

# Annexes

## Annex 1.1: Terms of reference

1 These are the terms of reference for the production of a plan to implement a package of reforms to the way publicly funded legal advice and representation are procured by the state. The review and resulting plan will be produced by Lord Carter in agreement with the Secretary of State and Lord Chancellor and by early 2006.

2 The review will consider the means by which to deliver the Government's vision, set out in A Fairer Deal for Legal Aid, for procuring publicly funded legal services, particularly criminal defence services. This will be presented as a plan for delivering a procurement system that achieves maximum value for money and control over spending whilst ensuring quality and the fairness of the justice system.

3 The reforms will also encourage a more open and responsive market, share risks between supplier and purchaser, and improve the way the state engages with lawyers when procuring legal services.

4 To achieve these objectives the plan will set out how to deliver the best way of buying and delivering legal services, in particular criminal defence services for high cost cases, that:

- (a) matches the right advice and representation to the issue at stake;
- (b) meets specified quality standards;
- (c) incentivises swift conclusions and minimises costs to other parties;
- (d) encourages a diverse and competitive market of lawyers and others offering advice and advocacy that helps deliver quality and just outcomes for best value; and
- (e) avoids frequent and piecemeal direct fees negotiations between the purchaser and individual sectors within the legal services market.

5 The review will take in to account the current programme of moving to fixed or graduated fees (in particular schemes for graduated fees for cracked trial and guilty pleas and for Crown Court litigators) and the proposals for competitive tendering for solicitors in London. This review will also fulfil the commitment that DCA gave in a letter to the Bar

dated 24 June 2004 to review the current criminal graduated fee scheme and the very high cost criminal cases scheme.

6 The review will focus on the options for new procurement arrangements set out in A Fairer Deal for Legal Aid (block contracting, price competition, and lead supplier) but may also contain other reforms to supplement, modify or replace these options in order to produce an effective overall package.

7 The plan will be grounded in a detailed analysis of the impact of the final reforms. This analysis will include:

- (a) an assessment of how effective each reform and/or combination of reforms will be at achieving the overall objectives, whilst ensuring quality;
- (b) the likely efficiency gains and the timescale over which they will be achieved;
- (c) the impact of a new procurement regime on the supply of criminal defence services, the wider legal market, the way the professions are structured, the way the Crown Prosecution Service operate and the operation of the entire justice system; and
- (d) the impact on the various agencies e.g. the Legal Services Commission and Her Majesty's Courts Service.

8 From this analysis the plan will give a route map of how to deliver the reform package and how that will achieve the overall objectives. Included in this route map will be the action needed to promote changes to the quality, structure and performance of the market and its constituent professions (in the context of wider legal service reforms). The plan will also include mitigating action to be taken to address any adverse affects on quality and performance that may result from changes.

## Annex 1.2: Review methodology

1 Lord Carter's review team was made up of eight full-time staff (three DCA secondees, one Legal Services Commission secondee, one Crown Prosecution Service secondee and three project support staff), as well as being assisted by secondees from Frontier Economics. Lord Carter also engaged the assistance of three senior figures from the commercial and legal worlds, Guy Beringer, David Gregson and David Ross. Guy Beringer is Senior Partner at Allen & Overy, an international legal practice; David Gregson is Chairman of Phoenix Equity Partners, which he co-founded in 1991; and David Ross is chairman of the National Express Group and deputy chairman of the Carphone Warehouse Group. Further biographical details can be found at [www.legalaidprocurementreview.gov.uk](http://www.legalaidprocurementreview.gov.uk).

2 An iterative approach was taken to developing the recommendations detailed in this report, and key stakeholders were extensively engaged. As well as liaising with the Law Society and Bar Council on an almost daily basis, the following stakeholder groups were regularly consulted: DCA, Legal Services Commission, the judiciary, the Crown Prosecution Service, the Office for Criminal Justice Reform and Her Majesty's Treasury. As ideas were developed, they were presented to these key stakeholders for comments, making the final report the result of close discussion with these groups.

3 The review team also met with a number of other practitioner groups, visited a range of firms, chambers and courts, and held a series of meetings with barristers, solicitors and local judiciary in Birmingham, Bristol, Cardiff, London, Chester, Manchester and Leeds. This allowed the team to gain valuable insight into how legal aid has been working throughout England and Wales. A full list of stakeholders consulted is shown below.

4 In summer 2005, an advertisement inviting submissions on legal aid procurement was published in a number of national newspapers and legal journals. Over 100 submissions were received from a range of interested parties.

5 Business consultants PKF were contracted to conduct a survey into legal aid and the wider legal

market, with visits to firms and a series of questionnaires to both firms and chambers. Further development of this work was undertaken by Otterburn Legal Consulting to determine the optimum structure of efficient and productive firms and chambers that currently exist in the market.

### List of stakeholders

6 Throughout the review, Lord Carter and his team met with a number of stakeholders and interested parties; including:

The Rt Hon Lord Falconer of Thoroton, Lord Chancellor and Secretary of State for Constitutional Affairs

Baroness Ashton of Upholland

Bridget Prentice MP

Harriet Harman QC MP

Vera Baird QC MP

DCA officials

HM Courts Service officials

Sir Michael Bichard – Chair, Legal Services Commission

Legal Services Commission officials

Des Browne MP – former Chief Secretary to the Treasury

The Rt Hon Stephen Timms MP – Chief Secretary to the Treasury

HM Treasury officials

The Rt Hon The Lord Goldsmith QC – Attorney General

Attorney General's Office officials

Ken Macdonald QC – Head of the CPS and Director of Public Prosecutions (DPP)

Crown Prosecution Service officials

Prime Minister's Office officials

Cabinet Office officials

Home Office officials

Office for Criminal Justice Reform officials

Office for Fair Trading officials

Parmjit Dhanda MP – Parliamentary Under Secretary of State for Children, Young People and Families

Department for Education and Skills officials	DJ Tim Workman – Senior District Judge, Chief Magistrate
Robert Wardle – Director of Serious Fraud Office	DJ Michael Walker – Honorary Secretary, Association of District Judges
David Green QC – Director of Revenue & Customs Prosecutions Office	District Judge Rawkins
Beverly Willstrop – Director of National Taxing Team	Senior Costs Judge Peter Hurst
David Varney, Chairman – HM Revenue & Customs	District Judge Crichton
Oliver Heald MP, Shadow Secretary of State for Constitutional Affairs	Advice Services Alliance
Scottish Executive officials	Association of Chief Police Officers
Welsh Assembly Government officials	Association of Lawyers for Children
Lady Barbara Thomas Judge	Association of Major London Criminal Law Firms
The Bar Council	Association of Women Barristers
The Law Society	Bar Parliamentary Group
The Law Society of Scotland	Black Solicitors' Network
Lindsay Montgomery – Chief Executive, Scottish Legal Aid Board	Bob Nightingale
Scottish Legal Aid Board officials	CAFCASS
Lord Phillips of Worth Matravers – Lord Chief Justice of England and Wales	Citizens Advice
Lord Woolf of Barnes – former Lord Chief Justice of England and Wales	Civil Justice Council Access to Justice Committee
The Rt Hon Sir Anthony Clarke – Master of the Rolls and Head of Civil Justice	Criminal Barristers Association
The Rt Hon Sir Igor Judge – President of the Queen's Bench Division	Criminal Law Solicitor's Association
The Rt Hon Sir Mark Potter – President of the Family Division and Head of Family Justice	Family Law Bar Association
Lord Justice Brooke – Vice President Civil Division of the Court of Appeal	Institute of Barristers Clerks
Lord Justice Dyson – Deputy Head of Civil Justice	Institute of Legal Executives
Lord Justice Thomas- Senior Presiding Judge of England and Wales	Law Centres Federation
Lord Justice Hughes	Law For All
Mr Justice Ryder	Law Works
HH Judge Riddell	Legal Aid Practitioners Group
HHJ Cutler – Secretary of HM Council of Circuit Judges	Local Government Association
HH Judge Barker QC – the Common Sergeant	London Criminal Courts Solicitors' Association
HH Judge Samuels QC -Chairman of the Criminal Committee of the Council of Circuit Judges	Magistrates Association
	Mental Health Lawyers Association
	Police Federation of England and Wales
	Resolution
	Solicitors' Association of Higher Court Advocates
	Society for Asian Lawyers
	Society of Labour Lawyers
	Serious Fraud Association
	Youth Justice Board

Various financial institutions  
Wimbledon Police Station Custody Suite  
Bishopsgate Police Station Custody Suite  
Steel House Lane Police Station Custody Suite,  
Birmingham  
Longsight Police Station Custody Suite, Manchester  
MET Custody Directorate officials  
Brent Law Practice  
Bindman and Partners  
DLA Piper Rudnick Gary Cary Solicitors  
Evans Bisset  
Fisher Jones Greenwood  
Hanne & Co  
Hodge Jones & Allen  
Hope Atkins Solicitors  
Howard Cohen & Co Solicitors  
Irwin Mitchell  
Osbornes Solicitors  
Peters and Peters  
Russell, Jones & Walker  
Scomo  
Tuckers Solicitors  
9 Gough Square Chambers  
9 Park Place Chambers, Cardiff  
11 Old Square Chambers  
Charter Chambers  
Doughty Square Chambers  
Furnival Chambers  
Matrix Chambers  
No 5 Fountain Court Chambers, Leeds  
Whitefriars Chambers, Chester  
Cardiff Crown Court  
Edmonton County Court  
Stratford magistrates' court  
Thames magistrates court  
Birmingham Crown Court  
Chester Crown Court  
Harrow Crown Court

Manchester Crown Court  
Leeds Combined Court  
Inner London family proceedings court  
Central Criminal Court, London  
Pamela Sanderson, Recorder of London  
Professor Flood  
Avis Whyte  
Sylvie Bacquet  
Graham Hogan  
Ed Lloyd-Cape  
Richard Moorhouse  
Otterburn Legal Consulting  
Professor Lee Bridges

#### **Netherlands – The Hague**

Mr Peter Wagenmaker, Head of Legal Aid  
Department, Ministry of Justice  
Mr van der Spoel and Dr Sjocrona – Dutch defence  
lawyers.  
Mr Jan van Dijk, Executive Director; Mr Jan  
Ouwehand, Legal Adviser; and Mr Frits Haarlemmer,  
Management Team – Legal Aid Board  
Mr Bas van de Vliet, Head and Mr Martin Petrov,  
Deputy Head – Office of Legal Aid and Detention  
Matters, International Criminal Tribunal for the  
former Yugoslavia

#### **USA**

##### **Washington**

Avis Buchanan, Director and Peter Krauthamer,  
Deputy Director – Public Defender Service for the  
District of Columbia  
Ted Lidz, Assistant Director – Office of Defender  
Services Program for the US Federal Courts  
Josh Manley, Professional Staffer – Senate  
Sub-Committee Appropriations, Judiciary Related  
Agencies  
Senior staff from both Senate & House Committees  
Chief Judge Rufus King of the DC Superior Court

Helaine M. Barnett, President – Legal Services Corporation

Michael Greco, President – American Bar Association (ABA)

Terry Brooks, Director – ABA Division for Legal Services

Alan Houseman, Executive Director – Centre for Law and Social

Policy Donald Saunders, Director – Civil Legal Services, National Legal Aid & Defender Association

Humboldt University

Prof. Dr. Dr. Alexander Ignor, Professor for Criminal and Criminal Procedural Law, Law Faculty,

Humboldt University

Udo Henke, Director, Deutscher Anwaltverein/German Bar Association

Alexander Sättele & Anke Müller-Jacobsen, Lawyers at Strafverteidiger e.V./German Association of Defence Lawyers

### **Boston**

Judge Saris – US Federal District Court (Ex Chairperson US Defender Services Program)

Dorothy Seder – Chief Financial Advisor US Courts (Federal)

Ted Lidz, Assistant Director – Administrative Office, Office of Defender Services Program for the US Federal Courts

Bill Leahy – Committee for Public Counsel Services (State defender system)

Andrew Silverman – Committee for Public Counsel Services (State defender system)

Charles Rankin – Private Attorney – Head of the federal panel in Massachusetts

Miriam Conrad – Federal Public Defender

### **Germany – Berlin**

Dr Christian Meyer-Seitz, Head of Division, Civil Legal Procedures – Justice Ministry

Klaus Otto, Head of Division, Court Costs, Legal Remuneration and Legal Statistics – Justice Ministry

Jürgen Seifert, Judge at Higher Criminal Court – seconded to BMJ

Dr. Tobias Mästle, Judge at Civil Law Court – seconded to BMJ

Werner Klüsener, Senior Legal Counsellor, Criminal Law

Gabriele Cirener, Judge at Upper Chamber, Serious Crimes Court, and Judicial Registrar

Prof. Dr. iur. Christoph G. Paulus, LL.M., Professor for Civil Law and Civil Procedural Law, Law Faculty,

## Annex 3.1: Civil justice system – dispute resolution, conditional fee agreements and insurance

1 Access to civil justice is one of the key components of a fair and decent society. It enables people to understand their civil rights and obligations, and if appropriate, enforce their rights in disputes. As legal aid eligibility limits have tightened over the past two decades, conditional fee agreements have developed as a means of providing access to justice in certain civil areas of law, such as personal injury, for those people who would not qualify for legal aid and would otherwise be unable to pay for litigation.

2 A conditional fee agreement makes it permissible for a legal representative to represent a client on the basis that if the case is lost, either no fee or a reduced fee, will be payable by the client. However, the client remains liable for the opposing party's costs. In recognition of the risk of non-payment or under-payment being taken by the legal representative, the legal representative is permitted to require payment of a percentage increase, known as a success fee, in the event of a successful case. The success fee can be up to a maximum of 100% depending upon the level of risk being undertaken.

3 Initially, the success fee was payable by the client out of the damages recovered from the opposing party. Following the Access to Justice Act 1999, this changed so that the party against whom an order for costs was made also had to pay the success fee. In some cases, the party would also be required to pay any after the event insurance premium.

4 After the event insurance is an essential part of the conditional fee agreement arrangements. A losing party represented under a conditional fee agreement has to pay the legal representatives either a reduced fee or no fee, but they will still be liable for the opposing party's costs. Since most litigants represented under conditional fee agreements do not have the means to meet such costs, it is necessary to have insurance in place that will meet those costs if the case is lost.

5 After the event insurance premiums can cost between £350–900 in fast track personal injury claims, but premiums can cost thousands of pounds in more complex cases. After the event insurance can therefore be expensive and many litigants are unable to fund the premiums. In order to overcome this difficulty, a number of methods are used. In some rare cases, the solicitors themselves will fund the premium. However, in other cases a loan is obtained from a bank to cover the cost of the premium. Although the premium itself may be recovered from the opposing party, the interest on any bank loan is not recoverable and has to be paid by the client. Some after the event policies have deferred premiums, that is nothing is payable until the litigation is completed, and others are self-insuring, so that if the case is lost, no premium is payable.

6 This has meant that the opposing losing party, usually backed by large liability insurers, has found themselves liable to pay the normal costs of the litigation, a success fee which could be up to 100% of the solicitor's profit costs and counsel's fees, plus an after the event insurance premium. As a result of this, there has been satellite litigation in which paying parties, backed by liability insurers, have attacked conditional fee agreements on the basis they did not satisfy all of the necessary statutory and regulatory conditions, and are therefore unenforceable and no costs should be payable.

7 It has been suggested that the after the event market is still relatively immature, as a number of companies have had to leave it after suffering significant losses. It has not been helped, of course, by the turbulence within the conditional fee agreement system caused by the collapse of high profile claims management companies: Claims Direct and the Accident Group. However, the strength of the agreement system depends upon a healthy after the event insurance market, and the government and insurance companies should

consider what additional steps should be taken to grow and safeguard the market. At present, there are only a small number of insurers underwriting after the event insurance policies, and this limited capacity may mean that prices are potentially higher than they would be if there was greater competition.

8 Civil litigation can sometimes also be funded through legal expenses insurance, which is sometimes called before the event insurance. Such insurance is obtainable as a separate policy or can be bought as an 'add-on', for example, when taking out household and motor policies. This type of insurance is cheap, as the many pay for the few; but is not recoverable from the paying party.

9 However, it is thought that the take up of before the event insurance has been hindered by a combination of factors:

- lack of consumer awareness as to its value;
- an attitude that "it'll never happen to me" amongst some members of the public;
- apathy to some policies within the insurance industry, as it adds to the overall costs of the policy and makes it unattractive; and
- under-utilisation by solicitors who have overlooked before the event insurance in favour of after the event insurance to support any conditional fee agreement.

