendant elects to have their case dealt with in the Crown Court, the defendant pleads guilty to one or more counts on the indictment and the prosecution offer no evidence on a remaining count, or otherwise do not proceed to trial on a remaining count.

## Section 6: Equalities

129. The final section of the consultation document considers the equalities impacts of the proposals, and whether the proposals would impact on the delivery of publicly funded criminal advocacy through the medium of Welsh. The section summarises the responses to these questions and provides the Government response.

**Q11: Do you agree that we have correctly identified the range of impacts of the proposals as currently drafted in this consultation paper? Please state yes/no and give reasons.**

130. Around 22% of respondents agreed we had correctly identified the range of impacts of the proposals, with around 66% of respondents disagreeing. The remaining respondents did not answer the question or gave a caveated "yes/no" answer. Echoing themes appearing across the consultation responses, respondents considered that fees across the board were too low to properly remunerate "work done". Some felt this would have negative consequences for the sustainability of criminal advocacy.

131. Particular concerns were raised about the impact of the proposals on junior advocates: from the most junior advocates, including solicitor advocates, to more mid-to-senior level junior advocates. Some expressed concerns that the proposed fees would negatively impact the recruitment and retention of junior advocates. Several consultees noted that younger, female, and BAME advocates are disproportionality represented amongst this group and emphasised concerns about the impact of the fees on the diversity of the professions.

132. For example, the Bar Council said it was "*committed to encouraging the diversity of the profession. Retention of women at the Bar remains a particular issue that the Bar Council continues to work to address... the current AGFS is not as graduated as intended and does not enable career development, with the result that many barristers reach a stage where they either move to better remunerated commercial work, or leave the Bar. A more graduated scheme could help with retention and therefore diversity, given that almost equal numbers of men and women start at the Bar, but the number of women barristers declines over time.*"

133. Some respondents also used this question to highlight that the proposed Scheme 11 is estimated to cost an additional £15m against actual spend on 2016-17 AGFS cases, but £8.6m more against actual spend on 2017-18 AGFS cases.

**Q12: Have we correctly identified the extent of the impacts of the proposals, and forms of mitigation? Please state yes/no and give reasons.**

134. Around 16% of respondents agreed that we had correctly identified the extent of the impacts of the proposals and forms of mitigation, with around 71% of respondents disagreeing. The remaining respondents did not answer the question or gave a caveated "yes/no" answer. Reasons provided were similar to those set out in response to question 11 – with similar concerns highlighted. For example, in expressing concerns about the level of remuneration for leading and led juniors within the scheme, the CBA said: "*This is work often undertaken by practitioners at*

*the mid career point. This coincides with the time when many women, primary carers and those with caring responsibilities leave the profession owing to various factors, including child care costs, decrease in income and lack of flexibility. The CBA is concerned that these cuts will disproportionately impact in this area."*

**Q13: Do you consider that the proposals will impact on the delivery of publicly funded criminal advocacy through the medium of Welsh? Please state yes/no and give reasons.**

135. Around 31% of respondents considered that the proposals would impact on the delivery of publicly funded criminal advocacy through the medium of Welsh, while around 32% of respondents considered that they would not. The remaining respondents did not answer the question or gave a caveated "yes/no" answer. Few respondents identified any specific impacts on the delivery of advocacy through the Welsh language. However, a small number of consultees expressed concerns that fees overall would attract fewer advocates to criminal advocacy, diminishing the number of Welsh language speakers.

*Government Response*

136. One of the themes underpinning responses was concern about the impact of the proposed level on junior advocates. This emerged throughout consultation responses, not only in response to the equalities questions. By extension, respondents considered that younger, female and BAME professionals might be disproportionately affected by the proposed fees.
137. As has been made clear through the answers to the preceding questions, and the changes that we have made to the scheme, the Government has listened very carefully to these concerns. As set out, we are increasing spend on the scheme by a further £8m, and using this additional expenditure to further increase fees for a number of types of work more likely to be undertaken by more junior advocates, both employed and self-employed. The more junior section of the profession contains proportionately more members with specific protected characteristics – with proportionately more younger, BAME and female members for example - and this group will gain financially from these changes.
138. The equalities statement has been updated to reflect the changes we have made to the scheme following consultation. We consider that any residual equalities impacts are justified as a proportionate means of pursuing the policy objective of better remunerating "work done". There is no significant evidence to suggest that Scheme 11 will affect the delivery of criminal advocacy services through the Welsh language.
139. With regards to the concerns raised about the estimated costs of the proposed scheme, please note the explanation of this issue provided at paragraphs 45 to 47.

## Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>

## Annex 1: Summary of changes to the AGFS under Scheme 11

1. The fee increases we are bringing forward from consultation, alongside the additional fee increases set out in the consultation response, means that we are making a considerable number of amendments to Scheme 10 fees. A full list of the fee increases we are making under Scheme 11 is set out below.
2. For **serious violence offences (category 3)**, we are increasing the basic fees for trials, guilty pleas, and cracked trials:
  - in band 3.3 by 20% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £1,000 to £1,200);
  - in band 3.4 by 13% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £750 to £850);
  - in band 3.5 by 25% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £600 to £750); and
  - in addition to these increases to basic fees in category 3, re-banding s.20 cases from band 3.5 to band 3.4 (meaning, for example, that the basic trial fee for a junior alone or led junior undertaking a s.20 case increases from the Scheme 10 fee of £600 to £850).
3. For **sexual offences involving children (category 4)**, we are increasing the basic fees for trials, guilty pleas, and cracked trials:
  - in band 4.2 by 12% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior would increase from the Scheme 10 fee of £1,400 to £1,565); and
  - in band 4.3 by 52% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior or led junior would increase from the Scheme 10 fee of £1,000 to £1,515).
4. For **adult sexual offences (category 5)**, we are increasing the basic fees for trials, guilty pleas, and cracked trials:
  - in band 5.1 by 6% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a leading junior increases from the Scheme 10 fee of £2,700 to £2,850).
5. For **dishonesty offences (category 6)**, we are increasing the basic fees for trials, guilty pleas, and cracked trials:

