

Heads of Terms of Offer

- The introduction of a fee of 15% on AGFS and up to 15% on LGFS for existing cases (as per the structure uplifted by The Criminal Legal Aid (Remuneration) (Amendment) Regulations 2022 ([legislation.gov.uk](https://www.legislation.gov.uk)) where the main hearing takes place after the commencement of the Statutory Instrument that brings this new arrangement into force – by the end of October 2022. This equates to a further investment £28m in the AGFS and 14m in LGFS over the Spending Review period.
- The injection of an additional £4m over the Spending Review period via the provision of an additional brief fee or bolt-on fee (to be a minimum of £670 per Section 28) to increase remuneration levels for advocates undertaking s28 hearings. This fee scheme would be developed using the latest volumetric evidence available during October 2022 and the fee increase will commence from late January 2023. It would be subject to a further review in Spring 2023.
- As set out in the Government's response to the Criminal Legal Aid Independent Review, a further uplift to youth court fees to the value of £5m per annum from April 2024.
- An additional £3m of new funding for special and wasted preparation. This will include expanding special preparation to include written work, considering digital, video or audio evidence and the proposals as set out by Sir Christopher Bellamy in the CLAR review. This includes the removal of 'substantial' and the introduction of complexity markers. Written work and digital, video or audio are specific categories which will attract a bolt on fee of 0-3 hours and thereafter an hourly billing model currently utilised for unused material. The definition of wasted preparation will also be expanded to implement the recommendations including removal of 18(2) (requirement for case to go to trial and trials lasting in excess of 5 days or cracked trial and ppe exceeds 150) and reduce the applicable hours to over two. Wasted preparation will include the situation where cases are either not listed for trial within the warned list period or are ineffective. The latter will adopt the bolt on payment for 0-3 hours and thereafter hourly billing model currently utilised for unused material. This is to ensure remuneration for work done. The detail and supporting legislation to be finalised in October for implementation in February 2023.
- Agreement in broad terms to the proposed Terms of Reference of the new Criminal Legal Aid Advisory Board (CLAAB). The first recommendation of CLAAB will be the finalisation of detail of the hourly legal aid rates in the AGFS scheme, which includes written work. The first meeting of CLAAB will take place in October 2022 with recommendations no later than December 2022. CLAAB will also consider LGFS reform from the outset.

In delivering the above, the Government will expect the following from the CBA and Bar Council:

- That the CBA and Bar Council leadership sign a joint public commitment with the Government to support measures to reduce the Crown Court backlog – including exploring appropriate mechanisms to increase early resolution of cases; reducing the number of ineffective trials (especially for rape and serious sexual offences cases); working with the MoJ, CPS and the judiciary to improve the efficient use of fixed court time and supporting the MoJ and Judiciary in considering measures to manage the progression of cases between Magistrates’ courts and Crown Courts.
- That the CBA and Bar Council work with government to realise the rapid establishment of CLAAB, agreeing to membership and to work through the detail of the measures above. In particular, the Government will seek commitment that the Bar Council and CBA will continue their engagement and work to increase diversity at the Criminal Bar.

In addition to this, the Government will be responding to the remaining elements of the CLAIR consultation by the end of November, including further reforms directed at solicitors. As was made clear by CLAIR, the profession of criminal legal aid solicitors requires immediate attention, and the Government will be working to provide further reforms and support.