10 The development of conditional fee agreements provided a market solution to access to justice in certain categories of law, such as personal injury claims. However, just in case, powers were taken under the Access to Justice Act 1999, to provide a statutory basis for third parties to establish a contingent legal aid fund. This would be a reserve power in the event that conditional fee agreements or other forms of funding litigation could not adequately provide for access to justice<sup>25</sup>.

11 Ideas for some form of contingent legal aid fund to support court cases have been in circulation for the past 40 years. A contingent legal aid fund is a funding mechanism under which successful cases pay some form of levy back into a common fund to help pay for those cases which are not successful, so that the scheme as a whole over time is self-financing. There are a number of different ways in which a contingent legal aid fund could operate, including whether the levy should be collected from the client's damages or from the costs in some way, and whether any additional sums should be payable by the opponent. A supplementary legal aid system is a similar mechanism to a contingent legal aid fund but is administered by the legal aid authorities as part of their scheme.

12 The idea of a contingent legal aid fund has come to the forefront again following the Civil Justice Council report last year *Improved Access to Justice – Funding Options and Proportionate Costs*<sup>26</sup>. This report was informed by visits to other jurisdictions where such funding mechanisms have worked well and recommended that further work is done by the Legal Services Commission and others to progress such ideas within England and Wales.

13 However, any proposals for a contingent legal aid fund or supplementary legal aid system in England and Wales have to be considered within a context in which conditional fee agreements are available. Conditional fee agreements are the government's preferred option, as they minimise the risk for the taxpayer, but a contingent legal aid fund could never be self-financing when in direct competition with a conditional fee arrangement. Adverse selection would operate such that it would always be more profitable for strong cases to proceed under contingent legal aid funds leaving only weaker cases to apply to the contingent legal aid fund and this would jeopardise the key self-financing aspect of the fund.

<sup>25</sup> This provision has never been commenced, to date. During the passage of the Act in Parliament the government position was that we saw no need and would only consider commencing and making regulations if an independent body, i.e. the Law Society or Bar Council came forward with proposals for a viable scheme.

<sup>26</sup> *Improved Access to Justice – Funding Options and Proportionate Costs*, Civil Justice Council, August 2005.

14 A contingent legal aid fund would only be possible in the absence of conditional fee agreements, or possibly, in a discrete area where there is insufficient access to justice and it is an area of civil justice that tends not to be in direct competition with any other funding scheme. In its report, the Civil Justice Council recommended that further consideration should be given to a form of conditional legal aid fund where insurance was unavailable, and highlighted the particular issues around funding group actions. This is an option that should be further explored by the Legal Services Commission and DCA with the Civil Justice Council.

15 However, an alternative option, which may offer greater scope for future action, is if elements are taken from the contingent legal aid fund model and applied to legal aid funding of civil representation cases. It has always been a feature of legal aid that the fund loses money in unsuccessful cases, and at best breaks even in successful cases. Indeed, it is often the case, that in successful cases there is very often a significant net expenditure for the fund in irrecoverable individual or generic costs. Consideration should therefore be given as to how the system can be reformed to allow the CLS fund to make a net profit in successful civil cases. For example, the process could be redesigned to allow the Commission to recover both its outlay and receive a further levy or success fee. This would be of overall benefit to the legal aid fund and access to justice.

16 Under such an approach, there should be advantages over a pure contingent legal aid fund model, as there should be no start up costs usually associated with such a fund, and there should be no need for such an approach to be entirely self-financing from the start. Instead, the Commission could simply apply the new approach to new cases from a certain date, with the view that it will eventually recoup sufficient sums to match net expenditure or even exceed it.

17 There are various ways in which a “success fee” or profit-making element could be built into legal aid funding of civil representation cases. These include:

- a levy on damages – this could be a levy on the damages awarded to the client in a successful case. It would require a combination of legal aid being granted and the client entering into a litigation funding agreement, which is allowed for by the Access to Justice Act 1999 and provides for the possibility of such a levy being recoverable from the other side; and
- a levy from costs – this would either see the Legal Services Commission taking a share of inter-partes costs recovered in funded cases, or allow generic costs to be simultaneously covered by both legal aid and the conditional fee agreement.

18 One option that should be explored is legal aid can be combined with conditional fees in the funding of the generic costs of an action, thereby leaving individual costs to be dealt with solely under conditional fee agreements. Under this approach, in successful cases, the opponent would have to pay the inter-partes costs plus a success fee determined in exactly the same way as for a pure conditional fee case. That success fee would then be split appropriately between lawyers and the Legal Services Commission according to the degree of risk taken by each. This should be given further consideration by DCA and the Commission, with the Civil Justice Council.

## Annex 4.1: How to define contract area boundaries with the North East as an illustration

1 The aim of developing new, larger working areas is to:

- reduce costs of provision by removing unnecessary travel and waiting from the system (by restricting the number of suppliers operating in each area); and
- allow suppliers to grow their business in a cost effective way by concentrating larger volumes of work in particular geographic areas

2 Scheme boundaries would ideally be based on current duty solicitor schemes as they are already recognised by suppliers. However, the volume and value of work in many of the existing duty schemes would be too small to sustain a reasonable number of current suppliers.

3 Where current duty scheme boundaries are inappropriate, alternative scheme boundaries will be designed.

4 Two alternatives to existing duty scheme boundaries should be considered when developing the new boundary areas:

- grouped duty schemes – combining existing duty scheme boundaries; and
- drive time based schemes – grouping police stations together on the basis of the drive time between them.

5 These approaches and the potential savings they could generate, are illustrated below in relation to detailed mapping work for duty schemes in the North East of England.

6 There are 72 police stations and non-constabulary units in the North East attached to 16 different duty schemes as shown in the Table 4.1.1.

**Table 4.1.1** –Costs attached to current duty schemes

Duty scheme	Total supplier cost	Travel cost	Waiting cost	No. claims
Berwick & Alnwick	£94,923	£23,412	£1,942	388
Darlington	£166,383	£30,078	£7,183	1,021
Derwentside	£220,055	£44,850	£5,994	989
Durham & Chester Le Street	£327,500	£70,192	£11,039	1,411
Eastington	£266,614	£49,256	£13,161	1,484
Gateshead	£477,612	£81,306	£20,169	2,627
Hartlepool	£288,520	£46,935	£14,442	2,065
Houghton-Le-Spring	£413,465	£73,501	£26,912	1,972
Newcastle	£1,010,949	£177,766	£40,847	5,445
North Tyneside	£435,323	£77,204	£17,958	2,383
South Durham	£326,294	£59,181	£10,768	2,061
South East Northumberland	£392,491	£64,358	£9,769	2,331
South Tyneside	£492,342	£84,126	£21,352	2,887
Sunderland	£596,679	£100,174	£27,264	3,173
Teeside	£1,373,151	£263,268	£44,129	8,847
Tynedale & Hexham	£81,357	£22,579	£1,821	313

Source: Legal Services Commission

7 Table 4.1.1 shows the number of claims and total costs associated with each of the 16 duty schemes. The schemes range in size from 313 police station claims<sup>1</sup> (£81,000) financial year 2005-06 to over 8,000 police station claims (£1.3 million).

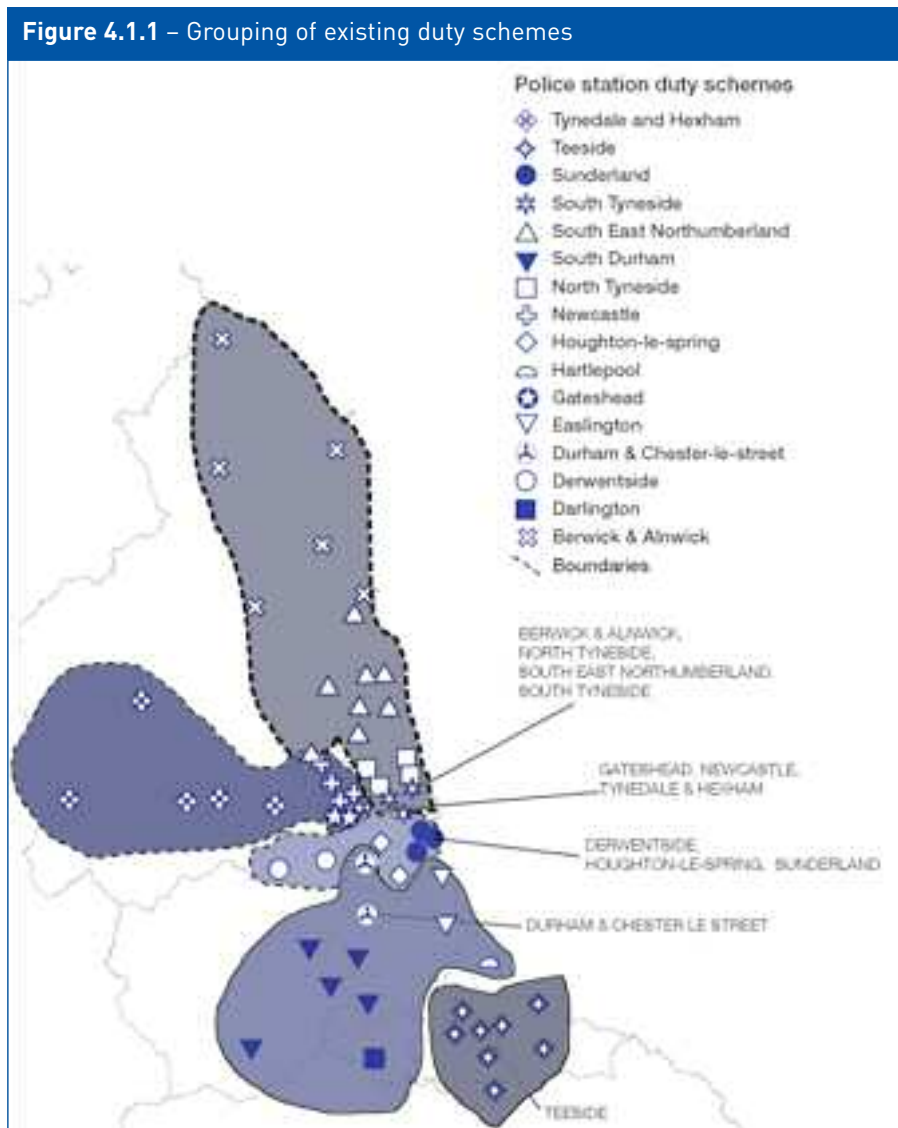
8 Under the new arrangements, there is a need to retain at least four to six firms in each scheme to deal with conflicts. However, a key aim of the review's recommendations is also to provide scope for good quality efficient suppliers to grow their businesses. Consequently, it is clear from Table 4.1.1 that the current 16 schemes would not allow both of these recommendations to be achieved.

9 There is therefore a need to consider grouping up the work in this area into new larger schemes.

10 Two alternative approaches to defining new boundary areas have been considered. The first approach is to group existing duty schemes to generate greater volumes of work. The alternative is to devise entirely new scheme boundaries that aim to minimise drive times between police stations within a given scheme.

11 Grouping up existing duty schemes results in five new schemes within the North East. The schemes that are the closest to each other have been combined as shown in Figure 4.1.1. Each grouped duty scheme generates between 6,000 and 8,800 claims per year.

**Figure 4.1.1 – Grouping of existing duty schemes**



<sup>1</sup> Police station claims 1B – 1F and 1H – 1L for financial year 2005-06.

**Table 4.1.2 – Current duty schemes included in grouped schemes**

<b>Grouped duty scheme</b>	<b>Existing duty schemes</b>
Scheme 1	Berwick & Alnwick, North Tyneside, South East Northumberland, South Tyneside
Scheme 2	Darlington, South Durham, Durham and Chester-le-street, Easington, Hartlepool
Scheme 3	Derwentside, Houghton-le-spring, Sunderland
Scheme 4	Gateshead, Newcastle, Tynedale & Hexham
Scheme 5	Teeside

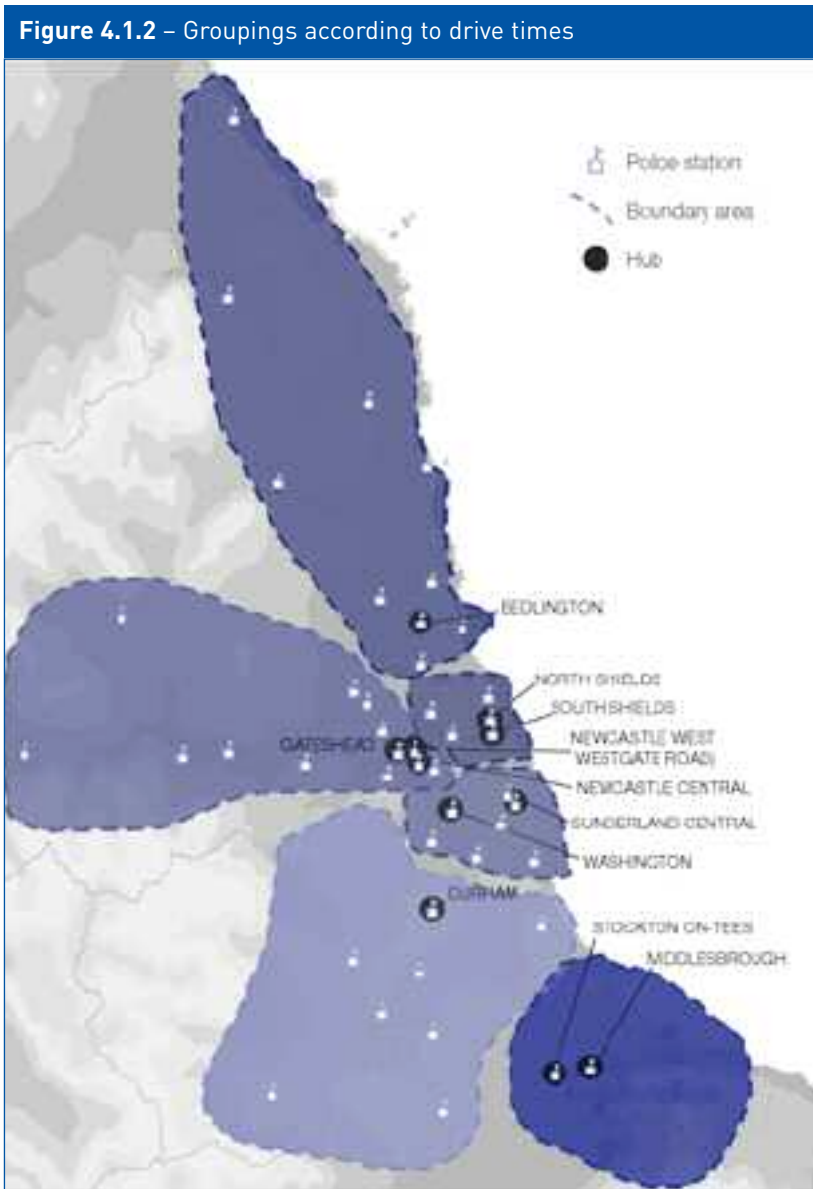
Source: Legal Services Commission

12 The groupings are set out in Table 4.1.2. It is clear that there may be a need to treat some rural police stations differently. For example, grouping Berwick and Alnwick with Tyneside would lead to a very large geographic area for suppliers to cover, could raise the costs of service delivery and could put at risk the firm’s ability to meet key performance targets.

13 Consequently, when schemes are being designed there will be a need to take account of areas like Berwick, for example, by allowing them to remain outside the larger work areas and tendering for supply of services separately.

14 The alternative approach of using drive time based groupings leads to six schemes. The schemes were created by taking the 11 hub police stations in the North East (those that generated more than £300,000 worth of claims) and grouping them together on the basis of a 20 minute drive time around each hub. Police stations that were further than 20 minutes from any hub police station were included in the scheme to which they were the closest.

15 The drive time based schemes generate between 2,700 and 11,000 claims per year. The scheme with the smallest volume of claims is made up of a number of geographically quite dispersed police stations. Given this greater geographical spread of police stations and the increased time required to travel between them, fewer police stations were included within the scheme. The other schemes range in size from 5,000 to 11,000 claims.