- in band 6.1 by 6% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a leading junior would increase from the Scheme 10 fee of £12,000 to £12,730);
  - in band 6.2 by 54% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a leading junior would increase from the Scheme 10 fee of £7,500 to £11,550);
  - in band 6.3 by 43% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior would increase from the Scheme 10 fee of £2,000 to £2,855);
  - in band 6.4 by 35% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior would increase from the Scheme 10 fee of £750 to £1,010); and
  - in band 6.5 by 25% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior would increase from the Scheme 10 fee of £650 to £810).
6. For **drugs offences (category 9)**, we are increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 9.1 by 17% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a leading junior would increase from the Scheme 10 fee of £7,500 to £8,790); and
  - in band 9.4 by 33% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior would increase from the Scheme 10 fee of £2,000 to £2,650).
7. For **burglary and robbery cases (category 11)**, we are increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 11.1 by 17% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £1,200 to £1,400); and
  - in band 11.2 by 18% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £675 to £800).
8. For **firearm offences (category 12)**, we are increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 12.1 by 6% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a leading junior increases from the Scheme 10 fee of £3,000 to £3,180);
  - in band 12.2 by 10% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £1,200 to £1,315); and

- in band 12.3 by 14% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £800 to £910).
9. For **other offences against the person (category 13)**, we are increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 13.1 cases by 38% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £1,300 to £1,800).
10. For **human trafficking offences (category 14)**, we are increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 14.1 cases by 55% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £1,500 to £2,325).
11. For **public order offences (category 15)**, we are increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 15.1 cases by 15% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a leading junior increases from the Scheme 10 fee of £2,100 to £2,425);
  - in band 15.2 cases by 87% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £750 to £1,400); and
  - in band 15.3 cases by 42% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £600 to £850).
12. For **standard cases (category 17)**, we are:
- increasing the basic fees for trials, guilty pleas, and cracked trials in band 17.1 cases by 32% when compared with Scheme 10 fees (meaning, for example, that the basic trial fee for a junior alone or led junior increases from the Scheme 10 fee of £550 to £725);
  - increasing the refresher fee in band 17.1 by 33% when compared with Scheme 10 fees (meaning, for example, that the standard case refresher for a junior alone or led junior increases from the Scheme 10 fee of £300 to £400); and
  - re-banding around 40 offences from band 17.1 to higher bandings within the scheme, compared with the four proposed at consultation, with resulting increases to the fees for those offences.
13. In terms of **other changes to the scheme** we are:
- increase the refresher fees in bands 3.5, 6.4, 6.5, 9.7, 11.2, and 15.3 to £400 to reflect the above noted increase to the band 17.1 refresher fee, creating a minimum refresher fee across the scheme of £400 (meaning, for example, that the

band 6.5 refresher fee for a junior alone or led junior increases from the Scheme 10 fee of £325 to £400);

- restoring the phrase “very unusual” to the definition of special preparation, increasing the scope for more outlying cases within a banding to qualify for additional remuneration;
- increasing the ineffective trial fee by 27% when compared with Scheme 10 fees (meaning the fee increases from the Scheme 10 fee of £300 to £380);
- increasing the fees for appeals against conviction by 32% when compared with Scheme 10 fees (meaning, for example, the fee for a junior alone or led junior increases from the Scheme 10 fee of £250 to £330);
- increasing the fixed fee for elected cases not proceeded by 88% when compared with Scheme 10 fees (meaning an increase from the Scheme 10 fee of £194 to £365); and
- increasing the fee for appeals against sentence by 67% when compared with Scheme 10 fees (meaning the fee for a junior alone or led junior increases from the Scheme 10 fee of £150 to £250).

14. And finally, **we are increasing all other fees across the scheme**, including ancillary fees, by 1%.

## Annex 2: Scheme 11 Fee Table

The different fees in £ for each offence band, advocate type, case type. In the table of fees, J represents a junior alone or led junior, L represents a leading junior and Q a QC. P represents a guilty plea, C a cracked trial and T an effective trial. R is a refresher.

