

## SCHEDULE 1

Rules 6(1) and 8(1)

### Standard Fee Cases

## PART 1

### Scope and Definitions

#### Application

1.—(1) Subject to sub-paragraph (2), this Schedule applies to every case dealt with in the magistrates' court or county court, including cases dealt with by way of a youth conference and proceedings arising out of an alleged breach of an order of the court (whether or not this Schedule applies to the proceedings in which the order was made).

(2) Subject to paragraphs 21 and 22, this Schedule does not apply to a Very High Cost Case.

#### Categories of Offence

2. For the purposes of this Schedule—

- (a) the terms “summary offence”, “hybrid offence”, “I/TS offence” and “indictable only offence” have the respective meanings given in the list of offences established and maintained by the Public Prosecution Service for Northern Ireland and published by the Commission in August 2009, as amended<sup>(1)</sup>;
- (b) aiding, abetting, counselling or procuring the commission by another person of an offence falls within the same category as the substantive offence to which they relate; and
- (c) attempts, conspiracy or incitement to commit an offence fall within the same category as the substantive offence to which they relate.

#### Interpretation

3.—(1) A case in the magistrates' court is a guilty plea if it was disposed of without a contest because the assisted person pleaded guilty to one or more charges.

(2) Subject to sub-paragraph (3), a Guilty Plea 1 Fee shall be payable in a case where the assisted person pleaded guilty to one or more charges and the case did not proceed as a contest.

(3) A Guilty Plea 2 Fee shall be payable in a case which was listed for, but did not proceed as, a contest because the assisted person pleaded guilty to one or more charges.

(4) A Contest Fee shall only be payable for a case in the magistrates' court where the assisted person pleaded not guilty to one or more charges and the hearing of the case proceeded as a contest.

(5) For the purposes of sub-paragraph (4), a case shall only be considered as having proceeded as a contest:

- (a) where the first prosecution witness had begun to give evidence; or
- (b) where the case was contested either —
  - (i) on the papers only,
  - (ii) on legal arguments, with no witnesses being called, or
  - (iii) with the prosecution evidence being accepted but a defence was put forward.

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(1) Available from [www.niisc.org.uk](http://www.niisc.org.uk)

(6) Subject to paragraphs 12, 15 and 17, a Committal Fee shall be payable in a case where a preliminary inquiry or investigation was held in the magistrates' court.

## PART 2

### Standard Fees

#### **Magistrates' court – adult**

4. Subject to paragraph 5, the standard fee for a representative representing one assisted person in the magistrates' court shall be the amount set out in the Table following paragraph 9 as appropriate to the representative, the offence with which the assisted person was charged and the nature of the disposal of the case.

#### **Magistrates' court – child**

5.—(1) This paragraph applies where the assisted person was a child charged with an indictable only offence, whose case was dealt with in the magistrates' court as provided for under Article 17 of the 1998 Order.

(2) The standard fee for a representative representing that assisted person in the magistrates' court shall be the amount set out in the Table following paragraph 9 as appropriate to the representative and the nature of the disposal of the case.

#### **Bail applications**

6.—(1) This paragraph applies—

- (a) where the assisted person was making an application for bail in the magistrates' court on a first occasion or, where there has been a change in circumstances, a further substantive application for bail while the defendant is in custody;
- (b) where there was an application in the magistrates' court arising from a breach of bail which had previously been granted to the assisted person;
- (c) where there was an application by the assisted person for bail, or to vary the conditions of bail, under Article 132A of the Magistrates' Courts (Northern Ireland) Order 1981(2); or
- (d) where there was an application by the prosecution for reconsideration of the decision to grant bail under Article 133A of the Magistrates' Courts (Northern Ireland) Order 1981.

(2) The standard fee for a representative representing the assisted person shall be the amount set out in the Table following paragraph 9 as appropriate to the representative.

(3) Any fee payable to a representative under this paragraph shall be paid together with the fee payable under paragraph 4 or 5, as applicable.

#### **County court appeals**

7.—(1) Subject to sub-paragraph (2), the standard fee for a representative representing one assisted person in a county court appeal shall be the amount set out in the Table following paragraph 9 as appropriate to the representative and the nature of the disposal of the appeal.

(2) Where an appeal was withdrawn, the standard fee payable shall be the amount set out in the Table following paragraph 9.

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(2) [S.I. 1981/1675 \(N.I. 26\)](#)

**Additional fees**

8.—(1) This paragraph applies to a case which was heard in the magistrates’ court by way of a contest or committal proceedings, or in the county court by way of an appeal against conviction and sentence.