**Table 4.1.3 – Police stations included in each drive time based scheme**

Drive time based scheme	Police station
Bedlington	Bedlington, Morpeth, Blyth, Cramlington, Ashington, Alnwick, Amble, Rothbury, Berwick, Wooler, Newbiggin, Broomhill, Seahouses
Newcastle and Gateshead	Newcastle Central, Newcastle West, Gateshead, Ponteland, Newcastle Airport, Newcastle North, Newcastle East, Felling, Whickham, BTP Neville Street, Corbridge, Hexham, Pruhoe, Bellingham, Haltwhistle, St James Park, Newcastle BTP, Harton
North Shields and South Shields	North Shields, South Shields, Forest Hall, Wallsend, Whitley Bay, Jarrow, Hebburn, Boldon
Washington and Sunderland Central	Washington, Sunderland Central, Sunderland North, Chester-le-street, Houghton-le-spring, Sunderland West, Seaham, Hendon Task Force, Stadium of Light
Durham	Durham, Spennymoor, Stanley, Consett, Crook, Bishop Auckland, Newton Aycliffe, Darlington, Peterlee, Barnard Castle
Middlesbrough and Stockton-on-Tees	Middlesbrough, Stockton-on-Tees, Billingham, Hartlepool, South Bank, Coulby Newham, Redcar, Guisborough, Stokesley

**Table 4.1.4 – Comparison of grouped duty schemes with drive time based schemes**

<b>Grouped duty scheme</b>	<b>Average drive time (minutes) – hub to other police stations (claim weighted)</b>	<b>Drive time based scheme</b>	<b>Average drive time (minutes) – hub to other police stations (claim weighted)</b>
Berwick & Alnwick, North Tyneside, South East Northumberland, South Tyneside	35	Bedlington	56
Derwentside, Houghton-Le-Spring, Sunderland	30	Durham	26
Durham, Shester Le Street, Darlington, South Durham, Easington, Hartlepool	29	Middlesborough and Stockton-on-Tees	16
Gateshead, Newcastle, Tynedale & Hexham	17	Newcastle and Gateshead	12
Teeside	16	North Shields and South Shields	15
		Washington and Sunderland	16
All grouped duty schemes	26	All drive time based schemes	18

16 The police stations included within each scheme are set out in Table 4.1.3. Again, it is clear that there may be a need to treat some remote rural police stations differently.

17 A comparison of average drive times between the grouped duty schemes and the drive time based schemes is shown in the Table 4.1.4. The drive time based schemes have lower average drive times than the grouped duty schemes (other than for Bedlington).

18 On the basis of drive times, the drive time based schemes would appear to be more desirable than the grouped duty schemes. However, in the section that follows the travel cost implications of the two different schemes are compared.

**Travel cost impact of new boundaries**

19 The impact of the new boundaries on travel costs is illustrated in this section. To carry out this analysis, assumptions have had to be made about

which suppliers would operate within the schemes after the new areas and working arrangements have been introduced. Calculations of how much it should cost the average supplier to travel to the police stations within each scheme are then made. These travel costs are then compared with the existing travel costs recorded for the scheme.

20 The numbers presented in the following paragraphs are to illustrate the types of issue that should be taken into account when developing the new boundary areas. They should not be taken as reflecting the review’s view on the likely level of cost efficiency that could be derived from the new schemes, as they are based on historic data and consequently cannot reflect the new working practices that firms are likely to introduce in response to the introduction of new areas and working arrangements. They should also not be taken as the likely size a firm would need to achieve in order to win a contract.

21 The travel cost impact has been considered for the following scenario. Suppliers local to each new scheme (within 15 minutes of the hub police station) doing 200 claims worth of work across the entire country secure contracts. Non-local suppliers doing at least 200 claims worth of work in the new scheme areas also secure contracts.

22 The grouped duty schemes generated between 6,000 and 9,000 police station claims in 2005-06. If divided into units of 200 claims of work, each scheme area generates between 30 and 45 units.

23 There are 55 local offices doing at least 200 claims of work across the country (37 local offices and 18 non-local offices). The average drive time between suppliers and the hub police station in each scheme ranges between three minutes (for example, Durham) and 17 minutes (for example, Gateshead). The average drive time across all scheme areas is 11 minutes.

24 If suppliers were based 11 minutes away from the hub police station in each scheme and they were paid £69.50 per hour for travel (the highest rate currently paid) travel costs for attendance claims would be £296,000 lower (4%) than currently paid out.

25 Under the drive time based schemes, there are 56 local offices based within 15 minutes of the hub police stations of each scheme doing at least 200 claims worth of work. The average drive time between suppliers and the hub police station is 12 minutes. The travel cost savings for attendance claims would be £392,000 (6% of total).

## Annex 4.2: Police station pricing schedule

**Table 4.2.1 – New police station pricing scheme**

Criminal justice system Area	Group	Fixed fee	Escape threshold (hours)	Escape rate (up to 40 hours)	Escape rate (over 40 hours)
LONDON	1	£313	24	£82	£56
HERTFORDSHIRE	2	£243	19	£81	£56
KENT	2	£243	19	£81	£56
SURREY	2	£243	19	£81	£56
SOUTH WALES	2	£243	19	£81	£56
AVON & SOMERSET	3	£224	18	£80	£56
ESSEX	3	£224	18	£80	£56
DERBYSHIRE	3	£224	18	£80	£56
WEST MIDLANDS	3	£224	18	£80	£56
HAMPSHIRE	3	£224	18	£80	£56
THAMES VALLEY	3	£224	18	£80	£56
LEICESTERSHIRE	3	£224	18	£80	£56
SUSSEX	3	£224	18	£80	£56
GWENT	4	£215	17	£79	£56
GREATER MANCHESTER	4	£215	17	£79	£56
MERSEYSIDE	4	£215	17	£79	£56
BEDFORDSHIRE	4	£215	17	£79	£56
SUFFOLK	4	£215	17	£79	£56
NORFOLK	4	£215	17	£79	£56
WEST MERCIA	4	£215	17	£79	£56
WARWICKSHIRE	4	£215	17	£79	£56
WILTSHIRE	5	£196	16	£80	£56
NOTTINGHAMSHIRE	5	£196	16	£80	£56
GLOUCESTERSHIRE	5	£196	16	£80	£56
STAFFORDSHIRE	5	£196	16	£80	£56
DEVON & CORNWALL	5	£196	16	£80	£56
NORTHUMBRIA	5	£196	16	£80	£56
NORTH WALES	5	£196	16	£80	£56
SOUTH YORKSHIRE	5	£196	16	£80	£56
DYFED-POWYS	5	£196	16	£80	£56
NORTH YORKSHIRE	5	£196	16	£80	£56
LINCOLNSHIRE	5	£196	16	£80	£56
WEST YORKSHIRE	5	£196	16	£80	£56
DURHAM	5	£196	16	£80	£56
NORTHAMPTONSHIRE	6	£181	14	£81	£55
CAMBRIDGESHIRE	6	£181	14	£81	£55
LANCASHIRE	6	£181	14	£81	£55
CHESHIRE	6	£181	14	£81	£55
CUMBRIA	6	£181	14	£81	£55
CLEVELAND	7	£165	13	£81	£55
DORSET	7	£165	13	£81	£55
HUMBERSIDE	7	£165	13	£81	£55

## Annex 4.3: Amended magistrates' court fees

**Table 4.3.1 – Changes to magistrates' court standard fees**

	Category	Lower standard fee			Higher standard fee		
		Current	Increase	New	Current	Increase	New
London	1	£262.32	£71.78	£334.10	£621.87	£96.23	£718.10
London	2	£461.72	£101.68	£569.40	£1,037.11	£144.34	£1,181.45
National	1	£203.80	£56.56	£260.36	£490.21	£70.74	£560.95
National	2	£359.84	£84.84	£444.68	£825.32	£106.11	£931.43

## Annex 4.4: Suggested offences for the new D+ category in the graduated fee scheme

### Suggested D+ offences

Table 4.4.1 – Offences already categorised in Class D and proposed re-classification		
Rape	Sexual Offences Act 1956 "S00" s.1(1)	D+
Administering drugs to obtain intercourse	S00 s.4	D
Sexual intercourse with girl under 13	S00 s.5	D+
Sexual intercourse with girl under 16	S00 s.6	D+
Sexual intercourse with a defective	S00 s.7	D+
Procurement of a defective	S00 s.9	D
Incest by man with girl under 13	S00 ss.10	D+
Incest other than above	S00 ss.10 and 11	D
Buggery of person under 16 or an animal	S00 s.	D+
Gross indecency	S00 s.13	D
Indecent assault	S00 ss.14 and 15	D
Abuse of position of trust	Sexual Offences (Amendment) Act 2000 s.3	D
Indecency with children under 14	Indecency with Children Act 1960 s.1(1)	D+
Taking, having indecent photographs of children	Protection of Children Act 1978 s.1	D+
Assault with intent to commit buggery	S00 s.16	D+
Abduction of woman by force	S00 s.17	D+
Permitting girl under 13 to use premises for sexual intercourse	S00 s.25	D+
Man living on earnings of prostitution	S00 s.30	D
Woman exercising control over prostitute	S00 s.31	D
Living on earnings of male prostitution	Sexual Offences Act 1967	D
Incitement to commit incest	Criminal Law Act 1977 s.54	D
Allowing or procuring a child under 16 to go abroad to perform	Children and Young Persons Act 1933 ss.25,26	D+
Sexual intercourse with patients	Mental Health Act 1959 s.128	D+
Ill-treatment of persons of unsound mind	Mental Health Act 1983 s.127	D
Abduction of unmarried girl under 18 from parent	S00 s.19	D
Abduction of unmarried girl under 16 from parent	S00 s.20	D+
Abduction of defective from parent	S00 s.21	D
Procurator of girl under 21	S00 s.23	D
Permitting girl under 16 to use premises for intercourse	S00 s.26	D+
Permitting defective to use premises for intercourse	S00 s.27	D
Causing or encouraging prostitution of girl under 16	S00 s.28	D+
Causing or encouraging prostitution of defective	S00 s.29	D

<b>Table 4.4.1 – Offences under the Sexual Offences Act 2003 and proposed classification (continued)</b>		
Rape	s.1	D+
Assault by penetration	s.2	D+
Sexual Assault	s.3	D
Causing sexual activity with penetration	s.4	D+
Causing sexual activity without penetration	s.4	D
Rape of child under 13	s.5	D+
Assault of child under 13 by penetration	s.6	D+
Sexual assault of child under 13	s.7	D+
Causing a child under 13 to engage in sexual activity	s.8	D+
Sexual activity with a child	s.9	D+
Causing a child to engage in sexual activity	s.10	D+
Engaging in sexual activity in the presence of a child	s.11	D
Causing a child to watch a sexual act	s.12	D
Child sex offence committed by person under 18	s.13	D
Arranging child sex offence	s.14	D+
Meeting child following sexual grooming	s.15	D
Abuse of trust: sexual activity with a child	s.16	D
Abuse of position of trust: causing a child to engage in sexual activity	s.17	D
Abuse of trust: sexual activity in the presence of a child	s.18	D
Abuse of position of trust: causing a child to watch sexual activity	s.19	D
Sexual activity with a child family member, with penetration	s.25	D+
Inciting a child family member to engage in sexual activity	s.26	D+
Sexual activity with a person with a mental disorder	s.30	D+
Causing or inciting a person with a mental disorder to engage in sexual activity	s.31	D+
Engaging in sexual activity in the presence of a person with a mental disorder	s.32	D
Causing a person with a mental disorder to watch a sexual act	s.33	D
Offering inducement to procure sexual activity with a person with a mental disorder	s.34	D+
Inducing person with mental disorder to engage in sexual activity	s.35	D+
Engaging in sexual activity in the presence of a person with a mental disorder	s.36	D
Causing a person with a mental disorder to watch a sexual act	s.37	D
Care workers: sexual activity with a person with a mental disorder	s.38	D+
Care workers: inciting person with mental disorder to engage in sexual act	s.39	D+

<b>Table 4.4.1 – Offences under the Sexual Offences Act 2003 and proposed classification (continued)</b>		
Care workers: sexual activity in presence of a person with a mental disorder	s.40	D
Care workers: causing a person with a mental disorder to watch a sexual act	s.41	D
Paying for sexual services of a child	s.47	D+
Causing or inciting child prostitution or pornography	s.48	D+
Controlling a child prostitute	s.49	D+
Facilitating child prostitution	s.50	D+
Causing or inciting prostitution for gain	s.52	D
Controlling prostitution for gain	s.53	D
Trafficking into UK for sexual exploitation	s.57	D+
Trafficking within UK for sexual exploitation	s.58	D+
Trafficking out of UK for sexual exploitation	s.59	D+
Administering a substance with intent	s.61	D
Committing offence with intent to commit sexual offence	s.62	D
Trespass with intent to commit sexual offence	s.63	D
Sex with adult relative	ss.64,65	D
Exposure	s.66	D
Voyeurism	s.67	D
Intercourse with an animal	s.69	D
Sexual penetration of a corpse	s.70	D

## Annex 4.5: Proposed new advocacy graduated fee rates

1 The following tables set out the rates that will apply to all trials of 1- 40 days.

2 The case fees set out below include: a plea and case management hearing fee, listening to or watching tapes, CD-ROMs and DVDs; the daily fee for the first two days of trials, mentions and other

hearings up to and including the fifth and all conferences up to and including the third.

3 NB: Fees for led junior are capped at the corresponding case fee for another trial advocate for class C, D, G, H and I.

**Table 4.5.1 – QC 1-40 day rate for trial**

Class of offence	Case fee	Daily fee	Page uplift	Witness uplift
A	£4,434	£1,321	£1.89	£7.55
B	£2,924	£991	£1.89	£7.55
C	£2,075	£943	£1.89	£7.55
D	£2,641	£943	£1.89	£7.55
D+	£3,302	£1,132	£1.89	£7.55
E	£1,415	£708	£1.89	£7.55
F	£1,415	£708	£1.89	£7.55
G	£2,075	£943	£1.89	£7.55
G+	£3,302	£1,132	£1.89	£7.55
H	£2,075	£943	£1.89	£7.55
I	£2,453	£943	£1.89	£7.55

**Table 4.5.2 – Leading Junior 1-40 day rates for trial**

Class of offence	Case fee	Daily fee	Page uplift	Witness uplift
A	£3,325	£991	£1.42	£5.66
B	£2,193	£743	£1.42	£5.66
C	£1,557	£708	£1.42	£5.66
D	£1,981	£708	£1.42	£5.66
D+	£2,476	£849	£1.42	£5.66
E	£1,061	£531	£1.42	£5.66
F	£1,061	£531	£1.42	£5.66
G	£1,557	£708	£1.42	£5.66
G+	£2,476	£849	£1.42	£5.66
H	£1,557	£708	£1.42	£5.66
I	£1,840	£708	£1.42	£5.66

**Table 4.5.3 – Led junior 1-40 day rates for trial**

<b>Class of offence</b>	<b>Case fee</b>	<b>Daily fee</b>	<b>Page uplift</b>	<b>Witness uplift</b>
A	£2,217	£660	£0.94	£3.77
B	£1,462	£495	£0.94	£3.77
C	£1,038	£472	£0.94	£3.77
D	£1,132	£472	£0.94	£3.77
D+	£1,887	£566	£0.94	£3.77
E	£708	£354	£0.94	£3.77
F	£708	£354	£0.94	£3.77
G	£1,415	£472	£0.94	£3.77
G+	£1,887	£566	£0.94	£3.77
H	£943	£472	£0.94	£3.77
I	£1,132	£472	£0.94	£3.77

**Table 4.5.4 – Junior alone rates for 1-40 day trials**

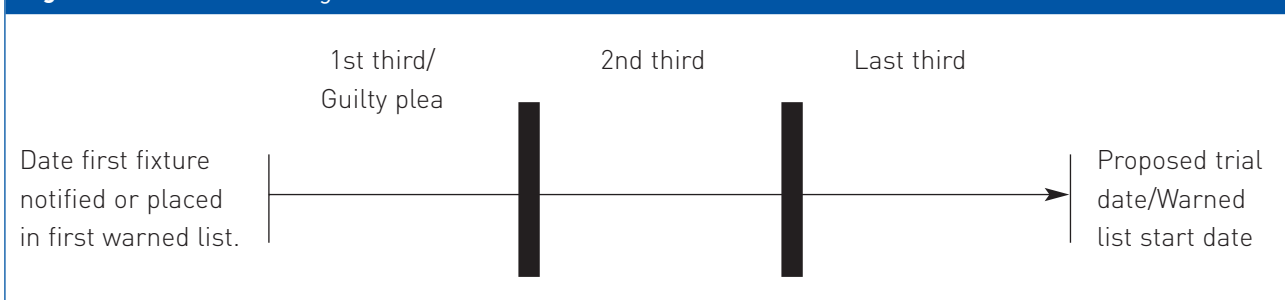
<b>Class of offence</b>	<b>Case fee</b>	<b>Daily fee</b>	<b>Page uplift</b>	<b>Witness uplift</b>
A	£2,547	£778	£1.13	£5.66
B	£1,509	£542	£1.13	£5.66
C	£1,038	£472	£1.13	£5.66
D	£1,132	£472	£1.13	£5.66
D+	£1,887	£613	£1.13	£5.66
E	£755	£377	£1.13	£5.66
F	£802	£377	£1.13	£5.66
G	£1,415	£472	£1.13	£5.66
G+	£1,887	£613	£1.13	£5.66
H	£943	£472	£1.13	£5.66
I	£1,132	£472	£1.13	£5.66

## Cracks and guiltyties

4 Cracked trials will continue to have broadly the same structure as that which was introduced in October 2005. This scheme has three sets of rates depending on the timing of the plea. The rates below may be subject to change – see Recommendation 4.12.