Band	J P	J C	J T	J R	L P	L C	L T	L R	Q P	Q C	Q T	Q R
1.1	£4,295	£7,295	£8,585	£580	£6,440	£10,945	£12,880	£870	£8,585	£14,595	£17,170	£1,160
1.2	£2,150	£3,650	£4,295	£580	£3,220	£5,475	£6,445	£870	£4,295	£7,300	£8,590	£1,160
1.3	£1,290	£2,190	£2,575	£580	£1,930	£3,285	£3,865	£870	£2,575	£4,380	£5,150	£1,160
1.4	£1,075	£1,825	£2,145	£580	£1,610	£2,735	£3,220	£870	£2,145	£3,645	£4,290	£1,160
2.1	£4,295	£7,295	£8,585	£580	£6,440	£10,945	£12,880	£870	£8,585	£14,595	£17,170	£1,160
2.2	£1,290	£2,190	£2,575	£580	£1,930	£3,285	£3,865	£870	£2,575	£4,380	£5,150	£1,160
3.1	£1,770	£3,005	£3,535	£505	£2,650	£4,505	£5,305	£760	£3,535	£6,010	£7,070	£1,010
3.2	£1,010	£1,715	£2,020	£505	£1,515	£2,575	£3,030	£760	£2,020	£3,435	£4,040	£1,010
3.3	£600	£1,020	£1,200	£505	£900	£1,530	£1,800	£760	£1,200	£2,040	£2,400	£1,010
3.4	£425	£725	£850	£505	£640	£1,085	£1,275	£760	£850	£1,445	£1,700	£1,010
3.5	£375	£640	£750	£400	£565	£955	£1,125	£600	£750	£1,275	£1,500	£800
4.1	£1,010	£1,715	£2,020	£530	£1,515	£2,575	£3,030	£795	£2,020	£3,435	£4,040	£1,060
4.2	£785	£1,330	£1,565	£505	£1,175	£1,995	£2,350	£760	£1,565	£2,660	£3,130	£1,010
4.3	£760	£1,290	£1,515	£480	£1,135	£1,930	£2,275	£720	£1,515	£2,575	£3,030	£960
5.1	£950	£1,615	£1,900	£530	£1,425	£2,425	£2,850	£795	£1,900	£3,230	£3,800	£1,060
5.2	£710	£1,205	£1,415	£505	£1,060	£1,805	£2,125	£760	£1,415	£2,405	£2,830	£1,010
5.3	£505	£860	£1,010	£480	£760	£1,290	£1,515	£720	£1,010	£1,715	£2,020	£960
6.1	£4,245	£7,210	£8,485	£530	£6,365	£10,820	£12,730	£795	£8,485	£14,425	£16,970	£1,060
6.2	£3,850	£6,545	£7,700	£505	£5,775	£9,820	£11,550	£760	£7,700	£13,090	£15,400	£1,010
6.3	£1,430	£2,425	£2,855	£405	£2,140	£3,640	£4,285	£610	£2,855	£4,855	£5,710	£810
6.4	£505	£860	£1,010	£400	£760	£1,290	£1,515	£600	£1,010	£1,715	£2,020	£800
6.5	£405	£690	£810	£400	£610	£1,035	£1,215	£600	£810	£1,375	£1,620	£800
7.1	£710	£1,205	£1,415	£505	£1,060	£1,805	£2,125	£760	£1,415	£2,405	£2,830	£1,010

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7.2	£405	£690	£810	£455	£610	£1,035	£1,215	£685	£810	£1,375	£1,620	£910
7.3	£380	£645	£760	£405	£570	£970	£1,140	£610	£760	£1,290	£1,520	£810
8.1	£605	£1,030	£1,210	£505	£910	£1,545	£1,815	£760	£1,210	£2,055	£2,420	£1,010
9.1	£2,930	£4,980	£5,860	£530	£4,395	£7,470	£8,790	£795	£5,860	£9,960	£11,720	£1,060
9.2	£2,020	£3,435	£4,040	£530	£3,030	£5,150	£6,060	£795	£4,040	£6,870	£8,080	£1,060
9.3	£1,515	£2,575	£3,030	£455	£2,275	£3,865	£4,545	£685	£3,030	£5,150	£6,060	£910
9.4	£1,325	£2,255	£2,650	£455	£1,990	£3,380	£3,975	£685	£2,650	£4,505	£5,300	£910
9.5	£810	£1,375	£1,615	£455	£1,210	£2,060	£2,425	£685	£1,615	£2,745	£3,230	£910
9.6	£605	£1,030	£1,210	£405	£910	£1,545	£1,815	£610	£1,210	£2,055	£2,420	£810
9.7	£405	£690	£810	£400	£610	£1,035	£1,215	£600	£810	£1,375	£1,620	£800
10.1	£1,110	£1,885	£2,220	£530	£1,665	£2,830	£3,330	£795	£2,220	£3,775	£4,440	£1,060
11.1	£700	£1,190	£1,400	£455	£1,050	£1,785	£2,100	£685	£1,400	£2,380	£2,800	£910
11.2	£400	£680	£800	£400	£600	£1,020	£1,200	£600	£800	£1,360	£1,600	£800
12.1	£1,060	£1,800	£2,120	£505	£1,590	£2,705	£3,180	£760	£2,120	£3,605	£4,240	£1,010
12.2	£660	£1,120	£1,315	£505	£985	£1,675	£1,975	£760	£1,315	£2,235	£2,630	£1,010
12.3	£455	£775	£910	£505	£685	£1,160	£1,365	£760	£910	£1,545	£1,820	£1,010
13.1	£900	£1,530	£1,800	£505	£1,350	£2,295	£2,700	£760	£1,800	£3,060	£3,600	£1,010
14.1	£1,165	£1,975	£2,325	£555	£1,745	£2,965	£3,490	£835	£2,325	£3,955	£4,650	£1,110
15.1	£810	£1,375	£1,615	£505	£1,210	£2,060	£2,425	£760	£1,615	£2,745	£3,230	£1,010
15.2	£700	£1,190	£1,400	£405	£1,050	£1,785	£2,100	£610	£1,400	£2,380	£2,800	£810
15.3	£425	£725	£850	£400	£640	£1,085	£1,275	£600	£850	£1,445	£1,700	£800
16.1	£1,110	£1,885	£2,220	£555	£1,665	£2,830	£3,330	£835	£2,220	£3,775	£4,440	£1,110
16.2	£810	£1,375	£1,615	£505	£1,210	£2,060	£2,425	£760	£1,615	£2,745	£3,230	£1,010
16.3	£505	£860	£1,010	£505	£760	£1,290	£1,515	£760	£1,010	£1,715	£2,020	£1,010
17.1	£365	£615	£725	£400	£545	£925	£1,090	£600	£725	£1,235	£1,450	£800

