



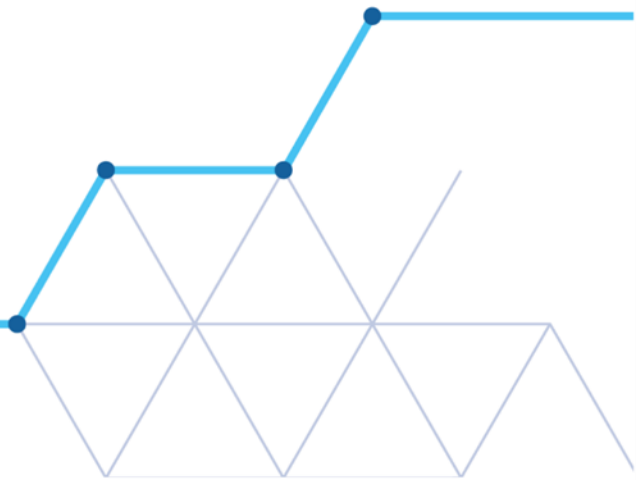
Ministry  
of Justice

# Amending the Advocates' Graduated Fee Scheme

This consultation begins on 31 August 2018

This consultation ends on 28 September 2018

Protecting and advancing the principles of justice



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Ministry  
of Justice

## **Amending the Advocates' Graduated Fee Scheme**

**A consultation 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

<b>To:</b>	This consultation 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.
<b>Duration:</b>	From 31/08/18 to 28/09/18
<b>Enquiries (including requests for the paper in an alternative format) to:</b>	<p>John Foster Legal Aid Policy Ministry of Justice 102 Petty France London SW1H 9AJ Tel: 07732648574</p> <p>Email: AGFS_consultation@justice.gov.uk</p>
<b>How to respond:</b>	<p>Please send your response by 28/09/18 to:</p> <p>John Foster Legal Aid Policy Ministry of Justice 102 Petty France London SW1H 9AJ Tel: 07732648574</p> <p>Email: AGFS_consultation@justice.gov.uk</p>
<b>Response paper:</b>	A response to this consultation exercise is due to be published in due course at: <a href="https://consult.justice.gov.uk/digital-communications/amending-the-advocates-graduated-fee-scheme">https://consult.justice.gov.uk/digital-communications/amending-the-advocates-graduated-fee-scheme</a>

A Welsh language summary is provided on the consultation page. An Impact Assessment indicates that Welsh language speakers are not likely to be particularly affected. A Welsh Language Impact test has been included as part of the Impact Assessment, which is attached to this document.

An Impact Assessment is available at: <https://consult.justice.gov.uk/digital-communications/amending-the-advocates-graduated-fee-scheme>

Comments on the Impact Assessment are very welcome.

An Equalities Statement is available at: <https://consult.justice.gov.uk/digital-communications/amending-the-advocates-graduated-fee-scheme>

Comments on the Equalities Statement are very welcome.

## Contents

Ministerial foreword	3
Executive summary	4
Section 1: Introduction	7
Section 2: AGFS Scheme 10	14
Section 3: The proposals	21
Section 4: Fees in specific offence categories	22
Section 5: Fees for junior advocates	26
Section 6: The 1% uplift to fees	31
Section 7: Equalities	32
Questionnaire	33
About you	35
Contact details/How to respond	36
Consultation principles	38
Annex 1: Indicative Fee Table	39
Annex 2: Indicative case studies	41

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## Ministerial foreword

Criminal advocates play a crucial role in upholding the rule of law. Victims, witnesses and defendants – indeed, everyone in a modern society like ours – depend on them to make our criminal justice system work.

As a former barrister, I greatly value the huge contribution criminal advocates make to our society. This is why I am pleased to bring forward these proposals for an additional £15m of spending on the Advocates' Graduated Fee Scheme (AGFS).

We agreed with many in the legal professions that the AGFS in place before 1 April this year was outdated, inflexible and did not reflect modern advocacy in criminal cases. Reform was needed and we engaged with the professions for more than two years to design and deliver the scheme in a new way.

Since fresh concerns were raised, my officials and I have worked hard with the professions to develop a solution that ensures the scheme achieves its objectives and can represent a good foundation for our justice system. The proposals in this document deliver on this.

Criminal advocacy is important and it is imperative that the professions continue to attract the best and brightest. This is why a number of the proposals we are bringing forward are designed to address the needs of the most junior advocates.

We also propose an increase to fees for all advocates from next April, to reflect the needs of tomorrow's advocates as well as today's.

These proposals are, however, only the first step in the process. I am committed to work with the legal professions – both barristers and solicitors – to ensure that criminal advocacy remains an attractive profession which is open to all. This must be a long term, system-wide process, far beyond legal aid. This is an important task for the Government, but this is not something we can deliver alone.

Now is the time for Government and the legal professions to get on with transforming our criminal justice system for now and for the future. A modern, accessible system that the public can have confidence in requires us to work together. It simply cannot function if the professions are not fully engaged in it and feel that they are properly rewarded for the vital work they do. We commit to continue working collaboratively and transparently to implement a fee scheme that really works and use this as a platform for how we can work together into the future.

**Lucy Frazer QC MP**

**Parliamentary Under-Secretary of State for Justice**

## Executive summary

1. This consultation paper sets out proposals for amending the Advocates' Graduated Fee Scheme (AGFS) that came into force on 1 April 2018. The AGFS is the fee scheme through which criminal defence advocates are paid for carrying out publicly funded work in the Crown Court.
2. The reformed scheme that we implemented in April 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.
3. The Government agreed with many in the professions that the scheme in place before 1 April 2018 needed reform. It relied too heavily on outdated proxies such as Pages of Prosecution Evidence in determining the complexity of a case, meaning that payment no longer fully reflected the work required of advocates. It was unnecessarily complicated, for both advocates and administrators alike. It was often unclear to an advocate what their fee would be at the point of taking on a case. And it did not align with the wider reforms that are transforming how our criminal courts operate.
4. On this basis, the redesign of the AGFS was guided by certain principles. These included, amongst other things, reducing reliance on Pages of Prosecution Evidence as a proxy for complexity, more fairly rewarding the work done by advocates, reducing bureaucracy, increasing cost certainty for advocates, and complementing wider system reforms.
5. To meet these principles, we implemented several structural changes to the scheme. We introduced a modernised and simplified formula for calculating fees, which greatly reduces reliance on Pages of Prosecution Evidence. This was supported by the introduction of a new, more sophisticated offence categorisation system, which builds in relativities between offences based on their complexity. We "unbundled" the graduated fee, paying for many previously "bundled" payments separately. We also placed a greater focus on in-court advocacy in determining advocates' fees.
6. These reforms were subject to a full public consultation. 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. The Government remains of the view that this structure is sensible, coherent, and a vast improvement over its predecessor, and that it should form the basis for remuneration into the foreseeable future.
7. However, while we remain committed to the structure of the new scheme, we appreciate that the fees within the AGFS require reconsideration. Since we published our consultation response, practitioners from across the professions have expressed concerns that fees are too low and do not properly reflect work done. These concerns led to many barristers, and some solicitor advocates, refusing to accept instructions for work under the new scheme.
8. We have spoken extensively to practitioners and representatives of the professions to better understand these concerns. These concerns have 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 want increases in the future.
9. One of the principles of the reformed scheme from the very outset was to reflect, and pay for, work done. Having carefully considered the concerns that the AGFS does not achieve this objective, we recognise that fees within the scheme should be increased. As a result, we are proposing to allocate an additional £15m of spending to the AGFS to address the above concerns. Our proposals for distributing this additional expenditure are summarised below, and set out in detail in this consultation paper.
10. For sexual offences involving children (category 4), we propose increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 4.2 by around 10% (meaning, for example, that the basic trial fee for a 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 would increase from £1,000 to £1,500).
11. For dishonesty offences (category 6), we propose increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 6.1 by around 5% (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 just over 50% (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 around 40% (meaning, for example, that the basic trial fee for a junior would increase from £2,000 to £2,825).
12. For drugs offences (category 9), we propose increasing the basic fees for trials, guilty pleas, and cracked trials:
- in band 9.1 by just over 15% (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 just over 30% (meaning, for example, that the basic trial fee for a junior would increase from £2,000 to £2,625).
13. For junior advocates, both the junior bar and solicitor advocates, we propose:
- increasing the basic fees for trials, guilty, and cracked trials in standard cases (band 17.1) by almost 20% and the daily refresher fee by more than 15%;
  - 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 increase 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).

