

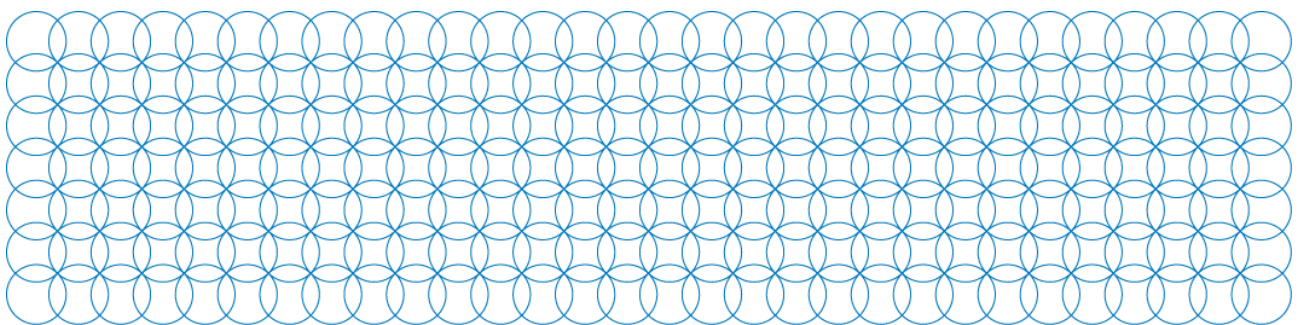


Ministry
of Justice

Reforming the Advocates' Graduated Fee Scheme

This consultation begins on 5 January 2017

This consultation ends on 2 March 2017



Reforming 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/reforming-the-advocates-graduated-fee-scheme>

About this consultation

- To:** 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.
- Duration:** From 05/01/17 to 02/03/17
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- How to respond:** Please send your response by 2 March 2017 to:
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- Response paper:** A response to this consultation exercise will be published in due course at:

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

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 Consultation Document.

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

Comments on the Equalities Statement are very welcome.

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Foreword

The rule of law is the basis on which a fair and just society thrives.

That is underpinned by an independent judiciary, and expert advocates defending those accused of a crime in open court.

But the way in which criminal cases are brought is changing. As society changes, the nature of criminal evidence changes too.

Sir Brian Leveson has produced an outstanding blueprint for the modernisation of our criminal proceedings system. His reforms are already beginning to transform the criminal justice system to reflect the new reality that we face.

It is vital that we update the way that we pay criminal defence advocates to reflect this reality too.

Our current payment system does not focus enough on the skilled advocacy that barristers and solicitor advocates demonstrate in the Crown Court. I want to change that.

The measures in this consultation package, developed with the assistance of representatives from across the legal profession, set out a simpler, fairer and more modern alternative. An alternative which I believe complements the new criminal justice system we are building, ensures fair payment for the work done, and provides more certainty for all advocates, in particular junior advocates, who we must protect. We also aim to significantly reduce bureaucracy in the system, which currently represents an unnecessary burden to advocates, and the taxpayer.

I look forward to the views of all of those who read this consultation. Especially the views of defence advocates, to whom we owe a great debt.

Rt Hon Sir Oliver Heald QC MP
Minister of State for Courts and Justice

Executive summary

1. This consultation paper sets out proposals for the reform of the Advocates' Graduated Fee Scheme (AGFS). This scheme pays advocates to defend clients in the Crown Court. The current AGFS scheme was last subject to major change in 2007 and the Government considers it needs to be modernised.
2. The Government considers the current arrangements are in need of reform. The AGFS relies too heavily on Pages of Prosecution Evidence (PPE), served by the Crown Prosecution Service, as a means of deciding how complex individual cases are - and therefore how much a defence advocate should be paid. The current scheme also relies on the number of witnesses to help determine the fee to be paid.
3. Our justice system is changing, and new forms of evidence are becoming critical features of many criminal cases. The counting of pages, and counting of new forms of electronic evidence, converted to "pages" is no longer the most effective way of assessing how much work an advocate needs to do in an individual case, and therefore how much that advocate should be paid.
4. Our proposed scheme reduces reliance on counting pages, and instead would introduce a more sophisticated system of classifying offences - based on the typical amount of work required in each case. The time spent in court, conducting the advocacy upon which our justice system relies, would also become a more important driver for the fee paid.
5. The proposed scheme is designed to be cost neutral - there is no intention to reduce or increase the overall cost envelope. The proposed scheme would redistribute money, better reflecting work done, and modernising the system in concert with the Better Case Management (BCM) reforms that are transforming the way that our criminal courts do business.
6. The proposed scheme is set out in detail at Annex 1. The consultation sets out how fees in the proposed scheme would be calculated, in comparison with the current scheme - and summarises the current and proposed schemes (Section 3). It then sets out the contents of the graduated fee bundle, again comparing current and proposed schemes for ease of reference (Section 4). The proposed scheme "un-bundles" several elements of the graduated fee, meaning that advocates would be paid set amounts for individual elements of a case (for example, separate fees for up to six standard appearances). This would increase certainty for all advocates about incomes, especially when multiple advocates act in the same case.
7. The proposed system of categorising offences is explained in detail (Section 5). This section also deals with the "relative" fees to be paid between types of advocate (QC, leading junior, led junior/junior alone) and refresher fees. It also explains why, in drugs and fraud cases, PPE is still used to help categorise how serious the case is in certain circumstances.
8. Proposals for the definition of guilty plea fees and cracked trial fees are then set out. We propose to ensure that cases that crack late are remunerated fairly, to reflect work done to prepare the case for trial (Section 6). In the proposed scheme a

cracked trial fee would only be paid once the defence had filed a certificate of trial readiness. This is the point at which they are certifying, before the court, that their case is ready to proceed to trial - so the vast majority of the case preparation should have been carried out by this point. It is fair that the fee scheme reflects this.

9. The final sections of the paper deal with special preparation and wasted preparation (Section 7), other matters where there are significant changes from the old scheme to the proposed scheme (Section 8) and equalities (Section 9).

Introduction

Background

- 1.1 This paper sets out proposals for the reform of the Advocates' Graduated Fee Scheme (AGFS). This is the scheme through which criminal defence advocates are paid for carrying out publicly funded work in the Crown Court.
- 1.2 The current scheme has been in place for around twenty years, and was last subject to significant reform in 2007, following recommendations made by Lord Carter.
- 1.3 In 2015, the Bar Council published proposals for a revised AGFS scheme¹. A joint working group consisting of representatives from across the legal profession has been jointly developing a proposal for reform over the last few months. The views expressed by the working group have been carefully considered. The Government has set out its own vision for reform in this consultation paper.

The case for intervention

- 1.4 The Government considers that the AGFS requires reform for a number of reasons. Since the scheme was last reformed, there have been considerable changes to the way criminal cases are run, and the way that evidence in them is served. Modernising reforms such as the Crown Court Digital Case System, and an increase in the use of electronic evidence, are not effectively provided for in the current scheme. As a result of the changing environment, the Government considers that the volume of evidence is no longer necessarily reflective of the amount of work an advocate has to undertake on an individual case.
- 1.5 The Government also considers that the existing arrangements are unnecessarily complicated, for advocates and administrators alike. We understand that it can often be unclear to an advocate what their fee will be at the point of taking on a case. The current scheme can be inflexible, especially when new offences are established. A large miscellaneous class of offences has undermined confidence in the fairness of the current scheme. As a result, we are proposing a simpler, clearer scheme for all Crown Court advocates. In the proposed scheme fees would be more transparent at the outset. The scheme would also be fully compatible with our evolving Criminal Justice System.
- 1.6 Better Case Management (BCM) reforms, being put in place as a result of Sir Brian Leveson's *Review of Efficiency in Criminal Proceedings*² are also transforming the way our criminal courts operate. This should be addressed within a new, modern fee scheme, designed to complement the BCM agenda.
- 1.7 The working group referred to above agreed a set of guiding principles to apply to the redesign of the scheme. As far as possible the new scheme should:

¹ Bar Council's Advocates' Graduated Fee Scheme (AGFS) Working Group - Draft proposal for a new scheme (2015)
http://www.barcouncil.org.uk/media/393156/bc_agfs_working_group_summary_150110.pdf

² Review of Efficiency in Criminal Proceedings (2015)
<https://www.judiciary.gov.uk/wp-content/uploads/2015/01/review-of-efficiency-in-criminal-proceedings-20151.pdf>

- be cost neutral (using 2014-15 as the baseline);
 - minimise reliance on pages of prosecution evidence served (PPE);
 - 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, where appropriate, support wider reforms - for example, the Better Case Management 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.
- 1.8 The working group, and the Government, openly acknowledges that there are tensions between some of these principles; the proposal presented aims to find the right balance between them.
- 1.9 One of the additional aspirations articulated by the Bar Council in their original proposal was sustainability. In their assessment, career progression is limited for advocates under the current scheme.

The current scheme and proposed reforms

- 1.10 The existing AGFS uses a series of proxies to categorise the likely complexity of the case, and the fee that should therefore be paid. These proxies include the number of witnesses and amount of evidence. One of the most important proxies is Pages of Prosecution Evidence (PPE) served. Over the last few years there have been significant changes in the way that evidence is served. Electronic evidence, including video footage, and mobile phone and hard-drive data, is increasingly served. The current payment arrangements, whereby some of this material is “converted” into pages, no longer fully reflects the work required of advocates in the Crown Court.
- 1.11 The proposed scheme reflects a different approach. It dispenses with witnesses as a proxy for complexity, and radically reduces the role of PPE. Instead payment is graduated based on a more detailed and sophisticated breakdown of the offence that the defendant is charged with. Currently there are eleven offence categories. The proposed scheme features sixteen offence categories, which encompass a total of forty-two separate bands. The category and band, designed to reflect the average amount of work required in a typical case, would become a critical factor in determining what the advocate is paid.
- 1.12 In tandem, the amount of time spent by an advocate performing their duties, would become an increasingly important variable in determining the fee paid. We consider that it is right that “work done” is accounted for as fully as possible in the proposed scheme. At its core, that “work done” is the advocacy conducted in the Crown Court. Through the detailed revised design (see Sections 3-8 and Appendix one) the proposed scheme places more weight on this.

