



Agreement between Ministry of Justice, Bar Council and Criminal Bar Association

No date has yet been set for the implementation of the reductions in AGFS fees announced on 27 February, but the expectation was to implement in the Summer 2014.

Recognising the impact of the proposed AGFS changes, and the need to allow a period of transition, it is proposed that:

1. We will defer implementation of any AGFS fee changes, in order that we can take into account the recommendations from the Jeffrey and Leveson reviews and the results of the Review of Advocates Graduated Fee Scheme (AGFS) referred to in paragraph 3 below. This would mean that any changes to AGFS fees would not come into force before Summer 2015 alongside reductions in litigation fees. There will accordingly be twelve months to work through the system, working with an open mind.
2. Given there will be no immediate reduction in AGFS rates, we will also defer the implementation of interim payments (and pick up issues related to the instructed advocate principle) and the cracked trial fee for elected either-way cases where the prosecution offer no evidence.
3. We will undertake to review the framework of the AGFS with the professions by Summer 2015 taking into account, in particular:
 - Sir Bill Jeffrey's recommendations following his independent review of criminal advocacy;
 - Sir Brian Leveson's review to identify ways to reduce to the minimum the number of pre-trial hearings that necessitate advocates attending court and to identify ways to streamline and reduce the length of criminal proceedings;
 - criminal justice reforms, such as digitisation, which will increase efficiency and affect how advocates work;
 - any impacts on legal aid spend from falling crime rates; and
 - a comprehensive analysis of income and earnings of criminal advocates, including effects from changes in recent years.
4. The review is not intended to go beyond the savings from AGFS proposed on 27 February. Details of the review will be developed in discussion with the Bar after Sir Bill Jeffrey and Sir Brian Leveson have reported.

5. Deferral of the AGFS reduction protects the junior Bar, but benefits all (since the majority of advocates working on VHCCs also undertake AGFS work). The new VHCC fee rates have been approved by Parliament.
6. As soon as normal working relationships are restored, the Government will work with the professions to consider possible better alternatives to the VHCC scheme, within the same overall budget. This will include examining the GFS plus scheme proposed by the Bar Council.
7. The Officers of the Bar Council and the Criminal Bar Association, having engaged with the Circuits have stated that, in return for the Government's proposed approach (outlined above):
 - whilst it is an individual choice for any barrister as to what work they choose to do, there is no objection, in principle, to barristers undertaking VHCCs
 - there is no reason why barristers who want to work on VHCCs should not do so;
 - the 'no returns' policy should be withdrawn; and
 - normal working practices and relationships through the Criminal Justice System should be restored, with no further days of action.
8. The Bar Council, the CBA and the Circuits will engage with Government on the reviews set out above.

27 March 2014