14. And finally, we propose implementing a 1% increase to all fees for cases with a Representation Order granted on or after 1 April 2019.

15. Following consultation, we will consider all consultation responses. Any changes to the scheme will be made by secondary legislation. The process for this starts with making and laying a Statutory Instrument in Parliament. This Statutory Instrument will specify the relevant dates that the changes will come into force. Determinations for criminal legal aid made after the date the new regulations come into force will be afforded the increase in fees.

## Section 1: Introduction

16. This paper sets out a package of proposals for amending the Advocates' Graduated Fee Scheme (AGFS) that came into force on 1 April 2018. The AGFS is the fee scheme through which criminal defence advocates are paid for carrying out publicly funded work in the Crown Court. The scheme introduced in April is the tenth version of the AGFS since its inception, and is also known as "Scheme 10".

### The development of Scheme 10

17. The Government considered that Scheme 10's predecessor, known as "Scheme 9", needed reform for several reasons. Many within the legal professions agreed with this assessment, not least the Bar Council, who published their own proposals for a reformed AGFS in 2015.<sup>1</sup>
18. First, when determining the work done by an advocate in a case and their ensuing fee, Scheme 9 did not reflect changes to the way that evidence is served. Electronic evidence, including video footage, and mobile phone and hard-drive data, is increasingly served by the prosecution. Scheme 9 relied heavily on Pages of Prosecution Evidence as a proxy for determining the complexity of a case and how much an advocate should be paid. Some of this electronic material was converted into "pages" so that it could be counted. We agreed with many in the professions that this did not reflect the work done by Crown Court defence advocates. Several recent Costs Judges decisions have echoed this view, emphasising how some electronic evidence may be more readily searchable using electronic search techniques. Given this, other factors, such as the type of offence and the number of trial days, afford a better way of capturing the complexity of a case and the work done by an advocate.
19. Secondly, Scheme 9 was unnecessarily complicated, for both advocates and administrators alike. A large number of payments were "bundled" into the basic fee, along with a variety of uplifts based on the facts of a case. These uplifts often obscured the final fee an advocate would receive in a case until the point of payment, which meant that an advocate may not know the exact fee they would earn until the conclusion of the case.
20. And thirdly, Scheme 9 needed to better complement the reforms of the Better Case Management (BCM) programme. These reforms, which follow Sir Brian Leveson's *Review of Efficiency in Criminal Proceedings*<sup>2</sup>, are transforming the way our criminal courts operate through improved case management procedures. The Government considered that the scheme must be consistent with and, where appropriate, support these reforms.

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<sup>1</sup> Bar Council, *Bar Council's Advocates' Graduated Fee Scheme (AGFS) Working Group Draft proposal for a new Scheme*, Available at: <https://www.barcouncil.org.uk/media-centre/news-and-press-releases/2015/october/bar-council-working-group-re-designs-agfs-model/>

<sup>2</sup> Rt Hon Sir Brian Leveson, January 2015, *Review of Efficiency in Criminal Proceedings*. Available at: <https://www.judiciary.uk/publications/review-of-efficiency-in-criminal-proceedings-final-report/>

21. On this basis, we developed proposals for reform, working closely with a Working Group comprising representatives from across the legal professions. These proposals were guided by certain principles. Specifically, that the reforms should:
- be cost neutral (using 2014-15 AGFS data as a “baseline”);
  - minimise reliance on Pages of Prosecution Evidence served;
  - reflect, and pay for, the actual work done;
  - support getting the right outcome in individual cases, and remove as far as possible any perverse incentives;
  - be consistent with and support wider reforms – for example the BCM programme and wider Criminal Justice System reforms; and
  - place no extra administrative burden on Her Majesty’s Courts and Tribunals Service (HMCTS), the Legal Aid Agency (LAA), and practitioners than the current scheme – and ideally a reduced burden.
22. The Working Group and Government proceeded with the development of AGFS reforms aligned with these principles – including the principle of cost neutrality against a 2014-15 baseline – although there were calls from members of the Working Group for additional spending on the scheme.

## **The structure of Scheme 10**

23. To meet these guiding principles, Scheme 10 made several significant structural changes to the previous scheme.
24. First, it introduced a modernised and simplified formula for calculating fees. This formula radically reduced reliance on Pages of Prosecution Evidence – and dispensed with the number of witnesses – when calculating the complexity of a case and the fee that an advocate is paid. Instead, payment is based on a more detailed and sophisticated breakdown of offence types. Scheme 9 had eleven offence categories. Scheme 10 features seventeen offence categories, broken down into forty-eight discrete bands. The category and band, designed to reflect the average complexity and amount of work required in a typical case, is now the critical factor in determining how much an advocate should be paid for the work they do.
25. By reducing the scheme’s reliance on Pages of Prosecution Evidence, which is an increasingly ineffective proxy for complexity given the growth of electronic evidence, Scheme 10 seeks to ensure payment more fairly reflects the work done by an advocate. Furthermore, the removal of Pages of Prosecution Evidence and witnesses as proxies for complexity provides for a simpler fee scheme that offers greater certainty to advocates on their fees.
26. Secondly, Scheme 10 “unbundles” the graduated fee, paying for most previously “bundled” payments separately. This includes the second day of trial, Plea and Trial Preparation Hearings (PTPHs), and standard appearances. This change is consistent with BCM reforms. As BCM reduces unnecessary hearings over time, a fee scheme

reliant on an average number of hearings per case would not fully reflect work done nor align with the BCM agenda.

27. And thirdly, Scheme 10 makes the amount of time spent by an advocate in court a more important variable in determining the fee paid. Spending is more focused on complex trials, where more advocacy work is undertaken, over less complex guilty plea hearings. This helps ensure more accurate payment for the work done by advocates.
28. Further details of the architecture of Scheme 10 are set out in Section 2 of this document, which also includes a table setting out the category and banding structure.

## Fees under Scheme 10

29. We arrived at the proposals for fees in Scheme 10 in consultation with stakeholders. Offence categories and bands were ordered relative to each other to reflect their complexity and the work required by advocates. Fees were then applied proportionately in line with those relativities. These relativities and fees were agreed by the Working Group prior to consultation, and then consulted upon. The consultation process that led to the implementation of Scheme 10, and the changes we made to fees following consultation, are set out below.

## The consultation on Scheme 10

30. Scheme 10 was subject to a full public consultation. We published our reform proposals on 5 January 2017<sup>3</sup> and our response on 23 February 2018.<sup>4</sup> The initial response to our proposals was largely positive. For example, when the consultation was launched, a press release<sup>5</sup> from the Bar Council said:

*The Bar Council and the Young Barristers' Committee welcome new proposals published today by the Ministry of Justice which will mean barristers and other advocates will be paid fairly for the work they do in publicly funded criminal cases. The new, fairer Advocates' Graduated Fee Scheme (AGFS), if implemented, will mean barristers' fees are no longer based on outdated and distorting factors such as the number of pages in a case, but instead are paid according to the seriousness and complexity of the work.*

31. We received 408 responses to the consultation. Consultees were generally in favour of the proposed new structure. For example, 50% of respondents agreed that we should introduce the new system for categorising offences, which forms the foundations of Scheme 10, with 43% against.