(2) Subject to sub-paragraph (3), where the duration of the contest, the committal proceedings or the appeal exceeded one day, the additional fee set out in the Table following paragraph 9 shall be payable for the second and each subsequent day.

(3) An additional fee shall not be payable under sub-paragraph (2) in respect of any day when the case was listed for hearing (or further hearing) but it did not proceed on that day, or any resumed hearing where the case was adjourned for sentence following conviction.

**Youth conference cases**

9.—(1) This paragraph applies where the assisted person was a child who was the subject of:

- (a) a diversionary youth conference and in respect of whom a criminal aid certificate was granted under Article 28A of the 1981 Order; or
- (b) a court-ordered youth conference and in respect of whom a criminal aid certificate was granted under Article 28 or 30 of the 1981 Order.

(2) Subject to sub-paragraphs (3) to (5), the standard fee for a representative representing that assisted person shall be the amount set out in the Table following this paragraph as appropriate to the representative and the nature and duration of the youth conference.

(3) The Commission shall allow the standard fee claimed by the representative unless—

- (a) where the principal standard fee has been claimed, the conference lasted no more than one hour in which case the lower standard fee shall be allowed, or
- (b) where a fee in excess of the principal standard fee has been claimed, in which case (if the conference lasted in excess of two hours) an additional fee shall be allowed of £44.75 per hour to a solicitor and £29.25 per hour to counsel.

(4) Fees shall be paid in respect of the period of time beginning 15 minutes before the case was listed on the first occasion and ending—

- (a) where the client was present at the youth conference, 15 minutes after the conference finally ended, or
- (b) where the client failed to attend, when the meeting ended on that day,

and, save in exceptional circumstances, shall not be payable during any luncheon adjournment.

(5) Any fees payable to a representative under this paragraph in relation to attendance at a court-ordered youth conference shall be paid together with those fees which are payable under this Part in respect of the court proceedings for the offence in question.

**Table 1 – Standard Fees**

(1)	<i>Paragraph providing for fee</i>	<i>Solicitor’s Fee</i>	<i>Counsel’s Fee</i>
	(2)	(3)	(4)

**Cases heard in the magistrates’ court**

*Category of offence and nature of disposal of the case*

*Status: This is the original version (as it was originally made).*

(1)	<i>Paragraph providing for fee</i>	<i>Solicitor's Fee</i>	<i>Counsel's Fee</i>
	(2)	(3)	(4)
<b>Summary offence</b>			
— Guilty Plea 1 Fee	4	£260	N / A
— Guilty Plea 2 Fee		£350	N / A
— Contest Fee		£470	N / A
<b>Hybrid or I/TS offence</b>			
— Guilty Plea 1 Fee	4	£275	£275
— Guilty Plea 2 Fee		£440	£415
— Contest Fee		£590	£550
<b>Indictable only offence</b>			
— Guilty Plea 1 Fee	4	£300	£300
— Guilty Plea 2 Fee		£450	£450
— Contest Fee		£600	£600
<b>Hybrid, I/TS or indictable only offence</b>			
— Committal Fee	4	£820	£800
<b>Child charged with indictable only offence</b>			
— Guilty Plea 1 Fee	5	£820	£800
— Guilty Plea 2 Fee		£820	£800
— Contest Fee		£1,000	£1,000
Bail application Fee	6	£75	£120
Additional Fee	8	£200 per day	£200 per day
<b>Cases appealed to the county court</b>			
<i>Nature of disposal of the appeal</i>			
Appeal against Sentence Fee	7(1)	£265	£115
Appeal against Conviction Fee	7(1)	£355	£350
Withdrawn appeal	7(2)	£145	£50

(1)	<i>Paragraph providing for fee</i>	<i>Solicitor's Fee</i>	<i>Counsel's Fee</i>
	(2)	(3)	(4)
Additional Fee	8	£200 per day	£200 per day
<b>Diversiory youth conferences (Preparation and Attendance)</b>	9(1)(a)		
Lower standard fee			
— Conferences lasting up to and including one hour		£112	£84
Principal standard fee			
— Conferences lasting more than one hour but not exceeding two hours		£180	£135
<b>Court-ordered youth conferences (Attendance only)</b>	9(1)(b)		
Lower standard fee			
— Conferences lasting up to and including one hour		£70	£70
Principal standard fee			
— Conferences lasting more than one hour but not exceeding two hours		£112.50	£112.50

## PART 3

### Miscellaneous

#### General provisions

10. Except as provided under this Part, all work undertaken by a representative is included within the standard fee specified in Part 2 as appropriate to—

- (a) the category of representative;
- (b) the offence with which the assisted person was charged; and
- (c) the nature of the disposal of the case in the magistrates' court or the appeal, as applicable.