- 1.13 We recognise that the roles of litigators and advocates are very different, especially in relation to the consideration and preparation of evidence. We consider that the balance in the AGFS should be altered for advocates, with a greater emphasis on advocacy “work done”.
- 1.14 The proposed AGFS scheme is designed to account for the reality of the current Crown Court process, and to be better suited to likely changes in the future. For example, the nature and quantity of evidence served, and the boundary between used and unused evidence is likely to evolve continually over the next few years. A fee scheme built on a more detailed split of offences, and time spent conducting advocacy, is likely to be far more durable.
- 1.15 There is also no intention in reforming the scheme to either increase or decrease the overall cost envelope for the AGFS³. One of the principles that the members of the working group agreed was cost neutrality. This is a scheme that should cost the same overall, but provide more certainty for advocates about their fees.
- 1.16 In light of the above, this consultation paper sets out the Government’s proposed scheme. The next section outlines the structure of this paper.

³ In line with 2014-15 spend.

Proposals for a reformed scheme

Overview

- 2.1 The core of our new proposals are set out below. The calculation of the fee section provides a summary of the existing AGFS scheme (Section 3), followed by a summary of the proposed scheme. This also sets out the existing and proposed formula for calculation of the graduated fee. Key policy changes are then examined individually:
- The graduated fee bundle;
 - Categorisation of offences and standard cases;
 - Early guilty pleas and cracked trials;
 - Special preparation;
 - Other matters; and
 - Equalities.
- 2.2 In addition, Appendix one sets out a more detailed proposed scheme design, Appendix two provides an indicative fee table (and chart showing payments), and Appendix three sets out some indicative case studies (showing how fees might change for advocates conducting certain types of case with certain features). Alongside this document, we have also published an equalities statement, an impact assessment, and a full list of offences mapped to offence categories and bands under the proposed scheme.
- 2.3 The consultation asks a number of specific questions throughout, with a collated list at p.34. However, we are also interested in respondents' general views about the revised AGFS and whether it is appropriate.

Calculation of the fee

- 3.1 Before considering the calculation of the fee under the proposed scheme, the current arrangements are summarised below for ease of reference, so respondents can easily compare the key features of the existing and proposed schemes.

Current Advocates' Graduated Fee Scheme

- i. **Calculation of fees:** *The total fee paid to the trial advocate is made up of two components: The graduated fee, and a number of 'fixed' fees dependent on the volume (and nature) of the individual hearings attended.*
- ii. *The graduated fee is currently made up of four components:*

<p style="text-align: center;"><i>Basic fee (based on offence and category of advocate).</i></p> <p style="text-align: center;">+</p> <p style="text-align: center;"><i>Daily attendance fee for each trial day after second day, i.e. from day 3 to day 40</i></p> <p style="text-align: center;">+</p> <p style="text-align: center;"><i>Uplifts for number of pages of evidence after 50, up to 10,000.</i></p> <p style="text-align: center;">+</p> <p style="text-align: center;"><i>Uplifts for witnesses after first 10.</i></p>

Contents of graduated fee

- iii. A **basic fee** which varies dependent on:
- *the classification of the offence*
 - *This is dependent on the nature of the offence (there are eleven categories of case to which offences are allocated).*
 - *And, the category of the trial advocate (i.e. junior or QC).*
 - *The graduated fee also includes "bundled" payments for*
 - *Attendance at days 1 and 2 of trial*
 - *Attendance at the Plea and Trial Preparation Hearing (PTPH)*
 - *Attendance at four Standard Appearances⁴*
 - *Attendance at three conferences and views*
 - *50 pages of prosecution evidence*
 - *10 prosecution witnesses.*
 - *These "bundled" payments are paid as part of the graduated fee, regardless of whether they occur in the case or not (i.e. if there are only two standard appearances, the graduated fee still includes payment for four appearances).*

⁴ A standard appearances includes any appearance at a hearing which does not form part of the main hearing, and is not provided for by a fixed fee (e.g. preliminary hearing, mention, pre-trial review)

- iv. An additional **uplift is paid for attendance**, dependent on:
- *The nature of the offence;*
 - *The category of the trial advocate; and*
 - *The number of trial days upon which the advocate attends at court.*
- v. An additional **uplift is paid for evidence**, dependent on:
- *The category of the trial advocate; and*
 - *The number of pages of prosecution evidence (after the first 50, and up to 10,000).*
- vi. An additional **uplift is paid for witnesses**, dependent on:
- *The category of the trial advocate; and*
 - *The number of prosecution witnesses (after the first 10).*

Other fees

- vii. **Fixed fees** are paid for other individual appearances, and for standard appearances (after the first four, which are included in the brief fee).
- viii. The level of the **individual fixed fees** are dependent on:
- *the length of the appearance (i.e. half day or full day),*
 - *the nature of the appearance (i.e. type of hearing); and*
 - *the category of advocate.*
- ix. There are also **other potential payments** under the scheme dependent on the nature of the case (i.e. an additional uplift for additional defendants/indictments, special preparation, different attendance fees for days in excess of forty, travel expenses etc.)

Current offence categories	
<i>Offence category</i>	<i>Description</i>
<i>A</i>	<i>Homicide and related grave offences</i>
<i>B</i>	<i>Offences involving serious violence or damage, and serious drug offences</i>
<i>C</i>	<i>Lesser offences involving violence or damage, and less serious drug offences</i>
<i>D</i>	<i>Sexual offences and offences against children</i>
<i>E</i>	<i>Burglary etc.</i>
<i>F</i>	<i>Offences of dishonesty up to £30,000</i>
<i>G</i>	<i>Offences of dishonesty between £30,001- £100,000</i>
<i>H</i>	<i>Miscellaneous other offences</i>
<i>I</i>	<i>Offences against public justice and similar offences</i>
<i>J</i>	<i>Serious sexual offences, offences against children</i>
<i>K</i>	<i>Offences of dishonesty where the value is in excess of £100,000</i>

- x. *Payment for **guilty pleas, and cracked trials** are dependent on:*
- *when the guilty plea is submitted, or the trial cracks;*
 - *the nature of the offence;*
 - *the category of the advocate; and*
 - *the volume of pages of prosecution evidence (up to 10,000).*
- xi. *Currently a guilty plea is paid where the defendant pleads at the Plea and Trial Preparation Hearing (PTPH) or at any time in the first “third” based on time between PTPH and date listed for trial. A cracked trial fee is paid when the defendant pleads in the second or final third of the same period.*
- xii. *Following the conclusion of the proceedings, the ‘Trial Advocate’ (i.e. the advocate who undertook the trial itself) will submit a claim for payment to the LAA. This is submitted on paper, or via the ‘Claim for Crown Court Defence’ (CCD) online application. These applications are required to evidence each aspect of the graduated fee highlighted above (including PPE). Bills are assessed via the ‘Crown Court Remuneration’ system (CCR).*
- 3.2 The proposed scheme summary is set out in the same format overleaf for ease of reference.

Proposed Advocates' Graduated Fee Scheme

- xiii. **Calculation of fees:** *The total fee paid to advocates would continue to be made up of two components: the graduated fee, and any additional fixed fees.*
- xiv. *The graduated fee is proposed to be made up of only two elements:*

Basic fee (based on offence category and banding, and category of advocate).
 +
*Daily attendance fee for each trial day after the first day
 (determined by case category and banding, and category of advocate).*

Contents of graduated fee

- xv. **The 'basic' fee varies dependent on:**
 - o *The classification of the offence, which is determined by:*
 - *The nature of the offence (there are sixteen proposed categories to which offences are allocated, dependent on nature - see the table below); and*
 - *The severity of the offence (we propose to band each category to account for this).*
 - o *The category of the advocate.*
- xvi. *The graduated fee includes a "bundled" payment for:*
 - *Attendance at day 1 of trial; and*
 - *Standard appearances in excess of the first six.*
- xvii. *The daily attendance fee is dependent on:*
 - o *The classification of the offence;*
 - o *The category of the advocate; and*
 - o *The number of trial days upon which the advocate attends at court (there would no longer be a reduction in the rate after 40 days).*
- xviii. *We propose to **remove the uplifts for evidence and witnesses** from the graduated fee.*

Other fees

- xix. **Fixed fees** *are proposed to be paid for other individual appearances and standard appearances (up to the first six), in particular Plea and Trial Preparation Hearings and Sentence Hearings. The level of the individual fees would continue to be dependent on:*
 - *The length of the appearance*
 - *The nature of the appearance; and*

- *The category of advocate.*

xx. *Payments for **guilty pleas and cracked trials** would be dependent on:*

- *The classification of the offence; and*
- *The category of the advocate.*

xxi. *A guilty plea payment would be made where there is a guilty plea prior to a defence certificate of trial readiness being filed. A cracked trial fee would be made if a trial cracks after the defence has filed a certificate of trial readiness and therefore stated, in a document to be placed before the judge or his/her staff, that the case is trial ready.*

xxii. *We are proposing to maintain the facility for **other payments** under the scheme dependent on the nature of the case (i.e. an additional uplift for additional defendants/indictments, travel expenses etc.). The provisions for special preparation are proposed to change as set out in section 7. The provisions for wasted preparation are proposed to remain unchanged.*

xxiii. *Some indicative case studies are set out in Annex three, which give some indication of how payments might change in various scenarios, depending on the case, type of advocate and other factors. These examples are not intended to be exhaustive. They are being provided for illustrative purposes only. For further information and a more detailed analysis surrounding the impact on particular offence classes, please refer to the Impact Assessment.*

xxiv. *The proposed new offence categories are set out in the table below. The proposed numeric offence category is not listed in order of seriousness. It is important to note that this table is indicative only: the full list of offences to categories and bands are set out in the associated document (available on the consultation page). The final version of this list would be set out in regulations and would be determinative.*