5 The timeline in Figure 4.5.1 shows that the period between the day a case is fixed (or warned) for trial and the date of the proposed trial (or warned list), is divided into three equal periods known as the ‘first third’, the ‘second third’ and the ‘last third’. In a case that cracks, the payment that an advocate will receive will depend on in which ‘third’ the crack occurred. Guilty pleas will always be paid the same fee as a crack in the first third.

**Figure 4.5.1 – Cracks and guiltyties**



**Table 4.5.5 – Guilty plea and crack trial in the first third – other advocates\***

Offence Group	Basic fee	Evidence uplift per page (pages 1 to 1000)	Evidence uplift per page (pages in excess of 1000)
A	£1,321	£1.08	£0.54
B	£802	£0.94	£0.47
C	£519	£0.69	£0.35
D	£802	£1.37	£0.68
D+	£1,132	£1.37	£0.68
E	£472	£0.41	£0.20
F	£472	£0.63	£0.31
G	£755	£1.18	£0.59
G+	£1,132	£1.18	£0.59
H	£566	£0.63	£0.32
I	£660	£0.49	£0.25

\*Other advocates refer to advocates acting alone

**Table 4.5.6 – Guilty plea and crack trial in the first third – Queen's Counsel**

Offence group	Basic fee	Evidence uplift per page (pages 1 to 1000)	Evidence uplift per page (pages in excess of 1000)
A	£2,358	£2.35	£1.17
B	£1,509	£2.08	£1.04
C	£1,415	£1.48	£0.74
D	£1,509	£3.30	£1.65
D+	£1,981	£3.30	£1.65
E	£1,415	£1.06	£0.53
F	£1,415	£1.39	£0.70
G	£1,415	£1.84	£0.92
G+	£1,981	£1.84	£0.92
H	£1,415	£1.91	£0.95
I	£1,415	£1.86	£0.92

**Table 4.5.7 – Crack trial beyond first's third – other trial advocates – suggested rates (provisional)**

Offence group	Basic fee	Evidence uplift per page (pages 1 to 250)	Evidence uplift per page (pages 251 to 1000)	A case that cracks in the second third:	A case that cracks in final third:
				Evidence uplift per page (pages 1001 to 10000)	Evidence uplift per page (pages 1001 to 10000)
A	£1,981	£4.63	£2.15	£0.71	£2.15
B	£1,179	£4.03	£1.88	£0.62	£1.88
C	£755	£2.99	£1.39	£0.46	£1.39
D	£1,179	£5.87	£2.73	£0.90	£2.73
D+	£1,698	£5.87	£2.73	£0.90	£2.73
E	£660	£1.75	£0.82	£0.27	£0.82
F	£660	£2.70	£1.25	£0.42	£1.25
G	£1,132	£5.08	£2.37	£0.78	£2.37
G+	£1,604	£5.08	£2.37	£0.78	£2.37
H	£802	£2.71	£1.26	£0.42	£1.26
I	£943	£2.11	£0.98	£0.32	£0.98

**Table 4.5.8 – Crack trial beyond first's third – Queen's Counsel – suggested rates (provisional)**

Offence group	Basic fee	Evidence uplift per page (pages 1 to 250)	Evidence uplift per page (pages 251 to 1000)	A case that cracks in the second third:	A case that cracks in final third
				Evidence uplift per page (pages 1001 to 10000)	Evidence uplift per page (pages 1001 to 10000)
A	£3,585	£4.70	£1.17	£1.55	£4.70
B	£2,264	£4.16	£1.04	£1.38	£4.16
C	£2,075	£2.95	£0.74	£0.97	£2.95
D	£2,264	£6.59	£1.65	£2.18	£6.59
D+	£3,019	£6.59	£1.65	£2.18	£6.59
E	£2,075	£2.11	£0.53	£0.70	£2.11
F	£2,075	£2.77	£0.70	£0.92	£2.77
G	£2,170	£3.68	£0.92	£1.22	£3.68
G+	£3,019	£3.68	£0.92	£1.22	£3.68
H	£2,075	£3.80	£0.95	£1.25	£3.80
I	£2,075	£3.72	£0.92	£1.23	£3.72

6 Leading junior counsel will receive 75% of the QC rate. Led junior counsel will be remunerated at the rate of 50%. Fees for led junior are capped at the corresponding case fee for another trial advocate for class C, D, G, H, I.

### Ancillary payments

7 The interim report outlined the proposals for a revised advocacy graduated fee scheme. This outlined proposals to incorporate the majority of ancillary payments into the base fee. This created the opportunity for efficient practitioners to benefit from efficient practice.

8 There has been concern from stakeholders that the removal of ancillary payments could cause some suppliers to be unfairly penalised. However there are a number of protecting factors in the revised schemes to account for this.

9 Firstly the schemes have been costed towards a full time equivalent criminal practitioners. Therefore on the majority of ancillary payments (e.g. bolt ons) a full time criminal defence practitioner will be able to absorb the variability in payments in a years case mix.

10 Secondly there are three additional payments for all trials – daily fee, pages of prosecution evidence and number of prosecution witnesses. These additional payments provide a good proxy for the overall complexity of the case. Therefore in those cases where the trial last for twenty days the advocate will receive payment for an additional eighteen days. Each of these payments is designed to reflect more than just the daily fee that the advocate incurred in court. Instead they are designed to remunerate for the additional level of complexity involved in a twenty-day crown court case.

11 Thirdly the base fees and uplifts have been adjusted by offence category to reflect those categories that are generally more complex than other case categories.

12 Finally practitioners will be able to notify cases with trial estimates of 25 days or greater to the Complex Crime Unit. These cases may then be individually managed and will be paid by an hourly rate.

## The budget for ancillary payments

13 Ancillary payments will be subject to a fixed budget. This budget will need to be monitored on a quarterly basis. If the budget is exceeded the

payments will cease to be made and the ancillary elements will be absorbed into the base fee in time for the next financial year. Table 4.5.9 outlines the remainder of ancillary payments.

**Table 4.5.9 – Remainder of ancillary payments**

Category	Comments	Rate junior	Lead junior	Queens Council	Capped Budget
Conferences with clients and experts Views Research novel facts	First 3 in the base fee. Payment for 4th and subsequent view or conference <sup>28</sup>	45	65	85	£648,000
Mentions, Pre Trial Hearings and Other Hearings	Mentions in the base fee. Payment for 6th and subsequent appearances. (national average is 2.1)	100	150	200	£120,000
Full and Half Day Hearings for PII hearings, Bad character hearings, confiscation hearings, abuse of process, disclosure hearings		Half Day 150 Full Day 275	Half Day 225 Full Day 400	Half Day 300 Full Day 575	£966,000
Special Preparation		45	65	85	£1,679,000
Ineffective Trial Payment		150	225	325	£986,000
Sentencing	Sentence Hearings Deferred Sentence	125 200	200 275	300 375	£5,614,000
Appeals to the Crown Court	Against Sentence and Breach Against Conviction	125 150	175 225	250 300	£803,000
Committal for sentence		150	225	300	£2,506,000
Noting Brief		125	-	-	

<sup>28</sup> The caps on the number of conferences that currently apply will remain. These are set out in Criminal Defence Service (Funding) Order 2001 as amended by the Criminal Defence Service (Funding) (Amendment) Order 2005/2621. Schedule 4 paragraph 19.

# Annex 4.6 Proposed litigator fee schedule and case types

## Fixed fee payments

1 Table 4.6.1 details the type of cases that will be remunerated by fixed fees and the fixed fee payment applicable to each

Type of case	Payment (£)
Committal for sentence	500
Appeal against sentence	500
Contempt (stand alone hearing)	500
Appeal against conviction	1,000

## Graduated fee payments

2 The following tables provide all of the information required to manually calculate a litigators graduated fee. In order to calculate these fees, the following steps should be followed:

- Step 1. Determine the case type (e.g. guilty plea, cracked trial or trial)
- Step 2. Determine the class of offence (see Table 4.6.2)
- Step 3. Identify the appropriate basic fee using Table 4.6.3
- Step 4. Identify the number of pages of prosecution evidence (PPE) and length of trial (where applicable) in the case
- Step 5. Using tables 4.6.4 or 4.6.5, compare PPE in the case with the appropriate PPE cut-off
- Step 6. In the event of a cracked trial or a guilty plea, if your PPE does not exceed the PPE cut-off (see Table 4.6.4) then the final fee payable is the basic fee identified at step 3 above. (Subject to steps 10 and 11 below.)
- Step 7. In a trial where the PPE does not exceed the PPE cut-off (see Table 4.6.5), go to Table 4.6.6 and identify the appropriate length of trial uplift. Adding the length of trial uplift to the basic fee (as identified in step 3 above) will give you the final fee payable (subject to steps 10 and 11 below.)

Step 8. In the event of a cracked trial or a guilty plea, where the PPE exceeds the PPE cut-off – refer to Tables 4.6.7 and 4.6.8 and identify the PPE equal to, or less than the PPE in your case. The final fee payable will be the corresponding initial fee plus the appropriate incremental rate per page shown for additional PPE.

Step 9. In a trial where the PPE exceeds the PPE cut-off, refer to Table 4.6.9 and identify the PPE equal to, or less than the PPE in your case. The final fee payable will be the corresponding initial fee plus the appropriate incremental rate per page shown in the row below.

Step 10. Where the case has transferred or there is a retrial, apply the variances to the fee outlined in Table 4.6.11.

Step 11. Determine the defendant uplift as outlined in Table 4.6.10. These uplifts should be applied to the final fee.

Class	Description (from the Statutory Instrument 855)
A	Homicide and related grave offences
B	Offences involving serious violence or damage and serious drug offences
C	Lesser offences involving violence or damage, and less serious drug offences
D	Serious sexual offences, offences against children
E	Burglary, etc
F	Other offences of dishonesty
G	Other offences of dishonesty
H	Miscellaneous lesser offences
I	Offences against public justice

<b>Table 4.6.3 – Basic fee</b>									
<b>Basic fee</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>
Trial	3,382	1,465	1,203	1,596	1,089	997	1,384	1,052	1,205
Cracked trial	3,382	1,257	928	1,596	858	817	1,384	861	931
Guilty plea	2,344	745	620	911	514	542	862	527	491

3 The basic fee, as detailed in Table 4.6.3 (above) will only be appropriate in small cases where there is no PPE uplift or length of trial uplift.

<b>Table 4.6.4 – PPE cut-off for non-trial cases</b>									
<b>Type of case</b>	<b>PPE cut off A</b>	<b>PPE cut off B</b>	<b>PPE cut off C</b>	<b>PPE cut off D</b>	<b>PPE cut off E</b>	<b>PPE cut off F</b>	<b>PPE cut off G</b>	<b>PPE cut off H</b>	<b>PPE cut off I</b>
Cracked trial	150	70	40	80	40	50	120	40	40
Guilty plea	150	70	40	80	40	50	120	40	40

4 In this paper, Table 4.6.5 includes the PPE cut-off for trials up to 40 days. However, the litigator fee calculator will include the appropriate cut-off for cases up to 200 days.

5 In this paper, Table 4.6.6 (page 160) includes the length of trial uplift for trials up to 40 days. However, the litigator fee calculator will include the appropriate uplift for cases up to 200 days.

Table 4.6.5 – PPE Cut-off for trials									
Trial length in days	PPE cut off A	PPE cut off B	PPE cut off C	PPE cut off D	PPE cut off E	PPE cut off F	PPE cut off G	PPE cut off H	PPE cut off I
1	150	70	40	80	40	50	120	40	40
2	150	70	40	80	40	50	120	40	40
3	246	98	67	103	58	89	218	77	73
4	341	126	93	125	82	127	315	114	106
5	417	152	118	146	110	162	406	145	136
6	494	178	143	166	139	198	497	176	167
7	570	206	168	186	171	234	588	207	197
8	663	250	192	207	204	277	679	237	228
9	746	289	204	245	219	302	761	250	256
10	830	328	215	287	234	326	848	270	283
11	914	367	226	329	248	350	935	290	311
12	997	406	237	371	263	374	1,023	310	339
13	1,081	445	248	413	278	399	1,110	330	367
14	1,169	484	260	455	293	423	1,197	350	397
15	1,258	526	271	497	308	447	1,284	371	428
16	1,302	563	279	529	320	462	1,359	385	456
17	1,345	600	287	561	332	476	1,434	400	484
18	1,389	637	296	593	344	490	1,509	415	512
19	1,432	674	305	625	356	505	1,584	430	539
20	1,476	711	314	657	368	519	1,659	445	567
21	1,519	748	323	689	380	534	1,734	460	595
22	1,563	785	333	723	392	548	1,809	475	623
23	1,606	822	342	759	404	563	1,884	490	651
24	1,650	859	352	795	416	577	1,959	505	679
25	1,693	896	361	831	428	591	2,034	520	707
26	1,719	923	368	851	437	603	2,091	532	730
27	1,745	949	375	871	447	614	2,148	543	754
28	1,771	975	382	891	456	626	2,204	554	778
29	1,798	1,002	389	911	465	637	2,261	566	801
30	1,824	1,028	396	931	474	649	2,318	577	825
31	1,850	1,055	403	951	483	660	2,375	588	849
32	1,876	1,081	410	972	492	672	2,433	600	873
33	1,905	1,107	416	992	501	683	2,491	611	897
34	1,960	1,134	423	1,012	510	695	2,550	623	921
35	2,015	1,160	430	1,032	519	706	2,609	637	945
36	2,058	1,174	435	1,049	525	714	2,642	645	957
37	2,101	1,187	440	1,067	530	722	2,676	654	970
38	2,144	1,200	445	1,086	536	730	2,709	663	983
39	2,187	1,213	450	1,104	542	738	2,742	671	995
40	2,231	1,226	455	1,123	547	746	2,776	680	1,008

