



Graduated Fee Payment Protocol

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Introduction

Background

1. In 2006, the [Carter Review](#) recommended a revised advocates graduated fee scheme (RAGFS) for the remuneration of advocates in the Crown Court.
2. The RAGFS was set out in The Criminal Defence Service (Funding) Order 2007 SI No 1174 (the Order), which took effect from 30 April 2007 in respect of representation orders granted on or after 30 April 2007.
3. In April 2010 the government announced a reduction of 13.5 per cent over a three year period in remuneration for criminal graduated fee work. As a consequence, graduated fees were cut by 4.5 per cent in April 2010, 2011 and 2012.
4. In addition, on 3 October 2011, the government harmonised fees for Crown Court cases paid under Class A (homicide and related grave offences) and cases paid under Class J (serious sexual offences) so that they are paid at the same rate. Two other key changes in operation from 3 October 2011 were the introduction of fixed fees for either way cases where an elected Crown Court trial ends in a guilty plea or cracked trial, and treating sentence hearings as standard appearances.
5. Since 1 April 2013, the Criminal Legal Aid (Remuneration) Regulations (the Remuneration Regulations) have provided for the payment of graduated fees for Crown Court advocacy.
6. This Fee Payment Protocol (the Protocol) was the subject of consultation by the Bar Council in 2007, and was adapted as a result. It was supported by the Department for Constitutional Affairs, now the Ministry of Justice, and the Protocol meets the requirements of the Remuneration Regulations where necessary.

Helpful information

7. The Bar Council publishes a monthly Remuneration Update with information with news, updates and current issues about getting paid as a barrister. You can subscribe to the Remuneration Update [here](#). You can read previous editions on the [Bar Council website](#).
8. The Legal Aid Agency (LAA) also publishes a monthly update, called the Advocates' Bulletin. The Bulletin provides information and advice about ensuring you get paid on time and making sure fee claims are right the first time. You can subscribe to the Advocates' Bulletin on the [LAA website](#).

The Graduated Fee Payment Protocol

Key definitions and concepts

The instructed advocate and substitute advocate

9. The Remuneration Regulations define the instructed advocate in article 2:

“instructed advocate” means

- (a) where the section 16 determination provides for a single advocate, the first barrister or solicitor advocate instructed in the case, who has primary responsibility for the case; or
- (b) where the section 16 determination provides for more than one advocate, each of—
 - (i) the leading instructed advocate; and
 - (ii) the led instructed advocate;

“leading instructed advocate” means the first leading barrister or solicitor advocate instructed in the case, who has primary responsibility for those aspects of a case undertaken by a leading advocate;

“led instructed advocate” means the first led barrister or solicitor advocate instructed in the case, who has primary responsibility for those aspects of the case undertaken by a led advocate.

10. Any other advocate who carries out paid returned work in relation to the case is referred to in this Protocol as the **substitute advocate**.

11. This protocol operates most effectively when the instructed advocate and any substitute advocates have a **contractual relationship**. This requires the instructed advocate to contract with any substitute advocates where they are required to undertake any advocacy services. **The instructed advocate is then the contractor and the substitute advocate a subcontractor**. The relationship of contractor and subcontractor does not affect any of the barrister’s duties under the [BSB Handbook](#).

12. The instructed advocate’s position as contractor and the substitute advocate as subcontractor can be evidenced by the instructed advocate and any substitute advocate agreeing to provide services in accordance with the letter at [Annex C](#).

Withdrawal as instructed advocate

13. It is in the public interest and the criminal justice system that the same advocate should undertake all necessary work on a case and that the advocate of choice should undertake all aspects of the case for the client.

14. There are, however, some limited circumstances where withdrawal as instructed advocate is inevitable. These circumstances are set out in schedule 1, paragraph 25(10) of the Remuneration Regulations:

- (10) An instructed advocate must remain as instructed advocate at all times, except where—
 - (a) a date for trial is fixed at or before the plea and case management hearing and the instructed advocate is unable to conduct the trial due to the instructed advocate’s other pre-existing commitments;
 - (b) the instructed advocate is dismissed by the assisted person or the litigator; or
 - (c) the instructed advocate is required to withdraw because of his professional code of conduct.

15. The replacement instructed advocate must then take over all the original instructed advocate’s responsibilities. This is established in schedule 1, paragraph 25(11):

- (11) Where, in accordance with sub-paragraph (10), an instructed advocate withdraws, the instructed advocate must –
 - (a) immediately inform the court of the withdrawal—
 - (i) in writing; or
 - (ii) where the withdrawal takes place at a plea and case management hearing, orally; and
 - (b) within 7 days of the date of the withdrawal, notify the court in writing of the identity of a replacement instructed advocate, who must fulfil all the functions of an instructed advocate in accordance with these Regulations.

16. For the avoidance of doubt, paragraph 25(11) does not impose an obligation on the incumbent instructed advocate to select a replacement instructed advocate, as this would be inconsistent with a client’s freedom of choice. The obligation is one of notification and not selection.

Paid returned work and paid retained work

17. **Paid returned work** is work undertaken by a substitute advocate where the instructed advocate was unable to do the work.

18. **Paid retained work** is work undertaken by the instructed advocate.

19. Paid returned work covers only the items specified in [Annex A](#). In particular, there is no separate payment for tape listening, video watching and/or reading unused material. The same applies to retained work.

Total fee

20. The **total fee** covers all advocacy services provided by the instructed advocate and any substitute advocates. The total fee is paid by the LAA to the instructed advocate. It is then the responsibility of the instructed advocate to distribute fees to any substitute advocates

Basic fee and depleted basic fee

21. The **basic fee** includes payment for:

- First plea and case management hearing (PCMH) or pre-trial review
- First four standard appearances
- First three pre-trial conferences or views, and
- Reading, listening and watching evidence that is not defined as pages of prosecution evidence.

22. Where a substitute advocate has undertaken work remunerated under the basic fee, instructed advocates may have to accept a depleted basic fee to ensure all advocates are adequately paid for their services. Examples of how this works in practice are provided in [Annex E](#).

Professional obligations to professional and lay client

23. The relationship of contractor and subcontractor does not alter any of the instructed or substitute advocate's professional obligations to their professional or lay client or to the court.

24. It is the duty of all advocates at all times to act in the best interest of their clients, in accordance with the [BSB Handbook](#) and the Solicitors Regulation Authority (SRA) Handbook.

Obligations of the instructed advocate

Preparing and submitting fee claims

25. At the end of the case, the instructed advocate must prepare a claim form (in the required format) for all advocacy services and submit it within the required time limit to the LAA for payment (Remuneration Regulations, regulation 4).

26. The claim form itemises the appropriate fee for the case and any items of work that attract discrete payments under the Remuneration Regulations. The total payment will include VAT if the instructed advocate is VAT registered.

Paying substitute advocates

27. The instructed advocate is responsible for arranging payment of fees to any substitute advocates (Remuneration Regulations, schedule 1, paragraph 26(3)). Any payments to substitute advocates will be in accordance with this protocol.

28. Where the instructed advocate is a solicitor, and where work has been undertaken by other advocates on the case (whether barristers or Higher Court Advocates) the solicitor will treat the amounts due to such other advocates from the fee or fees paid by the LAA as client monies and account for them as such.

29. All fees owed to substitute advocates which are received by the instructed advocate, whether a solicitor or barrister, must be paid to substitute advocates within 14 days of receipt.

Redetermination of fees

30. If any advocate is dissatisfied with the determination of fees by the LAA, the instructed advocate may apply for a redetermination. Regulation 28 of the Remuneration Regulations only provides for the instructed advocate to apply for a redetermination.

31. The only exceptions to this are in relation to special preparation and wasted preparation, as regulation 28(1)(a) allows any advocate in proceedings in the Crown Court to seek a redetermination of a decision by the appropriate officer not to allow special or wasted preparation, or to dispute the number of hours allowed in the calculation of the fee.

32. This means that where a substitute advocate is dissatisfied with the appropriate officer's determination of a fee (other than special or wasted preparation), the application for redetermination and any appeal must be brought by the instructed advocate.