Proposed Offence Category	Description	Band
1	Murder/Manslaughter	<p>Band 1.1: 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>Band 1.2: 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>Band 1.3: All other cases of murder.</p> <p>Band 1.4: All other cases of manslaughter.</p>
2	Terrorism	<p>Band 2.1: Terrorist murder (S63B Terrorism Act 2000); Explosive Substances Act 1883 offences – especially S2&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>Band 2.2: All other terrorist offences.</p>
3	Serious Violence	<p>Band 3.1: 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>Band 3.2: All other attempted murder.</p> <p>Band 3.3: S18.</p> <p>Band 3.4: All other serious violence (unless standard)</p>

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4	Sexual Offences (adult and child)	<p>Band 4.1: Rape Assault by penetration</p> <p>Band 4.2: Sexual Assault</p> <p>Band 4.3: All other offences (unless standard)</p>
5	Dishonesty (to include Proceeds of Crime and Money Laundering)	<p>Band 5.1: Over £10m or over 20,000 pages</p> <p>Band 5.2: Over £1m or over 10,000 pages</p> <p>Band 5.3: Over £100,000</p> <p>Band 5.4: Under £100,000</p>
6	Property Damage Offences	<p>Band 6.1: Arson with intent to endanger life/reckless as to endanger life.</p> <p>Band 6.2: Simple arson and criminal damage over £30,000</p> <p>Band 6.3: All other offences (unless standard)</p>
7	Offences Against the Public Interest	<p>Band 7.1: All offences against the public interest (unless standard)</p>
8	Drugs Offences	<p>Band 8.1</p> <p><u>Class A:</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:</p> <p>5kg heroin or cocaine 10,000 ecstasy tablets 250,000 squares of LSD</p>

		<p>Band 8.2</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>Band 8.3</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>Band 8.4</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>Band 8.5</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>Band 8.6</p> <p><u>Class C:</u></p> <p>1,000 pages of evidence</p> <p>Band 8.7</p> <p>All other drugs cases of any class (unless standard)</p>
9	Driving Offences	<p>Band 9.1: Death and serious injury by driving cases</p>
10	Burglary & Robbery	<p>Band 10.1: Aggravated burglary, burglary with intent to GBH or rape; robbery alleged to have been committed with a firearm / imitation firearm</p> <p>Band 10.2: indictable only burglary; other robberies</p>
11	Firearms Offences	<p>Band 11.1: Possession or supply of a firearm/ammunition with any ulterior intent or any offence for which the maximum penalty is life imprisonment</p> <p>Band 11.2: Minimum sentence offence</p> <p>Band 11.3: All other offences (unless standard)</p>
12	Other offences against the person	<p>Band 12.1: Kidnapping; false imprisonment; blackmail (unless standard)</p>
13	Exploitation / human trafficking offences	<p>Band 13.1: All exploitation / human trafficking offences (unless standard)</p>
14	Public Order Offences	<p>Band 14.1: Riot and prison mutiny/riot</p> <p>Band 14.2: Violent disorder</p>

15	Regulatory Offences	<p>Band 15.1: 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>Band 15.2: Health and Safety or environmental cases not falling within Band 1 but involving:</p> <ul style="list-style-type: none"> - Serious and permanent personal injury/disability and/or widespread - Destruction of property (other than that owned or occupied by the defendant) - Extensive pollution/irreparable damage to the environment - Toxic gas release (e.g. carbon monoxide, chlorine gas) - Cases involving incidents governed by mining/railways/aviation legislation <p>Band 15.3: All other offences (unless standard)</p>
16	Standard Cases	<p>Band 16.1: Standard cases</p> <p>Those cases not falling under the above categories of offence will be defined as ‘Standard Cases’.</p> <p>A list of Standard cases will be detailed in any amended version of The Criminal Legal Aid (Remuneration) Regulations.</p>
All statutory offences are proposed to be listed in Regulations by offence category and band.		
For each category, there would be set fees, stated in the Regulations for the category of advocate (QC, Junior, Led Junior), and type of fee.		

3.3 Having set out summaries of the existing and proposed schemes, it is also worth comparing the formula used to calculate the graduated trial fees⁵ in both. Currently, the graduated fee is determined in accordance with the following formula⁶:

Current AGFS formula for graduated trial fee
$G = B + (d \times D) + (e \times E) + (w \times W)$
Where:
G is the amount of the graduated fee;
B is the basic fee specified as appropriate to the offence for which the assisted person is tried and the category of trial advocate;
d is the number of days or parts of a day on which the advocate attends at court by which the trial exceeds 2 days but does not exceed 40 days;
D is the fee payable in respect of daily attendance at court for the number of days by which the trial exceeds 2 days but does not exceed 40 days, as appropriate to the offence for which the assisted person is tried and the category of trial advocate;
e is the number of pages of prosecution evidence excluding the first 50, up to a maximum of 10,000;
E is the evidence uplift specified as appropriate to the offence for which the assisted person is tried and the category of trial advocate;
w is the number of prosecution witnesses excluding the first 10; and
W is the witness uplift specified as appropriate to the offence for which the assisted person is tried and the category of trial advocate.

3.4 Under the proposed scheme, we would apply the following formula in order to calculate the graduated fee (see table overleaf):

⁵ As previously set out, additional fees can be applied, on top of the graduated fee, in both the current and proposed schemes, in certain scenarios. See the Criminal Legal Aid (Remuneration) Regulations 2013 (as amended) for full detail relating to the current scheme, and Annex one for more detail on the proposed scheme.

⁶ This represents the graduated fee for a single trial advocate representing one assisted person being tried on one indictment in the Crown Court in a trial lasting one to 40 days - as set out in Schedule 1, Part 2, Paragraph 4 to the Criminal Legal Aid (Remuneration) Regulations 2013 (as amended).

Proposed new AGFS - formula for graduated trial fee
$G = B + (d \times D)$
Where:
G is the amount of the graduated fee;
B is the basic fee specified as appropriate to the offence and band for which the assisted person is tried and the category of trial advocate;
d is the number of days or parts of a day on which the advocate attends at court by which the trial exceeds 1 day; and
D is the fee payable in respect of daily attendance at court for the number of days by which the trial exceeds 1 day, as appropriate to the offence and band for which the assisted person is tried and the category of trial advocate.

3.5 Elements where there are significant differences between the existing and proposed AGFS schemes are examined individually below in the subsequent sections.

Graduated fee bundle

- 4.1 The existing graduated fee includes payment for attendance at the Plea and Trial Preparation Hearing (PTPH), attendance at the first two days of trial, attendance at four other standard appearances, attendance at three conferences and views, fifty pages of prosecution evidence, and up to ten witnesses.
- 4.2 This fee is paid in all cases that qualify, including those featuring less evidence and fewer trial days, standard appearances, conference and views, and witnesses than the bundle accounts for. Depending on the nature of the case, the advocate will, quite legitimately, undertake more work in some cases, and less work in others, yet be paid the same fee.
- 4.3 Additional payments are made for trial days in excess of two, for other standard appearances in excess of four (i.e. the PTPH and four other standard hearings), for in excess of three conferences and views⁷, PPE in excess of page fifty, and for each witness in excess of the first ten.
- 4.4 The proposed scheme would adopt a very different approach. Firstly, the evidence uplift has been removed: PPE no longer forms part of the basic fee calculation. Retaining a fee system heavily predicated on PPE would not properly account for the reality of contemporary Crown Court advocacy. Elements of the scheme still involve PPE, for reasons explained in section 5, but its role is greatly diminished.
- 4.5 Secondly, the witness uplift has been removed. Separate fees would no longer be paid for cases featuring more than ten witnesses. The number of witnesses the prosecution produce to aid their case is not necessarily the best indicator of a case's complexity (as there may be a case with numerous witnesses that is relatively straightforward; conversely a case could have one or two witnesses who provide complex evidence that needs significant analysis). The existing position also means that there is considerable cost uncertainty for both the individual advocate and the LAA. We consider that a more sophisticated categorisation of offences is a better way of capturing complexity, increasing cost predictability and therefore setting payment.
- 4.6 Thirdly, fewer discrete elements are bundled into the basic fee⁸. The current and proposed bundle is compared below.

⁷ Subject to the conditions set out in Paragraph 19 of Schedule 1, Part 1 to the Criminal Legal Aid (Remuneration) Regulations 2013 (as amended)

⁸ The basic fee bundle is proposed to be the same regardless of case outcome (e.g. the bundle would be the same for a trial, guilty plea, or cracked trial). The exception is the element encompassing trial advocacy, which would clearly not be relevant in guilty plea cases, and may not be relevant in all cracked trial cases.