<b>Scheme 11 Ancillary Fees</b>	<b>J</b>	<b>L</b>	<b>Q</b>
Standard Appearance	£91	£136	£182
Sentence	£126	£192	£253
PTPH	£126	£192	£253
FCMH	£101	£152	£202
Committal for Sentence	£152	£227	£303
Appeal against sentence	£250	£373	£498
Appeal against conviction	£330	£496	£661
Elected cases not proceeded	£365	£365	£365
Conference (hourly)	£40.40	£60.60	£80.80
Breach of Crown Court Order	£109	£153	£218
Abuse of Process	£240 (F/D)	£349 (F/D)	£502 (F/D)
	£131 (H/D)	£197 (H/D)	£263 (H/D)
Disclosure Hearings	£240 (F/D)	£349 (F/D)	£502 (F/D)
	£131 (H/D)	£197 (H/D)	£263 (H/D)
Admissibility of Evidence Hearings	£240 (F/D)	£349 (F/D)	£502 (F/D)
	£131 (H/D)	£197 (H/D)	£263 (H/D)
Deferred Sentence Hearing	£175	£240	£327
Ineffective Trial Hearing	£380	£380	£380
Special Preparation	£39.39 p/h	£56.56 p/h	£74.74 p/h
Wasted Preparation	£39.39 p/h	£56.56 p/h	£74.74 p/h
Noting Brief	£109	£109	£109
Hearing for Mitigation of Sentence	£109	£175	£263

### Annex 3: Scheme 10 Fee Table

The different fees in £ for each offence band, advocate type, case type. In the table of fees, J represents a junior alone or led junior, L represents a leading junior and Q a QC. P represents a guilty plea, C a cracked trial and T an effective trial. R is a refresher.

Band	J P	J C	J T	J R	L P	L C	L T	L R	Q P	Q C	Q T	Q R
1.1	£4,250	£7,225	£8,500	£575	£6,375	£10,840	£12,750	£865	£8,500	£14,450	£17,000	£1,150
1.2	£2,125	£3,615	£4,250	£575	£3,190	£5,420	£6,375	£865	£4,250	£7,225	£8,500	£1,150
1.3	£1,275	£2,170	£2,550	£575	£1,915	£3,250	£3,825	£865	£2,550	£4,335	£5,100	£1,150
1.4	£1,065	£1,805	£2,125	£575	£1,595	£2,710	£3,190	£865	£2,125	£3,615	£4,250	£1,150
2.1	£4,250	£7,225	£8,500	£575	£6,375	£10,840	£12,750	£865	£8,500	£14,450	£17,000	£1,150
2.2	£1,275	£2,170	£2,550	£575	£1,915	£3,250	£3,825	£865	£2,550	£4,335	£5,100	£1,150
3.1	£1,750	£2,975	£3,500	£500	£2,625	£4,465	£5,250	£750	£3,500	£5,950	£7,000	£1,000
3.2	£1,000	£1,700	£2,000	£500	£1,500	£2,550	£3,000	£750	£2,000	£3,400	£4,000	£1,000
3.3	£500	£850	£1,000	£500	£750	£1,275	£1,500	£750	£1,000	£1,700	£2,000	£1,000
3.4	£375	£640	£750	£500	£565	£955	£1,125	£750	£750	£1,275	£1,500	£1,000
3.5	£300	£510	£600	£325	£450	£765	£900	£490	£600	£1,020	£1,200	£650
4.1	£1,000	£1,700	£2,000	£525	£1,500	£2,550	£3,000	£790	£2,000	£3,400	£4,000	£1,050
4.2	£700	£1,190	£1,400	£500	£1,050	£1,785	£2,100	£750	£1,400	£2,380	£2,800	£1,000
4.3	£500	£850	£1,000	£475	£750	£1,275	£1,500	£715	£1,000	£1,700	£2,000	£950
5.1	£900	£1,530	£1,800	£525	£1,350	£2,295	£2,700	£790	£1,800	£3,060	£3,600	£1,050
5.2	£700	£1,190	£1,400	£500	£1,050	£1,785	£2,100	£750	£1,400	£2,380	£2,800	£1,000
5.3	£500	£850	£1,000	£475	£750	£1,275	£1,500	£715	£1,000	£1,700	£2,000	£950
6.1	£4,000	£6,800	£8,000	£525	£6,000	£10,200	£12,000	£790	£8,000	£13,600	£16,000	£1,050
6.2	£2,500	£4,250	£5,000	£500	£3,750	£6,375	£7,500	£750	£5,000	£8,500	£10,000	£1,000
6.3	£1,000	£1,700	£2,000	£400	£1,500	£2,550	£3,000	£600	£2,000	£3,400	£4,000	£800
6.4	£375	£640	£750	£350	£565	£955	£1,125	£525	£750	£1,275	£1,500	£700
6.5	£325	£555	£650	£325	£490	£830	£975	£490	£650	£1,105	£1,300	£650
7.1	£700	£1,190	£1,400	£500	£1,050	£1,785	£2,100	£750	£1,400	£2,380	£2,800	£1,000