33. The instructed advocate is responsible for ensuring that the application for a redetermination is made in accordance with regulation 28.

34. Regulation 29 allows a representative who is dissatisfied with the decision of the appropriate officer to appeal to a Costs Judge.

Obligations of substitute advocates

35. A substitute advocate must invoice the instructed advocate in respect of any paid returned work done for the instructed advocate. This will include VAT where the substitute advocate is VAT registered.

36. Substitute advocates must invoice the instructed advocate promptly, and in good time so as to enable the instructed advocate to submit a correct fee claim to LAA within three months of the conclusion of the case.

37. If the substitute advocate is dissatisfied with the LAA's determination of fees and requires the instructed advocate to apply for a redetermination, the substitute advocate must prepare any written material required by regulation 28 in support of a redetermination. This is because only the substitute advocate will know the precise grounds of dissatisfaction.

Division of fees

Paid returned work contained in the basic fee

38. During the Carter Review, the Bar Council provided the Carter Review Team with a full breakdown of the appropriate fees for the constituent parts of a case (with the exception of the Plea and Case Management Hearing (PCMH) fee). The Carter Review Team agreed that these were the appropriate fees, even though many of them were put into the basic fee rather than being discrete payments as before.

39. Fees (excluding VAT) which should be paid by the instructed advocate to any substitute advocate are included in the tables at [Annex A](#) for:

- [Table A: Scheme 10 \(1 April 2013 –\)](#)
- [Table B: Scheme 9 \(1 April 2012 – 31 March 2013\)](#)
- [Table C: Scheme 8 \(3 October 2011 – 31 March 2012\)](#)
- [Table D: Scheme 7 \(1 April 2011 – 2 October 2011\)](#)
- [Table E: Scheme 5 and 6 \(27 April 2010 – 31 March 2011\)](#)
- [Table F: Scheme 4 \(30 April 2007 – 26 April 2010\)](#)

40. The instructed advocate is obliged to pay any substitute advocate who undertakes any of the work on the case specified in [Annex A](#). Payment for paid returned work is at the rates specified in [Annex A](#), together with any hotel or travel expenses paid by the LAA or other agency in respect of expenses incurred by the substitute advocate.

41. The instructed advocate will retain from the total fee paid for the case the appropriate sums for any work on the case done by them which is specified in [Annex A](#) and at the rates shown there, together with any hotel or travel expenses incurred.

Paid returned work covers only the items specified in [Annex A](#). In particular, there is no separate payment for tape listening, video watching and/or reading unused material. The same applies to retained work.

Depleted basic fee

42. If the proportion of the basic fee remaining for the trial, re-trial, cracked trial or guilty plea after following the requirements of [Annex A](#) is less than 70 per cent of the basic fee, then the instructed advocate shall reduce the sums payable for all paid returned work and paid retained work (including the trial, included in the starting calculation at 70 per cent of the basic fee) by an equal percentage that will reduce the total to the amount of the basic fee.

43. Examples of how depleted basic fees work in practice are set out in [Annex E](#). The underlying principle is that in determining whether the fees are subject to reduction, both paid returned work and paid retained work must be deducted from the basic fee, otherwise the instructed advocate may be penalised for attending hearings other than the main hearing.

PCMH Fee

44. It is expected that trial advocates will be able to conduct both the PCMH and the trial.

45. Where the PCMH is conducted by an advocate other than the instructed advocate, the PCMH fee will be 15 per cent of the appropriate trial basic fee as shown in [Annex B](#) regardless of whether the case ultimately fights or cracks. If the case is disposed of as a guilty plea at the PCMH then the advocate conducting the hearing will receive the appropriate guilty plea fee. This will ensure that the advocate who conducts the PCMH is properly remunerated for the necessary preparation and attendance at court.

Paid returned work where there are two instructed advocates

46. In a case where there are two instructed advocates and a substitute advocate appearing alone undertakes any paid returned work in place of the led junior, the obligation to pay the substitute advocate shall be shared between the instructed advocates in the ratio of two-thirds (leading advocate) to one-third (led advocate).

47. Where a leading advocate (QC or leading junior) is instructed as a trial advocate after the date of instruction of the junior advocate, the leading advocate shall be liable for two-thirds of all of the paid returned work fees, including work undertaken by a substitute advocate appearing alone prior to the date of instruction of the leading advocate.

48. Where a junior advocate (led either by a QC or a leading junior) is instructed after the leading advocate, the junior advocate shall not be liable in respect of any paid returned work undertaken prior to the date of their instruction.

Dispute resolution

49. Chambers must have their own dispute resolution process in relation to the division of RAGFS fees. The Bar Standards Board takes a serious view of any failure by one member of the Bar to honour obligations to another, and barristers must comply at all times with the [BSB Handbook](#).

50. In the first instance, any dispute between barristers should be resolved by the Head of Chambers or Heads of Chambers (where barristers are in different chambers) with the barristers concerned. The Head of Chambers will, with the senior clerk, ensure that a procedure is in place which resolves any dispute quickly and fairly.

51. Where the dispute involves a barrister or barristers less than five years Call, the Head of Chambers will arrange for suitable assistance to be available through the Head of the Chambers Pupillage Committee.

52. Where the dispute involves a barrister and solicitor advocate, the Head of Chambers and the Senior Partner of the firm in question will seek to resolve the dispute quickly and fairly.

53. A written record of the dispute and its resolution should be kept. Where the dispute involves a sole practitioner the parties concerned will seek to resolve the dispute in writing.

54. If a dispute is not resolved under this procedure, the Bar Council should be notified in writing and the matter will be referred to a Dispute Resolution Panel. The Dispute Resolution Panel will resolve disputes between barristers, whether in sole practice or in the same or different chambers.

55. A dispute between a barrister and a solicitor which cannot be resolved informally will be resolved in accordance with the Joint Tribunal Standing Orders for Fee Disputes with Solicitors.

Accounting system

56. The Bar Council considers it essential for chambers to have in place a communal fee accounting system to enable fees for paid returned work to be paid to other advocates.

57. The outline of a model accounting system is set out in [Annex D](#).

Income Tax

58. When the instructed advocate receives the total fee they are only liable to tax on payment for the work they have actually undertaken.

59. The substitute advocate will be liable to tax for their share of the fees at the point when those fees are earned.

VAT

60. The total payment from the LAA to the instructed advocate is inclusive of VAT, if the instructed advocate is VAT registered. The instructed advocate is liable to account to HM Revenue and Customs (HMRC) for the VAT on the value of the whole supply made.

61. If the substitute advocate is VAT registered they will be required to account for VAT on the value of the supplies made to the instructed advocate. The instructed advocate will be liable to pay VAT to the substitute advocate, whether or not the instructed advocate is VAT registered. However, if the instructed advocate is registered for VAT, the VAT may be deducted as input tax (subject to normal VAT rules). For this reason it is strongly advisable for the instructed advocate to be registered for VAT.

62. Appropriate records must be kept for VAT inspection, including copies of VAT invoices issued by the instructed advocate and VAT invoices issued to the instructed advocate by any substitute advocate. The Bar Council recommends that chambers keep these records centrally. An extract of HMRC guidance, and advice received by the Bar Council appears in [Annex F](#). This advice is relevant to both barristers and solicitor advocates who receive fees for Crown Court advocacy.

63. Please note that, whilst the VAT treatment has been discussed with HMRC, the views expressed in this document are based on the Bar Council's understanding of the law as at the

date of publication of this protocol. Neither the Bar Council nor HMRC can accept any liability for any reliance placed on this protocol. Barristers, solicitors and their staff should check for changes in the law, and any court or tribunal decisions, and obtain updated official publications. Help can be obtained from HMRC's website at <http://www.hmrc.gov.uk/> or by telephoning HMRC VAT Helpline on 0845 010 9000.