### **Additional charges and additional cases**

11.—(1) Where an assisted person was charged with more than one offence on the summons or charge sheet, the standard fee payable to the representative in the magistrates' court shall be based on whichever of those offences the representative shall select for the purposes.

(2) Where a representative represented more than one assisted person in the same case, only one standard fee shall be payable; and the relevant fee provided for under Part 2 in the magistrates' court or county court, as applicable, shall be enhanced by twenty per cent for each additional assisted person after the first such person.

### **Arrest warrants**

12.—(1) This paragraph applies where the hearing of a case did not proceed because of the failure of the assisted person to attend and an arrest warrant was issued.

(2) Subject to sub-paragraph (4), the fee payable to a representative in the magistrates' court shall be fifty per cent of the standard Guilty Plea 1 Fee or the Committal Fee, as applicable, provided for in Part 2 as appropriate to the representative and the offence with which the assisted person was charged.

(3) Subject to sub-paragraph (4), the fee payable to a representative in the county court shall be fifty per cent of the standard fee provided for in Part 2 as appropriate to the representative and the nature of the disposal of the appeal.

(4) Where the assisted person failed to attend the hearing of the case or the appeal on more than one occasion, a fixed fee of £50 shall be payable in respect of the second and each subsequent occasion on which an arrest warrant was issued.

(5) Subject to sub-paragraphs (6) and (7), when the arrest warrant is executed, the fee payable to a representative on final disposal of the case shall be fifty per cent of the standard fee provided for in Part 2 as appropriate to the representative, the offence with which the assisted person was charged (if applicable) and the nature of the disposal of the case or the appeal.

(6) Where a significant period of time had elapsed since the issuing of the arrest warrant, the Commission may, in its discretion, allow up to one hundred per cent of the relevant standard fee.

(7) In a case to which sub-paragraph (4) applies, on the final disposal of the case the Commission may, in its discretion, allow the representative a fixed fee of £50 or fifty per cent of the relevant standard fee provided for in Part 2.

### **Breach of court order**

13.—(1) This paragraph applies where a criminal aid certificate was granted for proceedings arising out of an alleged breach of an order of the court.

(2) Subject to sub-paragraphs (3) and (4), the fee payable to a representative shall be fifty per cent of the standard fee provided for in Part 2 as appropriate to the representative, the offence with which the assisted person was charged and the nature of the disposal of the case.

(3) A Contest Fee shall be payable where the assisted person did not admit the breach and the hearing of the case proceeded as a contest.

(4) The fixed fee of £140 shall be payable to a representative where the certificate was granted for proceedings arising out of an alleged breach of an order of the Crown Court.

### **Applications**

14.—(1) Subject to sub-paragraph (2), the fixed fee of £75 shall be payable to a representative in respect of:

- (a) the hearing of a bad character application under Article 5 or 6 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004<sup>(3)</sup>;
- (b) the hearing of a hearsay application under Article 18 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004;
- (c) the hearing of a disclosure application under section 8 of the Criminal Procedure and Investigations Act 1996<sup>(4)</sup>;
- (d) the hearing of a special measures application under Article 11, 12 or 15 of the Criminal Evidence (Northern Ireland) Order 1999<sup>(5)</sup>; or
- (e) the hearing of an application to stay the proceedings on the ground that they constitute an abuse of the process of the court.

(2) Where an application made under sub-paragraph (1)(e) was successful and the case did not proceed, a Contest Fee shall be payable in accordance with paragraph 4 or 5, as applicable.

### **Dismissal or withdrawal of representative**

15.—(1) This paragraph applies where a representative was dismissed by the assisted person, or the Commission is satisfied that the representative was obliged to withdraw from the case for compelling professional reasons.

(2) For a case in the magistrates' court, the Commission may, in its discretion, allow the following fees to the representative—

- (a) if the representative was dismissed or withdrew before the case was listed for disposal in the magistrates' court (whether as a guilty plea, contest or committal hearing), fifty per cent of the standard Guilty Plea 1 Fee or the Committal Fee, as applicable, provided for in Part 2 as appropriate to the representative and the offence with which the assisted person was charged;
- (b) if the representative was dismissed or withdrew on the day the case was listed for hearing as a contest or committal, seventy-five per cent of the standard Contest Fee or the Committal Fee, as applicable, provided for in Part 2 as appropriate to the representative and the offence with which the assisted person was charged.