7.2	£400	£680	£800	£450	£600	£1,020	£1,200	£675	£800	£1,360	£1,600	£900
7.3	£375	£640	£750	£400	£565	£955	£1,125	£600	£750	£1,275	£1,500	£800
8.1	£600	£1,020	£1,200	£500	£900	£1,530	£1,800	£750	£1,200	£2,040	£2,400	£1,000
9.1	£2,500	£4,250	£5,000	£525	£3,750	£6,375	£7,500	£790	£5,000	£8,500	£10,000	£1,050
9.2	£2,000	£3,400	£4,000	£525	£3,000	£5,100	£6,000	£790	£4,000	£6,800	£8,000	£1,050
9.3	£1,500	£2,550	£3,000	£450	£2,250	£3,825	£4,500	£675	£3,000	£5,100	£6,000	£900
9.4	£1,000	£1,700	£2,000	£450	£1,500	£2,550	£3,000	£675	£2,000	£3,400	£4,000	£900
9.5	£800	£1,360	£1,600	£450	£1,200	£2,040	£2,400	£675	£1,600	£2,720	£3,200	£900
9.6	£600	£1,020	£1,200	£400	£900	£1,530	£1,800	£600	£1,200	£2,040	£2,400	£800
9.7	£400	£680	£800	£350	£600	£1,020	£1,200	£525	£800	£1,360	£1,600	£700
10.1	£1,100	£1,870	£2,200	£525	£1,650	£2,805	£3,300	£790	£2,200	£3,740	£4,400	£1,050
11.1	£600	£1,020	£1,200	£450	£900	£1,530	£1,800	£675	£1,200	£2,040	£2,400	£900
11.2	£340	£575	£675	£360	£505	£860	£1,015	£540	£675	£1,150	£1,350	£720
12.1	£1,000	£1,700	£2,000	£500	£1,500	£2,550	£3,000	£750	£2,000	£3,400	£4,000	£1,000
12.2	£600	£1,020	£1,200	£500	£900	£1,530	£1,800	£750	£1,200	£2,040	£2,400	£1,000
12.3	£400	£680	£800	£500	£600	£1,020	£1,200	£750	£800	£1,360	£1,600	£1,000
13.1	£650	£1,105	£1,300	£500	£975	£1,660	£1,950	£750	£1,300	£2,210	£2,600	£1,000
14.1	£750	£1,275	£1,500	£550	£1,125	£1,915	£2,250	£825	£1,500	£2,550	£3,000	£1,100
15.1	£700	£1,190	£1,400	£500	£1,050	£1,785	£2,100	£750	£1,400	£2,380	£2,800	£1,000
15.2	£375	£640	£750	£400	£565	£955	£1,125	£600	£750	£1,275	£1,500	£800
15.3	£300	£510	£600	£325	£450	£765	£900	£490	£600	£1,020	£1,200	£650
16.1	£1,100	£1,870	£2,200	£550	£1,650	£2,805	£3,300	£825	£2,200	£3,740	£4,400	£1,100
16.2	£800	£1,360	£1,600	£500	£1,200	£2,040	£2,400	£750	£1,600	£2,720	£3,200	£1,000
16.3	£500	£850	£1,000	£500	£750	£1,275	£1,500	£750	£1,000	£1,700	£2,000	£1,000
17.1	£275	£470	£550	£300	£415	£705	£825	£450	£550	£940	£1,100	£600

<b>Scheme 10 Ancillary Fees</b>	<b>J</b>	<b>L</b>	<b>Q</b>
Standard Appearance	£90	£135	£180
Sentence	£125	£190	£250
PTPH	£125	£190	£250
FCMH	£100	£150	£200
Committal for Sentence	£150	£225	£300
Appeal against sentence	£150	£225	£300
Appeal against conviction	£250	£375	£500
Elected cases not proceeded	£194	£194	£194
Conference (hourly)	£40	£60	£80
Breach of Crown Court Order	£108	£151	£216
Abuse of Process	£238 (F/D)	£346 (F/D)	£497 (F/D)
	£130 (H/D)	£195 (H/D)	£260 (H/D)
Disclosure Hearings	£238 (F/D)	£346 (F/D)	£497 (F/D)
	£130 (H/D)	£195 (H/D)	£260 (H/D)
Admissibility of Evidence Hearings	£238 (F/D)	£346 (F/D)	£497 (F/D)
	£130 (H/D)	£195 (H/D)	£260 (H/D)
Deferred Sentence Hearing	£173	£238	£324
Ineffective Trial Hearing	£300	£300	£300
Special Preparation	£39 p/h	£56 p/h	£74 p/h
Wasted Preparation	£39 p/h	£56 p/h	£74 p/h
Noting Brief	£108	£108	£108
Hearing for Mitigation of Sentence	£108	£173	£260

## Annex 4: Indicative case studies

Below is a non-exhaustive list of comparative examples between AGFS Scheme 9, AGFS Scheme 10 and the final Scheme 11. These examples are for illustrative purposes only and are based upon the examples originally provided in the MoJ's January 2017 consultation document, *Reforming the Advocates' Graduated Fee Scheme*.

Case example	Scheme 9 (excl. VAT)	Scheme 10 (excl. VAT)	Scheme 11 (excl. VAT)
<p><b>Example 1</b></p> <p>Offence: Murder (child victim).</p> <p>Case Type: Trial</p> <p>Advocate: QC</p> <p>PPE: 1,000</p> <p>Days: 18</p> <p>Witnesses: 20</p> <p>Standard Appearances: 4</p> <p>PTPH: 1</p>	<p>Class of Offence: Class A</p> <p>Fee: £20,133.80</p>	<p>Offence banding: 1.1</p> <p>Fee: £37,520.00</p> <p>(£17,000 basic fee, £1,150 daily fee x 17 days, x1 PTPH at £250, x4 Standard Appearance fee at £180).</p>	<p>Offence banding: 1.1</p> <p>Fee: £37,871.00</p> <p>(£17,170 basic fee, £1,160 daily fee x 17 days, x1 PTPH at £253, x4 Standard Appearance fee at £182).</p>
<p><b>Example 2</b></p> <p>Offence: Terrorist murder</p> <p>Case Type: Trial</p>	<p>Class of Offence: Class A</p> <p>Fee: £25,840.74</p>	<p>Offence banding: 2.1</p> <p>Fee: £43,520.00</p>	<p>Offence banding: 2.1</p> <p>Fee: £43,924.00</p>