Annex A: Paid returned and retained work

Key points to note

When using the tables below, the following points must be taken into account:

- **Conferences:** Fees for conferences are payable to a substitute advocate as paid returned work and deductible by the instructed advocate as retained work, but they are subject to the capping both as to number and length that applies under the relevant Graduated Fee Scheme.
- **Uplifts for additional cases:** Any uplifts payable under schedule 1, paragraph 27 of the Remuneration Regulations are payable to a substitute advocate in respect of paid returned work and are deductible by the instructed advocate for retained work.
- The figures below are for the following payment schemes:
 - [Table A: Scheme 10 \(representation orders 1 April 2013 – \)](#)
 - [Table B: Scheme 9 \(representation orders 1 April 2012 – 31 March 2013\)](#)
 - [Table C: Scheme 8 \(representation orders 3 October 2011 – 31 March 2012\)](#)
 - [Table D: Scheme 7 \(representation orders 1 April 2011 – 2 October 2011\)](#)
 - [Table E: Scheme 5 and 6 \(representation orders 27 April 2010 – 31 March 2011\)](#)
 - [Table F: Scheme 4 \(representation orders 30 April 2007 – 26 April 2010\)](#)

Table A: Scheme 10 (representation orders 1 April 2013 –)

Category	Comments	Junior	Leading Junior	QC
The trial	The amount paid to the advocate undertaking the trial will be the total fee less (a) any sums payable to other advocates for paid returned work apart from the trial, and (b) any sums which the instructed advocate is entitled to deduct for retained work.	See adjoining comments column	See adjoining comments column	See adjoining comments column

Category	Comments	Junior	Leading Junior	QC
PCMH <i>Part of basic Fee</i>	The amount paid to the advocate undertaking the PCMH will be the amount shown as 15% of the basic fee in table B, or the guilty plea fee less any sums which the instructed advocate is entitled to deduct for Retained work if the case pleads at the PCMH	See adjoining comments column	See adjoining comments column	See adjoining comments column
Conferences with clients and experts. Views. <i>Part basic fee, part fixed fee, depending upon the actual or estimated length of the case.</i>	The first three conferences are included in the basic fee. Separate payment is made for fourth and subsequent conferences only in cases lasting or estimated to last 21 days or more.	£39 per hour	£56 per hour	£74 per hour
Standard appearances. <i>Standard appearances 1-4 part of basic fee, 5+ fixed fee.</i>	The first 4 standard appearances are included in the basic fee. Separate payment is made for fifth and subsequent standard appearance. They are paid as Paid returned work at the rates shown in the adjoining columns	£87	£130	£173
Full and Half Day Hearings for PII hearings, bad character hearings, abuse of process, and disclosure hearings. <i>Fixed fee</i>		Half Day £130 Full Day £238	Half Day £195 Full Day £346	Half Day £260 Full Day £497

Category	Comments	Junior	Leading Junior	QC
Special and Wasted Preparation. <i>Fixed fee</i>	Wasted preparation to apply only as defined in the Order. This includes research on novel facts.	£39	£56	£74
Ineffective Trial Payment. <i>Fixed fee</i>	A listed trial that does not proceed for any reason.	£130	£195	£281
Sentencing. <i>Sentence hearing paid as standard appearance. This means there is no separate fee where sentencing hearings are included in the first 4 standard appearances.</i> <i>Deferred sentence hearing paid as fixed fee. Non-effective hearing counts as a standard appearance.</i>	Sentence Hearings Deferred Sentence Effective Non-effective	£87 £173 £87	£130 £238 £130	£173 £324 £173
Appeals to the Crown Court <i>Fixed fee</i> <i>Fixed fee</i>	Against Sentence Effective Non-effective Against Conviction Effective Non-effective	£108 £87 £130 £87	£151 £130 £195 £130	£216 £173 £260 £173
Proceedings for breach of a Crown Court order <i>Fixed fee</i>	Effective Non-effective	£108 £87	£151 £130	£216 £173

Category	Comments	Junior	Leading Junior	QC
Committal for sentence <i>Fixed fee</i>	Effective Non-effective	£130 £87	£195 £130	£260 £173
Noting Brief <i>Fixed fee</i>		£108	-	-

Table B: Scheme 9 (representation orders 1 April 2012 – 31 March 2013)

Category	Comments	Junior	Leading Junior	QC
The trial	The amount paid to the advocate undertaking the trial will be the Total fee less (a) any sums payable to other advocates for Paid returned work apart from the trial, and (b) any sums which the instructed advocate is entitled to deduct for Retained work.	See adjoining comments column	See adjoining comments column	See adjoining comments column
PCMH <i>Part of basic fee</i>	The amount paid to the advocate undertaking the PCMH will be the amount shown as 15% of the basic fee in table B, or the guilty plea fee less any sums which the instructed advocate is entitled to deduct for Retained work if the case pleads at the PCMH	See adjoining comments column	See adjoining comments column	See adjoining comments column
Conferences with clients and experts. Views. <i>Part basic fee, part fixed fee, depending upon the actual or estimated length of the case.</i>	The first three conferences are included in the basic fee. Separate payment is made for fourth and subsequent conferences only in cases lasting or estimated to last 21 days or more.	£39 per hour	£56 per hour	£74 per hour

Category	Comments	Junior	Leading Junior	QC
Standard appearances. <i>Standard appearances 1-4 part of basic fee, 5+ fixed fee.</i>	The first 4 standard appearances are included in the basic fee. Separate payment is made for fifth and subsequent standard appearance. They are paid as Paid returned work at the rates shown in the adjoining columns	£87	£130	£173
Full and Half Day Hearings for PII hearings, bad character hearings, abuse of process, and disclosure hearings. <i>Fixed fee</i>		Half Day £130 Full Day £238	Half Day £195 Full Day £346	Half Day £260 Full Day £497
Special and Wasted Preparation. <i>Fixed fee</i>	Wasted preparation to apply only as defined in the Order. This includes research on novel facts.	£39	£56	£74
Ineffective Trial Payment. <i>Fixed fee</i>	A listed trial that does not proceed for any reason.	£130	£195	£281

Category	Comments	Junior	Leading Junior	QC
Sentencing. <i>Sentence hearing paid as standard appearance. This means there is no separate fee where sentencing hearings are included in the first 4 standard appearances.</i>	Sentence Hearings	£87	£130	£173
<i>Deferred sentence hearing paid as fixed fee. Non-effective hearing counts as a standard appearance.</i>	Deferred Sentence Effective Non-effective	£173 £87	£238 £130	£324 £173
Appeals to the Crown Court <i>Fixed fee</i>	Against Sentence Effective Non-effective	£108 £87	£151 £130	£216 £173
<i>Fixed fee</i>	Against Conviction Effective Non-effective	£130 £87	£195 £130	£260 £173
Proceedings for breach of a Crown Court order <i>Fixed fee</i>	Effective Non-effective	£108 £87	£151 £130	£216 £173
Committal for sentence <i>Fixed fee</i>	Effective Non-effective	£130 £87	£195 £130	£260 £173
Noting Brief. <i>Fixed fee</i>		£108	-	-

Table C: Scheme 8 (representation orders 3 October 2011 – 31 March 2012)

Category	Comments	Junior	Leading Junior	QC
The trial	The amount paid to the advocate undertaking the trial will be the Total fee less (a) any sums payable to other advocates for Paid returned work apart from the trial, and (b) any sums which the instructed advocate is entitled to deduct for Retained work.	See adjoining comments column	See adjoining comments column	See adjoining comments column
PCMH <i>Part of basic fee</i>	The amount paid to the advocate undertaking the PCMH will be the amount shown as 15% of the basic fee in table B, or the guilty plea fee less any sums which the instructed advocate is entitled to deduct for Retained work if the case pleads at the PCMH	See adjoining comments column	See adjoining comments column	See adjoining comments column
Conferences with clients and experts. Views. <i>Part basic fee, part fixed fee, depending upon the actual or estimated length of the case.</i>	The first three conferences are included in the basic fee. Separate payment is made for fourth and subsequent conferences only in cases lasting or estimated to last 21 days or more.	£41 per hour	£59 per hour	£77 per hour
Standard appearances. <i>Standard appearances 1-4 part of basic fee, 5+ fixed fee.</i>	The first 4 standard appearances are included in the basic fee. Separate payment is made for fifth and subsequent standard appearance. They are paid as Paid returned work at the rates shown in the adjoining columns	£91	£137	£182

