

SCHEDULE 1

Advocates' Graduated Fee Scheme

PART 4

Fixed fees

General provisions

8. Except as provided under this Part, all work undertaken by an advocate is included within the basic fee (B) specified in the Table following paragraph 5 as appropriate to—

- (a) the offence for which the assisted person is tried;
- (b) the category of advocate; and
- (c) whether the case is a cracked trial, guilty plea or trial.

Fees for plea and case management hearings and standard appearances

9.—(1) The fee payable in respect of—

- (a) an appearance by the trial advocate or substitute advocate at the first plea and case management hearing or pre-trial review; and
- (b) up to four standard appearances by the trial advocate or substitute advocate,

is included within the basic fee (B) specified in paragraph 5 as appropriate to the offence for which the assisted person is tried and the category of trial advocate.

(2) The fee payable in respect of an appearance by the trial advocate or substitute advocate at a plea and case management hearing or standard appearance not included in sub-paragraph (1) is specified in the Table following paragraph 19 as appropriate to the category of trial advocate or substitute advocate.

(3) The fee payable for preparing and filing the plea and case management questionnaire where no oral hearing takes place is specified in the Table following paragraph 19 as appropriate to the category of trial advocate or substitute advocate.

(4) This paragraph does not apply to a standard appearance which is or forms part of the main hearing in a case or to a hearing for which a fee is payable elsewhere under this Schedule.

Fees for abuse of process, disclosure, admissibility and withdrawal of plea hearings

10.—(1) This paragraph applies to—

- (a) the hearing of an application to stay the case on indictment or any count on the ground that the proceedings constitute an abuse of the process of the court;
- (b) any hearing relating to the question of whether any material should be disclosed by the prosecution to the defence or the defence to the prosecution (whether or not any claim to public interest immunity is made);
- (c) the hearing of an application under section 2(1) of the Criminal Procedure (Attendance of Witnesses) Act 1965(1) (issue of witness summons on application to Crown Court) for disclosure of material held by third parties;
- (d) any hearing relating to the question of the admissibility as evidence of any material; and

(1) 1965 c.69.

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- (e) the hearing of an application to withdraw a plea of guilty where the application is—
 - (i) made by an advocate other than the advocate who appeared at the hearing at which the plea of guilty was entered; and
 - (ii) unsuccessful.

(2) Where a hearing to which this paragraph applies is held on any day of the main hearing of a case on indictment, no separate fee is payable in respect of attendance at the hearing, but the hearing is included in the length of the main hearing for the purpose of calculating the fees payable.

(3) Where a hearing to which this paragraph applies is held prior to the first or only day of the main hearing, it is not included in the length of the main hearing for the purpose of calculating the fees payable and the trial advocate or substitute advocate must be remunerated for attendance at such a hearing—

- (a) in respect of any day where the hearing begins before and ends after the luncheon adjournment, at the daily rate set out in the Table following paragraph 19 as appropriate to the category of trial advocate or substitute advocate; or
- (b) in respect of any day where the hearing begins and ends before the luncheon adjournment, or begins after the luncheon adjournment, at the half-daily rate set out in the Table following paragraph 19 as appropriate to the category of trial advocate or substitute advocate.

Fees for confiscation hearings

11.—(1) This paragraph applies to—

- (a) a hearing under Part 2 of the Proceeds of Crime Act 2002⁽²⁾ (confiscation: England and Wales);
- (b) a hearing under section 2 of the Drug Trafficking Act 1994;⁽³⁾ (confiscation orders) and
- (c) a hearing under section 71 of the Criminal Justice Act 1988⁽⁴⁾ (confiscation orders).

(2) A hearing to which this paragraph applies is not included in the length of the main hearing or of any sentencing hearing for the purpose of calculating the fees payable, and the trial advocate or substitute advocate must be remunerated for attendance at such a hearing—

- (a) in respect of any day where the hearing begins before and ends after the luncheon adjournment, at the daily rate set out in the Table following paragraph 19 as appropriate to the category of trial advocate or substitute advocate; or
- (b) in respect of any day where the hearing begins and ends before the luncheon adjournment, or begins after the luncheon adjournment, at the half-daily rate set out in the Table following paragraph 19 as appropriate to the category of trial advocate or substitute advocate.

Fees for sentencing hearings

12.—(1) This paragraph applies to—

- (a) a sentencing hearing following a case on indictment to which this Schedule applies, where sentence has been deferred under section 1 of the Powers of Criminal Courts (Sentencing) Act 2000⁽⁵⁾ (deferment of sentence); or

(2) 2002 c.29.

(3) 1994 c.37.

(4) 1988 c.33.

(5) 2000 c.6.

- (b) a sentencing hearing following a case on indictment to which this Schedule applies, other than a hearing within paragraph (a) or a sentencing hearing forming part of the main hearing.

(2) The fee payable to an advocate for appearing at a hearing to which this paragraph applies is that set out in the Table following paragraph 19 as appropriate to the category of trial advocate or substitute advocate and the circumstances of the hearing.