<sup>3</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>4</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/>

<sup>5</sup> Bar Council, 5 January 2017, 'New AGFS plan will mean fairer pay for advocates'. Available at: <https://www.barcouncil.org.uk/media-centre/news-and-press-releases/2017/january/new-agfs-plan-will-mean-fairer-pay-for-advocates/>

32. However, there were concerns about the level of fees, particularly for junior advocates. We considered these concerns carefully, and adjusted a number of fees in response. For example, we increased fees for certain hearings and appearances that are often undertaken by juniors, such as standard appearances, sentencing hearings, and PTPHs. We also re-categorised certain offences, such as s20 cases, s47 cases, and threats to kill, to raise fees for some cases that are more likely to involve junior advocates.
33. As a result of these increases to fees, the final scheme design set out in our consultation response, and implemented on 1 April 2018, was estimated to cost around £9m more than our original consultation proposals. This was a departure from our original consultation principle of cost neutrality against a 2014-15 baseline. However, in light of the responses to the consultation, the Government considered this necessary to better achieve the aim of reflecting, and paying for, actual work done.

### **The need for further consultation**

34. Since the publication of our consultation response at the end of February, concerns about Scheme 10 have been raised by the professions – and particularly the barrister profession. These concerns have not focussed on the structure of the scheme, which many advocates agree provides a simpler, fairer and more modern alternative to its predecessor. Instead, practitioners and their professional bodies have expressed concerns that the fees within the reformed scheme do not sufficiently reflect the work done by advocates in Crown Court cases.
35. 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.
36. Throughout April and May, Ministry of Justice officials were approached by and spoke extensively to both individual practitioners and representatives of the Bar Council and the Criminal Bar Association (CBA) to better understand advocates' concerns. With regards to Scheme 10, 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 want increases in the future.
37. The concerns that fees within these three areas do not properly remunerate work done have been linked to wider concerns about the sustainability of publicly funded criminal defence work. In relation to fees in specific offence categories, we have been told that the fees under Scheme 10 could undermine the viability and sustainability of practice within these areas. With regards to fees for junior advocates, we have heard that the current fees may adversely impact the recruitment and retention of junior advocates, with potential consequences for the diversity of the professions. And in terms of fees more generally, we have been told that without future increases, the longer-term sustainability of criminal defence work could be undermined.

38. On 23 May, Ministers met with the leaders of the Bar Council and the CBA and a representative of the Circuit Leaders. Having carefully considered the concerns raised, Ministers agreed that fees should be increased to address the above concerns and better reflect and pay for the work done by Crown Court defence advocates.
39. To meet this objective, the Government agreed to consider £15m of additional spending on the AGFS. This would broadly comprise:
  - £8m of additional expenditure targeted at the specific offence categories of sexual offences involving children (Category 4), dishonesty offences (Category 6), and drugs offences (Category 9);
  - £4.5m of additional expenditure targeted at junior advocates; and
  - a 1% increase to all fees in April 2019.
40. In agreeing to consider this additional £15m of scheme expenditure, we recognise that the leaders of the Bar Council and the CBA initially sought a greater level of spending on the scheme.

## **The proposed amendments**

41. This consultation brings forward our specific proposals for allocating an additional £15m in the AGFS. Should these changes be implemented, the amended scheme would be known as "Scheme 11".
42. From the outset, it is important to emphasise that we continue to believe that the architecture of Scheme 10 represents a significant improvement over its predecessor. Like many advocates, we believe it provides a clearer, less complex alternative, more accurately reflects the work done by advocates in the Crown Court, and better supports and promotes a modernised criminal justice system. Given this, we do not propose to make any changes to the underlying structure of Scheme 10.
43. Instead, we propose to increase fees within this structure to better reflect and pay for work done. We have been collaborating closely with the leaders of the Bar Council and CBA to develop specific proposals for meeting this objective, working to do this within the proposed envelope of an additional £15m of scheme expenditure. They have shared their members' views on this issue, and we have carefully considered their representations in developing proposals for where this additional scheme spending should be targeted. These proposals are summarised above at paragraphs 10-14, and detailed in subsequent sections.
44. We agreed with the leaders of the Bar Council and CBA that the proposed £15m of additional scheme spending should be on top of the most recent published release of 2016-17 AGFS expenditure, where Scheme 9 spend was £227m.<sup>6</sup> However, it should be noted that the primary cost estimate in the Impact Assessment that accompanies this consultation paper is one of £16m. This is because the main comparison made in

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<sup>6</sup> LAA, June 2018, *Legal Aid Statistics: January to March 2018*. Available at: <https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2018>.

the Impact Assessment is between Scheme 11 and Scheme 10, not Scheme 9. Further details can be found at paragraphs 40 to 41 of the Impact Assessment.

45. In bringing forward these proposals, we recognise that some advocates may hold different views on how much additional expenditure should be put into the AGFS and how the scheme should be amended. We encourage respondents to share these views, including alternative proposals for the allocation and spread of fee increases to better reflect work done. In doing so, we would welcome any case studies and examples that support counter proposals.
46. We also recognise that support for the structure of Scheme 10 is not unanimous. For example, the Law Society has suggested that we should reconsider the relativities in Scheme 10, as set out in Section 2, between types of advocate (i.e. junior, leading junior, and QC) and case outcome (i.e. guilty plea, cracked trial, and full trial). Although we are not directly seeking views on the structure of Scheme 10 as part of this consultation, we would welcome respondents' views on any wider concerns with Scheme 10. We are listening very carefully to such concerns and they will play an important part in our proposed review of the AGFS. Further details of this review are set out below.

## Looking forward

47. In our recent discussions with practitioners and representative bodies, we have also heard wider concerns about Scheme 10. Two issues have been of note.
48. First, we have heard concerns about how the operation of Scheme 10 will be assessed. Bearing on these concerns, the House of Commons Justice Select Committee recently published their report on criminal legal aid.<sup>7</sup> This report made two recommendations with direct relevance to a review of the AGFS:

*that, without further delay, a system of annual review be built into the AGFS, overseen by a panel which includes representatives from the Criminal Bar and solicitor organisations; the panel's remit should include considering the inter-dependency between the AGFS and the LGFS; and*

*that the output from the criminal legal aid workstream within the post-implementation review of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 be used to underpin a comprehensive and independent review of criminal legal aid—similar to the recent independent review of legal aid in Scotland—with the aim of devising a scheme that is sustainable and user-focused; the review should be launched no later than March 2019 and be concluded within 12 months.*

49. As noted in our February consultation response, we recognise the need for continued, constructive engagement with the professions to ensure that the AGFS is operating as intended. For this reason, we set out our intention to undertake a review of Scheme 10 18 months to two years following implementation. This timetable was designed to ensure that enough data is available to make an informed assessment of the scheme.

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<sup>7</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/>



For example, given the length of some proceedings from the point at which a Representation Order is granted, to the point of the case's conclusion, we would simply not be in the position to make an informed assessment before this point.

50. We remain committed to reviewing the AGFS, including any amendments to the scheme following this consultation, and will seek to begin the formal review process 18 months from advocates beginning to accept instructions under Scheme 10 in June. We will work closely with the professions to determine the scope and format of this review. That said, we want to gather real-time intelligence on how the scheme is operating as soon as possible, and will begin to engage the professions early next year. In addition, we are carefully considering the Justice Select Committee's recommendations for an annual review of the AGFS, and a wider review of criminal legal aid, and will respond to these recommendations in due course.
51. And secondly, we have also heard concerns about the remuneration of advocates for considering unused material. Reviewing unused material is currently included within the brief fee. Many within the professions have told us that there should be an additional payment within the AGFS for considering this material.
52. On the issue of unused material, the Justice Select Committee's recent report on criminal legal aid also recommended that restoring legal aid payments for reviewing unused material above a certain page threshold should be considered as part of their proposed review of criminal legal aid. In addition, the Justice Select Committee also recently published their report on the disclosure of evidence in criminal cases<sup>8</sup>, while the Attorney General is leading a wide-ranging review of disclosure procedures that is expected to report shortly.
53. We are committed to better understanding this issue and we will be carefully considering the findings of these reports, as well as the specific concerns we have heard during our recent engagement with the professions. We recognise that data in this area is limited and, as a first step, we intend to work with the professions to develop an evidence base.

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<sup>8</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/>

## Section 2: AGFS Scheme 10

54. This section sets out the basic structure of AGFS Scheme 10, which came into force on 1 April 2018. As set out in the previous section, we do not propose to change this structure. Further details, including current fees, can be found in the consultation response we published in February 2018 and in Schedule 1 to the Criminal Legal Aid (Remuneration) Regulations 2013 (No. 435)<sup>9</sup>, as amended by the Criminal Legal Aid Remuneration (Amendment) Regulations 2018 (No. 220)<sup>10</sup>.