**Table 4.6.6 – Length of trial uplifts**

Trial length in days	Trial length uplift A	Trial length uplift B	Trial length uplift C	Trial length uplift D	Trial length uplift E	Trial length uplift F	Trial length uplift G	Trial length uplift H	Trial length uplift I
1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3	1,886.64	477.59	352.48	686.28	338.00	338.00	754.28	357.50	419.34
4	3,773.28	955.18	704.96	1,372.56	676.00	676.00	1,508.56	715.00	838.68
5	5,282.62	1,397.61	1,032.18	1,987.02	931.71	985.56	2,210.94	1,009.65	1,225.49
6	6,791.96	1,840.04	1,359.40	2,601.48	1,187.42	1,295.12	2,913.32	1,304.30	1,612.30
7	8,301.30	2,282.47	1,686.62	3,215.94	1,443.13	1,604.68	3,615.70	1,598.95	1,999.11
8	9,810.64	2,724.90	2,013.84	3,830.40	1,698.84	1,914.24	4,318.08	1,893.60	2,385.92
9	11,043.05	3,124.64	2,161.81	4,409.52	1,814.86	2,085.15	4,934.95	2,013.83	2,738.81
10	12,275.46	3,524.38	2,309.78	4,988.64	1,930.88	2,256.06	5,551.82	2,134.06	3,091.70
11	13,507.87	3,924.12	2,457.75	5,567.76	2,046.90	2,426.97	6,168.69	2,254.29	3,444.59
12	14,740.28	4,323.86	2,605.72	6,146.88	2,162.92	2,597.88	6,785.56	2,374.52	3,797.48
13	15,972.69	4,723.60	2,753.69	6,726.00	2,278.94	2,768.79	7,402.43	2,494.75	4,150.37
14	17,205.10	5,123.34	2,901.66	7,305.12	2,394.96	2,939.70	8,019.30	2,614.98	4,503.26
15	18,437.51	5,523.08	3,049.63	7,884.24	2,510.98	3,110.61	8,636.17	2,735.21	4,856.15
16	19,037.31	5,863.69	3,159.70	8,323.42	2,605.53	3,212.30	9,158.65	2,824.63	5,174.27
17	19,637.11	6,204.30	3,269.77	8,762.60	2,700.08	3,313.99	9,681.13	2,914.05	5,492.39
18	20,236.91	6,544.91	3,379.84	9,201.78	2,794.63	3,415.68	10,203.61	3,003.47	5,810.51
19	20,836.71	6,885.52	3,489.91	9,640.96	2,889.18	3,517.37	10,726.09	3,092.89	6,128.63
20	21,436.51	7,226.13	3,599.98	10,080.14	2,983.73	3,619.06	11,248.57	3,182.31	6,446.75
21	22,036.31	7,566.74	3,710.05	10,519.32	3,078.28	3,720.75	11,771.05	3,271.73	6,764.87
22	22,636.11	7,907.35	3,820.12	10,958.50	3,172.83	3,822.44	12,293.53	3,361.15	7,082.99
23	23,235.91	8,247.96	3,930.19	11,397.68	3,267.38	3,924.13	12,816.01	3,450.57	7,401.11
24	23,835.71	8,588.57	4,040.26	11,836.86	3,361.93	4,025.82	13,338.49	3,539.99	7,719.23
25	24,435.51	8,929.18	4,150.33	12,276.04	3,456.48	4,127.51	13,860.97	3,629.41	8,037.35
26	24,796.56	9,172.37	4,231.53	12,523.14	3,527.70	4,208.27	14,256.08	3,696.95	8,307.27
27	25,157.61	9,415.56	4,312.73	12,770.24	3,598.92	4,289.03	14,651.19	3,764.49	8,577.19
28	25,518.66	9,658.75	4,393.93	13,017.34	3,670.14	4,369.79	15,046.30	3,832.03	8,847.11
29	25,879.71	9,901.94	4,475.13	13,264.44	3,741.36	4,450.55	15,441.41	3,899.57	9,117.03
30	26,240.76	10,145.13	4,556.33	13,511.54	3,812.58	4,531.31	15,836.52	3,967.11	9,386.95
31	26,601.81	10,388.32	4,637.53	13,758.64	3,883.80	4,612.07	16,231.63	4,034.65	9,656.87
32	26,962.86	10,631.51	4,718.73	14,005.74	3,955.02	4,692.83	16,626.74	4,102.19	9,926.79
33	27,323.91	10,874.70	4,799.93	14,252.84	4,026.24	4,773.59	17,021.85	4,169.73	10,196.71
34	27,684.96	11,117.89	4,881.13	14,499.94	4,097.46	4,854.35	17,416.96	4,237.27	10,466.63
35	28,046.01	11,361.08	4,962.33	14,747.04	4,168.68	4,935.11	17,812.07	4,304.81	10,736.55
36	28,330.21	11,482.68	5,021.28	14,951.33	4,212.24	4,986.16	18,036.28	4,347.31	10,878.74
37	28,614.41	11,604.28	5,080.23	15,155.62	4,255.80	5,037.21	18,260.49	4,389.81	11,020.93
38	28,898.61	11,725.88	5,139.18	15,359.91	4,299.36	5,088.26	18,484.70	4,432.31	11,163.12
39	29,182.81	11,847.48	5,198.13	15,564.20	4,342.92	5,139.31	18,708.91	4,474.81	11,305.31
40	29,467.01	11,969.08	5,257.08	15,768.49	4,386.48	5,190.36	18,933.12	4,517.31	11,447.50

Annex 4.6 Proposed litigator fee schedule and case types

**Table 4.6.7 – Final fees for cracked trials**

Offence class	PPE	Initial fee	Incremental fee per page
A	150	3,382	22.5467
A	250	5,357	19.7500
A	500	10,269	19.6480
A	1,000	13,668	6.7980
A	2,800	19,785	3.3983
A	4,600	22,846	1.7006
A	6,400	24,374	0.8489
A	8,200	25,140	0.4256
A	9,999	25,522	0.2123
A	100,000	35,081	0.1062
B	70	1,257	17.9571
B	250	2,826	8.7167
B	1,000	5,498	3.5627
B	2,800	8,707	1.7828
B	4,600	10,310	0.8906
B	6,400	11,112	0.4456
B	8,200	11,513	0.2228
B	9,999	11,713	0.1112
B	100,000	16,725	0.0557
C	40	928	23.2000
C	250	2,182	5.9714
C	1,000	4,044	2.4827
C	2,800	6,280	1.2422
C	4,600	7,396	0.6200
C	6,400	7,956	0.3111
C	8,200	8,234	0.1544
C	9,999	8,374	0.0778
C	100,000	11,866	0.0388
D	80	1,596	19.9500
D	250	3,799	12.9588
D	1,000	7,860	5.4147
D	2,800	12,734	2.7078
D	4,600	15,169	1.3528
D	6,400	16,388	0.6772
D	8,200	16,998	0.3389
D	9,999	17,302	0.1690
D	100,000	24,915	0.0846
E	40	858	21.4500
E	250	1,936	5.1333
E	1,000	3,515	2.1053
E	2,800	5,409	1.0522

**Table 4.6.7 – Final fees for cracked trials (continued)**

<b>Offence class</b>	<b>PPE</b>	<b>Initial fee</b>	<b>Incremental fee per page</b>
E	4,600	6,356	0.5261
E	6,400	6,829	0.2628
E	8,200	7,065	0.1311
E	9,999	7,184	0.0661
E	100,000	10,142	0.0329
F	50	817	16.3400
F	250	1,967	5.7500
F	1,000	3,777	2.4133
F	2,800	5,947	1.2056
F	4,600	7,033	0.6033
F	6,400	7,575	0.3011
F	8,200	7,847	0.1511
F	9,999	7,983	0.0756
F	100,000	11,376	0.0377
G	120	1,384	11.5333
G	250	2,388	7.7231
G	1,000	7,282	6.5253
G	2,800	12,258	2.7644
G	4,600	14,745	1.3817
G	6,400	15,989	0.6911
G	8,200	16,611	0.3456
G	9,999	16,922	0.1729
G	100,000	24,697	0.0864
H	40	861	21.5250
H	250	1,795	4.4476
H	1,000	3,112	1.7560
H	2,800	4,693	0.8783
H	4,600	5,483	0.4389
H	6,400	5,880	0.2206
H	8,200	6,077	0.1094
H	9,999	6,175	0.0545
H	100,000	8,647	0.0275
I	40	931	23.2750
I	250	2,447	7.2190
I	1,000	4,777	3.1067
I	2,800	7,572	1.5528
I	4,600	8,969	0.7761
I	6,400	9,669	0.3889
I	8,200	10,017	0.1933
I	9,999	10,193	0.0978
I	100,000	14,561	0.0485

Annex 4.6 Proposed litigator fee schedule and case types

**Table 4.6.8 – Final fees for guilty pleas**

Offence class	PPE	Initial fee	Incremental fee per page
A	150	2,344	15.6267
A	400	5,133	11.1560
A	1,000	7,842	4.5150
A	2,800	11,906	2.2578
A	4,600	13,936	1.1278
A	6,400	14,952	0.5644
A	8,200	15,460	0.2822
A	9,999	15,714	0.1412
A	100,000	22,063	0.0705
B	70	745	10.6429
B	400	1,827	3.2788
B	1,000	2,656	1.3817
B	2,800	3,902	0.6922
B	4,600	4,524	0.3456
B	6,400	4,836	0.1733
B	8,200	4,991	0.0861
B	9,999	5,069	0.0434
B	100,000	7,014	0.0216
C	40	620	15.5000
C	400	1,807	3.2972
C	1,000	2,679	1.4533
C	2,800	3,985	0.7256
C	4,600	4,639	0.3633
C	6,400	4,966	0.1817
C	8,200	5,129	0.0906
C	9,999	5,211	0.0456
C	100,000	7,254	0.0227
D	80	911	11.3875
D	400	2,048	3.5531
D	1,000	2,921	1.4550
D	2,800	4,231	0.7278
D	4,600	4,885	0.3633
D	6,400	5,212	0.1817
D	8,200	5,377	0.0917
D	9,999	5,458	0.0450
D	100,000	7,504	0.0227
E	40	514	12.8500
E	400	1,487	2.7028
E	1,000	2,200	1.1883
E	2,800	3,270	0.5944
E	4,600	3,805	0.2972

**Table 4.6.8 – Final fees for guilty pleas (continued)**

<b>Offence class</b>	<b>PPE</b>	<b>Initial fee</b>	<b>Incremental fee per page</b>
E	6,400	4,074	0.1494
E	8,200	4,207	0.0739
E	9,999	4,274	0.0372
E	100,000	5,946	0.0186
F	50	542	10.8400
F	400	1,239	1.9914
F	1,000	1,733	0.8233
F	2,800	2,471	0.4100
F	4,600	2,841	0.2056
F	6,400	3,026	0.1028
F	8,200	3,118	0.0511
F	9,999	3,164	0.0256
F	100,000	4,319	0.0128
G	120	862	7.1833
G	400	1,622	2.7143
G	1,000	2,227	1.0083
G	2,800	3,134	0.5039
G	4,600	3,588	0.2522
G	6,400	3,815	0.1261
G	8,200	3,929	0.0633
G	9,999	3,985	0.0311
G	100,000	5,402	0.0157
H	40	527	13.1750
H	400	1,239	1.9778
H	1,000	1,733	0.8233
H	2,800	2,472	0.4106
H	4,600	2,843	0.2061
H	6,400	3,028	0.1028
H	8,200	3,120	0.0511
H	9,999	3,167	0.0261
H	100,000	4,324	0.0129
I	40	491	12.2750
I	400	1,552	2.9472
I	1,000	2,345	1.3217
I	2,800	3,531	0.6589
I	4,600	4,125	0.3300
I	6,400	4,422	0.1650
I	8,200	4,571	0.0828
I	9,999	4,644	0.0406
I	100,000	6,499	0.0206

Table 4.6.9 – Final fees for trials

Offence class	PPE	Initial fee	Incremental fee per page
A	150	3,382	22.5467
A	600	12,270	19.7511
A	1,100	19,632	14.7240
A	1,900	30,675	13.8038
A	3,300	39,878	6.5736
A	5,000	45,399	3.2476
A	6,000	47,024	1.6250
A	7,000	47,835	0.8110
A	8,000	48,241	0.4060
A	9,000	48,444	0.2030
A	9,999	48,545	0.1011
A	100,000	53,113	0.0508
B	70	1,465	20.9286
B	200	3,681	17.0462
B	500	6,749	10.2267
B	1,300	14,111	9.2025
B	2,000	19,632	7.8871
B	3,300	26,994	5.6631
B	5,000	32,516	3.2482
B	6,000	34,140	1.6240
B	7,000	34,951	0.8110
B	8,000	35,357	0.4060
B	9,000	35,561	0.2040
B	9,999	35,662	0.1011
B	100,000	40,230	0.0508
C	40	1,203	30.0750
C	300	4,638	13.2115
C	700	9,325	11.7175
C	1,250	15,460	11.1545
C	2,000	19,632	5.5627
C	3,200	24,540	4.0900
C	4,560	27,322	2.0456
C	5,920	28,712	1.0221
C	7,280	29,408	0.5118
C	8,640	29,755	0.2551
C	9,999	29,929	0.1280
C	100,000	35,680	0.0639
D	80	1,596	19.9500
D	210	5,522	30.2000
D	700	12,270	13.7714
D	1,050	16,565	12.2714

**Table 4.6.9 – Final fees for trials (continued)**

<b>Offence class</b>	<b>PPE</b>	<b>Initial fee</b>	<b>Incremental fee per page</b>
D	2,000	26,994	10.9779
D	3,600	35,777	5.4894
D	5,200	40,168	2.7444
D	6,800	42,363	1.3719
D	8,400	43,462	0.6869
D	9,999	44,010	0.3427
D	100,000	51,728	0.0858
E	40	1,089	27.2250
E	70	1,656	18.9000
E	130	2,209	9.2167
E	600	5,890	7.8319
E	1,350	8,221	3.1080
E	3,000	10,909	1.6291
E	4,750	12,254	0.7686
E	6,500	12,926	0.3840
E	8,250	13,263	0.1926
E	9,999	13,431	0.0961
E	100,000	17,801	0.0486
F	50	997	19.9400
F	230	2,577	8.7778
F	700	5,890	7.0489
F	1,400	10,430	6.4857
F	1,950	13,497	5.5764
F	3,550	17,958	2.7881
F	5,150	20,190	1.3950
F	6,750	21,306	0.6975
F	8,350	21,863	0.3481
F	9,999	22,150	0.1740
F	100,000	29,994	0.0872
G	120	1,384	11.5333
G	735	6,135	7.7252
G	1,290	10,061	7.0739
G	2,400	17,792	6.9649
G	4,500	31,902	6.7190
G	8,000	53,375	6.1351
G	8,400	54,602	3.0675
G	8,800	55,215	1.5325
G	9,200	55,522	0.7675
G	9,600	55,675	0.3825
G	9,999	55,752	0.1930
G	100,000	64,379	0.0959

**Table 4.6.9 – Final fees for trials (continued)**

Offence class	PPE	Initial fee	Incremental fee per page
H	40	1,052	26.3000
H	250	3,068	9.6000
H	620	5,276	5.9676
H	1,300	8,589	4.8721
H	3,000	15,338	3.9700
H	5,000	19,632	2.1470
H	6,000	20,706	1.0740
H	7,000	21,243	0.5370
H	8,000	21,511	0.2680
H	9,000	21,646	0.1350
H	9,999	21,712	0.0661
H	100,000	24,731	0.0335
I	40	1,205	30.1250
I	370	5,399	12.7091
I	800	10,307	11.4140
I	1,300	15,951	11.2880
I	2,700	21,473	3.9443
I	4,200	25,154	2.4540
I	5,360	26,577	1.2267
I	6,520	27,288	0.6129
I	7,680	27,644	0.3069
I	8,840	27,822	0.1534
I	9,999	27,911	0.0768
I	100,000	31,362	0.0383

**Table 4.6.10 – Defendant uplifts**

Total number of defendants represented by firm	Percentage uplift applicable to total fee
1	0%
2-4	20%
5+	30%

6 Only one defendant uplift will be paid per case. For example if a firm represents six defendants in a case, they will receive one defendant uplift payment of 30% on the entire final fee.

<b>Table 4.6.11 – Transfers and retrials table</b>				
<b>No</b>	<b>Scenario</b>	<b>Percent</b>	<b>Case type</b>	<b>Remarks</b>
1	Pre plea and case management hearing	25%	Cracked trial	No change of solicitor
2	Plea and case management hearing	100%	Guilty plea	No change of solicitor
3	Cracked trial	100%	Cracked trial	No change of solicitor
4	Trial	100%	Trial	No change of solicitor
5	Appeal against conviction	100%	Appeal against conviction	No change of solicitor
6	Appeal against sentence	100%	Appeal against sentence	No change of solicitor
7	Committal for sentence	100%	Committal for sentence	No change of solicitor
8	Contempt	100%	Contempt	No change of solicitor
9	Retrial	25%	Trial	No change of solicitor
10	Pre plea and case management hearing transfer (original)	25%	Cracked trial	
11	Pre plea and case management hearing transfer (new) – guilty plea	100%	Guilty plea	
12	Pre plea and case management hearing transfer (new) – cracked	100%	Cracked trial	
13	Pre plea and case management hearing transfer (new) – trial	100%	Trial	
14	Before trial transfer (org)	75%	Cracked trial	
15	Before trial transfer (new) – cracked	100%	Cracked trial	
16	Before trial transfer (new) – trial	100%	Trial	
17	During trial transfer (org) – trial	100%	Trial	Claim up to the day before the transfer
18	During trial transfer (new) – trial	50%	Trial	Claim for the full trial length
19	During trial transfer (new) – retrial	25%	Trial	Claim for the full retrial length
20	Transfer before retrial (org) – retrial	25%	Cracked trial	
21	Transfer before retrial (new) – retrial	50%	Trial	Claim for the full retrial length
22	Transfer during/after retrial (org) – retrial	25%	Trial	Claim up to retrial day before the transfer
23	Transfer during/after retrial (new) – retrial	50%	Trial	Claim for the full retrial length

7 As well as identifying the payment rates for transfers and retrials, Table 4.6.11 shows the percentages of payments for all trial types. For example, cases that end, for whatever reason, prior

to the plea and case management hearing will be paid 25% of the cracked trial fee (see the first row of Table 4.6.11).