<p>Advocate: QC  PPE: 1,400  Days: 23  Witnesses: 18  Standard Appearances: 4  PTPH: 1  Sentencing hearing: 1</p>		<p>(£17,000 basic fee, £1,150 daily fee x 22 days, x1 PTPH at £250, x4 Standard Appearance fee at £180, x1 sentencing hearing at £250).</p>	<p>(£17,170 basic fee, £1,160 daily fee x22 days, x1 PTPH £253, x4 Standard Appearance at £182, x1 sentencing hearing £253).</p>
<p><b>Example 3</b>  Offence: Preparation for terrorism.  Case Type: Cracked Trial  Advocate: Junior Alone  PPE: 800  Standard Appearance: 2  PTPH: 1</p>	<p>Class of Offence: Class B  Fee: £2,483.00</p>	<p>Offence banding 2.1  Fee: £7,530.00  (£7,225 basic fee, x1 PTPH at £125, x2 Standard Appearances at £90).</p>	<p>Offence banding 2.1  Fee: £7,603.00  (£7,295 basic fee, x1 PTPH at £126, x2 Standard Appearances at £91).</p>

<p><b>Example 4</b></p> <p>Offence: Wounding with intent to do grievous bodily harm.</p> <p>Case Type: Cracked Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 350</p> <p>Standard Appearances: 2</p> <p>PTPH: 1</p>	<p>Class of Offence: Class B</p> <p>Fee: £1,830.50</p>	<p>Offence banding 3.3</p> <p>Fee: £1,155.00</p> <p>(£850 basic fee, x1 PTPH at £125, x2 Standard Appearances at £90).</p>	<p>Offence banding 3.3</p> <p>Fee: £1,328.00</p> <p>(£1,020 basic fee, x1 PTPH at £126, x2 Standard Appearances at £91).</p>
<p><b>Example 5</b></p> <p>Offence: Attempted Murder (adult victim, no firearm)</p> <p>Case Type: Trial</p> <p>Advocate: Leading Junior</p> <p>PPE: 1,200</p> <p>Days: 20</p> <p>Witnesses: 30</p> <p>Standard Appearances: 4</p> <p>PTPH: 1</p> <p>Sentencing Hearing: 1</p>	<p>Class of Offence: Class A</p> <p>Fee: £16,996.50</p>	<p>Offence banding: 3.2</p> <p>Fee: £18,170.00</p> <p>(£3,000 basic fee, £750 daily attendance fee x 19, x1 PTPH at £190, x4 Standard Appearance fees at £135, x1 Sentencing Hearing at £190).</p>	<p>Offence banding: 3.2</p> <p>Fee: £18,398.00</p> <p>(£3,030 basic fee, £760 daily attendance fee x 19, x1 PTPH at £192, x4 Standard Appearance fees at £136, x1 Sentencing Hearing at £192).</p>

<p><b>Example 6</b>                  Offence: Rape (child victim)                  Case Type: Guilty Plea                  Advocate: Junior Alone                  PPE: 300                  Sentencing hearing: 1</p>	<p>Class of Offence: Class J                  Fee: £1,336.00</p>	<p>Offence banding: 4.1                  Fee: £1,125.00                  (£1,000 basic fee, x1 sentencing hearing at £125).</p>	<p>Offence banding: 4.1                  Fee: £1,136.00                  (£1,010 basic fee, x1 sentencing hearing at £126).</p>
<p><b>Example 7</b>                  Offence: Engaging in sexual activity in the presence of a person with mental disorder impeding choice                  Case Type: Trial                  Advocate: Junior Alone                  PPE: 500                  Witnesses: 8                  Days: 8                  Standard Appearance: 2                  Sentencing hearing: 1</p>	<p>Class of Offence: Class D                  Fee: £4,014.00</p>	<p>Offence banding: 4.3                  Fee: £4,630.00                  (£1,000 basic fee, £475 daily attendance fee x7, x2 Standard Appearances at £90, x1 sentencing hearing at £125).</p>	<p>Offence banding: 4.3                  Fee: £5,183.00                  (£1,515 basic fee, £480 daily attendance fee x7, x2 Standard Appearances at £91, x1 sentencing hearing at £126)</p>

<p><b>Example 8</b></p> <p>Offence: Concealing criminal property. (£35K)</p> <p>Case Type: Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 900</p> <p>Days: 7</p> <p>Witnesses: 10</p> <p>Standard Appearances: 2</p> <p>PTPH: 1</p>	<p>Class of Offence: Class B</p> <p>Fee: £4,483.00</p>	<p>Offence banding: 6.4</p> <p>Fee: £3,155.00</p> <p>(£750 basic fee, £350 daily attendance fee x6, x1 PTPH at £125, x2 Standard Appearances at £90).</p>	<p>Offence banding: 6.4</p> <p>Fee: £3,718.00</p> <p>(£1,010 basic fee, £400 daily attendance fee x6, x1 PTPH at £126, x2 Standard Appearances at £91).</p>
<p><b>Example 9</b></p> <p>Offence: Fraud by false representation</p> <p>Case Type: Cracked Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 15,000</p>	<p>Class of Offence: Class G</p> <p>Graduated fee - £4,628.00, plus Special Preparation for 5,000 pages.</p>	<p>Offence banding: 6.2</p> <p>Fee: £4,250.00</p> <p>(£4,250.00 basic fee).</p>	<p>Offence banding: 6.2</p> <p>Fee: £6,545.00</p> <p>(£6,545 basic fee).</p>
<p><b>Example 10</b></p> <p>Offence: Arson with intent to endanger life</p> <p>Case Type: Trial</p>	<p>Class of Offence: Class B</p> <p>Fee: £5,752.80</p>	<p>Offence banding: 7.1</p> <p>Fee: £6,330.00</p> <p>(£1,400 basic fee, £500 daily attendance fee x9, x1 PTPH at £125, x2 Standard</p>	<p>Offence banding: 7.1</p> <p>Fee: £6,394.00</p> <p>(£1,415 basic fee, £505 daily attendance fee x9, x1 PTPH at</p>