### Graduated fees for trials

55. The formula for how graduated fees for trials are calculated is as follows:

<b>GF = BF + (D x DAF)</b>
Where ---
<b>GF</b> is the amount of the graduated fee
<b>BF</b> is the basic fee specified as appropriate to the band of the offence for which the assisted person is tried and the category of trial advocate
<b>D</b> is the number of days or parts of a day on which the advocate attends at court by which the trial exceeds one day
<b>DAF</b> is the fee payable in respect of daily attendance at court for the number of days by which the trial exceeds one day, as appropriate to the band of the offence for which the assisted person is tried and the category of trial advocate.

56. The basic fee for trials is thus dependent on the band of offence and the category of advocate. There are seventeen offence categories, broken down into forty-eight discrete offence bands. The category and band, designed to reflect the average complexity and amount of work required in a typical case, is the critical factor in determining an advocate's fee. Table 1 below sets out these categories and bands in detail.

57. When calculating the basic fee, the scheme builds in relativities between different types of advocate: QCs are paid double the rate of juniors, and leading juniors are paid one and half times the rate of juniors. These relativities also apply to daily attendance fees and fees for guilty plea hearings and cracked trials.

<sup>9</sup> Schedule 1 to the Criminal Legal Aid (Remuneration) Regulations 2013 (No. 435). Available at: <http://www.legislation.gov.uk/cy/uksi/2013/435/contents/made>

<sup>10</sup> Criminal Legal Aid Remuneration (Amendment) Regulations 2018 (No. 220). Available at: <http://www.legislation.gov.uk/uksi/2018/220/contents/made>

58. The basic fee for trials also includes a “bundled” payment for attendance at day 1 of the trial, and three conferences and views.
59. The daily attendance fee is also dependent on the band of the offence and the category of advocate.

### **Graduated fees for guilty pleas**

60. The basic fee for guilty plea is dependent on the band of offence and the category of advocate. This fee is set at 50% of the basic trial fee for the band of offence.
61. A guilty plea fee is payable in cases where there is a plea in the first two thirds of the period between the date of the PTPH and the date that the first day of the trial is listed.

### **Graduated fees for cracked trials**

62. The basic fees for cracked trials is dependent on the band of offence and the category of advocate. This fee is set at 85% of the basic trial fee for the band of offence.
63. A cracked trial is one where the defendant alters their plea to guilty either leading up to or during the trial. A cracked trial fee is payable in cases where a trial cracks in the final third of the period between the date of the PTPH and the date that the first day of the trial is listed.

### **Other fixed fees**

64. Fixed fees are paid for other individual appearances and standard appearances, in particular PTPHs and sentence hearings. The fee is dependent on the length of the appearance, type of appearance, and in some cases, the category of advocate.

### **Special preparation**

65. Cases are considered for a special preparation payment if they involve novel points of law or fact, or feature over 10,000 Pages of Prosecution Evidence (with the exception of drugs, where 15,000 Pages of Prosecution Evidence is required, and dishonesty, where 30,000 Pages of Prosecution Evidence is required).

**Table 1: Categories and bands of offence in AGFS Scheme 10**

Category	Description	Bands
1	Murder/Manslaughter	<p><b>Band 1.1:</b> Killing of a child (16 years old or under); killing of two or more persons; killing of a police officer, prison officer or equivalent public servant in the course of their duty; killing of a patient in a medical or nursing care context; corporate manslaughter; manslaughter by gross negligence; missing body killing.</p> <p><b>Band 1.2:</b> Killing done with a firearm; defendant has a previous conviction for murder; body is dismembered (literally), or destroyed by fire or other means by the offender; the defendant is a child (16 or under).</p> <p><b>Band 1.3:</b> All other cases of murder.</p> <p><b>Band 1.4:</b> All other cases of manslaughter.</p>
2	Terrorism	<p><b>Band 2.1:</b> Terrorist murder (S63B Terrorism Act 2000); Explosive Substances Act 1883 offences – especially S2&amp;3; preparation for terrorism, S5 Terrorism Act 2000, disseminating terrorist publications, S2 Terrorism Act 2006; possession of material for the purpose of terrorism, S57 Terrorism Act 2000.</p> <p><b>Band 2.2:</b> All other terrorist offences.</p>
3	Serious Violence	<p><b>Band 3.1:</b> Attempted murder of a child, two or more persons, police officer, nursing/medical contact or any violent offence committed with a live firearm.</p> <p><b>Band 3.2:</b> All other attempted murder.</p> <p><b>Band 3.3:</b> S18.</p> <p><b>Band 3.4:</b> All other serious violence (unless standard, or specified in Band 3.5).</p>

		<b>Band 3.5:</b> s20 Offences Against the Persons Act cases, s47 cases (Actual Bodily Harm), and Threats to Kill.
4	Sexual Offences (children)	<b>Band 4.1:</b> Rape / Assault by penetration. <b>Band 4.2:</b> Sexual Assault. <b>Band 4.3:</b> All other offences (unless standard).
5	Sexual Offences (adult)	<b>Band 5.1:</b> Rape / Assault by penetration. <b>Band 5.2:</b> Sexual Assault. <b>Band 5.3:</b> All other offences (unless standard).
6	Dishonesty (to include Proceeds of Crime and Money Laundering)	<b>Band 6.1:</b> Over £10m or over 20,000 pages. <b>Band 6.2:</b> Over £1m or over 10,000 pages. <b>Band 6.3:</b> Over £100,000. <b>Band 6.4:</b> Under £100,000. <b>Band 6.5:</b> Under £30,000.
7	Property Damage Offences	<b>Band 7.1:</b> Arson with intent to endanger life/reckless as to endanger life. <b>Band 7.2:</b> Simple arson and criminal damage over £30,000. <b>Band 7.3:</b> All other offences (unless standard).
8	Offences Against the Public Interest	<b>Band 8.1:</b> All offences against the public interest (unless standard).
9	Drugs Offences	<b>Band 9.1:</b> <u>Class A:</u> Importation S3 Misuse of Drugs Act/ S170 Customs and Excise Management Act; Or over 5,000 pages of evidence; Or weight over:

		<p>5kg heroin or cocaine 10,000 ecstasy tablets 250,000 squares of LSD</p> <p><b>Band 9.2:</b></p> <p><u>Class B:</u></p> <p>Importation S3 Misuse of Drugs Act/ S170 Customs and Excise Management Act;</p> <p>Or over 5,000 pages of evidence;</p> <p>Or weight over: 20kg amphetamine 200kg cannabis 5kg ketamine</p> <p><b>Band 9.3:</b></p> <p><u>Class C:</u></p> <p>Importation S3 Misuse of Drugs Act/ S170 Customs and Excise Management Act;</p> <p>Or over 5,000 pages of evidence</p> <p><b>Band 9.4:</b></p> <p><u>Class A:</u></p> <p>1,000 pages of evidence;</p> <p>Or weight over: 1kg Heroin or Cocaine 2,000 ecstasy tablets 2,5000 squares of LSD</p> <p><b>Band 9.5:</b></p> <p><u>Class B:</u></p> <p>1,000 pages of evidence;</p> <p>Or weight over: 4kg of amphetamine 40kg of cannabis 1kg ketamine</p>
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		<p><b>Band 9.6:</b></p> <p><u>Class C:</u></p> <p>1,000 pages of evidence</p> <p><b>Band 9.7:</b></p> <p>All other drugs cases of any class (unless standard).</p>
10	Driving Offences	<b>Band 10.1:</b> Death and serious injury by driving cases (unless standard).
11	Burglary & Robbery	<p><b>Band 11.1:</b> Aggravated burglary, burglary with intent to GBH or rape, and armed robbery.</p> <p><b>Band 11.2:</b> Indictable only burglary; other robberies.</p>
12	Firearms Offences	<p><b>Band 12.1:</b> Possession or supply of a firearm/ammunition with any ulterior intent or any offence for which the maximum penalty is life imprisonment.</p> <p><b>Band 12.2:</b> Minimum sentence offence.</p> <p><b>Band 12.3:</b> All other offences (unless standard).</p>
13	Other offences against the person	<b>Band 13.1:</b> Kidnapping; false imprisonment; blackmail (unless standard).
14	Exploitation / human trafficking offences	<b>Band 14.1:</b> All exploitation / human trafficking offences (unless standard).
15	Public Order Offences	<p><b>Band 15.1:</b> Riot and prison mutiny/riot.</p> <p><b>Band 15.2:</b> Violent disorder.</p> <p><b>Band 15.3:</b> Affray.</p>
16	Regulatory Offences	<p><b>Band 16.1:</b> Health and Safety or environmental cases involving one or more fatalities or defined by the HSE or EA as a category or Stage 1 "major incident";</p> <p>Death of a child;</p>