Category	Comments	Junior	Leading Junior	QC
Full and Half Day Hearings for PII hearings, bad character hearings, abuse of process, and disclosure hearings. <i>Fixed fee</i>		Half Day £137 Full Day £250	Half Day £205 Full Day £364	Half Day £273 Full Day £523
Special and Wasted Preparation. <i>Fixed fee</i>	Wasted preparation to apply only as defined in the Order. This includes research on novel facts.	£41	£59	£77
Ineffective Trial Payment. <i>Fixed fee</i>	A listed trial that does not proceed for any reason.	£137	£205	£296
Sentencing. <i>Sentence hearing paid as standard appearance. This means there is no separate fee where sentencing hearings are included in the first 4 standard appearances.</i> <i>Deferred sentence hearing paid as fixed fee. Non-effective hearing counts as a standard appearance.</i>	Sentence Hearings Deferred Sentence Effective Non-effective	£91 £182 £91	£137 £250 £137	£182 £348 £182

Category	Comments	Junior	Leading Junior	QC
Appeals to the Crown Court <i>Fixed fee</i>	Against Sentence			
	Effective	£114	£159	£228
	Non-effective	£91	£137	£182
	Against Conviction			
	Effective	£137	£205	£273
	Non-effective	£91	£137	£182
Proceedings for breach of a Crown Court order <i>Fixed fee</i>	Effective	£114	£159	£228
	Non-effective	£91	£137	£182
Committal for sentence <i>Fixed fee</i>	Effective	£137	£205	£273
	Non-effective	£91	£137	£182
Noting Brief. <i>Fixed fee</i>		£114	-	-

Table D: Scheme 7 (representation orders 1 April 2011 – 2 October 2011)

Category	Comments	Junior	Leading Junior	QC
The trial	The amount paid to the advocate undertaking the trial will be the Total fee less (a) any sums payable to other advocates for Paid returned work apart from the trial, and (b) any sums which the instructed advocate is entitled to deduct for Retained work.	See adjoining comments column	See adjoining comments column	See adjoining comments column
PCMH <i>Part of basic fee</i>	The amount paid to the advocate undertaking the PCMH will be the amount shown as 15% of the basic fee in table B, or the guilty plea fee less any sums which the instructed advocate is entitled to deduct for Retained work if the case pleads at the PCMH	See adjoining comments column	See adjoining comments column	See adjoining comments column
Conferences with clients and experts. Views. <i>Part basic fee, part fixed fee, depending upon the actual or estimated length of the case.</i>	The first three conferences are included in the basic fee. Separate payment is made for fourth and subsequent conferences only in cases lasting or estimated to last 21 days or more.	£41 per hour	£59 per hour	£77 per hour
Standard appearances. <i>Standard appearances 1-4 part of basic fee, 5+ fixed fee.</i>	The first 4 standard appearances are included in the basic fee. Separate payment is made for fifth and subsequent standard appearance. They are paid as Paid returned work at the rates shown in the adjoining columns	£91	£137	£182

Category	Comments	Junior	Leading Junior	QC
Full and Half Day Hearings for PII hearings, bad character hearings, abuse of process, and disclosure hearings. <i>Fixed fee</i>		Half Day £137 Full Day £250	Half Day £205 Full Day £364	Half Day £273 Full Day £523
Special and Wasted Preparation. <i>Fixed fee</i>	Wasted preparation to apply only as defined in the Order. This includes research on novel facts.	£41	£59	£77
Ineffective Trial Payment. <i>Fixed fee</i>	A listed trial that does not proceed for any reason.	£137	£205	£296
Sentencing. <i>Fixed fee if effective. Non-effective hearing counts as a standard appearance.</i>	Sentence Hearings Effective Non-effective Deferred Sentence Effective Non-effective	£114 £91 £182 £91	£182 £137 £250 £137	£273 £182 £341 £182
Appeals to the Crown Court <i>Fixed fee</i> <i>Fixed fee</i>	Against Sentence Effective Non-effective Against Conviction Effective Non-effective	£114 £91 £137 £91	£151 £130 £205 £137	£216 £173 £273 £182
Proceedings for breach of a Crown Court order <i>Fixed fee</i>	Effective Non-effective	£114 £91	£159 £137	£228 £182

Category	Comments	Junior	Leading Junior	QC
Committal for sentence <i>Fixed fee</i>	Effective Non-effective	£137 £91	£205 £137	£273 £182
Noting Brief. <i>Fixed fee</i>		£114	-	-

Table E: Scheme 5 and 6 (representation orders 27 April 2010 – 31 March 2011)

Category	Comments	Junior	Leading Junior	QC
The trial	The amount paid to the advocate undertaking the trial will be the Total fee less (a) any sums payable to other advocates for Paid returned work apart from the trial, and (b) any sums which the instructed advocate is entitled to deduct for Retained work.	See adjoining comments column	See adjoining comments column	See adjoining comments column
PCMH <i>Part of basic fee</i>	The amount paid to the advocate undertaking the PCMH will be the amount shown as 15% of the Basic fee in table B, or the guilty plea fee less any sums which the instructed advocate is entitled to deduct for Retained work if the case pleads at the PCMH	See adjoining comments column	See adjoining comments column	See adjoining comments column
Conferences with clients and experts. Views. <i>Part basic fee, part fixed fee, depending upon the actual or estimated length of the case.</i>	The first three conferences are included in the basic fee. Separate payment is made for fourth and subsequent conferences only in cases lasting or estimated to last 21 days or more.	£43 per hour	£62 per hour	£81 per hour

Category	Comments	Junior	Leading Junior	QC
Standard appearances. <i>Standard appearances 1-4 part of basic fee, 5+ fixed fee.</i>	The first 4 standard appearances are included in the basic fee. Separate payment is made for fifth and subsequent standard appearance. They are paid as Paid returned work at the rates shown in the adjoining columns	£96	£143	£191
Full and Half Day Hearings for PII hearings, bad character hearings, abuse of process, and disclosure hearings. <i>Fixed fee</i>		Half Day £143 Full Day £263	Half Day £215 Full Day £382	Half Day £287 Full Day £549
Special and Wasted Preparation. <i>Fixed fee</i>	Wasted preparation to apply only as defined in the Order. This includes research on novel facts.	£43	£62	£81
Ineffective Trial Payment. <i>Fixed fee</i>	A listed trial that does not proceed for any reason.	£143	£215	£310
Sentencing. <i>Fixed fee if effective. Non-effective hearing counts as a standard appearance.</i>	Sentence Hearings Effective Non-effective Deferred Sentence Effective Non-effective	£119 £96 £191 £96	£191 £143 £263 £143	£287 £191 £358 £191

Category	Comments	Junior	Leading Junior	QC
Appeals to the Crown Court <i>Fixed fee</i>	Against Sentence			
	Effective	£119	£167	£239
	Non-effective	£96	£143	£191
	Against Conviction			
	Effective	£143	£215	£287
	Non-effective	£96	£143	£191
Proceedings for breach of a Crown Court order <i>Fixed fee</i>	Effective	£119	£167	£239
	Non-effective	£96	£143	£191
Committal for sentence <i>Fixed fee</i>	Effective	£143	£215	£287
	Non-effective	£96	£143	£191
Noting Brief. <i>Fixed fee</i>		£119	-	-

Table F: Scheme 4 (representation orders 30 April 2007 – 26 April 2010)