Current bundle	Proposed bundle (trial fee)
1 x Plea and Trial Preparation Hearing and 4 x other standard appearances	Any standard appearances in excess of six ⁹
2 x days of trial advocacy	1 x day of trial advocacy
3 x conferences and views	3 x conferences and views

- 4.7 We consider that our proposal would create a much more transparent system. We also consider that it meets the principle of paying for work done. By splitting out elements of the graduated fee, there would be fewer cases where we are paying on the basis of an average number of hearings. The first six standard hearings would be paid separately, so advocates would be paid additionally for these elements of a case.
- 4.8 Having a smaller bundled fee is also consistent with the Better Case Management Reforms. As unnecessary hearings reduce over time, a fee scheme predicated on an average number of hearings per case would not fully reflect work done. Splitting out the additional hearings would mean that the proposed AGFS scheme complements the BCM reforms. The scheme would ensure separate payment for individual hearings and would be future-proofed, with payment becoming more reflective of work done.
- 4.9 In addition, paying individual fees provides increased cost certainty for advocates, especially when multiple advocates have conducted different elements of the same case, or the case has been picked up as a late return. Currently the Bar operate a fee sharing protocol¹⁰, which apportions the bundled fee in cases with multiple hearings and multiple advocates. Although this protocol is owned by the Bar, and the Government has no role in this, some fees are “depleted” in certain cases when apportioned between the trial advocate and substitute advocates. By splitting out more discrete elements from the bundle, all advocates would have increased certainty as to the exact fee they would end up receiving in the vast majority of cases.
- 4.10 Our proposals aim to protect junior advocates, by paying them separate fees for standard hearings in the vast majority of cases. Around 96% of cases feature six or fewer standard hearings (one of which is likely to be the PTPH)¹¹, and in all of these cases, hearings will be remunerated separately. In addition to the PTPH attracting a separate payment, sentencing hearings would also be remunerated separately (unless they occurred on the same day that the trial concludes).
- 4.11 In order to fund this, and to support the principles and aims of Better Case Management, where a case features in excess of six standard hearings, they would be remunerated as part of the graduated fee. By targeting these outlying cases, the vast majority of advocates in the vast majority of cases would receive a separate fee for each hearing undertaken. We understand that the Bar would amend their fee

⁹ The first six standard appearances will not form part of the bundle, and will be paid separately (these six include the PTPH, which - for these purposes - we have classed as a standard appearance). Standard hearings in excess of that number are included in the bundle and will not be remunerated separately - see paragraph 4.11

¹⁰ Graduated Fee Payment Protocol, Bar Council (2014)
http://www.barcouncil.org.uk/media/10175/2014.01.20_graduated_fee_payment_protocol_v3.0_final.pdf

¹¹ LAA administrative data, 2014-15

sharing protocol to ensure that all advocates are paid for these hearings, and fees would only deplete in the small minority of cases featuring in excess of six standard appearances.

Q1: Do you agree with the proposed contents of the bundle? Please state yes/no and give reasons.

Q2: Do you agree that the first six standard appearances should be paid separately? Please state yes/no and give reasons.

Q3: Do you agree that hearings in excess of six should be remunerated as part of the bundle? Please state yes/no and give reasons.

Q4: Do you agree that the second day of trial advocacy should be paid for separately? Please state yes/no and give reasons.

Categorisation of offences and standard cases

- 5.1 The proposed scheme removes the number of witnesses as a proxy for complexity and greatly reduces the reliance on PPE, for the reasons already explained. The proposed scheme is able to remove these proxies by creating a more comprehensive breakdown of offences. This more detailed and sophisticated system uses a richer form of offence categorisation to capture complexity and help determine payment. Offences have been re-categorised, and split into bands (to capture different degrees of seriousness within one offence group).
- 5.2 As a result, we propose moving from eleven offence categories in the current scheme, to sixteen categories in the proposed scheme, featuring between one and seven bands. As a result forty-two different base graduated fees, dependent on the nature and seriousness of the offence, would feature in the proposed scheme.
- 5.3 The existing offence categories are set out in section 3 of this paper; along with a summary of the proposed categories and bandings within each category. For a full list of individual offences mapped to categories and bands please see the associated document - available on the consultation page.
- 5.4 One feature of the new proposal is to create a large category of standard case. We estimate that these would encompass around a quarter of all AGFS cases billed for in volume terms¹². These would be the more straightforward cases spanning a range of different, less complex offences, when compared to other offences in the Crown Court. The new model means that these would all have one simple base fee, varied only by advocate type and hearing length. This would provide certainty for advocates, the LAA, and ease the administrative burden on all concerned.
- 5.5 The relative complexity of different cases carried out by advocates, as suggested by the Bar Council, is one of the foundations of the proposed scheme. The "simplest" case was assigned a suggested fee (i.e. the standard case category referred to above) and the most "complex" case (i.e. a difficult murder case) was assigned a suggested fee. The most complex case was given a score of 100; the simplest case a score of 5.
- 5.6 The relative complexity of all the new categories and bandings was then considered. Each was given a score (with no case capable of scoring less than five, or more than one hundred) to indicate its relative complexity and seriousness. In this way the relativities between cases were set.
- 5.7 Fees were then applied on the same proportionate basis - i.e. the most complex case in the scheme was originally proposed to attract a fee twenty times higher than the simplest case (assuming they were conducted by the same level of advocate). Subsequently, having spoken to experts in the field, there have been adjustments to some fees, but most fees correspond closely to the original relativities derived. The most complex cases in the scheme (e.g. a Band 1.1 murder) are proposed to be remunerated at around fifteen times the amount of the simplest case (i.e. a standard case). The indicative fee table and equivalent chart is set out in Annex Two.

¹² LAA Administrative Data, 2014-15

- 5.8 As well as relativities between offences, the scheme also builds in relativities between types of advocate: QCs would be paid double the rate of juniors, and leading juniors one and half times the junior rate.
- 5.9 In addition, the daily refresher rates do not feature exactly the same relativities as the corresponding brief fees for the same case. The refresher remunerates the advocate for time spent in court, and time spent preparing for subsequent days once the trial has commenced. The Bar have suggested slightly different relativities accordingly; these underpin the refresher rates that we are consulting on - as set out in full with an equivalent chart in Annex 2.
- 5.10 Most of the categories and bandings in the scheme are based on groupings of offences. These are sometimes qualified in relation to other relevant factors, where there is a broad spectrum of severity or complexity within the same statutory offence (or group of offences). One example of this is in drugs cases, where the weights and quantities of drugs are often critical factors in the complexity of the case. The unique factors inherent in drugs cases, and large volumes, also explain why this category features an unusually high number of bandings (seven).
- 5.11 Whilst the scheme overall greatly reduces the role of PPE as a proxy for complexity, in two proposed offence categories we propose to retain page counts as one factor for differentiating seriousness within those categories. PPE limits feature in the bandings for drugs and dishonesty cases. In drugs cases, we consider a page count needs to be retained, because drugs may never physically be recovered in a conspiracy case. So 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 at the outset - so page counts have been retained as a proxy of complexity.
- 5.12 To avoid any confusion between the current and proposed scheme, we would label the new offences numerically. For example, in the proposed scheme Murder/Manslaughter would be Category One (rather than Category A), terrorism would be Category Two (rather than Category B) and so on. Bands would be numbered within those categories, also numerically, so the highest band Murder/Manslaughter Case would be labelled 1.1, and the next highest band would be 1.2. The proposed categories and bands are set out in the table in section 3.

Q5: Do you agree that we should introduce the more complex and nuanced category/offence system proposed? Please state yes/no and give reasons.

Q6: Do you agree that this is the best way to capture complexity? Please state yes/no and give reasons.

Q7: Do you agree that a category of standard cases should be introduced? Please state yes/no and give reasons.

Q8: Do you agree with the categories proposed? Please state yes/no and give reasons.

Q9: Do you agree with the bandings proposed? Please state yes/no and give reasons.

Q10: Do you agree with the individual mapping of offences to categories and bandings as set out in Annex 4? Please state yes/no and give reasons.

Q11: Do you agree with the individual fees proposed in Annex 2 (Indicative Fee Table)? Please state yes/no and give reasons.

Q12: Do you agree with the relativities between the individual fees proposed in Annex 2 (Indicative Fee Table)? Please state yes/no and give reasons.

Q13: Do you agree with the relativities proposed to decide fees between types of advocate? Please state yes/no and give reasons.

Q14: Do you agree that we should retain Pages of Prosecution Evidence as a factor for measuring complexity in drugs and dishonesty cases? Please state yes/no and give reasons.

Early guilty pleas and cracked trials

- 6.1 In the current scheme, the period between the date of the PTPH and the date that the first day of the trial is listed for is used to decide whether a guilty plea fee or cracked trial fee is paid. Cases that plea in the first third of this period receive a guilty plea fee; cases that plea in the second two thirds of this period receive a cracked trial fee.
- 6.2 We propose to alter the definitions of an early guilty plea and a cracked trial fee so we can better meet the principle of paying for work done. In reality, the Bar and experts in the field have suggested that the trigger point in the existing AGFS, for a guilty plea becoming a crack, is too early. A significant amount of case preparation will often take place in the immediate run up to the trial, and it is this work that we consider should be targeted.
- 6.3 Currently over 90% of cases crack in the final third¹³. The exact length of the final third will vary depending on the length of the case. We think a better dividing point between the payment of a guilty plea fee and a crack trial fee is the point at which the defence files a certificate of trial readiness. This should be served no later than 28 days before the date of the trial. By filing this form the defence are certifying, to the judge, that their case is trial ready. The work undertaken to prepare the case at this point should be similar to that conducted on a case which ends as an effective trial. As such, we think the point of this certificate being filed, or the point at which it is directed to be filed, would represent a more appropriate point after which to determine whether a trial has 'cracked' than the current 'thirds' system. This would also helpfully align with the stages in Better Case Management.
- 6.4 We are proposing to pay a crack fee for these cases which fairly reflects work done, but is slightly lower than the trial fee - which includes payment for the first day's advocacy at the trial. Given this we are proposing to set the crack fee at 85% of the relative cost of a full trial in the same offence category and band, and the same level of advocate. Indicative fees for cracked trials, by offence category and band, and advocate type, are set out in Annex two.
- 6.5 Guilty pleas fee would be paid for cases that plea prior to the certificate of trial readiness being filed by the defence. Guilty plea fees would have a relative value of around 50% compared to the full trial fee in the same offence category and band, and the same level of advocate. This demonstrates a clear and consistent equalisation of guilty plea rates across the scheme, and would result in a more uniform system. We consider that this strikes the right balance between supporting Better Case Management and fairly reflecting the "work done" relative to trials and late cracks. Indicative fees for guilty pleas, by offence category and band, and advocate type, are set out in Annex two.