		<p>A major accident at a site regulated by the Control of Major Accident Hazards Regulations 1999 (as amended); large scale explosion.</p> <p><b>Band 16.2:</b> Health and Safety or environmental cases not falling within Band 1 but involving:</p> <ul style="list-style-type: none"> <li>- Serious and permanent personal injury/disability and/or widespread</li> <li>- Destruction of property (other than that owned or occupied by the defendant)</li> <li>- Extensive pollution/irreparable damage to the environment</li> <li>- Toxic gas release (e.g. carbon monoxide, chlorine gas)</li> <li>- Cases involving incidents governed by mining/railways/aviation legislation</li> </ul> <p><b>Band 16.3:</b> All other offences (unless standard)</p>
17	Standard Cases	<p><b>Band 17.1:</b> Standard cases</p> <p>Those cases not falling under the above categories of offence will be defined as 'Standard Cases'.</p>
<p>The category and band to which a specific offence is categorised is outlined in a standalone document, published on the gov.uk website, entitled the <i>Banding of offences in the Advocates' Graduated Fee Scheme: Version 1.1</i>. This document is available at: <a href="https://www.gov.uk/government/publications/banding-of-offences-in-the-advocates-graduated-fee-scheme">https://www.gov.uk/government/publications/banding-of-offences-in-the-advocates-graduated-fee-scheme</a></p>		



## Section 3: The proposals

66. Our proposals are set out in detail in the following sections. Key changes, alongside equality issues, are examined individually as follows:

- fees in the specific offence categories of sexual offences involving children (category 4), dishonesty offences (category 6), and drug offences (category 9);
- fees for junior advocates, both employed and self-employed;
- the 1% uplift to all fees in April 2019; and
- equality considerations.

67. Annex One provides an indicative fee table. It shows the fees that would follow from our proposed increases in the specific offence categories of sexual offences involving children (category 4), dishonesty offences (category 6), and drug offences (category 9) and for junior advocates. All the fees within this table would be subject to a 1% increase for cases with a Representation Order granted on or after 1 April 2019.

68. Annex Two shows how our proposed changes would affect fees for certain types of cases compared with both Scheme 9, the scheme in place before 1 April 2018, and Scheme 10, the current scheme. These are the same case studies used in the original January 2017 consultation, with some additional examples.

69. This consultation paper asks a number of specific questions throughout, with a collated list at page 33 of this document. However, we are also interested in respondents' general views about our proposed package of scheme amendments, and question 10 in Section Six provides an opportunity for these views to be shared. As mentioned above, we would welcome consultees' views on alternatives for the allocation and spread of fee increases to better reflect work done, supported by case studies or examples.

70. Alongside this consultation paper, we have also published an equality statement, and an Impact Assessment. These should be read in conjunction with our proposals.

## Section 4: Fees in specific offence categories

71. Since we published our consultation response in February 2018, one of the most significant concerns that we have heard about Scheme 10 relates to fees within the specific offence categories of sexual offences involving children (Category 4), dishonesty offences (Category 6), and drug offences (Category 9). We have been told by the leaders of the Bar Council and CBA, and some practitioners, that fees within these categories do not fairly reward the work done by advocates.
72. In particular, the concerns that we have relate to the basic fees in these cases. We have been told that preparatory work in these cases can be complex, and that these fees do not properly remunerate the enhanced level of preparation often required. These fees have also led to wider concerns about the viability and sustainability of practice within these areas.
73. Given these concerns, we have undertaken further analysis of the impact of Scheme 10 on these categories. As shown at Annex B of the Impact Assessment that accompanies this consultation paper, this new analysis indicates that there are bands within these categories that are suffering disproportionate losses against Scheme 9 when compared to the rest of the bands within that category. These disproportionate losses were not apparent in the category-level analysis carried out as part of our Impact Assessment in February 2018.<sup>11</sup>
74. Having considered this detailed analysis, and representations from the Bar Council and CBA, we consider that the basic fees for trials, guilty pleas, and cracked trials within the following bands should be increased:
- for child sexual offences (category 4), bands 4.2 and 4.3;
  - for fraud offences (category 6), bands 6.1, 6.2, and 6.3; and
  - for drug offences (category 9), bands 9.1 and 9.4.
75. The proposed increases are broadly designed to bring spend on cases within these bands closer to Scheme 9 levels, which following our discussions with the Bar Council and CBA, we understand will better reflect work done in these cases.
76. Our specific proposals are detailed below. In outlining these proposals, their impact on basic fees is illustrated through reference to the basic fees for trials. While it is unlikely that many of the cases falling into these bands would 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, we have shown the impact that our proposed changes would have on fees for all types of advocate. Annex One

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<sup>11</sup> A band-level analysis was not presented in our Impact Assessment because the number of cases falling into each band is much smaller than at the category level, meaning the analysis is less reliable. However, given the concerns that have been raised, we think this analysis is now useful to include. Please see the Impact Assessment for further details.

sets out the accompanying increases to the basic fees for guilty pleas and cracked trials.

### Child sexual offences (Category 4)

77. First, for child sexual offences, we propose to increase the basic fees for trials, guilty pleas, and cracked trials in band 4.2 by around 10% and band 4.3 by 50%. This would mean increases to the basic trial fees within these bands as follows:

**Table 2: Proposed increases to basic trial fees in bands 4.2 and 4.3**

Band	Existing scheme – basic trial fee			Proposed scheme – 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	£1,550	£2,325	£3,100
4.3	£1,000	£1,500	£2,000	£1,500	£2,250	£3,000

### Dishonesty offences (Category 6)

78. Secondly, for dishonesty offences, we propose to increase the basic fees for trials, guilty pleas, and cracked trials in band 6.1 by around 5%, band 6.2 by just over 50%, and band 6.3 by around 40%. In practice, this would mean increases to the basic trial fees within these bands as follows:

**Table 3: Proposed increases to basic trial fees in bands 6.1, 6.2, and 6.3**

Band	Existing scheme – basic trial fee			Proposed scheme – 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	£8,450	£12,675	£16,900
6.2	£5,000	£7,500	£10,000	£7,625	£11,440	£15,250
6.3	£2,000	£3,000	£4,000	£2,825	£4,240	£5,650

### Drugs offences (Category 9)

79. And thirdly, for drugs offences, we propose to increase the basic fees for trials, guilty pleas, and cracked trials in band 9.1 by just over 15% and band 9.4 by just over 30%. This would mean basic trial fees would increase as follows:

**Table 4: Proposed increases to basic trial fees in bands 9.1 and 9.4**

Band	Existing scheme – basic trial fee			Proposed scheme – 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	£5,800	£8,700	£11,600
9.4	£2,000	£3,000	£4,000	£2,625	£3,940	£5,250

## Alternatives

80. The Government has considered several alternatives for addressing the concerns about remuneration within these offence categories. We do not, however, believe that these would provide an appropriate solution for the specific issues that have been raised by practitioners and their representative bodies.
81. For example, it has been suggested that we should place greater weight on Pages of Prosecution Evidence in determining fees in some or all of these categories. One proposal, put forward by the leaders of the Bar Council and CBA, has been that we reinstate a per page payment system in these categories. Another proposal put forward by the Bar Council and CBA has been that we lower the Pages of Prosecution Evidence thresholds in bands 6.1 and 6.2 of the fraud category and bands 9.1, 9.2, and 9.3 of the drugs category.<sup>12</sup>
82. While we are content to retain the existing Scheme 10 Pages of Prosecution Evidence thresholds, we do not think it would be appropriate to afford Pages of Prosecution Evidence a greater role in determining fees. As set out in Section 1, and in our January 2017 consultation paper, the Government considers that the counting of pages is no longer the best way of capturing complexity in a digital age nor the most appropriate way of remunerating for work done.
83. Another option would be to increase daily attendance fees. However, because the concerns that we have heard relate to preparation work, not the value of in-court advocacy, raising the fee for attendance at court would not be appropriate.
84. Alternatively, we could specifically increase cracked trial and guilty plea fees, and not the basic trial fee. However, this would only affect a subset of cases, and we are unconvinced this will adequately address advocates' concerns. Furthermore, and as noted above, our proposals would increase guilty plea and cracked trial fees anyway, as the existing relativities between those fees would be retained.