<p>Advocate: Junior Alone.  PPE: 700  Days: 10  Witnesses: 22  Standard Appearances: 2  PTPH: 1  Sentencing hearing: 1</p>		<p>Appearances at £90, x1  Sentencing Hearing at £125).</p>	<p>£126, x2 Standard  Appearances at £91, x1  Sentencing Hearing at £126).</p>
<p><b>Example 11</b>  Offence: Perjury – judicial  proceedings.  Case Type: Trial  Advocate: Junior Alone  PPE: 100  Days: 3  Witnesses: 7  Standard Appearances: 1  PTPH: 1</p>	<p>Class of Offence: Class I  Fee: £1,436.00</p>	<p>Offence banding: 8.1  Fee: £2,415.00  (£1,200 basic fee, £500 daily  attendance fee x2, x1 PTPH at  £125, x1 Standard  Appearance at £90).</p>	<p>Offence banding: 8.1  Fee: £2,437.00  (£1,210 basic fee, £505 daily  attendance fee x2, x1 PTPH at  £126, x1 Standard  Appearance at £91).</p>

<p><b>Example 12</b></p> <p>Offence: Unlawful importation of a drug controlled under the Misuse of Drugs Act 1971 – Class A.</p> <p>Case Type: Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 500</p> <p>Days: 10</p> <p>Witnesses: 15</p> <p>Standard Appearances: 4</p> <p>PTPH: 1</p> <p>Sentencing hearing: 1</p>	<p>Class of Offence: Class B</p> <p>Fee: £5,609.50</p>	<p>Offence banding: 9.1</p> <p>Fee: £10,335.00</p> <p>(£5,000 basic fee, £525 daily attendance fee x9, x1 PTPH at £125, x4 Standard Appearances at £90, x1 Sentencing Hearing at £125).</p>	<p>Offence banding: 9.1</p> <p>Fee: £11,246.00</p> <p>(£5,860 basic fee, £530 daily attendance fee x9, x1 PTPH at £126, x4 Standard Appearances at £91, x1 Sentencing Hearing at £126)</p>
<p><b>Example 13</b></p> <p>Offence: Possession of a controlled drug with intent to supply – Cannabis (300 kilograms)</p> <p>Case Type: Guilty Plea</p> <p>Advocate: Junior Alone</p> <p>PPE: 600</p>	<p>Class of Offence: Class B</p> <p>Fee: £1,180.00</p>	<p>Offence banding: 9.2</p> <p>£2,000.00</p> <p>(£2,000 basic fee).</p>	<p>Offence banding: 9.2</p> <p>£2,020.00</p> <p>(£2,020 basic fee).</p>

<p><b>Example 14</b></p> <p>Offence: Causing death by careless driving when under the influence of drink or drugs.</p> <p>Case Type: Guilty Plea</p> <p>Advocate: Leading Junior</p> <p>PPE: 120</p>	<p>Class of Offence: Class B</p> <p>Fee: £1,141.00</p>	<p>Offence banding: 10.1</p> <p>Fee: £1,650.00 (£1,650 basic fee)</p>	<p>Offence banding: 10.1</p> <p>Fee: £1,665.00 (£1,665 basic fee)</p>
<p><b>Example 15</b></p> <p>Offence: Robbery (other than Armed Robbery).</p> <p>Case Type: Cracked Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 60</p> <p>Standard Appearance: 2</p> <p>PTPH: 1</p>	<p>Class of Offence: Class C</p> <p>Fee: £719.60</p>	<p>Offence banding: 11.2</p> <p>Fee: £880.00 (£575 basic fee, x1 PTPH at £125, x2 Standard Appearances at £90).</p>	<p>Offence banding: 11.2</p> <p>Fee: £988.00 (£680 basic fee, x1 PTPH at £126, x2 Standard Appearances at £91).</p>
<p><b>Example 16</b></p> <p>Offence: Trading in firearms without being registered as a firearms dealer</p> <p>Case Type: Trial</p>	<p>Class of Offence: Class C</p> <p>Fee: £3,093.50</p>	<p>Offence banding: 12.1</p> <p>Fee: £5,020.00 (£2,000 basic fee, £500 daily attendance fees x5, x1 PTPH at £125, x3 Standard</p>	<p>Offence banding: 12.1</p> <p>Fee: £5,170.00 (£2,120 basic fee, £505 daily attendance fees x5, x1 PTPH at £126, x3 Standard</p>

<p>Advocate: Junior Alone  PPE: 600  Days: 6  Witnesses: 15  Standard Appearances: 3  PTPH: 1  Sentencing hearing: 1</p>		<p>Appearances at £90, x1  Sentencing Hearing at £125).</p>	<p>Appearances at £91, x1  Sentencing Hearing at £126).</p>
<p><b>Example 17</b>  Offence: Kidnapping.  Case Type: Trial  Advocate: Led Junior  PPE: 3,000  Days: 10  Witnesses: 20  Standard Appearances: 4  PTPH: 1  Sentencing hearing: 1</p>	<p>Class of Offence: Class B  Fee: £7,198.10</p>	<p>Offence banding: 13.1  Fee: £6,410.00  (£1,300 basic fee, £500 daily  attendance fee x 9, x1 PTPH  at £125, x4 Standard  Appearances at £90, x1  Sentencing Hearing at £125).</p>	<p>Offence banding: 13.1  Fee: £6,961.00  (£1,800 basic fee, £505 daily  attendance fee x9, x1 PTPH at  £126, x4 Standard  Appearances at £91, x1  Sentencing Hearing at £126).</p>