## Litigator fee calculation examples

### Scenario 1:

8 A shoplifting offence (value less than £30,000) with 25 PPE where the defendant pleads guilty at the plea and case management hearing.

**Step 1** – Case type is guilty plea

**Step 2** – Offence class is Class F (Table 4.6.2)

**Step 3** – Basic Fee for a Class F guilty plea is **£542** (Table 4.6.3)

**Step 4** – PPE in the case is 25. (length of trial is not applicable as case type is guilty plea.)

**Step 5** – PPE cut-off for a Class F guilty plea is 50 (Table 4.6.4)

**Step 6** – Actual PPE (25) is less than PPE cut-off (50) therefore the “final fee payable is the basic fee identified at step 3 above.”

Final fee (subject to defendant uplift and/or reduction for transfers/retrials) = basic fee

= **£542**

**Step 7** – Not applicable – case type is a guilty plea.

**Step 8** – Not applicable because actual PPE (25) is less than PPE cut-off (50)

**Step 9** – Not applicable – case type is a guilty plea.

**Step 10** – Not applicable – case is not a retrial nor is there a transfer.

**Step 11** – Not applicable – firm has only represented one defendant in the case.

**Final litigator fee = £542**

### Scenario 2:

9 A 15-day murder trial with 476 PPE and two defendants.

**Step 1** – Case type is trial

**Step 2** – Offence class is Class A (Table 4.6.2)

**Step 3** – Basic Fee for a Class A trial is **£3,382** (Table 4.6.3)

**Step 4** – PPE in the case is 476 – length of trial is 15 days

**Step 5** – PPE cut-off for a Class A offence with a 15 day trial is 1,258 (Table 4.6.5)

**Step 6** – Not applicable – case type is trial.

**Step 7** – Actual PPE (476) is less than PPE cut-off (1,258) therefore “go to Table 4.6.6 and identify the appropriate length of trial uplift to the basic fee.”

Length of trial uplift for 15 day Class A offence is £18,437.51

Final fee (subject to defendant uplift and/or reduction for transfers/retrials) = basic fee plus length of trial uplift.

= **3,382 + 18,437.51**

= **£21,819.51**

**Step 8** – Not applicable – case type is a trial.

**Step 9** – Not applicable because actual PPE (476) is less than PPE cut-off (1,258)

**Step 10** – Not applicable – case is not a retrial nor is there a transfer.

**Step 11** – Defendant uplift for two defendants is 20% (Table 4.6.10).

Final fee (including defendant uplift) = 21,819.51\*120% = **£26,183.41**

**Final litigator fee = £26,183.41**

### Scenario 3:

10 A three-day burglary with 92 PPE and one defendant

**Step 1** – Case type is trial

**Step 2** – Offence class is Class E (Table 4.6.2)

**Step 3** – Basic fee for a Class E trial is **£1,089** (Table 4.6.3)

**Step 4** – PPE in the case is 92– length of trial is three days

**Step 5** – PPE cut-off for a Class E offence with a three-day trial is 58 (Table 4.6.5)

**Step 6** – Not applicable – case type is trial.

**Step 7** – Not applicable because actual PPE (92) is greater than PPE cut-off (58)

**Step 8** – Not applicable – case type is a trial.

**Step 9** – (i) Actual PPE (92) is greater than PPE cut-off (58) therefore “refer to Table 4.6.9 and identify the PPE equal to, or less than the PPE in your case.” The PPE closest to 92, without exceeding it, is 70.

(ii) “The final fee payable will be the corresponding trial fee plus the appropriate incremental rate per page shown in the row below ”

Final fee (subject to defendant uplift and/or reduction for transfers/retrials) = £1656 (Table 4.6.9) plus 22(92-70) pages at £9.2167 per page

= £1656 + (22\*9.2167)

= £1656 + 202.77

= **£1,858.77**

**Step 10** – Not applicable – case is not a retrial nor is there a transfer.

**Step 11** – Not applicable – firm has only represented one defendant in the case

**Final litigator fee = £1,858.77**

### Scenario 4:

11 A lengthy (non-very high cost) fraud case with 2,135 PPE and three defendants which folds unexpectedly on the 1st day of trial

**Step 1** – Case type is trial

**Step 2** – Offence class is Class G (Table 4.6.2)

**Step 3** – Basic fee for a Class G trial is **£1,384** (Table 4.6.3)

**Step 4** – PPE in the case is 2,135 – length of trial is 1 day

**Step 5** – PPE cut-off for a Class G offence with a 1-day trial is 120 (Table 4.6.5)

**Step 6** – Not applicable – case type is trial.

**Step 7** – Not applicable because actual PPE (2,135) is greater than PPE cut-off (120)

**Step 8** – Not applicable – case type is a trial.

**Step 9** – (i) Actual PPE (2,135) is greater than PPE cut-off (120) therefore “refer to Table 4.6.9 and identify the PPE equal to, or less than the PPE in your case.” The PPE closest to 2,135, without exceeding it, is 1,290.

(ii) “The final fee payable will be the corresponding trial fee plus the appropriate incremental rate per page shown in the row below ”

Final fee (subject to defendant uplift and/or reduction for transfers/retrials) = £10,061 (Table 4.6.9) plus 845 (2,135-1,290) pages at £6.9649 per page

= £10,061+ (845\*6.9649)

= £10,061 + £5,885.34

= **£15,946.34**

**Step 10** – Not applicable – case is not a retrial nor is there a transfer.

**Step 11** – Defendant uplift for 3 defendants is 20% (Table 4.6.10).

Final fee (including defendant uplift) = 15,946.34 \*120%

= **£19,135.61**

**Final litigator fee = £19,135.61**

**Scenario 5:**

12 A retrial of the above 15-day murder trial where the retrial lasts 18 days, contains 600 PPE and has two defendants

**Step 1** – Case type is trial

**Step 2** – Offence class is Class A (Table 4.6.2)

**Step 3** – Basic fee for a Class A trial is **£3,382** (Table 4.6.3)

**Step 4** – PPE in the case is 600 – length of trial is 18 days

**Step 5** – PPE cut-off for a Class A offence with a 18 day trial is 1,389 (Table 4.6.5)

**Step 6** – Not applicable – case type is trial.

**Step 7** – Actual PPE (600) is less than PPE cut-off (1,389) therefore “go to Table 4.6.6 and identify the appropriate length of trial uplift to the basic fee.”

Length of trial uplift for 18 day Class A offence is £20,236.91

Final Fee (subject to defendant uplift and/or reduction for transfers/retrials) = Basic Fee plus length of trial uplift.

$$= 3,382 + 20,236.91$$

$$= \mathbf{£23,618.91}$$

**Step 8** – Not applicable – case type is a trial.

**Step 9** – Not applicable because actual PPE (600) is less than PPE cut-off (1,389)

**Step 10** – The case is a retrial. Therefore the final fee must be adjusted in accordance with Table 4.6.11. This shows that where there is no change of solicitor the appropriate litigator fee is 25% of the trial fee.

Therefore, the final fee adjusted for a retrial is  $23,618.91 * 25\% = \mathbf{£5,904.73}$

**Step 11** – Defendant uplift for 3 defendants is 20% (Table 4.6.10).

Final fee (including defendant uplift) =  $5,904.73 * 120\%$

$$= \mathbf{£7,085.68}$$

**Final litigator fee = £7,085.68**

## Annex 4.7: Very high cost criminal cases

### Background on very high cost cases

1 About 100 to 150 very high cost cases begin in any given year. In general, they are more complex cases, with trials lasting over 40 days. Fraud cases account for about half of all very high cost cases, with the other half a combination of drugs, murder, terrorism and related categories (see Figure 4.7.1).

2 However, cases that are few in number may be particularly complex. For example, money laundering and terrorism cases tend to cost more per case than other types of cases (see Figure 4.7.2).

Figure 4.7.1 – Very high cost case by crime category

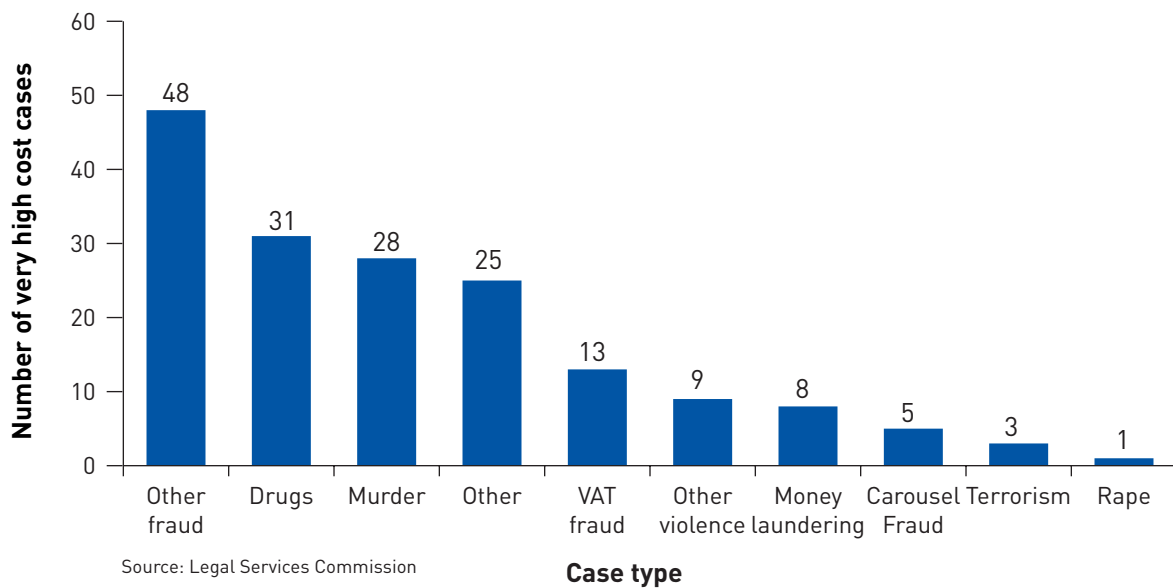
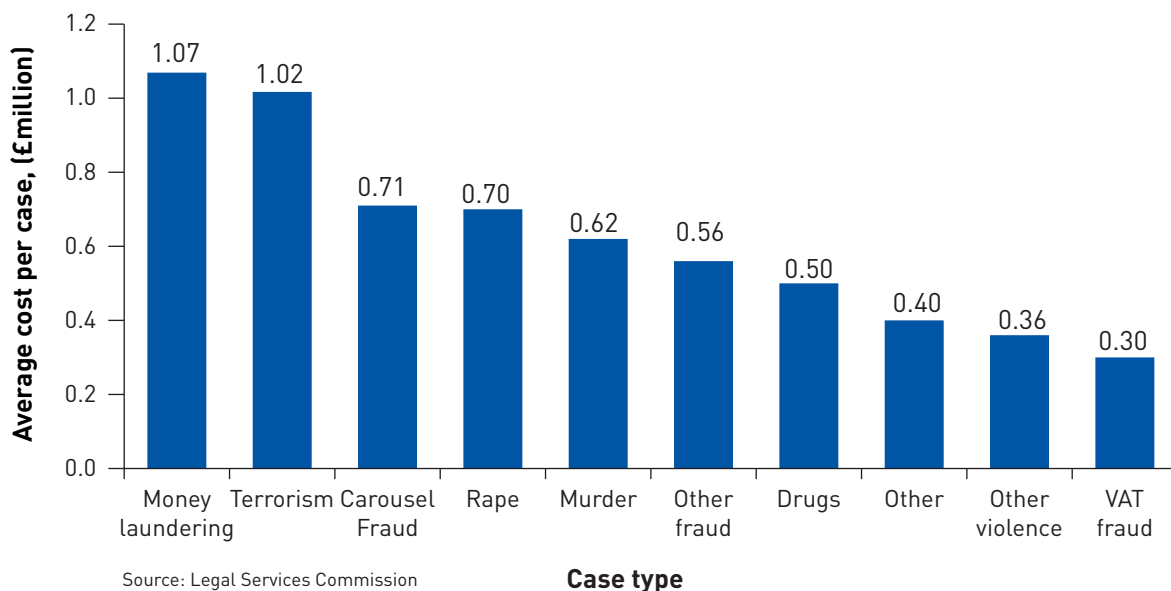
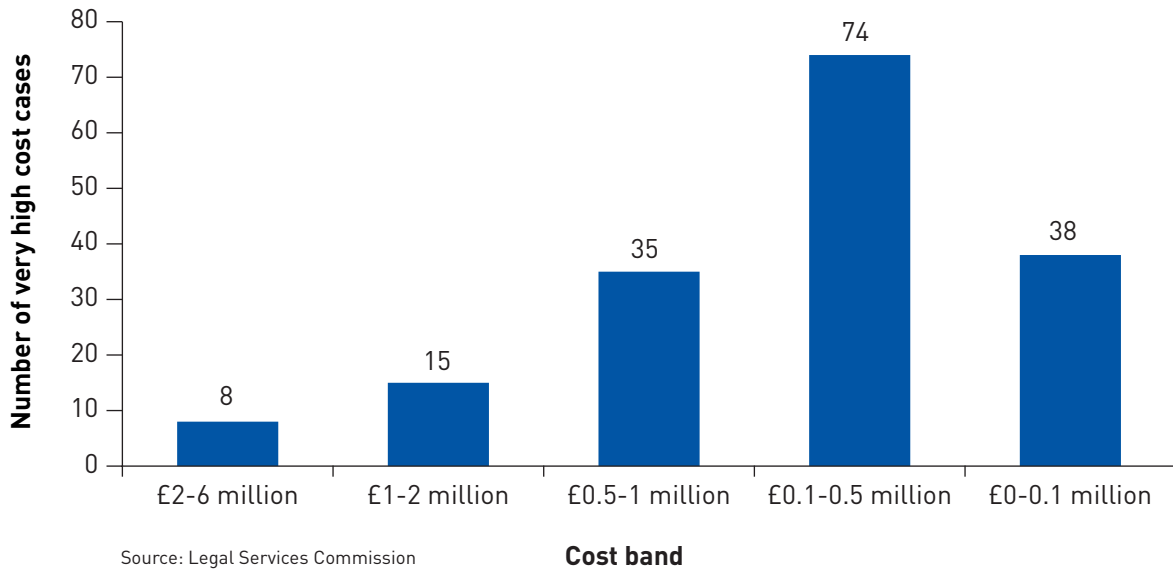


Figure 4.7.2 – Cost per case



**Fig 4.7.3** –Distribution of very high cost criminal case costs



3 In general, the majority of cases cost less than £500,000, although a few cases do cost significantly more (see Figure 4.7.3).

### Background to the Complex Crime Unit

4 In 2000 the Legal Services Commission piloted the Complex Crime Unit in response to a growing concern at the rising costs of a small number of expensive cases each year.

5 Each case that is dealt with under contract by the Complex Crime Unit is assigned an individual contract manager for each instructing solicitor. This contract manager will agree all work on the contract in advance of it being undertaken and is responsible for ensuring that costs are controlled.

6 The Complex Crime Unit has been credited with substantial success in controlling costs in the cases it manages. However, it is also recognised among stakeholders that this is an area of legal aid, which is still in a position to deliver further cost reductions. In particular, it is believed that there may be scope for reducing the rates paid for work, while improved case management on the part of suppliers and the Complex Crime Unit could also lead to cost savings.

7 As stated in the main body of the report the Complex Crime Unit should draft an expression of interest document setting out the minimum eligibility criteria that would be expected of the team.

## Information technology resources

8 All prospective panel member teams should have access to the necessary information technology resources to adequately prepare a complex criminal case and to transact with the Complex Crime Unit in an efficient manner. At minimum, this should include a CD ROM/DVD player and the main software packages, including Word and Excel. They should also have access to email and the internet, to communicate with the Complex Crime Unit and prosecution agencies. They should also be able to demonstrate that they have access to trained personnel who can use information technology skills to achieve great efficiencies in searching large amounts of prosecution material.

9 All team members will be required to keep electronic diaries detailing time spent preparing both their very high cost cases and other cases. They should make their electronic diaries available for auditing purposes.

## Specialist Quality Mark

10 Litigators firms wishing to gain membership of the panel should hold the specialist quality mark.

## Team members experience

11 At least half of all counsel nominated to act in a leading role (QC, leading junior, junior alone) must have experience of at least two very high cost cases in the last three years, at least one of which should have gone to trial. This would include very high cost cases contracted prior to the change to 41 days.