**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.**

<sup>12</sup> As set out in the original consultation, we consider that under Scheme 10, PPE needed to be retained as one factor for assessing complexity in drugs and dishonesty cases. In drug cases, we consider page counts need to be retained because drugs may never physically be recovered in a conspiracy case. This means a category that relied exclusively on the weight or quantity of drugs recovered may not properly reflect complexity in those circumstances. In dishonesty cases, there will be certain circumstances where the value of the loss or intended loss will not always be clear from the outset – so page counts have been retained.

**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.**

**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.**

## Section 5: Fees for junior advocates

85. In addition to the category-specific concerns outlined in the previous section, we have also heard significant concerns about fees for junior advocates – both employed and self-employed – under Scheme 10. This in many ways reinforces the concerns we heard from respondents during the January 2017 consultation, where many respondents felt that the proposed fees did not satisfactorily remunerate the work undertaken by the junior bar and solicitor advocates.
86. For example, in response to the January 2017 consultation, the South Eastern Circuit expressed their concern that the *'impact on the junior bar in particular will be negative'*. Echoing these concerns, the CBA invited the Government to reconsider the fees and *'adjust them in favour of the most junior practitioners, while not flattening the improved upward trajectory of fee progression'*.
87. This formed part of broader concerns around the impact that the proposed fees might have on the criminal legal professions overall. There were concerns that the proposals could discourage new entrants into the professions, and that this could have negative consequences for diversity.
88. We took these concerns very seriously, which is why we made several changes to the scheme following our January 2017 consultation. These included, for example:
- remunerating each standard appearance (revising our original proposal to “bundle” standard appearances in excess of six as part of the basic fee);
  - increasing standard appearance fees by 50% (meaning, for example, that the fee for a junior increased from £60 originally consulted on to £90);
  - increasing sentence hearing fees by 25% (meaning, for example, that the fee for a junior increased from £100 originally consulted on to £125);
  - increasing PTPH fees by 25% (meaning, for example, that the fee for a junior increased from £100 originally consulted on to £125); and
  - moving several offences (s20 cases, s47 cases, and threats to kill) out of the standard category, and into the serious violence category, with an accompanying increase in the fee of almost 10%.
89. These increased fees meant that the final scheme design implemented in April 2018 was estimated to cost around £9m more than our original proposals.
90. Nevertheless, concerns remain about the level of fees in Scheme 10. We have heard from many practitioners that the changes we made following consultation, whilst welcome, are not sufficient to allay the concern that junior advocates are not fairly remunerated for work done, and the potential impact this could have on recruitment and retention in the professions.
91. We have listened carefully to these concerns and consider that further increases to fees would better reflect the work done by junior advocates. There are, of course,

many different ways in which we could achieve this aim. We have spoken extensively to the leaders of the Bar Council and the CBA, who following discussions with their own members, have suggested a number of specific areas within the scheme where an upward adjustment to fees would deliver better remuneration for the work done by junior advocates. We have drawn on this expertise in developing our proposals, which are set out in detail below.

92. In outlining these proposals, the impact of our proposed changes to basic fees is illustrated through reference to the basic fees for trials. In addition, although it is unlikely that many of the cases falling into the affected bands would meet the threshold for a Representation Order to be extended to account for more than one junior advocate, we again show the impact that the proposed changes would have on fees for all types of advocate.

### Fees for standard cases

93. First, we have been told that the fees for standard cases (band 17.1) would benefit from review. This reflects a key concern we heard in response to our January 2017 consultation, where many respondents similarly felt that the fees proposed for standard cases were too low – and that the junior advocates would be disadvantaged as a result. We agree that a change is appropriate and propose increasing the basic fees for trials, guilty pleas, and cracked trials in standard cases by almost 20% and the daily refresher fee by around 15%. Table 5 below shows the effect of this proposal on basic trial fees, whilst Table 6 shows the effect on daily refresher fees.

**Table 5: Proposed increase to basic trial fees in band 17.1**

Band	Existing scheme – basic trial fee			Proposed scheme – 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	£650	£975	£1,300

**Table 6: Proposed increase to refresher fees in band 17.1**

Band	Existing scheme – refresher fee			Proposed scheme – 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	£350	£525	£700

94. To ensure that more complex cases in higher bands are appropriately rewarded in comparison with these proposed fees for standard cases, we would also seek to increase a number of fees in other bands. Specifically, we would make the following changes to basic fees and refresher fees:

**Table 7: Proposed increase to basic trial fees at band 3.5**

Band	Existing scheme – basic trial fee			Proposed scheme – basic trial fee		
	Junior Alone/ Led Junior	Leading Junior	Queen's Counsel	Junior Alone/ Led Junior	Leading Junior	Queen's Counsel
3.5	£600	£900	£1,200	£675	£1,015	£1,350

**Table 8: Proposed increases to refresher fees at bands 3.5, 6.4, 6.5, 9.7, and 15.3**

Band	Existing scheme – refresher fee			Proposed scheme – refresher fee		
	Junior Alone	Leading Junior	Queen's Counsel	Junior Alone	Leading Junior	Queen's Counsel
3.5	£325	£490	£650	£360	£540	£720
6.4	£350	£525	£700	£375	£565	£750
6.5	£325	£490	£650	£360	£540	£720
9.7	£350	£525	£700	£375	£565	£750
15.3	£325	£490	£650	£360	£540	£720

### Fees in other offence categories

95. Second, following discussions with the leaders of the Bar Council and the CBA, it has also been suggested that the basic fees in a range of other offence bands do not fairly remunerate the work of junior advocates. Taking into consideration the band level analysis discussed at paragraph 73, and presented at Annex B of the Impact Assessment, they have also provided suggestions as to what a more accurate level of remuneration in these bands would look like.

96. We have listened carefully to these representations, and as set out in Table 9 below, we propose to increase basic fees for trials, guilty pleas, and cracked trials in a range of other offences bandings. This comprises 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). These changes would mean some significant increases to fees for junior advocates. For example, we are proposing to increase the basic fees in band 14.1 by more than 50%.

**Table 9: Proposed increases to other basic trial fees**

Band	Existing scheme – basic trial fee			Proposed scheme – 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	£1,000	£1,500	£ 2,000
6.5	£650	£975	£1,300	£800	£1,200	£1,600
11.2	£675	£1,015	£1,350	£750	£1,125	£1,500
12.1	£2,000	£3,000	£4,000	£2,100	£3,150	£4,200



12.2	£1,200	£1,800	£2,400	£1,300	£1,950	£2,600
12.3	£800	£1,200	£1,600	£900	£1,350	£1,800
13.1	£1,300	£1,950	£2,600	£1,460	£2,190	£2,920
14.1	£1,500	£2,250	£3,000	£2,300	£3,450	£4,600
15.1	£1,400	£2,100	£2,800	£1,600	£2,400	£3,200
15.2	£750	£1,125	£1,500	£850	£1,275	£1,700
15.3	£600	£900	£1,200	£700	£1,050	£1,400

### Re-banding offences from the standard cases category

97. Third, the Bar Council and CBA have also told us that several offences currently mapped to the standard cases category – harbouring an escaped prisoner, the intimidation of witnesses, the intimidation of witnesses, jurors and others, and assisting offenders<sup>13</sup> – should be moved out of the standard cases band at 17.1 and into the offences against the public interest band at 8.1. We have listened carefully to these views, and accept that these cases should not be categorised as standard given their nature, and their comparative seriousness and complexity compared to other cases that we have categorised as standard. We therefore propose to move these offences to band 8.1, which would mean the basic fees for these cases would more than double. For example, a junior alone would see their basic trial fee for these cases increase from £550 to £1,200.