<p><b>Example 18</b></p> <p>Offence: Trafficking into the UK for sexual exploitation.</p> <p>Case Type: Trial</p> <p>Advocate: Leading Junior</p> <p>PPE: 1,300</p> <p>Days: 15</p> <p>Witnesses: 25</p> <p>Standard Appearances: 4</p> <p>PTPH: 1</p>	<p>Class of Offence: Class J.</p> <p>Fee: £13,295.00</p>	<p>Offence banding: 14.1</p> <p>Fee: £14,530.00</p> <p>(£2,250 basic fee, £825 daily attendance fees x14, x1 PTPH at £190, x4 Standard Appearances at £135).</p>	<p>Offence banding 14.1</p> <p>Fee: £15,916.00</p> <p>(£3,490 basic fee, £835 daily attendance fees x14, x1 PTPH at £192, x4 Standard Appearances at £136).</p>
<p><b>Example 19</b></p> <p>Offence: Violent disorder.</p> <p>Case Type: Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 80</p> <p>Days: 2</p> <p>Witnesses: 5</p> <p>Standard Appearances: 2</p> <p>PTPH: 1</p>	<p>Class of Offence: Class B</p> <p>Fee: £1,334.40</p>	<p>Offence banding: 15.2</p> <p>Fee: £1,455.00</p> <p>(£750 basic fee, £400 daily attendance fee, x1 PTPH at £125, x2 Standard Appearances at £90).</p>	<p>Offence banding: 15.2</p> <p>Fee: £2,113.00</p> <p>(£1,400 basic fee, £405 daily attendance fee, x1 PTPH at £126, x2 Standard Appearances at £91).</p>

<p><b>Example 20</b></p> <p>Offence: Absconding from lawful custody.</p> <p>Case Type: Guilty Plea</p> <p>Advocate: Junior Alone</p> <p>PPE: 60</p>	<p>Class of Offence: Class C</p> <p>Fee: £485.00</p>	<p>Offence banding: 17.1</p> <p>Fee: £275.00 (£275 basic fee).</p>	<p>Offence banding: 17.1</p> <p>Fee: £365.00 (£365 basic fee).</p>
<p><b>Example 21</b></p> <p>Offence: Affray</p> <p>Case Type: Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 80</p> <p>Days: 3</p> <p>Witnesses: 7</p> <p>Standard Appearance: 1</p> <p>PTPH: 1</p>	<p>Class of Offence: Class H</p> <p>Fee: £1,253.40</p>	<p>Offence banding: 15.3</p> <p>Fee: £1,465.00 (£600 basic fee, £325 daily attendance fee x 2, x1 PTPH at £125, x1 Standard Appearance at £90).</p>	<p>Offence banding: 15.3</p> <p>Fee: £ 1,867(£850basic fee, £400 daily attendance fee x 2, x1 PTPH at £126, x1 Standard Appearance at £91).</p>
<p><b>Example 22</b></p> <p>Offence: Engaging in sexual activity in the presence of a child</p>	<p>Class of offence: Class D</p> <p>Fee: £2,382.00</p>	<p>Offence banding: 4.3</p> <p>Fee: £3,025.00</p>	<p>Offence banding: 4.3</p> <p>Fee: £3,561.00</p>

<p>Case Type: Trial  Advocate: Junior Alone  PPE: 500  Days: 5  Witnesses: 10  PTPH: 1</p>		<p>(£1,000 basic fee, £475 Daily Attendance Fees x4, x1 PTPH at £125)</p>	<p>(£1,515 basic fee, £480 daily attendance fees x4, x1 PTPH at £126)</p>
<p><b>Example 23</b>  Offence: Conspiracy to defraud – value of offence over £1m  Case Type: Trial  Advocate Type: Leading Junior  PPE: 11,000  Days: 20  Witnesses: 50  PTPH: 1  FCMH: 1  Standard Appearances: 2</p>	<p>Class of offence: Class K  Fee: £27,788.50, plus Special Preparation for 1,000 pages.</p>	<p>Offence banding: 6.2  Fee: £22,360.00  (£7,500 basic fee, £750 Daily Attendance Fees x 19, x1 PTPH at £190, x1 FCMH at £150, x2 Standard Appearances at £135)</p>	<p>Offence banding: 6.2  Fee: £26,606.00  (£11,550 basic fee, £760 Daily Attendance Fees x 19, x1 PTPH at £192, x1 FCMH at £152, x2 Standard Appearances at £136)</p>
<p><b>Example 24</b></p>	<p>Class of offence: Class B</p>	<p>Offence banding: 9.4</p>	<p>Offence banding: 9.4</p>

<p>Offence: Possession of a Class A drug with intent to supply – over 1kg of cocaine</p> <p>Case Type: Cracked Trial</p> <p>Advocate Type: Leading Junior</p> <p>PPE: 2,000</p> <p>PTPH: 1</p> <p>Standard Appearances: 1</p>	<p>Fee: £3,157.00</p>	<p>Fee: £2,875.00</p> <p>(£2,550 basic fee, x1 PTPH at £190, x1 Standard Appearance at £135)</p>	<p>Fee: £3,708.00</p> <p>(£3,380 basic fee, x1 PTPH at £192, x1 Standard Appearance at £136)</p>
<p><b>Example 25</b></p> <p>Offence: Breach of a Restraining Order.</p> <p>Case Type: Guilty Plea.</p> <p>Advocate Type: Junior Alone.</p> <p>PPE: 30.</p> <p>Standard Appearance: 2</p> <p>Sentencing Hearing: 1</p>	<p>Class of Offence: Class H</p> <p>Fee: £506.20</p>	<p>Offence banding: 17.1</p> <p>Fee: £580.00</p> <p>(£275 basic fee, x2 Standard Appearance at £90, x1 Sentencing hearing at £125)</p>	<p>Offence banding: 3.4</p> <p>Fee: £733.00</p> <p>(£425 basic fee, x2 Standard Appearance at £91, x1 sentencing hearing at £126).</p>



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