Q15: Do you agree that the relative fees for guilty pleas, cracks and full trials are correct? Please state yes/no and give reasons.

¹³ LAA administrative data, 2014-15.

Q16: Do you agree that the point at which the defence files a certificate of trial readiness should trigger the payment of the cracked trial fee? Please state yes/no and give reasons.

Special Preparation

- 7.1 In the current scheme, special preparation can be claimed where a case requires substantially excessive preparation because of a very unusual or novel point of law or factual issue. Alternatively, special preparation can be claimed if the case involves more than 10,000 pages of prosecution evidence.
- 7.2 The more comprehensive case categorisation system we have proposed (see section 5) would capture a broader spectrum of complexity than the current fee scheme does. For this reason we consider that the role of special preparation should be reduced in the proposed scheme. Cases that are currently eligible for special preparation would not require it under our proposals.
- 7.3 In the proposed scheme, we consider that special preparation should be reserved for outlying cases, where even the broader spectrum of complexity captured under the proposed offence categories is insufficient to remunerate a case requiring a genuinely exceptional amount of preparation. We consider that an exceptional amount of preparation might be required in cases dealing with novel points of law or fact; or cases where an exceptionally large amount of evidence is served.
- 7.4 As a result we propose to omit the "very unusual" phrase in the reformed scheme; restricting the first criterion to novel points of law or fact. We propose to retain the 10,000 PPE threshold in the second criterion for all cases except drugs and dishonesty. In drugs cases, a 5,000 PPE threshold features in the top bands; and in dishonesty cases a 20,000 PPE threshold features in the top band. In these two categories alone, the PPE threshold for special preparation would be set at 10,000 pages in excess of the page counts featured in the top bands for the cases in the body of the scheme. This is because those categories retain page counts, for the reasons set out in paragraph 5.11 (e.g. in certain, limited scenarios, they are still needed to indicate complexity).
- 7.5 That would mean that all cases with over 10,000 PPE could potentially qualify for special preparation under the second criterion, except drugs cases where the threshold would be 15,000 PPE and dishonesty cases where the threshold would be 30,000 PPE.
- 7.6 For the avoidance of doubt, we do not propose to make any changes to wasted preparation. The role that special preparation and wasted preparation play are very different, as are the qualifying criteria. We do not consider that the proposed scheme design would have any bearing on the need for wasted preparation provisions to exist, or the demand for wasted preparation. For these reasons we do not propose to change them.

Q17: Do you agree that special preparation should be retained in the circumstances set out in Section 7 of the consultation document? Please state yes/no and give reasons.

Q18: Do you agree that the wasted preparation provisions should remain unchanged? Please state yes/no and give reasons.

Other Matters

- 8.1 There are a number of other matters that we are proposing to alter. This section deals with changes to payment for ineffective trials, payments for sentencing hearings, and payment for Section 28 proceedings. For a detailed list, which deals with the remuneration for a number of particular hearings, please see Annex 1 (proposed scheme design).
- 8.2 *Ineffective trials.* The proposed scheme would remunerate ineffective trial days more fairly than the current scheme does. Often an ineffective trial day will be caused by a scenario completely beyond the advocate's control. Whilst Better Case Management should reduce inefficiencies in the system, there will remain instances where an advocate is cost a day's work. For this reason, we consider that the existing fees should be increased. The current scheme pays a fixed fee of £130 per day for a junior, £195 for a leading junior, and £281 for a QC. We propose to pay the standard case refresher for an ineffective trial day, regardless of the level of advocate. This fee would be £300.
- 8.3 *Sentencing hearings.* In the current scheme, these are not remunerated separately (other than where sentencing is deferred). In order to meet the principle of paying for work done, and consistent with the "unbundling" of significant elements of the current basic fee, we consider that a separate payment should be made for a sentencing hearing when it occurs on a separate day to the plea hearing or trial. We propose a fee of £200 for QCs, £150 for a leading junior, and £100 for a junior. Sentencing hearings that occur on the same day as a plea hearing or trial would not be remunerated separately.
- 8.4 *Section 28 proceedings.* We want to complement and support the successful development of these proceedings, which offer crucial protection to vulnerable witnesses. We propose that for the purposes of the new fee scheme, the first day of pre-trial cross-examination should continue to be treated as the first day of the trial.

Q19: Do you agree with the proposed approach on ineffective trials? Please state yes/no and give reasons.

Q20: Do you agree with the proposed approach on sentencing hearings? Please state yes/no and give reasons.

Q21: Do you agree with the proposed approach on Section 28 proceedings? Please state yes/no and give reasons.

Q22: Do you agree with the design as set out in Annex 1 (proposed scheme design)? Please state yes/no and give reasons.

Equalities

- 9.1 The Government is committed to considering the impact of the policy proposals set out in this consultation document, with particular reference to advocates from groups with protected characteristics.
- 9.2 In accordance with our duties under the Equality Act 2010, we have considered the impact of these proposals on individuals sharing protected characteristics in order to give due regard to the need to eliminate unlawful conduct, advance equality of opportunity and foster good relations.
- 9.3 Our assessments of the potential impact of these proposals can be found in our Equalities statement (available on the consultation page), which should be read in conjunction with this consultation document.
- 9.4 Once we have considered the responses to the consultation, we will update the equalities statement as necessary.
- 9.5 With this in mind, we welcome responses from consultees on these proposals with regard to the potential impacts on diversity, by addressing the questions below.

Q23: 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.

Q24: Have we correctly identified the extent of the impacts of the proposals, and forms of mitigation? Please state yes/no and give reasons.

Q25: 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

We would welcome responses to the following questions set out in this consultation paper.

Q1: Do you agree with the proposed contents of the bundle? Please state yes/no and give reasons.

Q2: Do you agree that the first six standard appearances should be paid separately? Please state yes/no and give reasons.

Q3: Do you agree that hearings in excess of six should be remunerated as part of the bundle? Please state yes/no and give reasons.

Q4: Do you agree that the second day of trial advocacy should be paid for separately? Please state yes/no and give reasons.

Q5: Do you agree that we should introduce the more complex and nuanced category/offence system proposed? Please state yes/no and give reasons.

Q6: Do you agree that this is the best way to capture complexity? Please state yes/no and give reasons.

Q7: Do you agree that a category of standard cases should be introduced? Please state yes/no and give reasons.

Q8: Do you agree with the categories proposed? Please state yes/no and give reasons.

Q9: Do you agree with the bandings proposed? Please state yes/no and give reasons.

Q10: Do you agree with the individual mapping of offences to categories and bandings as set out in Annex 4? Please state yes/no and give reasons.

Q11: Do you agree with the individual fees proposed in Annex 2 (Indicative Fee Table)? Please state yes/no and give reasons.

Q12: Do you agree with the relativities between the individual fees proposed in Annex 2 (Indicative Fee Table)? Please state yes/no and give reasons.

Q13: Do you agree with the relativities proposed to decide fees between types of advocate? Please state yes/no and give reasons.

Q14: Do you agree that we should retain Pages of Prosecution Evidence as a factor for measuring complexity in drugs and dishonesty cases? Please state yes/no and give reasons.

Q15: Do you agree that the relative fees for guilty pleas, cracks and full trials are correct? Please state yes/no and give reasons.

Q16: Do you agree that the point at which the defence files a certificate of trial readiness should trigger the payment of the cracked trial fee? Please state yes/no and give reasons.

Q17: Do you agree that special preparation should be retained in the circumstances set out in Section 7 of the consultation document? Please state yes/no and give reasons.

Q18: Do you agree that the wasted preparation provisions should remain unchanged? Please state yes/no and give reasons.

Q19: Do you agree with the proposed approach on ineffective trials? Please state yes/no and give reasons.

Q20: Do you agree with the proposed approach on sentencing hearings? Please state yes/no and give reasons.

Q21: Do you agree with the proposed approach on Section 28 proceedings? Please state yes/no and give reasons.

Q22: Do you agree with the design as set out in Annex 1 (proposed scheme design)? Please state yes/no and give reasons.

Q23: 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.

Q24: Have we correctly identified the extent of the impacts of the proposals, and forms of mitigation? Please state yes/no and give reasons.

Q25: 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

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
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.

Contact details/How to respond

Please send your response by 2 March 2017 to:

Thomas Roberts
Ministry of Justice
102 Petty France
London SW1H 9AJ
Email: AGFS_consultation@justice.gsi.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.

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/reforming-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 1998 (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 - Proposed scheme design

1. The total fee paid to advocates would be made up of two components: the graduated fee, and any additional fixed fees.
2. The graduated fee is proposed to be made up of two elements:

Basic fee (based on offence category and banding, and category of advocate).
+
Daily attendance fee for each trial day after the first day
(determined by case category and banding, and category of advocate).