(3) For a case in the county court, the Commission may, in its discretion, allow the following fees to the representative—

- (a) if the representative was dismissed or withdrew before the case was listed for hearing, fifty per cent of the standard fee provided for in Part 2 as appropriate to the representative and the nature of the disposal of the appeal;
- (b) if the representative was dismissed or withdrew on the day the appeal was listed for hearing, seventy-five per cent of the standard fee provided for in Part 2 as appropriate to the representative and the nature of the disposal of the appeal.

(4) In exceptional circumstances, the Commission may also, in its discretion, allow an additional fee of £100 if it is satisfied that the circumstances of the case merit additional remuneration.

### **Limited certificates**

16.—(1) This paragraph applies where a limited criminal aid certificate was granted under Article 28(2A) of the 1981 Order.

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(3) [S.I. 2004/1501 \(N.I. 10\)](#)

(4) [1996 c. 25](#)

(5) [S.I. 1999/2789 \(N.I. 8\)](#)

*Status: This is the original version (as it was originally made).*

(2) Subject to sub-paragraph (3), the standard fee payable to a representative shall be the amount set out in the Table following this paragraph as appropriate to the limitation imposed on the certificate.

(3) Where the limited certificate lasted for more than six months, the fee payable to the representative shall be the standard fee provided for in Part 2 as appropriate to the representative, the offence with which the person was charged and the nature of the disposal of the case.

(4) Where more than one limited certificate was granted to the assisted person in connection with the same case, the certificates (whether granted consecutively or simultaneously) shall be treated as extensions of the one certificate and only one fee shall be payable in accordance with this paragraph.

(5) Where a limited certificate was granted in a case and a full certificate was subsequently granted in that case under Article 28 of the 1981 Order, the fee payable to the representative shall be the standard fee provided for in Part 2, and no additional fee shall be allowed under this paragraph.

**Table 2 – Limited criminal aid certificates**

<i>Limitation on certificate</i>	<i>Paragraph providing for fee</i>	<i>Fee</i>
Certificate lasting not more than 4 weeks	16(2)	£50
Certificate lasting more than 4 weeks but not more than 6 months	16(2)	£100
Certificate for bail application in the magistrates' court	16(2)	£120

#### **Withdrawn or discontinued cases**

17. Any case in which —

- (a) the prosecution withdrew all charges; or
- (b) the prosecution offered no evidence (or no further evidence) and which was discontinued,

shall be treated as a contested case.

#### **Deferred sentence fee**

18. The fixed fee of £75 shall be payable to a representative for attending at a sentencing hearing where sentence was deferred under Article 3 of the Criminal Justice (Northern Ireland) Order 1996(6).

#### **Late sitting fee**

19. The fixed fee of £80 shall be payable to a representative in respect of any day forming part of the main hearing of the case when the court sat more than 45 minutes beyond 4.30 pm.

#### **Senior counsel**

20. Where senior counsel is assigned to an assisted person under a criminal aid certificate granted under Article 28 or 30 of the 1981 Order, the standard fee for a senior counsel representing one assisted person shall be two times the appropriate figure in column (4) of the Table following paragraph 9.

(6) [S.I. 1996/3160 \(N.I. 24\)](#)



**Travelling allowance – solicitors**

21.—(1) Where a solicitor attended court other than the solicitor’s local court, the Commission—

- (a) shall allow travelling time on each such occasion at the rate of £24.75 per hour; and
- (b) may allow an amount to cover any travelling expenses actually and reasonably incurred and necessarily and exclusively attributable to the solicitor’s attendance at that court.

(2) For the purposes of sub-paragraph (1), a solicitor’s local court shall be determined by the Commission in accordance with a list which it shall establish and maintain recording the local court for each solicitors’ firm in Northern Ireland.

(3) Subject to the Commission being satisfied that the work involved was reasonably undertaken and properly done, a travelling allowance shall also be payable under sub-paragraph (1) in respect of attendance at any court on a Saturday, Sunday or public holiday, prison visits, other consultations and views.

**Travelling allowance – counsel**

22.—(1) Where counsel was instructed to appear in a court which is more than 20 miles from the Head Post Office, Belfast, the Commission—

- (a) shall allow travelling time at the rate of £12 per hour; and
- (b) may allow an amount to cover any travelling expenses actually and reasonably incurred and necessarily and exclusively attributable to the counsel’s attendance at that court.

(2) Subject to the Commission being satisfied that the work involved was reasonably undertaken and properly done, a travelling allowance shall also be payable under sub-paragraph (1) in respect of attendance at prison visits, other consultations and views.