Category	Comments	Junior	Leading Junior	QC
The trial	The amount paid to the advocate undertaking the trial will be the Total fee less (a) any sums payable to other advocates for Paid returned work apart from the trial, and (b) any sums which the instructed advocate is entitled to deduct for Retained work.	See adjoining comments column	See adjoining comments column	See adjoining comments column
PCMH <i>Part of basic fee</i>	The amount paid to the advocate undertaking the PCMH will be the amount shown as 15% of the basic fee in table B, or the guilty plea fee less any sums which the instructed advocate is entitled to deduct for Retained work if the case pleads at the PCMH	See adjoining comments column	See adjoining comments column	See adjoining comments column
Conferences with clients and experts. Views. <i>Part basic fee, part fixed fee, depending upon the actual or estimated length of the case.</i>	The first three conferences are included in the basic fee. Separate payment is made for fourth and subsequent conferences only in cases lasting or estimated to last 21 days or more.	£45 per hour	£65 per hour	£85 per hour
Standard appearances. <i>Standard appearances 1-4 part of basic fee, 5+ fixed fee</i>	The first 4 standard appearances are included in the basic fee. Separate payment is made for fifth and subsequent standard appearance. They are paid as Paid returned work at the rates shown in the adjoining columns	£100	£150	£200

Category	Comments	Junior	Leading Junior	QC
Full and Half Day Hearings for abuse of process, admissibility of evidence, disclosure, and withdrawal of plea of guilty. <i>Fixed fee</i>		Half Day £150 Full Day £275	Half Day £225 Full Day £400	Half Day £300 Full Day £575
Special and Wasted Preparation. <i>Fixed fee</i>	Wasted preparation to apply only as defined in the Order. This includes research on novel facts.	£45	£65	£85
Ineffective Trial Payment. <i>Fixed fee</i>	A listed trial that does not proceed for any reason.	£150	£225	£325
Sentencing. <i>Fixed fee if effective. Non-effective hearing counts as a standard appearance.</i>	Sentence Hearings Effective Non-effective Deferred Sentence Effective Non-effective	£125 £100 £200 £100	£200 £150 £275 £150	£300 £200 £375 £200
Appeals to the Crown Court <i>Fixed fee</i> <i>Fixed fee</i>	Against Sentence Effective Non-effective Against Conviction Effective Non-effective	£125 £100 £150 £100	£175 £150 £225 £150	£250 £200 £300 £200
Proceedings for breach of a Crown Court order <i>Fixed fee</i>	Effective Non-effective	£125 £100	£175 £150	£250 £200

Category	Comments	Junior	Leading Junior	QC
Committal for sentence <i>Fixed fee</i>	Effective Non-effective	£150 £100	£225 £150	£300 £200
Noting Brief. <i>Fixed fee</i>		£125	-	-

Annex B: PCMH Fees

Table G: Scheme 9 and 10 (representation orders 1 April 2012 –) PCMH fees in pounds (£)

Class of offence	QC	Leading Junior	Led Junior	Junior alone
A	428.40	321.30	244.80	244.80
B	379.35	284.55	189.75	195.75
C	295.20	221.40	134.70	134.70
D	342.60	257.10	168.75	168.75
E	227.10	170.40	104.10	97.95
F	227.10	170.40	104.10	104.10
G	227.10	170.40	104.10	104.10
H	285.45	214.05	122.40	122.40
I	318.30	238.80	146.85	146.85
J	428.40	321.30	244.80	244.80
K	428.40	321.30	214.20	244.80

Table H: Scheme 8 (representation orders 3 October 2011 – 31 March 2012) PCMH fees in pounds (£)

Class of offence	QC	Leading Junior	Led Junior	Junior alone
A	450.75	337.95	257.55	257.55
B	399.15	299.40	199.50	205.95
C	310.50	232.80	141.75	141.75
D	360.45	270.45	177.45	177.45
E	238.95	179.25	109.50	103.05
F	238.95	179.25	109.50	109.50
G	238.95	179.25	109.50	109.50
H	300.30	225.30	128.70	128.70
I	334.80	251.10	154.50	154.50
J	450.75	337.95	257.55	257.55
K	450.75	337.95	225.30	257.55

Table I: Scheme 7 (representation orders 1 April 2011 – 2 October 2011) PCMH fees in pounds (£)

Class of offence	QC	Leading Junior	Led Junior	Junior alone
A	605.25	453.90	302.55	347.70
B	399.15	299.40	199.50	205.95

C	310.50	232.80	141.75	141.75
D	360.45	270.45	177.45	177.45
E	238.95	179.25	109.50	103.05
F	238.95	179.25	109.50	109.50
G	300.30	225.30	150.15	193.20
H	300.30	225.30	128.70	128.70
I	334.80	251.10	154.50	154.50
J	450.75	337.95	257.55	257.55
K	450.75	337.95	225.30	257.55

Table J: Scheme 5 and 6 (representation orders 27 April 2010 – 31 March 2011) PCMH fees in pounds (£)

Class of offence	QC	Leading Junior	Led Junior	Junior alone
A	635.10	476.25	326.55	364.80
B	418.80	314.10	209.40	216.15
C	325.95	244.35	148.65	148.65
D	378.30	283.80	186.30	186.30
E	250.65	188.10	114.90	108.15
F	250.65	188.10	114.90	114.90
G	315.15	236.40	157.65	202.65
H	315.15	236.40	135.15	135.15
I	351.45	263.55	162.15	162.15
J	472.95	354.75	270.30	270.30
K	472.95	354.75	236.55	270.30

Table K: Scheme 4 (representation orders 30 April 2007 – 26 April 2010) PCMH fees in pounds (£)

Class of offence	QC	Leading Junior	Led Junior	Junior alone
A	665.10	498.75	332.55	382.05
B	438.60	328.95	219.30	226.35
C	341.25	255.90	155.70	155.70
D	396.15	297.15	195.00	195.00
E	262.50	196.95	120.30	113.25
F	262.50	196.95	120.30	120.30
G	330.00	247.50	165.00	212.25
H	330.00	247.50	141.45	141.45
I	367.95	276.00	169.80	169.80
J	495.30	371.40	283.05	283.05
K	495.30	371.40	247.65	283.05

Annex C: Terms of work in defence criminal legal aid cases

Dear [XXXX],

Thank you for sending me instructions in the case of [XXXX], which I note is or is likely to be paid under the Criminal Legal Aid (Remuneration) Regulations 2013 (the Remuneration Regulations).

It is a term of my acceptance of these instructions that applications for payment under the Remuneration Regulations will be made promptly and in accordance with its terms, and no later than 3 months after the conclusion of the case.

I also accept instructions in this case on the basis that the terms and provisions of the Bar Council's Graduated Fee Payment Protocol (the Protocol) apply and will be enforceable in law.

[XXXX] of [XXXX] chambers ***will be/*is** the instructed advocate. The Protocol provides, amongst other things, that in the event that, subject to my professional client's consent, any advocacy work involved in the case is subcontracted to a substitute advocate(s), the fee or fees for work undertaken by any subcontracted advocate(s) will be claimed, accounted for and distributed in accordance with the Protocol.

A copy of the Protocol ***is attached, or *has been provided to you by my clerk, or *is available on my chambers/the Bar Council website.**

Yours sincerely,

[XXXX]

Annex D: Chambers fee account

The scheme

The advocates' graduated fee scheme involves creating a chambers fee account. All fees are paid in to the account, rather than to an individual barrister. The chambers administrator(s) reconcile the fees received with the work done and make payments (twice monthly) to each barrister. The scheme allows for detailed record keeping and cross-payments to other chambers.

Steps

1. The chambers' constitution needs to have an enabling provision to cover the scheme and each member should sign to show assent. A suitably worded part of the constitution (or side document) will cover pupils' fees. The constitution needs to ensure that cheques made out to members under the graduated fee scheme can be paid into the chambers fee account and distributed in accordance with the terms of the protocol. Arrangements need to be made for pupil's fees to be paid and dealt with under the protocol and distributed through the chambers fee Account. One form of amendment to a fairly standard chambers constitution is as follows:

Chambers may operate such fees accounts and systems as are reasonable or efficient for the business – and may require members remuneration to be paid into fees accounts and hold such monies for dispersal to members, or other advocates, including pupils.

Chambers may deduct from any funds received to chambers any monies outstanding to chambers (including expenses, surcharges and contingency funds and any debts that chambers may have incurred for on or behalf of members, or other advocates for whom the fees are held) before release of any net proceeds to members

Chambers may hold the property of any members or any interest in chambers property, until any sums due and owing to chambers are discharged. Any disputes as to sums owed shall be dealt with by the grievance procedure.