### Fees for ineffective trials

98. Fourth, the leadership of the Bar Council and CBA have told us that the fee for ineffective trials does not fairly remunerate work done. Often an ineffective trial will be caused by a scenario completely beyond the advocate's control. Whilst BCM and wider reforms should reduce inefficiencies in the system, there will remain instances where an advocate is cost a day's work, which could be taken up working on trial issues and/or prevent the advocate from taking on a more lucrative case(s). We did seek to address this in Scheme 10. Scheme 9 specified a fixed fee of £130 per day for a junior, £195 for a leading junior, and £281 for a QC. In Scheme 10, we increased this fee to £300 – the rate paid for a standard case refresher – regardless of the level of advocate. The Government acknowledges that this may not adequately remunerate ineffective trials and an increase to fees is needed. We therefore propose to increase this fee from £300 to £350, which represents an increase of more than 15%.

### Fees for appeals against conviction

99. A fifth matter drawn to our attention by the Bar Council and CBA is the fee for appeals against conviction. We have been told this fee does not fairly reward the relative

<sup>13</sup> Specifically, offence numbers 549, 563, 565, and 573 in the *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>

complexity of these hearings, and having considered this view carefully, consider an upward adjustment in this fee is needed to better pay for work done. We therefore propose to increase the fee for appeals against conviction. Under Scheme 10, these are paid as a fixed fee of £250 per day for a junior, £375 for a leading junior, and £500 for a QC. We propose increasing this fee by 20%, which would mean a fee of £300 for juniors, £450 for leading juniors, and £600 for QCs.

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

**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.**

**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.**

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

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

## Section 6: The 1% uplift to fees

100. Alongside the category-specific concerns outlined in Section 4, and the concerns about junior advocates discussed in Section 5, we have also heard concerns about fees in Scheme 10 more generally. Many practitioners have expressed concerns that if fees remain the same, they will not fairly remunerate work done in the future, and the longer-term sustainability of criminal advocacy could be adversely impacted.
101. This reflects concerns we heard from respondents during the original consultation, where many consultees felt the AGFS needed to be index-linked, or subject to an annual 1% increase in line with public sector pay, to ensure fees better pay for work done going forward. While the Government cannot commit to such a proposal at present, we will be keeping this position under review.
102. However, we have listened carefully to these concerns about fees, and within the context of current financial constraints, accept that a change is needed. We therefore propose 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.

**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.**

**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.**

## Section 7: Equalities

103. The Government is committed to considering the impact of the policy proposals set out in this consultation document, with particular reference to the protected characteristics of advocates who are most likely to be affected.
104. In accordance with our duties under the Equality Act 2010, we have considered the impact of these proposals on individuals sharing particular protected characteristics and the need to eliminate unlawful conduct, advance equality of opportunity and foster good relations.
105. Our assessments of the potential impact of these proposals can be found in our equality statement (available on the consultation page), which should be read in conjunction with this consultation document.
106. Once we have considered the responses to the consultation, we will update the equality statement as necessary. With this in mind, we welcome responses from consultees on these proposals with regard to the potential impacts on individuals, and the need to achieve the statutory equality objectives, by addressing the questions below.

**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.**

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

**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.**

## Questionnaire

**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.**

**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.**

**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.**

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

**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.**

**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.**

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

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

**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.**

**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.**

**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.**

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

**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.**

**Thank you for participating in this consultation exercise.**

## About you

Please use this section to tell us about yourself

<b>Full name</b>	
<b>Job title</b> or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
<b>Date</b>	
<b>Company name/organisation</b> (if applicable):	
<b>Address</b>	
<b>Postcode</b>	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

**If you are a representative of a group**, please tell us the name of the group and give a summary of the people or organisations that you represent.

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## **Contact details/How to respond**

Please send your response by 28/09/18 to:

**John Foster**  
**Legal Aid Policy**  
**Ministry of Justice**  
**102 Petty France**  
**London SW1H 9AJ**  
**Tel: 07732648574**  
**Email: AGFS\_consultation@justice.gov.uk**

## **Complaints or comments**

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

## **Extra copies**

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <https://consult.justice.gov.uk/digital-communications/amending-the-advocates-graduated-fee-scheme/>.

Alternative format versions of this publication can be requested from John Foster at AGFS\_consultation@justice.gov.uk or 07732648574.

## **Publication of response**

A paper summarising the responses to this consultation will be published in due course. The response paper will be available on-line at <https://consult.justice.gov.uk/digital-communications/amending-the-advocates-graduated-fee-scheme>.

## **Representative groups**

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

## **Confidentiality**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004).



If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

## 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: Indicative 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. These fees do not include our proposed 1% uplift to fees for cases granted a Representation Orders on or after 1 April 2019.

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	£340	£575	£675	£360	£505	£860	£1,015	£540	£675	£1,150	£1,350	£720
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	£775	£1,320	£1,550	£500	£1,165	£1,975	£2,325	£750	£1,550	£2,635	£3,100	£1,000
4.3	£750	£1,275	£1,500	£475	£1,125	£1,915	£2,250	£715	£1,500	£2,550	£3,000	£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	£4,225	£7,185	£8,450	£525	£6,340	£10,775	£12,675	£790	£8,450	£14,365	£16,900	£1,050
6.2	£3,815	£6,480	£7,625	£500	£5,720	£9,720	£11,440	£750	£7,625	£12,965	£15,250	£1,000
6.3	£1,415	£2,400	£2,825	£400	£2,120	£3,600	£4,240	£600	£2,825	£4,805	£5,650	£800
6.4	£500	£850	£1,000	£375	£750	£1,275	£1,500	£565	£1,000	£1,700	£2,000	£750
6.5	£400	£680	£800	£360	£600	£1,020	£1,200	£540	£800	£1,360	£1,600	£720

# Amending the Advocates' Graduated Fee Scheme

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	£2,900	£4,930	£5,800	£525	£4,350	£7,395	£8,700	£790	£5,800	£9,860	£11,600	£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	£1,315	£2,230	£2,625	£450	£1,970	£3,345	£3,940	£675	£2,625	£4,465	£5,250	£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	£375	£600	£1,020	£1,200	£565	£800	£1,360	£1,600	£750
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	£375	£640	£750	£360	£565	£955	£1,125	£540	£750	£1,275	£1,500	£720
12.1	£1,050	£1,785	£2,100	£500	£1,575	£2,680	£3,150	£750	£2,100	£3,570	£4,200	£1,000
12.2	£650	£1,105	£1,300	£500	£975	£1,660	£1,950	£750	£1,300	£2,210	£2,600	£1,000
12.3	£450	£765	£900	£500	£675	£1,150	£1,350	£750	£900	£1,530	£1,800	£1,000
13.1	£730	£1,240	£1,460	£500	£1,095	£1,860	£2,190	£750	£1,460	£2,480	£2,920	£1,000
14.1	£1,150	£1,955	£2,300	£550	£1,725	£2,935	£3,450	£825	£2,300	£3,910	£4,600	£1,100
15.1	£800	£1,360	£1,600	£500	£1,200	£2,040	£2,400	£750	£1,600	£2,720	£3,200	£1,000
15.2	£425	£725	£850	£400	£640	£1,085	£1,275	£600	£850	£1,445	£1,700	£800
15.3	£350	£595	£700	£360	£525	£895	£1,050	£540	£700	£1,190	£1,400	£720
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	£325	£555	£650	£350	£490	£830	£975	£525	£650	£1,105	£1,300	£700

## Annex 2: Indicative case studies

Below is a non-exhaustive list of comparative examples between AGFS Scheme 9, AGFS Scheme 10 and the proposed scheme (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*. It should also be noted that examples listed for Scheme 11 would increase by a further 1% in April 2019 under the proposals.