12 At least half of the A Grade litigators, and at least half of the B Grade litigators, in a bid team must have have experience of at least two very high cost cases as defined above.

- it will be a requirement of the very high cost case contract that either the lead litigator or leading counsel has the above experience; and

- it will also be a requirement of the very high cost case contract that where the team have been instructed in a fraud matter that the case team includes either leading counsel or a Level A solicitor who has experience of at least three very high cost case fraud cases.

13 The above criteria seek to strike a balance between appropriate experience and avoiding the exclusion of those who do not have this.

14 The role of the team leader will be critical to the success of the very high cost case scheme. The team leader will be accountable to the Complex Crime Unit for the allocation of work to members of their team. They will lead on all stage negotiations with the assigned contract manager. Therefore it will be a requirement for all nominated team leaders to have the relevant experience.

15 The Complex Crime Unit, in drafting the expression of interest document, should make provision for excluding teams, any of whose members have been found to have undertaken in conduct that would be unacceptable for the Complex Crime Unit panel. The events below are for example only:

- double claiming;
- failure to return signed contract within deadline, or extended deadline;
- unreasonable returns of briefs;
- wasted costs orders;
- substantial work (100 hours plus) disallowed under an individual case contract because it was not agreed in advance; and
- non payment for work on a case on the grounds that a conflict of interest was not identified.

16 Teams would be required to advise whether any of these events has taken place and the existence of two or more would preclude the team from bidding.

17 Should there be a difference of opinion between the team and the Complex Crime Unit on whether such events have taken place, there will need to be provision for an arbitration mechanism.

## Pro forma notification document for very high cost cases

18 This document should include the following points:

- charge/offences;
- number of defendants;
- court and T number;
- solicitors views on trial length;
- volume of known evidence (already served or about to be served);
- indictment and case summary if served;
- any indication that an early guilty plea is to be entered;
- solicitors initial views on the likely category of the case;
- details of co-defendant's solicitors;
- name of counsel (if assigned);
- details of prosecuting authority;
- date of representation order;
- date of transfer to the Crown Court;
- value of fraud or drugs; and
- court estimate and trial date (if known).

## Improving the case management capability of the Complex Crime Unit

19 This annexe sets out greater detail on the key recommendations to improve the case management capability of the Complex Crime Unit. It is structured around four core areas:

- very high cost case protocol on best value;
- Complex Crime Unit lawyers;
- referral panel; and
- post case audit panel.

## Very high cost case protocol on best value

20 Critical to embedding best practice in very high cost cases will be adhering to a very high cost case best practice team protocol. This will articulate some of the basic approaches to case preparation that the Complex Crime Unit will expect from a very high cost case team to achieve the standards of the most efficient suppliers. The review recommends that the Legal Services Commission work with the professions to develop the team protocol around the following themes.

- approach to served prosecution evidence;
- management of counsel;
- case planning;
- taking client's instructions;
- approach to unused material;
- selection and instruction of experts;
- control of counsel's preparation for trial and during trial; and
- sharing of costs with co-defendant's legal team.

## Complex Crime Unit lawyers

21 A key factor to the successful delivery of savings to very high cost cases will be ensuring that changes are made to increase the skills of the Complex Crime Unit. The interim report recommended the addition of qualified lawyers to the unit.

22 The Complex Crime Unit currently assigns a separate contract manager for each individual instructing solicitor in a trial. The role of each contract manager is to negotiate the appropriate amount of work to be undertaken by his or her team in each trial. Currently the contract managers are organised into small teams.

23 The Complex Crime Unit lawyers should take a case management role with each being responsible for a set of trials. Generally, they would not manage individual contracts, rather they would undertake an overall management role of all the contracts in each trial.

24 This would involve ensuring consistency of approach by contract managers and working to ensure that variance in spending between defendants in each trial is the product of relative positions of defendants in each case or specific defence strategies. In order to do this the lawyers will need to see regular updates of spending in each trial. This should then be followed by meetings with the group of contract managers on the particular case when important case issues arise.

25 It is envisaged that the Complex Crime Unit lawyers would make contact with the prosecution solicitor at the commencement of each trial. They will receive updates on case progression and be notified of any significant hearings that would impact on costs (e.g. disclosure). They will also represent the Complex Crime Unit if required and appropriate at particular court hearings.

26 The lawyers should be practitioners who have at least five years experience of criminal litigation. Ideally they will have worked on very high cost cases.

## The referral panel

27 If complex or novel points of law or procedure are raised, the Complex Crime Unit lawyers will have the benefit of access at short notice to a selection of experts known as the reference panel. This panel will be made up of a small number of very senior practitioners, a judge and some senior members of the profession who are in private practice.

28 The role of the panel members will be to provide advice to the Complex Crime Unit lawyers on points that are referred to them. They should be available at short notice by phone or email and may need to work to a rota basis. The Complex Crime Unit should ensure that regular meetings of the referral panel take place to review advice that has been given.

## Post case auditing

29 As outlined in the interim report, there will be a post case audit of a small selection of very high cost cases by a specially constituted very high cost case audit panel. This will be an ad hoc panel that has four broad objectives:

- to scrutinise performance of defence teams, comparing behaviour to undertakings given in tender documents (invitation to tender, quality assessment, bid documents, best value protocols);
- to provide a retrospective system of quality assurance for firms undertaking very high cost case work;
- to identify systemic issues (with supporting evidence) in the management of very high cost cases; and
- to identify best practice and innovation in the management of very high cost cases.

30 Cases may be referred to the audit panel in the following circumstances:

- the Complex Crime Unit lawyers will refer any cases that they judge necessary to the audit panel that have generated concerns at previous audits;
- stakeholder feedback – reports from trial judge, Complex Crime Unit, prosecuting counsel on behaviour and performance of defence team can also trigger an audit;
- on occasion the panel will be asked to review live cases should concerns be raised by the Complex Crime Unit; and
- the panel will then conduct an analysis of the information available on a case and will issue sanctions if they see fit in addition to information on best practice guidelines for panel members and contract managers.

31 There should be a range of possible sanctions that could be imposed on a team such as:

- fixed financial penalties;
- referral to professional body;
- improved strategy agreed; and
- disqualification from the Complex Crime Unit panel and the next bidding round.

32 Representatives on the audit panel will be from a combination of the following:

- Bar Council regulatory unit;
- Law Society regulatory unit;
- senior lawyers in private practice as appropriate;
- judiciary as appropriate; and
- the Legal Services Commission.

## Annex 5.1: Impact on model firms

1 Chapter 5 sets out analysis of the impact of the new fee structures on five model firms. The analysis is provided for these firms under two different scenarios. The first scenario assumes that firms continue with their current working arrangements. The second scenario assumes that firms are able to make small efficiency savings. Scenarios 1 and 2 are considered in turn below.

### Scenario 1 – current working arrangements

2 This section of the annex sets out the assumptions that have been made to understand the impact of the new fee structures on firms under current working practices (for instance, assuming no efficiency savings). Information is provided on the assumptions that have been made under each of the

following headings:

- firm structure and costs;
- chargeable hours and splits of work;
- case length and case mix; and
- price levels.

### Firm structure and costs

3 The structure of each model firm in terms of the mix of fee earners employed is different. The table below shows the structure that has been assumed for each. Support staff have been assumed to be employed at a rate of one for every three fee earners.

**Table 5.1.1 – Type of fee earner**

	<b>1 fee earner, 1 equity partner</b>	<b>5 fee earners, 1 equity partner</b>	<b>11 fee earners, 1 equity partner</b>	<b>27 fee earners, 2 equity partners</b>	<b>47 fee earners, 3 equity partners</b>
Equity partner (EP)	1	1	1	2	3
Salaried partner (SP)				1	2
Associate (3-10 years call)			1	2	4
Solicitors (0-3 years call)			1	3	8
Other qualified fee earner (OQFE)		3	5	11	17
Unqualified fee earners (UQFE)		1	2	7	11
Trainee (Tr)			1	1	2
Support staff	0.3	1.7	3.7	9.0	15.7

4 The following assumptions have been made regarding the salaries of each type of fee earner inside and outside of London. Equity partners are not allocated a salary per se as they are the residual claim holders on the profit generated by the firm. Salaries in London are assumed to be 10% higher than those outside of London. Overhead costs per firm have been assumed to be £22,000 per fee earner.

### Chargeable hours and splits of work

5 The assumptions that have been made regarding the number of chargeable hours worked by each type of fee earner are set out in the table below. Equity partners are assumed to work 1,300 chargeable hours a year, salaried partners, associates, solicitors and other qualified fee earners are assumed to work 1,400 hours a year and unqualified fee earners and trainees are assumed to work 1,000 and 700 hours respectively.

**Table 5.1.2 – Salaries of fee earners**

Type of fee earner	Salary of fee earner (Provincial)	Salary of fee earner (London)
Equity partner (EP)	–	–
Salaried partner (SP)	£76,500	£85,000
Associate (3-10 years call)	£46,350	£51,500
Solicitors (0-3 years call)	£23,940	£26,600
Other qualified fee earner (OQFE)	£26,100	£29,000
Unqualified fee earners (UQFE)	£14,400	£16,000
Trainee (Tr)	£18,360	£20,400
Support staff	£18,810	£20,900

**Table 5.1.3 – Total numbers of chargeable hours in a year**

Type of fee earner	Total number of chargeable hours in a year
Equity partner (EP)	1,300
Salaried partner (SP)	1,400
Associate (3-10 years call)	1,400
Solicitors (0-3 years call)	1,400
Other qualified fee earner (OQFE)	1,400
Unqualified fee earners (UQFE)	1,000
Trainee (Tr)	700

6 Assumptions are also required regarding the split of those chargeable hours that each fee earner devotes to different types of criminal work. The table below shows the assumptions that have been made regarding the split of hours for each type of fee earner in the police station, magistrates' court and Crown Court work. Equity partners are assumed to spend around half of their time in the magistrates' court. Salaried partners, in contrast, are assumed to spend 85% in the Crown Court. Other qualified fee earners are assumed to spend 100% of their chargeable hours doing police station work. Unqualified fee earners spend 90% of their time in the Crown Court.

### Case length and case mix

7 In order to translate the number of hours worked into an estimated case load for each fee earner, information is needed on the average length of cases of different types.

8 Average case length for police station data has been calculated using historical information on the number of hours billed. Fixed fee cases take an average of 5 hours and cases that would escape under the new system take an average of 23 hours.

9 Hours of work are not specifically recorded for work undertaken in the magistrates' court as payments depend on whether work done would exceed the threshold levels necessary to qualify for lower standard, higher standard or non-standard fees. However, it is possible to estimate the number of hours that would, on average, need to be worked to achieve lower standard or higher standard fees. The average case length for lower standard and higher standard fee cases has been taken to be the number of hours needed to reach the threshold minus one (as not all cases are assumed to require the threshold number of hours). The number of hours required for a non-standard fee case has been assumed to be 25. However, for simplicity of analysis we assume that firms do not undertake non-standard cases, so this figure does not affect the analysis in any way.

10 Since the new litigator graduated fee payment system is complex and varies according to the class of case, length of trial and number of pages of prosecution evidence, it is difficult to estimate average case lengths. So that the analysis is tractable, Crown Court cases have been divided by offence type into trials, cracks and guilty pleas. The average case length for a trial has been taken to be

**Table 5.1.4 – Proportion of hours**

Type of fee earner	Proportion of hours		
	Police station	Magistrates' court	Crown Court
Equity partner (EP)	50%	50%	0%
Salaried partner (SP)	3%	12%	85%
Associate (3–10 years call)	16%	55%	29%
Solicitors (0–3 years call)	15%	26%	59%
Other qualified fee earner (OQFE)	47%	10%	43%
Unqualified fee earners (UQFE)	2%	8%	90%
Trainee (Tr)	100%	0%	0%

the number of hours at trial plus half a day's preparation for each day at trial. Cracked cases have been assumed to take the relevant preparation time

for a trial plus a quarter of a day extra for each day of preparation. Guilty pleas have been assigned the average preparation time for the relevant trial.

**Table 5.1.5 – Average case length**

	<b>Average case length (hours)</b>
Police station (fixed fee case)	5
Police station (escape case)	23
Magistrates' Court (lower standard fee cases cat 1)	5
Magistrates' Court (lower standard fee cases cat 2)	9
Magistrates' Court (higher standard fee cases cat 1)	9
Magistrates' Court (higher standard fee cases cat 2)	16
Magistrates' Court (non-standard fee cases)	25
Crown Court (Class A) – trial	74
Crown Court (Class B) – trial	42
Crown Court (Class C) – trial	32
Crown Court (Class D) – trial	42
Crown Court (Class E) – trial	21
Crown Court (Class F) – trial	32
Crown Court (Class G) – trial	74
Crown Court (Class H) – trial	32
Crown Court (Class I) – trial	42
Crown Court (Class A) – crack	31
Crown Court (Class B) – crack	18
Crown Court (Class C) – crack	13
Crown Court (Class D) – crack	18
Crown Court (Class E) – crack	9
Crown Court (Class F) – crack	13

<b>Table 5.1.6 – Average case length (continued)</b>	
	<b>Average case length (hours)</b>
Crown Court (Class G) – crack	31
Crown Court (Class H) – crack	13
Crown Court (Class I) – crack	18
Crown Court (Class A) – guilty plea	25
Crown Court (Class B) – guilty plea	14
Crown Court (Class C) – guilty plea	11
Crown Court (Class D) – guilty plea	14
Crown Court (Class E) – guilty plea	7
Crown Court (Class F) – guilty plea	11
Crown Court (Class G) – guilty plea	25
Crown Court (Class H) – guilty plea	11
Crown Court (Class I) – guilty plea	14

11 Fee earners are assumed to work across different case types according to the historical mix of trials, cracks and guilty pleas in each offence type.

### Price levels

12 The prices that have been used to estimate the impact of the new fixed fees on firms are taken from the new pricing structures and are shown below. In the police station, firms outside of London are assumed to attract the average police scheme level fixed fee (excluding VAT) for all of their police station work. Firms within London are assumed to attract the London criminal justice system area fee.

13 As the pricing structure within the magistrates' court is relatively simple, the new fees (exclusive of VAT) have been used directly in the analysis.

14 In the Crown Court, the fee reflects average payments (excluding VAT) for average cases in each offence type varying for trials, cracks and guilty pleas.

**Table 5.1.7 – Proportion of cases**

<b>Police station</b>	
Proportion of fixed fee cases	100%
Proportion of escape cases	0%
<b>Magistrates' court</b>	
Proportion of lower standard fee (cat 1) cases	67%
Proportion of lower standard fee (cat 2) cases	18%
Proportion of higher standard fee (cat 1) cases	7%
Proportion of higher standard fee (cat 2) cases	8%
Proportion of non-standard fee cases	0%

<b>Crown Court</b>	<b>Trial</b>	<b>Crack</b>	<b>Guilty plea</b>
Crown Court (Class A)	1%	0%	0%
Crown Court (Class B)	8%	15%	10%
Crown Court (Class C)	6%	11%	7%
Crown Court (Class D)	4%	3%	1%
Crown Court (Class E)	1%	4%	5%
Crown Court (Class F)	1%	3%	3%
Crown Court (Class G)	0%	0%	0%
Crown Court (Class H)	2%	6%	4%
Crown Court (Class I)	0%	1%	2%

**Table 5.1.8 – Price levels**

<b>Police station</b>	<b>National</b>	<b>London</b>
Fixed fee	£177	£266
Escape	n/a	n/a

<b>Magistrates' court</b>	<b>National</b>	<b>London</b>
Lower standard fee (cat 1) cases	£222	£284
Lower standard fee (cat 2) cases	£378	£485
Higher standard fee (cat 1) cases	£477	£611
Higher standard fee (cat 2) cases	£793	£1,005
Non-standard fee cases	n/a	n/a

<b>Crown Court</b>	<b>Trial</b>	<b>Crack</b>	<b>Guilty plea</b>
Crown Court (Class A)	£11,018	£2,878	£1,995
Crown Court (Class B)	£2,060	£1,088	£634
Crown Court (Class C)	£1,324	£810	£534
Crown Court (Class D)	£2,789	£1,462	£784
Crown Court (Class E)	£1,027	£735	£437
Crown Court (Class F)	£1,136	£745	£498
Crown Court (Class G)	£5,913	£1,595	£766
Crown Court (Class H)	£1,200	£770	£449
Crown Court (Class I)	£3,924	£836	£418

## Scenario 2 – the impact of modest efficiency savings

15 This section of the annex sets out the assumptions that have been made to understand the impact of the new fee structures assuming that firms make small efficiency savings. Analysis has explored the impact of a firm being able to make efficiency savings of 5% in each of two different areas (but not both at the same time):

- a 5% reduction in the average amount of time spent per case; and
- a 5% reduction in overhead costs and support staff salaries.