2. Chambers must notify all paymasters of its intention to create a dedicated fees account (the fees account) and supply them with the account details.

3. Each member of chambers must supply their bank account details to the chambers administrator.

4. At the outset, the bank is likely to require one copy of the chambers' constitution which contains details of the fees accounting system. It ought not to require any additional mandate thereafter. The account is both for payments in and out.

5. Payments are made from the fees account to individual barristers twice monthly. These payments are net of payments due to other barristers, chambers contributions and incidentals. On request, the VAT can be held back so that it remains available to be paid at the end of the quarter.
6. The date of cross-payments will appear as the remittance date.
7. Payments to and from other chambers and higher court advocates should be made by direct transfer from one fee account to the other fee account. In order to achieve this, each chambers should open a fee account as described in this document. Details would have to be exchanged with other organisations, thereby allowing payments to be made and received between chambers.
8. Fees accounts should not become overdrawn. Payments out should only be made from cleared funds.
9. If under chambers constitutional arrangements chambers charges or expenses are to be deducted from funds in the fees account, deductions should only be made in respect of the correct amount due from sums held to the credit of individual members of chambers or other advocates.
10. Reference should be made to the VAT advice contained in [Annex F](#). In short, the tax point arises on receipt of money into the chambers fee account and not on payment out to the barrister concerned.

Annex E: Examples of depleted basic fees

The examples below are of a two-day Class E trial conducted by a sole junior. The basic fee includes:

- the PCMH
- all conferences and views
- up to four standard appearances (SAF) as defined in Schedule 1, paragraph 1 of the Remuneration Regulations

In all the examples below, the same figures are used:

- The basic fee (BF) for the trial is £653
- 70 per cent of the BF is £457
- 30 per cent of the BF is £195
- 15 per cent of the BF (the PCMH fee or value) is £97

Example 1

A substitute advocate (SA) conducts one SAF; the instructed advocate (IA) conducts the PCMH and trial.

Advocate	Hearing	Cost
	30% of BF	£195.00 minus
Instructed advocate	PCMH	£97.00 minus
Substitute advocate	SAF	£87.00
	<i>Balance</i>	£11.00

*Due to the balance being **greater** than £0.00 the SA's fee is paid out of the instructed advocate's BF.*

Basic fee Cost Breakdown

Instructed advocate	BF	£653.00 minus
Instructed advocate	PCMH	£97.00 minus
Substitute advocate	SAF	£87.00
Instructed advocate	Trial	£469.00

Example 2

SA conducts two SAFs; the IA conducts the PCMH and trial.

Advocate	Hearing	Cost
	30% of BF	£195.00 minus
Instructed advocate	PCMH	£97.00 minus
Substitute advocate	SAF	£87.00 minus
Substitute advocate	SAF	£87.00
	<i>Balance</i>	<i>-£76.00</i>

Due to the balance being **less** than £0.00 the fees are reduced using the "Depleted Basic Fee" rule

Depleted Basic Fee Rule

Substitute advocate	SAF	£87.00
Substitute advocate	SAF	£87.00
	Substitute Total	£174.00
Instructed advocate	Trial (@ 70%)	£457.00
Instructed advocate	PCMH	£97.00
	Total	£728.00 minus
	BF	£653.00
	Excess	£75.00

Excess as a proportion of Total	10.30%
Percentage rate payable of each fee	89.70%

Allocation of Amounts		Fee	Paid
Substitute advocate	SAF	£87.00	£78.00
Substitute advocate	SAF	£87.00	£78.00
Instructed advocate	Trial (@ 70%)	£457.00	£410.00
Instructed advocate	PCMH	£97.00	£87.00
	Total	£728.00	£653.00

Example 3

SA conducts the PCMH and a SAF; the IA conducts the trial.

Advocate	Hearing	Cost
	30% of BF	£195.00 minus
Substitute Advocate	PCMH	£97.00 minus
Substitute Advocate	SAF	£87.00
	Balance	£11.00

Due to the balance being **greater** than £0.00 the SA's fee is paid out of the instructed advocate's BF.

Fees' Breakdown

Instructed advocate	BF	£653.00 minus
Substitute advocate	PCMH	£97.00 minus
Substitute advocate	SAF	£87.00
Instructed advocate	Trial	£469.00

Example 4

SA conducts three SAFs; the IA conducts the PCMH and trial.

Advocate	Hearing	Cost
	30% of BF	£195.00 minus
Instructed advocate	PCMH	£97.00 minus
Substitute advocate	SAF	£87.00 minus
Substitute advocate	SAF	£87.00 minus
Substitute advocate	SAF	£87.00
	<i>Balance</i>	<i>-£163.00</i>

Due to the balance being less than £0.00 the fees are reduced using the "Depleted Basic Fee" rule

Depleted Basic Fee Rule

Substitute advocate	SAF	£87.00
Substitute advocate	SAF	£87.00
Substitute advocate	SAF	£87.00
	Substitute Total	£261.00
Instructed advocate	Trial (@ 70%)	£457.00
Instructed advocate	PCMH	£87.00
	Total	£805.00 minus
	BF	£653.00
	<i>Excess</i>	<i>£152.00</i>

Excess as a proportion of Total 18.88%
 Percentage rate payable of each fee 81.12%

Allocation of Amounts		Fee	Paid
Substitute advocate	SAF	£87.00	£71.00
Substitute advocate	SAF	£87.00	£71.00
Substitute advocate	SAF	£87.00	£71.00
Instructed advocate	Trial (@ 70%)	£457.00	£370.00
Instructed advocate	PCMH	£97.00	£78.00
	Total	£815.00	£661.00

Example 5

SA conducts PCMH and three SAFs; IA conducts the trial.

Advocate	Hearing	Cost
	30% of BF	£195.00 minus
Substitute advocate	PCMH	£97.00 minus
Substitute advocate	SAF	£87.00 minus
Substitute advocate	SAF	£87.00 minus
Substitute advocate	SAF	£87.00
	<i>Balance</i>	<i>-£163.00</i>

Due to the balance being *less than* £0.00 the fees are reduced using the "Depleted Basic Fee" rule

Depleted Basic Fee Rule

Substitute advocate	PCMH	£97.00
Substitute advocate	SAF	£87.00
Substitute advocate	SAF	£87.00
Substitute advocate	SAF	£87.00
	Substitute Total	£358.00
Instructed advocate	Trial (@ 70%)	£457.00
	Total	£815.00 minus
	BF	£653.00
	<i>Excess</i>	£162.00

Excess as a proportion of Total	19.88%
Percentage rate payable of each fee	80.12%

Allocation of Amounts		Fee	Paid
Substitute advocate	PCMH	£97.00	£77.00
Substitute advocate	SAF	£87.00	£70.00
Substitute advocate	SAF	£87.00	£70.00
Substitute advocate	SAF	£87.00	£70.00
Instructed advocate	Trial (@ 70%)	£457.00	£366.00
	Total	£815.00	£653.00

Example 6

SA conducts the PCMH and four SAFs; IA conducts trial.