Contents of graduated fee

3. The 'basic' fee would vary dependent on: (1) the classification of the offence (which is determined by the nature and severity of the offence - see the categories and bandings in the table following section 3.2 of the consultation document); and (2) the category of the advocate.
4. The graduated fee includes a "bundled" payment for attendance at day 1 of the trial; and for standard appearances in excess of the first six.
5. The daily attendance fee is dependent on: the classification of the offence; the category of the advocate; and the number of trial days upon which the advocate attends at court (there would no longer be a reduction in the rate after 40 days).
6. For a full list of offences, mapped by category and band, please see the associated document available on the consultation page: <https://consult.justice.gov.uk/digital-communications/reforming-the-advocates-graduated-fee-scheme>.

Guilty Plea hearings

7. Guilty Plea hearings will be paid at a fixed rate depending on the category and band of the case and the type of advocate. This rate will be set at 50% of the basic trial fee for that category and band of case and type of advocate.
8. A guilty plea payment would be made where there is a guilty plea prior to a defence certificate of trial readiness being filed.

Cracked Trials

9. A cracked trial is one where the defendant alters their plea to guilty before the trial has commenced. A cracked trial will be paid at a fixed rate depending on the category and band of the case and the type of advocate. This rate will be set at 85% of the basic trial fee for that category and band of case and type of advocate.
10. A cracked trial fee would be paid if a trial cracks after the defence has filed a certificate of trial readiness but before the trial has commenced.

Special Preparation

11. Cases would be considered for a special preparation payment if they involved novel points of law or fact; or featured 10,000 PPE (with the exception of drugs, where 15,000 PPE would be required, and dishonesty, where 30,000 PPE would be required).

Wasted Preparation

12. Wasted preparation provisions are proposed to remain unchanged from the existing scheme.

Other elements of the scheme (for indicative fees, where appropriate, see Annex 2)

13. *Additional defendant uplift* - we propose to pay an uplift of 50% of the appropriate trial fee for each additional defendant represented by the same advocate in a case.
14. *Conference and Views* - we propose that conferences with clients and views are paid a fixed fee per hour dependant on the type of advocate.
15. *Travel and subsistence* - we propose that this would be paid as under the current scheme - i.e. travel expenses would be paid, provided that the advocate can satisfy the appropriate officer that they were reasonably incurred.
16. *Plea and Trial Preparation Hearing* - this would be remunerated separately to the Basic Fee. Should a guilty plea be entered at PTPH, a guilty plea fee would be payable instead of the PTPH fee.
17. *Elected cases not proceeded* - these are cases which can be heard in the Magistrates Court, but where the defendant has elected to have the case heard at the Crown Court. These cases would be remunerated at a flat fixed fee, regardless of advocate type.
18. *Standard Appearances* - as detailed above, under the proposed scheme the first six standard appearances would be paid for separately. Subsequent Standard Appearances are remunerated under the Basic Fee.
19. *Breach of Crown Court order* - these would be paid a fixed fee per day, depending on the offence and advocate type.
20. *Sentencing Hearings* - these would be remunerated separately under the new scheme, per day of attendance (unless they occur on the same day that the trial concludes, a plea is entered, or the trial cracks).
21. *Section 28 Proceedings* - these have been introduced in sexual offences cases by the Youth Justice and Criminal Evidence Act 1999 so that the cross examination of key witnesses can occur at the beginning of proceedings. In these cases, the first day of pre-trial cross examination by video would be considered to be the first day of trial (as per the current scheme).
22. *Hospital Orders* - in any case in which a hospital order is made the sentence hearing will be remunerated at the rate of the refresher for the category of case.

23. *Hearings relating to admissibility of evidence* - these would be paid a fixed fee dependent on the length of hearing and type of advocate, with a half day and full day refresher possible.
24. *Hearings relating to disclosure* - these would be paid a fixed fee dependant on the length of the hearing and the type of advocate.
25. *Appeals* - appeals against sentence or conviction would be paid as a fixed fee per day dependant on the type of advocate conducting the case.
26. *Appeals lasting more than one day* - Magistrate appeals which last more than one day would be paid as a Standard Basic Fee (i.e. Band 16.1).
27. *Noting Brief* - these would be remunerated at a fixed fee regardless of advocate type.
28. *Application to dismiss charge* - these would be remunerated at a fixed fee equal to a refresher for that category of offence and advocate type.
29. *Abuse of Process Hearing* - these would be paid a fixed fee dependent on the length of hearing and type of advocate. A half or full day hearing fee is possible.
30. *Public Interest Immunity Hearing* - these hearings would be paid a fixed fee dependent on the length of hearing and type of advocate. A half or full day hearing fee is possible.
31. *Contempt proceedings* - these would be remunerated at a fixed fee for each day of the hearing according to the category and advocate type.
32. *Interaction with Very High Cost Cases* - we propose that the final decision about eligibility for the VHCC scheme would, as at present, rest with the Legal Aid Agency.
33. *Returned briefs* - as under the existing scheme, we propose that there would not be an additional payment for advocates who accept a 'returned brief' part way through proceedings.
34. *Defendant as an absconder before trial* – we propose to harmonise the timing of payment between litigators and advocates for these instances. Under these proposals, advocates would be able to claim the appropriate fee after three months have elapsed from the point that the defendant absconds. If a trial takes place in the period between three and fifteen months from the point the bench warrant is issued, a trial fee would be paid, minus the fee already claimed. If a trial takes place in excess of fifteen months from the point that the defendant originally absconded, a trial fee would be paid (and any fees already paid would not be deducted).
35. **Any individual fee not specified to change in this consultation document, or the annexes thereof, can be assumed to be proposed to be remaining the same as under the existing provisions.**

Annex 2 - Indicative fee table

The different fees in £ for each offence band, advocate type, case type and fixed fee. In the main 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
4.1	£900	£1,530	£1,800	£525	£1,350	£2,295	£2,700	£790	£1,800	£3,060	£3,600	£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	£4,000	£6,800	£8,000	£525	£6,000	£10,200	£12,000	£790	£8,000	£13,600	£16,000	£1,050
5.2	£2,500	£4,250	£5,000	£500	£3,750	£6,375	£7,500	£750	£5,000	£8,500	£10,000	£1,000
5.3	£1,000	£1,700	£2,000	£400	£1,500	£2,550	£3,000	£600	£2,000	£3,400	£4,000	£800
5.4	£375	£640	£750	£350	£565	£955	£1,125	£525	£750	£1,275	£1,500	£700
6.1	£700	£1,190	£1,400	£500	£1,050	£1,785	£2,100	£750	£1,400	£2,380	£2,800	£1,000
6.2	£400	£680	£800	£450	£600	£1,020	£1,200	£675	£800	£1,360	£1,600	£900
6.3	£375	£640	£750	£400	£565	£955	£1,125	£600	£750	£1,275	£1,500	£800
7.1	£600	£1,020	£1,200	£500	£900	£1,530	£1,800	£750	£1,200	£2,040	£2,400	£1,000

Reforming the Advocates' Graduated Fee Scheme

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
8.1	£2,500	£4,250	£5,000	£525	£3,750	£6,375	£7,500	£790	£5,000	£8,500	£10,000	£1,050
8.2	£2,000	£3,400	£4,000	£525	£3,000	£5,100	£6,000	£790	£4,000	£6,800	£8,000	£1,050
8.3	£1,500	£2,550	£3,000	£450	£2,250	£3,825	£4,500	£675	£3,000	£5,100	£6,000	£900
8.4	£1,000	£1,700	£2,000	£450	£1,500	£2,550	£3,000	£675	£2,000	£3,400	£4,000	£900
8.5	£800	£1,360	£1,600	£450	£1,200	£2,040	£2,400	£675	£1,600	£2,720	£3,200	£900
8.6	£600	£1,020	£1,200	£400	£900	£1,530	£1,800	£600	£1,200	£2,040	£2,400	£800
8.7	£400	£680	£800	£350	£600	£1,020	£1,200	£525	£800	£1,360	£1,600	£700
9.1	£1,100	£1,870	£2,200	£525	£1,650	£2,805	£3,300	£790	£2,200	£3,740	£4,400	£1,050
10.1	£600	£1,020	£1,200	£450	£900	£1,530	£1,800	£675	£1,200	£2,040	£2,400	£900
10.2	£340	£575	£675	£360	£505	£860	£1,015	£540	£675	£1,150	£1,350	£720
11.1	£1,000	£1,700	£2,000	£500	£1,500	£2,550	£3,000	£750	£2,000	£3,400	£4,000	£1,000
11.2	£600	£1,020	£1,200	£500	£900	£1,530	£1,800	£750	£1,200	£2,040	£2,400	£1,000
11.3	£400	£680	£800	£500	£600	£1,020	£1,200	£750	£800	£1,360	£1,600	£1,000
12.1	£650	£1,105	£1,300	£500	£975	£1,660	£1,950	£750	£1,300	£2,210	£2,600	£1,000
13.1	£750	£1,275	£1,500	£550	£1,125	£1,915	£2,250	£825	£1,500	£2,550	£3,000	£1,100
14.1	£700	£1,190	£1,400	£500	£1,050	£1,785	£2,100	£750	£1,400	£2,380	£2,800	£1,000
14.2	£375	£640	£750	£400	£565	£955	£1,125	£600	£750	£1,275	£1,500	£800
15.1	£1,100	£1,870	£2,200	£550	£1,650	£2,805	£3,300	£825	£2,200	£3,740	£4,400	£1,100
15.2	£800	£1,360	£1,600	£500	£1,200	£2,040	£2,400	£750	£1,600	£2,720	£3,200	£1,000
15.3	£500	£850	£1,000	£500	£750	£1,275	£1,500	£750	£1,000	£1,700	£2,000	£1,000
16.1	£275	£470	£550	£300								

Reforming the Advocates' Graduated Fee Scheme

Ancillary Fees	J	L	Q
Standard Appearance	£60	£90	£120
Sentence	£100	£150	£200
PTPH	£100	£150	£200
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) ¹⁴	£40	£60	£80
Breach of Crown Court Order	£108	£151	£216
	£238 (F/D)	£346 (F/D)	£497 (F/D)
Abuse of Process	£130 (H/D)	£195 (H/D)	£260 (H/D)
	£238 (F/D)	£346 (F/D)	£497 (F/D)
Disclosure Hearings	£130 (H/D)	£195 (H/D)	£260 (H/D)
	£238 (F/D)	£346 (F/D)	£497 (F/D)
Admissibility of Evidence Hearings	£130 (H/D)	£195 (H/D)	£260 (H/D)
Deferred Sentence Hearing	£173	£238	£324
Ineffective Trial Hearings	£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

Proposed Offence Categories

¹⁴ The regulatory definition will remain the same for this element.