16 A 5% reduction in the average amount of time spent per case leads to the average hours per case shown in the table below.

<b>Table 5.1.9 – Average case length assuming 5% efficiency savings</b>	
	<b>Average case length (hours)</b>
Police station (fixed fee case)	5
Police station (escape case)	22
Magistrates' court (lower standard fee cases cat 1)	5
Magistrates' court (lower standard fee cases cat 2)	9
Magistrates' court (higher standard fee cases cat 1)	9
Magistrates' court (higher standard fee cases cat 2)	15
Magistrates' court (non-standard fee cases)	24
Crown Court (Class A) – trial	70
Crown Court (Class B) – trial	40
Crown Court (Class C) – trial	30
Crown Court (Class D) – trial	40
Crown Court (Class E) – trial	20
Crown Court (Class F) – trial	30
Crown Court (Class G) – trial	70
Crown Court (Class H) – trial	30
Crown Court (Class I) – trial	40

<b>Table 5.1.9 – Average case length (continued)</b>	
	<b>Average case length (hours)</b>
Crown Court (Class A) – crack	29
Crown Court (Class B) – crack	17
Crown Court (Class C) – crack	12
Crown Court (Class D) – crack	17
Crown Court (Class E) – crack	8
Crown Court (Class F) – crack	12
Crown Court (Class G) – crack	29
Crown Court (Class H) – crack	12
Crown Court (Class I) – crack	17
Crown Court (Class A) – guilty plea	23
Crown Court (Class B) – guilty plea	13
Crown Court (Class C) – guilty plea	10
Crown Court (Class D) – guilty plea	13
Crown Court (Class E) – guilty plea	7
Crown Court (Class F) – guilty plea	10
Crown Court (Class G) – guilty plea	23
Crown Court (Class H) – guilty plea	10
Crown Court (Class I) – guilty plea	13

17 In the alternative scenario for understanding the effect of modest efficiency savings, a 5% reduction in overhead costs and support staff salaries would mean support staff salaries of £18,810 (£20,900 in London) and overhead costs of £20,900 per fee earner.

## Annex 6.1: Timetables for phased implementation

### Criminal legal aid procurement

1. The timetable below may be subject to further revision by all stakeholders in the consultation process following publication of this report.

<b>July 2006</b>	<ul style="list-style-type: none"> <li>• DCA and the Legal Services Commission issue initial consultation document</li> <li>• The Legal Services Commission begins national roll-out of peer review assessment for all firms seeking a place in the new market</li> </ul>
<b>September 2006</b>	<ul style="list-style-type: none"> <li>• The Law Society start to establish a process and timetable for the transfer of quality assurance from the Legal Services Commission</li> <li>• The Legal Services Commission, DCA and Law Society devise conditions which will enable responsibility for quality assurance to be passed from the Legal Services Commission</li> </ul>
<b>October 2006</b>	<ul style="list-style-type: none"> <li>• DCA and the Legal Services Commission consultation ends</li> </ul>
<b>November 2006</b>	<ul style="list-style-type: none"> <li>• Announcement of future policy and procedures</li> </ul>
<b>October to December 2006</b>	<ul style="list-style-type: none"> <li>• Final fixed fee scheme for police station published</li> <li>• Information technology and system changes commence</li> <li>• The Legal Services Commission starts process to monitor, assess and promote diversity within its suppliers</li> <li>• The Legal Services Commission and DCA establish a wide diversity advisory group which will report to the Lord Chancellor and Legal Services Commission commissioners on the state of diversity within suppliers</li> </ul>
<b>January to March 2007</b>	<ul style="list-style-type: none"> <li>• The Legal Services Commission commence development of very high cost case team protocol and establish referral panel</li> <li>• The Complex Crime Unit completes reshaping and employs in-house lawyers</li> <li>• The Legal Services Commission and DCA begin working with professions to help sustain a diverse supplier base throughout transitional period and beyond. Measures include establishing compulsory monitoring of ethnic data.</li> <li>• The Legal Services Commission consults on a new working arrangements and boundary areas for General Criminal Contracts</li> </ul>

<p><b>April 2007</b></p>	<ul style="list-style-type: none"> <li>• New police station fee introduced</li> <li>• Revised standard fees for magistrates' courts introduced</li> <li>• Revised scheme for Crown Court advocacy introduced</li> <li>• New fees for Crown Court litigators introduced</li> <li>• Proposals for a system of quality monitoring for advocates made ready for consideration</li> <li>• Establishment of a grant programme to provide financial support to firms (This also applies to civil and family)</li> <li>• Establishment of an information technology modernisation challenge fund to provide support to firms to invest in information technology improvements to their businesses</li> <li>• The Legal Services Commission publish expression of interest for very high cost case best value competition</li> <li>• New very high cost case notification criteria for 25-40 day cases introduced</li> </ul>
<p><b>July to September 2007</b></p>	<ul style="list-style-type: none"> <li>• The Legal Services Commission collects data to develop an alternative basis for pricing by magistrates' court cases that escape</li> </ul>
<p><b>October 2007</b></p>	<ul style="list-style-type: none"> <li>• The Legal Services Commission establishes quality assessed and best value tendered panel for very high cost criminal cases</li> <li>• New working arrangements for General Criminal Contracts</li> <li>• Roll-out of new areas and working arrangements for revised General Criminal Contracts</li> </ul>
<p><b>January to March 2008</b></p>	<ul style="list-style-type: none"> <li>• Legal Services Commission begins process of designing and developing framework for (non-very high cost cases) best value tendering</li> </ul>
<p><b>April 2008</b></p>	<ul style="list-style-type: none"> <li>• A new graduated fee for magistrates' court work introduced</li> </ul>
<p><b>March 2009</b></p>	<ul style="list-style-type: none"> <li>• Grant programme through growth and consolidation fund and information technology Modernisation Challenge fund ends (Applies to civil and family as well)</li> </ul>
<p><b>April 2009</b></p>	<ul style="list-style-type: none"> <li>• Introduction of best value tendering for criminal legal aid: suppliers compete for contracts</li> <li>• The Law Society completes transfer of quality assurance for solicitors from Legal Services Commission</li> </ul>

## Civil and family legal aid procurement

2. The timetable below may be subject to further revision by all stakeholders in the consultation process following publication of this report.

<b>July 2006</b>	<ul style="list-style-type: none"> <li>• DCA and the Legal Services Commission issue consultation document</li> </ul>
<b>September 2006</b>	<ul style="list-style-type: none"> <li>• The Legal Services Commission begins national roll-out of peer review assessment for all firms seeking a place in the new market</li> <li>• The Law Society starts to establish a process and timetable for the transfer of quality assurance form the Legal Services Commission</li> </ul>
<b>October 2006</b>	<ul style="list-style-type: none"> <li>• DCA and the Legal Services Commission consultation closes</li> <li>• Announcement of future policy and procedures</li> </ul>
<b>October to December 2006</b>	<ul style="list-style-type: none"> <li>• The Legal Services Commission start process to set up a dedicated unit to monitor, assess and promote diversity within its suppliers</li> <li>• The Legal Services Commission and DCA establish a wide diversity advisory group which will report to the Lord Chancellor and Legal Services Commission commissioners on the state of diversity within suppliers</li> </ul>
<b>December 2006</b>	<ul style="list-style-type: none"> <li>• DCA consults with the Law Society and the Bar Council regarding regulatory changes connected with fees</li> </ul>
<b>April 2007</b>	<ul style="list-style-type: none"> <li>• First community legal advice centres and networks established</li> <li>• Legal Services Commission introduces fixed and graduated fees for range of civil, family and immigration work (further extensions in family work to follow)</li> <li>• Proposals for a system of quality monitoring for advocates made ready for consideration</li> <li>• Establishment of an information technology modernisation challenge fund to provide support to firms to invest in information technology improvements to their businesses</li> </ul>
<b>July 2008</b>	<ul style="list-style-type: none"> <li>• DCA and the Legal Services Commission to report on scope for further changes to civil remuneration</li> </ul>
<b>January to March 2009</b>	<ul style="list-style-type: none"> <li>• Grant programme through information technology modernisation challenge fund ends</li> </ul>
<b>April 2009</b>	<ul style="list-style-type: none"> <li>• The Law Society completes transfer of quality assurance for solicitors from the Legal Services Commission</li> <li>• Begin move to best value tendering for new civil and family contracts (first wave of centres and contracts in 2006-07 subject to best value tendering)</li> </ul>

<b>2010-11</b>	<ul style="list-style-type: none"><li>• Completion of move to community legal advice centres and networks</li><li>• Complete move to best value tendering for new civil and family contracts</li></ul>
<b>January 2011</b>	<ul style="list-style-type: none"><li>• A steady state achieved: larger, more efficient, good quality supplier prosper with larger volumes of work; smaller firms have maximised efficiency and provide a good quality service; and smaller mixed practices operate in areas of limited demand but where access is an issue</li></ul>

## Annex 6.2: Detailed expenditure profiles for each of the main areas of legal aid addressed by the review

### Police station and magistrates' courts

<b>Table 6.2.1 – Police station and magistrates court forecast spend to 2010 on 2005-06 volumes</b>						
<b>£m (RAB)</b>	<b>Cash growth* 1997-98 to 2004-05</b>	<b>Outturn 2005-06</b>	<b>Forecast outturn 2006-07</b>	<b>1st year of transition 2007-08</b>	<b>2nd year of transition 2008-09</b>	<b>3rd year of transition 2009-10</b>
Police station (new fixed fee scheme introduced April 07)	32%	183	184 (0%)	184 (-6%)	173 (0%)	173 (0%)
Magistrates' courts (revision to standard fee scheme in April 07 and new graduated fee scheme introduced April 2008)	32%	340	348 (+2%)	335 (-4%)	330 (-1%)	330 (0%)
Total	32%	523	531 (+2%)	508 (-4%)	503 (-1%)	503 (0%)

\*Note: It has not been possible to disaggregate cash growth for police station and magistrates' courts expenditure.

1 Police station fixed fees should be introduced in April 2007 across the country as a first step in the transition process. New boundary areas and working arrangements should be rolled out from October 2007. The new arrangements will demand efficiencies from suppliers by the fixed fee procurement scheme that rewards efficient practitioners.

2 Suppliers will be helped to achieve these efficiencies through restructuring to allow more effective allocation of greater volumes of work and substantial reductions in travel costs. Restructuring is also integral to a supplier's ability to deliver

efficiencies in other schemes – for the most efficient to a scale that allows them to increase their profitability (see Chapter 5).

3 The magistrates' courts revised standard fee scheme should be introduced in April 2007 with scope for a new graduated fee scheme in April 2008. Reductions in expenditure are generated from more efficient practices and allocation of work reducing travel costs substantially and to a lesser extent waiting costs as these are often beyond the direct influence of defence practitioners.

## Crown Court litigation

<b>Table 6.2.2 – Crown Court litigators forecast spend to 2010 on 2005-06 volumes</b>						
<b>£m (RAB)</b>	<b>Cash growth 1997-98 to 2004-05</b>	<b>Outturn 2005-06</b>	<b>Forecast outturn 2006-07</b>	<b>1st year of transition 2007-08</b>	<b>2nd year of transition 2008-09</b>	<b>3rd year of transition 2009-10</b>
Standard fee and ex post facto schemes (terminated April 2007 leaving some legacy)	120%	218	227	109	55	11
New graduated fee scheme (takes effect April 2007)	n/a	n/a	n/a	95	143	179
Very high cost case scheme (introduced in 2000 and to be modified from October 2007)	n/a	55	56	55	55	55
<b>Total</b>	120%	273	283 (+4%)	259 (-8%)	252 (-3%)	245 (-3%)

4 The new graduated fee scheme replaces the old ex post facto scheme, which has grown significantly above inflation in recent years. Ex post facto payments for old cases started before April 2007 continue to come through the system in early years, so that efficiency demands are distributed across the transition period until the ex post facto legacy has run out of the system, other than some minor exceptions in 2009–10.

5 The new very high cost case arrangements envisage the early introduction of price competition and the better management of very high cost case contracts. The forecast spend in this area may be larger than shown as a total budget has been

suggested of £60 million for these cases. However, if this budget were reached (for instance, £5 million above this forecast) then it would be a result of cases being taken out of the graduated fee scheme and there would therefore be at least an equivalent reduction in spend under that scheme.

6 Disbursements are not included here. In 2005-06 they cost £48 million and covered non-legal costs incurred during the litigation of a Crown Court case (e.g. experts and translation costs). The review has not addressed this area of cost but there may be significant efficiencies to be found in procurement and delivery of these services.

## Crown Court advocacy

**Table 6.2.3** – Crown Court advocacy forecast spend to 2010 on 2005-06 volumes

£m (RAB)	Cash growth 1997-98 to 2004-05	Outturn 2005-06	Forecast outturn 2006-07	1st year of transition 2007-08	2nd year of transition 2008-09	3rd year of transition 2009-10
Ex post facto schemes (terminated in stages between 1997-98 and October 2005)	78%	162	105	87	49	11
Graduated fee scheme (introduced in stages since 1997-98 and modified scheme takes effect from April 2007)	n/a	155	175	197	217	238
Very high cost case scheme (introduced in 2000 and to be modified from October 2007)	n/a	45	46	43	42	41
Total	78%	362	326 (-10%)	327 (0%)	308 (-6%)	290 (-6%)

7 The revised graduated fee scheme has payments front loaded to promote early resolution and better preparation of cases. The rapid reduction in ex post facto payments in early years is the result of an extension of the graduated fee scheme in October 2005, in addition to the reduction of the ongoing legacy of ex post facto payments remaining in the system. The legacy eventually runs out of the system other than some minor exceptions in 2009-10.

8 The new very high cost case arrangements envisage the early introduction of price competition and the better management of very high cost case contracts. The forecast spend in this area may be larger than shown as a total budget has been suggested of £60 million for these cases. However, if this budget were reached (i.e. £17-19 million above this forecast) then it would be a result of cases being taken out of the graduated fee scheme and there would therefore be at least an equivalent reduction in spend under that scheme.

## Legal help and representation in civil and private family cases

**Table 6.2.4** – Legal help and private family law forecast spend to 2010 on 2005-06 volumes

£m (RAB)	Outturn 2005-06	Forecast outturn 2006-07	1st year of transition 2007-08	2nd year of transition 2008-09	3rd year of transition 2009-10
Legal help scheme for non-family work (introduction of fixed fees in April 2007)	120	124	120	120	120
Legal help scheme for family work (introduction of fixed fees in April 2007)	70	71	70	70	70
Private family law (new graduated fee scheme for solicitors from April 2008)	257	254	270	257	257
Total	447	448 (0%)	460 (+3%)	447 (-3%)	447 (0%)

9 New legal help schemes for family and non-family work should be introduced in April 2007. The new schemes replace the existing tailored fixed fee regime. With the introduction of these schemes, prices should remain constant over the period of implementation.

10 A new graduated fee scheme for private family law should be introduced in April 2007. However, the graduated fee scheme will not extend to the final hearing stage until Autumn 2007, which means that expenditure is likely to increase between 2006-07 and 2007-08 (due to some price growth), before returning to 2005-06 levels when the scheme has been fully implemented.

### Legal help and representation in public law children cases

<b>Table 6.2.5 – Public law children forecast to 2010 on 2005-06 volumes</b>					
<b>£m (RAB)</b>	<b>Outturn 2005-06</b>	<b>Forecast outturn 2006-07</b>	<b>1st year of transition 2007-08</b>	<b>2nd year of transition 2008-09</b>	<b>3rd year of transition 2009-10</b>
Public law children (new graduated fee scheme for solicitors from April 2008)	272	290 (+7%)	303 (+4%)	318 (+5%)	335 (+5%)

11 The new graduated fee scheme should be implemented from April 2007. This scheme will cover approximately 56% of expenditure on public law family, and by the time the scheme has fully worked through in 2009-10 should have substantially

reduced price inflation in this area of expenditure. However, because a number of areas (and in particular disbursements) remain outside the scheme, considerable growth in overall expenditure is still forecast for the period.

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