Advocate	Hearing	Cost
	30% of BF	£195.00 minus
Substitute advocate	PCMH	£97.00 minus
Substitute advocate	SAF	£87.00 minus
Substitute advocate	SAF	£87.00 minus
Substitute advocate	SAF	£87.00 minus
Substitute advocate	SAF	£87.00
	<i>Balance</i>	-£250.00

Due to the balance being *less than* £0.00 the fees are reduced using the "Depleted Basic Fee" rule

Depleted Basic Fee Rule

Substitute advocate	PCMH	£97.00
Substitute advocate	SAF	£87.00
Substitute advocate	SAF	£87.00

Substitute advocate	SAF	£87.00
Substitute advocate	SAF	£87.00
	Substitute Total	£445.00
Instructed advocate	Trial (@ 70%)	£457.00
	Total	£902.00 minus
	BF	£653.00
	Excess	£249.00

Excess as a proportion of Total 27.61%
Percentage rate payable of each fee 72.39%

Allocation of Amounts		Fee	Paid
Substitute advocate	PCMH	£97.00	£70.00
Substitute advocate	SAF	£87.00	£63.00
Substitute advocate	SAF	£87.00	£63.00
Substitute advocate	SAF	£87.00	£63.00
Substitute advocate	SAF	£87.00	£63.00
Instructed advocate	Trial (@ 70%)	£457.00	£331.00
	Total	£902.00	£653.00

Example 7

SA conducts the PCMH and five SAFs; IA conducts the trial

Advocate	Hearing	Cost
	30% of BF	£195.00 plus
	SAF 5	£87.00
	Total	£282.00 minus
Substitute advocate	PCMH	£97.00 minus
Substitute advocate	SAF 1	£87.00 minus
Substitute advocate	SAF 2	£87.00 minus
Substitute advocate	SAF 3	£87.00 minus
Substitute advocate	SAF 4	£87.00 minus
Substitute advocate	SAF 5	£87.00
	Balance	-£268.00

Due to the balance being *less than* £0.00 the fees are reduced using the "Depleted Basic Fee" rule

Depleted Basic Fee Rule

	BF	£653.00
	SAF 5	£87.00
	Total	£740.00
Substitute advocate	PCMH	£97.00
Substitute advocate	SAF 1	£87.00
Substitute advocate	SAF 2	£87.00

Substitute advocate	SAF 3	£87.00
Substitute advocate	SAF 4	£87.00
Substitute advocate	SAF 5	£87.00
	Substitute Total	£550.00
Instructed advocate	Trial (@ 70%)	£457.00
	Total	£1,007.00 minus
	Total Fee	£740.00
	<i>Excess</i>	£267.00

Excess as a proportion of Total	25.51%
Percentage rate payable of each fee	73.49%

Allocation of Amounts		Value	Paid
Substitute advocate	PCMH	£97.00	£71.00
Substitute advocate	SAF 1	£87.00	£64.00
Substitute advocate	SAF 2	£87.00	£64.00
Substitute advocate	SAF 3	£87.00	£64.00
Substitute advocate	SAF 4	£87.00	£64.00
Substitute advocate	SAF 5	£87.00	£64.00
Instructed advocate	Trial (@ 70%)	£457.00	£336.00
	Total	£989.00	£727.00

Annex F: Extract from HMRC guidance on VAT records

1. Guidance on keeping VAT records is available in [HMRC VAT Guide](#). Paragraph 19.2 of the VAT Guide states:

“You must keep records and accounts of all taxable goods and services which you receive or supply in the course of your business. This includes:

- standard-rated;
- reduced-rated; and
- zero-rated supplies.

You must also keep records of any exempt supplies that you make.

In addition, you must keep a summary of the totals of your input tax and output tax for each tax period. This is called a VAT account (see paragraph 19.12).

All these records must be kept up to date and must be in sufficient detail to allow you to calculate correctly the amount of VAT that you have to pay to, or can claim from, HM Revenue and Customs.

You do not have to keep these records in any set way. But they must be kept in a way which will enable our officers to check easily the figures that you have used to fill in your VAT return. If your records do not satisfy the requirements set out in this notice, we have the power to direct you to make the necessary changes.

However you decide to keep your records, you must be able to make them readily available to our officers when they ask to see them.”

Advice received on VAT treatment

2. [Annex D](#) of the Protocol deals with the chambers fee account into which all fees are paid and distributed by the chambers administrator twice monthly.

3. VAT Regulations 1995 SI 1995/2518, regulation 92 governs the time of supply for supplies of services by barristers and advocates. This regulation does not relate to any other business activity (to which the normal tax point rules apply as per Notice 700 The VAT Guide) apart from advocacy.

4. Regulation 92 provides:

“Services supplied by a barrister, or in Scotland by an advocate, acting in that capacity, shall be treated as taking place at whichever is the earliest of the following times:

- (a) when the fee in respect of those services is received by the barrister or advocate;
- (b) when the barrister or advocate issues a tax invoice in respect of them; or

(c) the day when the barrister or advocate ceases to practice as such.”

5. The expectation therefore is that for the instructed advocate who issues a "request for payment fee note" to Legal Aid Agency (rather than a tax invoice), the tax point will, as now, continue to be triggered by receipt of the legal aid payment. It is important to note that for chambers operating a fees account, "received" for the purposes of regulation 92 will be the time the payment is received into the fees account, as opposed to the time of the bi-monthly payment to individual barristers.

6. For the substitute advocate, who issues an invoice to the instructed advocate, the time of the substitute advocate's supply to the instructed advocate will be the earlier of receipt of payment or issue of a VAT invoice.

7. Note that regulation 92 only extends to barristers. Solicitors are therefore subject to normal tax point rules.

8. Under the protocol, solicitor instructed advocates must treat the substitute advocate element of any legal aid payments as "client monies and account for them as such". However, the tax point for VAT purposes will be created by the receipt of that payment in the normal way. In other words, the normal practice of disregarding payments into client's accounts will not be appropriate in these circumstances.

Annex G: Email notification to Crown Court centres

Introduction

1. Schedule 1, paragraph 25(1) of the Criminal Legal Aid (Remuneration) Regulations 2013 (the Remuneration Regulations) requires written notification of the identity of the instructed advocate to the court before the PCMH.
2. If the identity of the instructed advocate is not provided, schedule 1, paragraphs 25(2), 25(3) and 25(4) of the Remuneration Regulations provides that the person who attends the PCMH will be recorded as the instructed advocate. If no barrister or solicitor advocate attends the PCMH then the barrister or solicitor advocate who attends the next hearing will be deemed to be the instructed advocate.
3. Schedule 1, paragraph 25(6) provides that where a representation order is amended after the PCMH an additional advocate must notify the court in writing of their appointment within seven days of the date on which the order is amended. Each instructed advocate must notify the court whether they are the leading instructed advocate or the led instructing advocate.
4. Schedule 1, paragraph 25(7) states that where no notification is given in accordance with paragraph 25(6), the advocate who attends the next hearing will be deemed to be an instructed advocate and the court will record whether they are the leading instructed advocate or the led instructed advocate, as appropriate to the circumstances of the case.
5. This protocol governs written notification and establishes standard delivery arrangements for those wishing to email the notification. The attached list gives the email address for each Crown Court Centre. **These are not secure email addresses.** Those able and wishing to use secure email should add **cj~~sm~~.net** to the end of the listed email address for the court.

Protocol

6. Notifications must be sent to the court's 'enquiries' box (shown in the attached address list).
7. Every email notification must have the heading 'Instructed Advocate Notification' and should show the date of the PCMH.
8. The email message must contain the name, telephone number and email address of the sender and should be in plain text or rich text format rather than HTML.
9. It is permissible for notification to be made on behalf of an instructed advocate but the person making the notification must state the capacity in which it is made (e.g. barrister's clerk, another member of the solicitor advocate's firm).

10. To enable the court to identify the correct defendant/case and avoid the need for the notification to be rejected, the email must include:
 - the case number
 - the full name of the represented defendant
 - the full name of the instructed advocate
 - the name and telephone number of the person taking responsibility for the notification
 - if notification is made on behalf of another, the capacity in which it is made
 - chambers/firm name and address
11. The notification is limited to identifying the instructed advocate and any additional information, such as listing information, will not be processed.
12. A separate email notification must be sent for each represented defendant even if the same instructed advocate represents more than one defendant in a multi-handed case.
13. The notification sender must set up the email to give an automatic 'delivery receipt' if they require confirmation of receipt. This will be the only form of acknowledgement.
14. The notification must be received in the correct email box at the correct court before the PCMH or, in the case of an additional instructed advocate, seven days after the date on which the representation order is amended. Otherwise, the advocate who attends the PCMH will be recorded as the instructed advocate. In the case of an additional instructed advocate, where no notification is given within the seven day period, then the advocate who attends the next hearing will be deemed to be an instructed advocate and the court will record whether they are the leading instructed advocate or the led instructed advocate
15. The notifying party is responsible for ensuring that the email transmission is filed within the relevant time limit. An email transmission must be received by the court by 16:00 the day before the PCMH in order to be accepted as being received on that day.
16. The date and time of notification will be the date and time the email is received in the correct email box at the correct court. The time of receipt of a transmission will be recorded electronically on the transmission as it is received. If a transmission is received after 16:00 the day before the PCMH the transmission will be treated as received on the next day the court office is open.
17. The notification sender cannot ask for the email to take effect from a day/time earlier than the day/time it was received in the correct email box at the correct court.
18. An email received by the court before the PMCH will be deemed to be the notification even if not opened until after the PCMH.
19. The email notification will be assumed by the court to be accurate. Any error in notification will be an issue internal to the chambers/solicitor's firm.
20. This protocol is for instructed advocates wishing to use email. Courts can also accept notification by letter.