Offence category	Description
1	Murder/Manslaughter
2	Terrorism
3	Serious Violence
4	Sexual Offences (adult and child)
5	Dishonesty (to include Proceeds of Crime and Money Laundering)
6	Property Damage Offences
7	Offences Against the Public Interest
8	Drugs Offences
9	Driving Offences
10	Burglary & Robbery
11	Firearms Offences
12	Other offences against the person
13	Exploitation / human trafficking offences
14	Public Order Offences
15	Regulatory Offences
16	Standard Cases

Figure 1: Brief fees for trials

This shows the brief fee for trials from smallest to largest by advocate type.

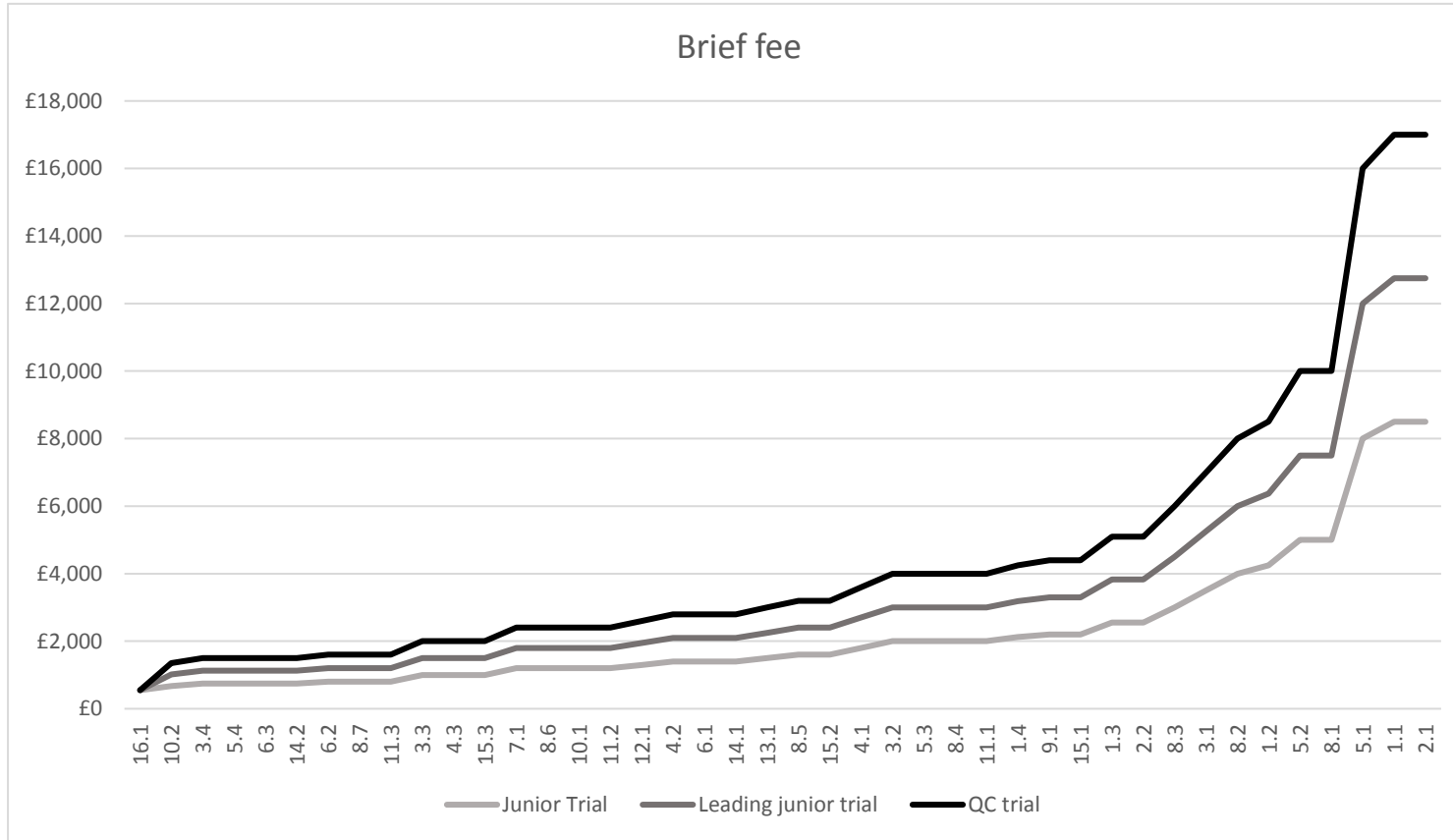
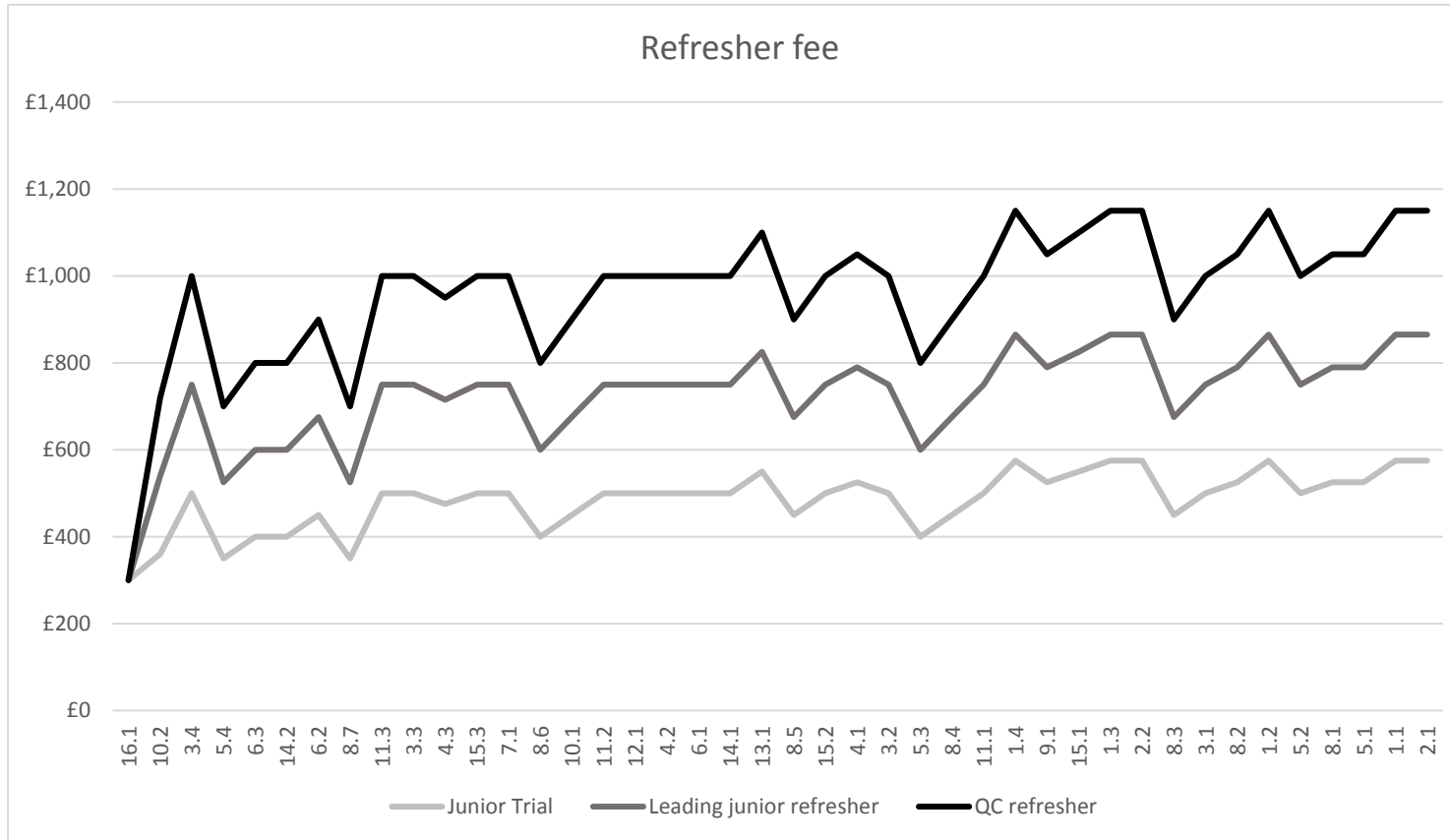


Figure 2: Refresher fees for trials

This shows the refresher fee for trials ordered using the brief fee from smallest to largest by advocate type.



Annex 3 - Indicative case studies

Below is a non-exhaustive list of comparative examples between the current AGFS (Scheme 9) and the proposed scheme. These examples are for illustrative purposes only. We have attempted to find a broadly representative range of cases and scenarios from across the scheme but the examples below may not wholly reflective of every individual case that would fall under each particular class or band of offence. For further information and a more detailed analysis surrounding the impact on particular offence classes, please refer to the Impact Assessment.