Case example	Scheme 9 (excl. VAT)	Scheme 10 (excl. VAT)	Proposed Scheme 11 (excl. VAT)
<b>Example 1</b> Offence: Murder (child victim). Case Type: Trial Advocate: QC PPE: 1,000 Days: 18 Witnesses: 20 Standard Appearances: 4 PTPH: 1	Class of Offence: Class A Fee: £20,133.80	Offence banding: 1.1 Fee: £37,520.00 (£17,000 basic fee, £1,150 daily fee x 17 days, x1 PTPH at £250, x4 Standard Appearance fee at £180).	See scheme 10 – no change

<p><b>Example 2</b></p> <p>Offence: Terrorist murder</p> <p>Case Type: Trial</p> <p>Advocate: QC</p> <p>PPE: 1,400</p> <p>Days: 23</p> <p>Witnesses: 18</p> <p>Standard Appearances: 4</p> <p>PTPH: 1</p> <p>Sentencing hearing: 1</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>(£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>See scheme 10 – no change</p>
<p><b>Example 3</b></p> <p>Offence: Preparation for terrorism.</p> <p>Case Type: Cracked Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 800</p> <p>Standard Appearance: 2</p> <p>PTPH: 1</p>	<p>Class of Offence: Class B</p> <p>Fee: £2,483.00</p>	<p>Offence banding 2.1</p> <p>Fee: £7,530.00</p> <p>(£7,225 basic fee, x1 PTPH at £125, x2 Standard Appearances at £90).</p>	<p>See scheme 10 – no change</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>See scheme 10 – no change</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>See scheme 10 – no change</p>

<p><b>Example 6</b></p> <p>Offence: Rape (child victim)</p> <p>Case Type: Guilty Plea</p> <p>Advocate: Junior Alone</p> <p>PPE: 300</p> <p>Sentencing hearing: 1</p>	<p>Class of Offence: Class J</p> <p>Fee: £1,336.00</p>	<p>Offence banding: 4.1</p> <p>Fee: £1,125.00</p> <p>(£1,000 basic fee, x1 sentencing hearing at £125).</p>	<p>See scheme 10 – no change</p>
<p><b>Example 7</b></p> <p>Offence: Engaging in sexual activity in the presence of a person with mental disorder impeding choice</p> <p>Case Type: Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 500</p> <p>Witnesses: 8</p> <p>Days: 8</p> <p>Standard Appearance: 2</p> <p>Sentencing hearing: 1</p>	<p>Class of Offence: Class D</p> <p>Fee: £4,014.00</p>	<p>Offence banding: 4.3</p> <p>Fee: £4,630.00</p> <p>(£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</p> <p>Fee: £5,130.00</p> <p>(£1,500 basic fee, £475 daily attendance fee x7, x2 Standard Appearances at £90, x1 sentencing hearing at £125)</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: £3,555.00</p> <p>(£1,000 basic fee, £375 daily attendance fee x6, x1 PTPH at £125, x2 Standard Appearances at £90).</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: £6,480.00</p> <p>(£6,480.00 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>See Scheme 10 – no change.</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><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>See Scheme 10 – no change.</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: £10,210.00</p> <p>(£5,000 basic fee, £525 daily attendance fee x9, x4 Standard Appearances at £90, x1 Sentencing Hearing at £125).</p>	<p>Offence banding: 9.1</p> <p>Fee: £11,010.00</p> <p>(£5,800 basic fee, £525 daily attendance fee x9, x4 Standard Appearances, x1 Sentencing Hearing at £125)</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>See Scheme 10 – no change.</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</p> <p>(£1,650 basic fee)</p>	<p>See Scheme 10 – no change.</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</p> <p>(£575 basic fee, x1 PTPH at £125, x2 Standard Appearances at £90).</p>	<p>Offence banding: 11.2</p> <p>Fee: £945.00</p> <p>(£640 basic fee, x1 PTPH at £125, x2 Standard Appearances at £90).</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</p> <p>(£2,000 basic fee, £500 daily attendance fees x5, x1 PTPH at £125, x3 Standard</p>	<p>Offence banding: 12.1</p> <p>Fee: £5,120.00</p> <p>(£2,100 basic fee, £500 daily attendance fees x5, x1 PTPH at £125, x3 Standard</p>

Advocate: Junior Alone PPE: 600 Days: 6 Witnesses: 15 Standard Appearances: 3 PTPH: 1 Sentencing hearing: 1		Appearances at £90, x1 Sentencing Hearing at £125).	Appearances at £90, x1 Sentencing Hearing at £125).
<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	Class of Offence: Class B Fee: £7,198.10	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).	Offence banding: 13.1 Fee: £6,570.00 (£1,460 basic fee, £500 daily attendance fee x9, x1 PTPH at £125, x4 Standard Appearances at £90, x1 Sentencing Hearing at £125).

<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: £15,730.00</p> <p>(£3,450 basic fee, £825 daily attendance fees x14, x1 PTPH at £190, x4 Standard Appearances at £135).</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: £1,555.00</p> <p>(£850 basic fee, £400 daily attendance fee, x1 PTPH at £125, x2 Standard Appearances at £90).</p>

<b>Example 20</b> Offence: Absconding from lawful custody. Case Type: Guilty Plea Advocate: Junior Alone PPE: 60	Class of Offence: Class C Fee: £485.00	Offence banding: 17.1 Fee: £275.00 (£275 basic fee).	Offence banding: 17.1 Fee: £325.00 (£325 basic fee).
<b>Example 21</b> Offence: Affray Case Type: Trial Advocate: Junior Alone PPE: 80 Days: 3 Witnesses: 7 Standard Appearance: 1 PTPH: 1	Class of Offence: Class H Fee: £1,253.40	Offence banding: 15.3 Fee: £1,465.00 (£600 basic fee, £325 daily attendance fee x 2, x1 PTPH at £125, x1 Standard Appearance at £90).	Offence banding: 15.3 Fee: £1,635.00 (£700 basic fee, £360 daily attendance fee x 2, x1 PTPH at £125, x1 Standard Appearance at £90).
<b>Example 22</b> Offence: Engaging in sexual activity in the presence of a child	Class of offence: Class D Fee: £2,382.00	Offence banding: 4.3 Fee: £3,025.00	Offence banding: 4.3 Fee: £3,525.00 (£1,500 basic fee, £475 daily attendance fees x4, x1 PTPH)

<p>Case Type: Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 500</p> <p>Days: 5</p> <p>Witnesses: 10</p> <p>PTPH: 1</p>		<p>(£1,000 basic fee, £475 Daily Attendance Fees x4, x1 PTPH at £125)</p>	
<p><b>Example 23</b></p> <p>Offence: Conspiracy to defraud – value of offence over £1m</p> <p>Case Type: Trial</p> <p>Advocate Type: Leading Junior</p> <p>PPE: 11,000</p> <p>Days: 20</p> <p>Witnesses: 50</p> <p>PTPH: 1</p> <p>FCMH: 1</p> <p>Standard Appearances: 2</p>	<p>Class of offence: Class K</p> <p>Fee: £27,788.50, plus Special Preparation for 1,000 pages.</p>	<p>Offence banding: 6.2</p> <p>Fee: £22,360.00</p> <p>(£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</p> <p>Fee: £26,300.00</p> <p>(£11,440 basic fee, £750 Daily Attendance Fees x 19, x1 PTPH at £190, x1 FCMH at £150, x2 Standard Appearances at £135)</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>



Offence: Possession of a Class A drug with intent to supply – over 1kg of cocaine  Case Type: Cracked Trial  Advocate Type: Leading Junior  PPE: 2,000  PTPH: 1  Standard Appearances: 1	Fee: £3,157.00	Fee: £2,875.00  (£2,550 basic fee, x1 PTPH at £190, x1 Standard Appearance at £135)	Fee: £3,670.00  (£3,345 basic fee, x1 PTPH at £190, x1 Standard Appearance at £135)
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