Crown Court enquiries email addresses

Crown Court	Email Address
Aylesbury Crown Court	enquiries@aylesbury.crowncourt.gsi.gov.uk
Basildon Crown Court	enquiries@basildon.crowncourt.gsi.gov.uk
Birmingham Crown Court	enquiries@birmingham.crowncourt.gsi.gov.uk
Blackfriars Crown Court	enquiries@blackfriars.crowncourt.gsi.gov.uk
Bolton Crown Court	enquiries@bolton.crowncourt.gsi.gov.uk
Bournemouth Crown Court	enquiries@bournemouth.crowncourt.gsi.gov.uk
Bradford Crown Court	enquiries@bradford.crowncourt.gsi.gov.uk
Bristol Crown Court	enquiries@bristol.crowncourt.gsi.gov.uk
Burnley Crown Court	enquiries@burnley.crowncourt.gsi.gov.uk
Cambridge Crown Court	enquiries@cambridge.crowncourt.gsi.gov.uk
Canterbury Crown Court	enquiries@canterbury.crowncourt.gsi.gov.uk
Cardiff Crown Court	enquiries@cardiff.crowncourt.gsi.gov.uk
Carlisle Crown Court	enquiries@carlisle.crowncourt.gsi.gov.uk
Central Criminal Court	enquiries@central.crowncourt.gsi.gov.uk
Chelmsford Crown Court	enquiries@chelmsford.crowncourt.gsi.gov.uk
Chester Crown Court	enquiries@chester.crowncourt.gsi.gov.uk
Chichester Crown Court	enquiries@chichester.crowncourt.gsi.gov.uk
Coventry Crown Court	enquiries@coventry.crowncourt.gsi.gov.uk
Croydon Crown Court	enquiries@croydon.crowncourt.gsi.gov.uk
Derby Crown Court	enquiries@derby.crowncourt.gsi.gov.uk
Doncaster Crown Court	enquiries@doncaster.crowncourt.gsi.gov.uk
Dorchester Crown Court	enquiries@dorchester.crowncourt.gsi.gov.uk
Durham Crown Court	enquiries@durham.crowncourt.gsi.gov.uk
Exeter Crown Court	enquiries@exeter.crowncourt.gsi.gov.uk
Gloucester Crown Court	enquiries@gloucester.crowncourt.gsi.gov.uk
Grimsby Crown Court	enquiries@grimsby.crowncourt.gsi.gov.uk
Guildford Crown Court	enquiries@guildford.crowncourt.gsi.gov.uk
Harrow Crown Court	enquiries@harrow.crowncourt.gsi.gov.uk
Hull Crown Court	enquiries@kingstonuponhull.crowncourt.gsi.gov.uk
Inner London Crown Court	enquiries@innerlondon.crowncourt.gsi.gov.uk
Ipswich Crown Court	enquiries@ipswich.crowncourt.gsi.gov.uk
Isleworth Crown Court	enquiries@isleworth.crowncourt.gsi.gov.uk
Kingston Crown Court	enquiries@kingstonuponthames.crowncourt.gsi.gov.uk
Leeds Crown Court	enquiries@leeds.crowncourt.gsi.gov.uk
Leicester Crown Court	enquiries@leicester.crowncourt.gsi.gov.uk
Lewes Crown Court	enquiries@lewes.crowncourt.gsi.gov.uk
Lincoln Crown Court	enquiries@lincoln.crowncourt.gsi.gov.uk
Liverpool Combined Court	enquiries@liverpool.crowncourt.gsi.gov.uk
Luton Crown Court	enquiries@luton.crowncourt.gsi.gov.uk
Maidstone Crown Court	enquiries@maidstone.crowncourt.gsi.gov.uk
Manchester Crown Court	enquiries@manchester.crowncourt.gsi.gov.uk

Merthyr Tydfil Crown Court	enquiries@merthyrtydfil.crowncourt.gsi.gov.uk
Middlesex Guildhall Crown Court	enquiries@middlesexguildhall.crowncourt.gsi.gov.uk
Minshull St Crown Court	enquiries@manchestermishullstreet.crowncourt.gsi.gov.uk
Mold Crown Court	enquiries@mold.crowncourt.gsi.gov.uk
Newcastle Crown Court	enquiries@newcastle.crowncourt.gsi.gov.uk
Newport (Gwent) Crown Court	enquires@newport-southwales.crowncourt.gsi.gov.uk
Newport (IOW) Crown Court	enquiries@newportiow.crowncourt.gsi.gov.uk
Northampton Crown Court	enquiries@northampton.crowncourt.gsi.gov.uk
Norwich Crown Court	enquiries@norwich.crowncourt.gsi.gov.uk
Nottingham Crown Court	enquiries@nottingham.crowncourt.gsi.gov.uk
Oxford Crown Court	enquiries@oxford.crowncourt.gsi.gov.uk
Peterborough Crown Court	enquiries@peterborough.crowncourt.gsi.gov.uk
Plymouth Crown Court	enquiries@plymouth.crowncourt.gsi.gov.uk
Portsmouth Crown Court	enquiries@portsmouth.crowncourt.gsi.gov.uk
Preston Crown Court	enquiries@preston.crowncourt.gsi.gov.uk
Reading Crown Court	enquiries@reading.crowncourt.gsi.gov.uk
Salisbury Crown Court	enquiries@salisbury.crowncourt.gsi.gov.uk
Sheffield Crown Court	enquiries@sheffield.crowncourt.gsi.gov.uk
Shrewsbury Crown Court	enquiries@shrewsbury.crowncourt.gsi.gov.uk
Snaresbrook Crown Court	enquiries@snaresbrook.crowncourt.gsi.gov.uk
Southampton Crown Court	enquiries@southampton.crowncourt.gsi.gov.uk
Southwark Crown Court	enquiries@southwark.crowncourt.gsi.gov.uk
St Albans Crown Court	enquiries@stalbans.crowncourt.gsi.gov.uk
Stafford Crown Court	enquiries@stafford.crowncourt.gsi.gov.uk
Stoke on Trent Crown Court	enquiries@stoke.crowncourt.gsi.gov.uk
Swansea Crown Court	enquiries@swansea.crowncourt.gsi.gov.uk
Swindon Crown Court	enquiries@swindon.crowncourt.gsi.gov.uk
Taunton Crown Court	enquiries@taunton.crowncourt.gsi.gov.uk
Teesside Crown Court	enquiries@teesside.crowncourt.gsi.gov.uk
Truro Crown Court	enquiries@truro.crowncourt.gsi.gov.uk
Warwick Crown Court	enquiries@warwick.crowncourt.gsi.gov.uk
Winchester Crown Court	enquiries@winchester.crowncourt.gsi.gov.uk
Wolverhampton Crown Court	enquiries@wolverhampton.crowncourt.gsi.gov.uk
Wood Green Crown Court	enquiries@woodgreen.crowncourt.gsi.gov.uk
Woolwich Crown Court	enquiries@woolwich.crowncourt.gsi.gov.uk
Worcester Crown Court	enquiries@worcester.crowncourt.gsi.gov.uk
York Crown Court	enquiries@york.crowncourt.gsi.gov.uk