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
Category 1 – Murder / Manslaughter	<p>Example 1</p> <p>Offence: Murder of person aged 1 year or over (two victims)</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>New offence banding: 1.1</p> <p>Fee: £37,230</p> <p>(£17,000 brief fee, £1,150 daily fee x 17 days, x1 PTPH at £200, x4 Standard Appearance fee at £120 each).</p>

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
Category 2 - Terrorism	<p>Example 2</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>New offence banding: 2.1</p> <p>Fee: £43,180.00</p> <p>(£17,000 brief fee, £1,150 daily fee x 22 days, x1 PTPH at £200, x4 Standard Appearance fee at £120 each, x1 sentencing hearing at £200).</p>
	<p>Example 3</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>Class of Offence: Class B</p> <p>Fee: £2,483.00</p>	<p>New offence banding: 2.1</p> <p>Fee: £7,445.00</p> <p>(£7,225 brief fee, x1 PTPH at £100, x2 Standard Appearances at £60 each).</p>

Reforming the Advocates' Graduated Fee Scheme

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
	PTPH: 1		
Category 3 – Serious Violence	<p>Example 4</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>New offence banding: 3.3</p> <p>Fee: £1,070.00</p> <p>(£850 brief fee, x1 PTPH at £100, x2 Standard Appearance at £60 each).</p>
	<p>Example 5</p> <p>Offence: Attempted Murder</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>Class of Offence: Class A</p> <p>Fee: £17,126.50</p>	<p>New offence banding: 3.2</p> <p>Fee: £17,910.00</p> <p>(£3,000 brief fee, £750 daily fee x 19 days, x1 PTPH at £150, x4 Standard Appearances at £90 each, x1 sentencing hearing at £150).</p>

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
	PTPH: 1 Sentencing Hearing: 1		
Category 4 – Sexual Offences (adult and child)	Example 6 Offence: Rape Case Type: Guilty Plea Advocate: Junior Alone PPE: 300 Sentencing hearing: 1	Class of Offence: Class J Fee: £1,336.00	New offence banding: 4.1 Fee: £1,000.00 (£900 brief fee, x1 sentencing hearing at £100)
	Example 7 Offence: Engaging in sexual activity in the presence, procured by inducement, threat or deception of a person with mental disorder Case Type: Trial Advocate: Junior Alone PPE: 500 Witnesses: 8	Class of Offence: Class D Fee: £4,014.00	New offence banding: 4.3 Fee: £4,545.00 (£1,000.00 brief fee, £475 daily fee x7 days, x2 Standard Appearances at £60 each, x1 sentencing hearing at £100)

Reforming the Advocates' Graduated Fee Scheme

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
	Days: 8 Standard Appearance: 2 Sentencing hearing: 1		
Category 5 – Dishonesty	Example 8 Offence: Concealing criminal property. (£35K) Case Type: Trial Advocate: Junior Alone PPE: 900 Days: 7 Witnesses: 10 Standard Appearances: 2 PTPH: 1	Class of Offence: Class B Fee: £4,483.00	New offence banding: 5.4 Fee: £3,070.00 (£750 brief fee, £350 daily rate x6 days, x1 PTPH at £100, x2 Standard Appearances at £60 each).
	Example 9 Offence: Fraud by misrepresentation	Class of Offence: Class G Graduated fee - £4,628.00, plus Special Preparation for 5,000 pages.	New offence banding: 5.2 £4,250.00 (£4,250.00 brief fee)

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
	Case Type: Cracked Trial Advocate: Junior Alone PPE: 15,000		
Category 6 – Property Damage Offences	Example 10 Offence: Arson endangering life. (Intent to endanger on indictment). Case Type: Trial Advocate: Junior Alone. PPE: 700 Days: 10 Witnesses: 22 Standard Appearances: 2 PTPH: 1 Sentencing hearing: 1	Class of Offence: Class B Fee: £5,752.80	New offence banding: 6.1 Fee: £6,220.00 (£1,400 brief fee, £500 daily fee x 9 days, x1 PTPH at £100, x2 Standard Appearance at £60 each, x1 sentencing hearing at £100).
Category 7 – Offences against the public interest	Example 11 Offence: Perjury – judicial proceedings.	Class of Offence: Class I Fee: £1,436.00	New offence banding: 7.1 Fee: £2,360.00

Reforming the Advocates' Graduated Fee Scheme

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
	<p>Case Type: Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 100</p> <p>Days: 3</p> <p>Witnesses: 7</p> <p>Standard Appearances: 1</p> <p>PTPH: 1</p>		<p>(£1,200 brief fee, £500 daily rate x 2 days, x1 PTPH at £100, x1 Standard Appearance fee at £60 each).</p>
<p>Category 8 – Drugs Offences</p>	<p>Example 12</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>Class of Offence: Class B</p> <p>Fee: £5,609.50</p>	<p>New offence banding: 8.1</p> <p>Fee: £10,165.00</p> <p>(£5,000 brief fee, £525 daily fee x9 days, x1 PTPH at £100, x4 Standard Appearances at £60 each, x1 sentencing hearing at £100).</p>

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
	<p>PTPH: 1</p> <p>Sentencing hearing: 1</p> <p>Example 13</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>New offence banding: 8.2</p> <p>£2,000.00</p> <p>(£2,000 brief fee)</p>
<p>Category 9 – Driving Offence</p>	<p>Example 14</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>New offence banding: 9.1</p> <p>Fee: £1,650.00</p> <p>(£1,650.00 brief fee)</p>
<p>Category 10 – Burglary and Robbery</p>	<p>Example 15</p> <p>Offence: Robbery – personal.</p>	<p>Class of Offence: Class C</p> <p>Fee: £719.60</p>	<p>New offence banding: 10.2</p> <p>Fee: £795.00</p>

Reforming the Advocates' Graduated Fee Scheme

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
	<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>(£575.00 brief fee, x1 PTPH at £100, x2 Standard Appearance fee at £60 each).</p>
<p>Category 11 – Firearm offences.</p>	<p>Example 16</p> <p>Offence: Trading in firearms without being registered</p> <p>Case Type: Trial</p> <p>Advocate: Junior Alone</p> <p>PPE: 600</p> <p>Days: 6</p> <p>Witnesses: 15</p> <p>Standard Appearances: 3</p> <p>PTPH: 1</p> <p>Sentencing hearing: 1</p>	<p>Class of Offence: Class C</p> <p>Fee: £3,093.50</p>	<p>New offence banding: 11.1</p> <p>Fee: £4,880.00</p> <p>(£2,000 brief fee, £500 daily fee x 5 days, x1 PTPH at £100, x3 Standard Appearances at £60 each, x1 Sentencing hearing at £100).</p>

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
Category 12 – Other offences against the person	<p>Example 17</p> <p>Offence: Kidnapping.</p> <p>Case Type: Trial</p> <p>Advocate: Led Junior</p> <p>PPE: 3,000</p> <p>Days: 10</p> <p>Witnesses: 20</p> <p>Standard Appearances: 4</p> <p>PTPH: 1</p> <p>Sentencing hearing: 1</p>	<p>Class of Offence: Class B</p> <p>Fee: £7,198.10</p>	<p>New offence banding: 12.1</p> <p>Fee: £6,240.00</p> <p>(£1,300 brief fee, £500 daily fee x 9 days, x1 PTPH at £100, x4 Standard Appearances at £60 each, x1 sentencing hearing at £100).</p>
Category 13 – Exploitation / human trafficking offences.	<p>Example 18</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>Class of Offence: Class J.</p> <p>Fee: £13,295.00</p>	<p>New offence banding: 13.1</p> <p>Fee: £14,310.00</p> <p>(£2,250 brief fee, £825 daily fee x 14 days, x1 PTPH at £150, x4 Standard Appearance fee at £90 each).</p>

Reforming the Advocates' Graduated Fee Scheme

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
	Witnesses: 25 Standard Appearances: 4 PTPH: 1		
Category 14 – Public Order Offences.	Example 19 Offence: Violent disorder. Case Type: Trial Advocate: Junior Alone PPE: 80 Days: 2 Witnesses: 5 Standard Appearances: 2 PTPH: 1	Class of Offence: Class B Fee: £1,334.40	New offence banding: 14.2 Fee: £1,370.00 (£750 brief fee, £400 daily fee x 1 day, x1 PTPH at £100, x2 Standard Appearances at £60 each).
Category 15 – Regulatory Offences.	Example 20 Offence: Pollution of controlled water. Case Type: Cracked Trial Advocate: Junior Alone	Class of Offence: Class K Fee: £2,666.50	New offence banding: 15.3 Fee: £1,010.00 (£850 brief fee, x1 PTPH at £100, x1 Standard Appearance at £60 each).

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
	PPE: 500 Standard Appearance: 2		
Category 16 – Standard Cases	Example 21 Offence: Absconding from lawful custody. Case Type: Guilty Plea Advocate: Junior Alone PPE: 60	Class of Offence: Class C Fee: £485.00	New offence banding: 16.1 Fee: £275.00 (£275.00 brief fee).
	Example 22 Offence: Affray Case Type: Trial Advocate: Junior Alone PPE: 80 Days: 3 Witnesses: 7 Standard Appearance: 1	Class of Offence: Class H Fee: £1,253.40	New offence banding: 16.1 Fee: £1,310.00 (£550 brief fee, £300 x 2 days, x1 PTPH at £100, x1 Standard Appearance at £60).

Reforming the Advocates' Graduated Fee Scheme

New Category	Case example	Current AGFS Fee (Scheme 9) (excl. VAT)	Proposed AGFS Fee (excl. VAT)
	PTPH: 1		



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