Fees for ineffective trials

13. The fee set out in the Table following paragraph 19 as appropriate to the category of trial advocate will be payable in respect of each day on which the case was listed for trial but did not proceed on the day for which it was listed, for whatever reason.

Fees for special preparation

14.—(1) This paragraph applies where, in any case on indictment in the Crown Court in respect of which a graduated fee is payable under Part 2 or Part 3—

- (a) it has been necessary for an advocate to do work by way of preparation substantially in excess of the amount normally done for cases of the same type because the case involves a very unusual or novel point of law or factual issue;
- (b) the number of pages of prosecution evidence, as defined in paragraph 1(2), exceeds 10,000 and the appropriate officer considers it reasonable to make a payment in excess of the graduated fee payable under this Schedule; or
- (c) any or all of the prosecution evidence, as defined in paragraph 1(2), is served in electronic form only, and the appropriate officer considers it reasonable to make a payment in excess of the graduated fee payable under this Schedule.

(2) Where this paragraph applies, a special preparation fee may be paid, in addition to the graduated fee payable under Part 2 or Part 3.

(3) The amount of the special preparation fee must be calculated—

- (a) where sub-paragraph (1)(a) applies, from the number of hours preparation in excess of the amount the appropriate officer considers reasonable for cases of the same type;
- (b) where sub-paragraph (1)(b) applies, from the number of hours which the appropriate officer considers reasonable to read the excess pages; and
- (c) where sub-paragraph (1)(c) applies, from the number of hours which the appropriate officer considers reasonable to view the prosecution evidence,

and in each case using the rates of hourly fees set out in the table following paragraph 19 as appropriate to the category of trial advocate.

(4) Any claim for a special preparation fee under this paragraph must be made by an instructed advocate, whether or not he did the work claimed for.

(5) An instructed advocate claiming a special preparation fee must supply such information and documents as may be required by the appropriate officer in support of the claim.

(6) In determining a claim under this paragraph, the appropriate officer must take into account all the relevant circumstances of the case, including, where special preparation work has been undertaken by more than one advocate, the benefit of such work to the trial advocate.

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Fees for wasted preparation

15.—(1) A wasted preparation fee may be claimed where a trial advocate in any case to which this paragraph applies is prevented from representing the assisted person in the main hearing by any of the following circumstances—

- (a) the trial advocate is instructed to appear in other proceedings at the same time as the main hearing in the case and has been unable to secure a change of date for either the main hearing or the other proceedings;
- (b) the date fixed for the main hearing is changed by the court despite the trial advocate's objection;
- (c) the trial advocate has withdrawn from the case with the leave of the court because of his professional code of conduct or to avoid embarrassment in the exercise of his profession;
- (d) the trial advocate has been dismissed by the assisted person or the litigator; or
- (e) the trial advocate is obliged to attend at any place by reason of a judicial office held by him or other public duty.

(2) This paragraph applies to every case on indictment to which this Schedule applies provided that—

- (a) the case goes to trial, and the trial lasts for five days or more; or
- (b) the case is a cracked trial, and the number of pages of prosecution evidence exceeds 150.

(3) The amount of the wasted preparation fee must be calculated from the number of hours of preparation reasonably carried out by the trial advocate, using the rates for hourly fees set out in the Table following paragraph 19 as appropriate to the category of trial advocate, but no such fee is payable unless the number of hours of preparation is eight or more.

(4) Any claim for a wasted preparation fee under this paragraph must be made by an instructed advocate, whether or not he did the work claimed for.

(5) An instructed advocate claiming a wasted preparation fee must supply such information and documents as may be required by the appropriate officer as proof of the circumstances in which he was prevented from representing the assisted person and of the number of hours of preparation.

Fees for conferences and views

16.—(1) This paragraph applies to the following types of work—

- (a) attendance by the trial advocate at pre-trial conferences with prospective or actual expert witnesses not held at court;
- (b) attendance by the trial advocate at views at the scene of the alleged offence;
- (c) attendance by the trial advocate at pre-trial conferences with the assisted person not held at court;
- (d) reasonable travelling time by the trial advocate for the purpose of attending a view at the scene of the alleged offence; or
- (e) reasonable travelling time by the trial advocate for the purpose of attending a pre-trial conference with the assisted person or prospective or actual expert witness, where the appropriate officer is satisfied that the assisted person or prospective or actual expert witness was unable or could not reasonably have been expected to attend a conference at the trial advocate's chambers or office.

(2) The fees payable in respect of attendance at the first three pre-trial conferences or views, as set out in sub-paragraph (1)(a) to (c), are included in the basic fee (B) specified in the Table following paragraph 5 or paragraph 7, as appropriate to the offence for which the assisted person is tried, the

category of trial advocate and whether the case is a guilty plea, cracked trial or trial, provided that the trial advocate satisfies the appropriate officer that the work was reasonably necessary.

(3) The fee specified in the Table following paragraph 19 as appropriate to the category of trial advocate will be payable in the following circumstances, provided that the trial advocate satisfies the appropriate officer that the work was reasonably necessary—

- (a) for trials lasting not less than 21 and not more than 25 days, and cracked trials where it was accepted by the court at the plea and case management hearing that the trial would last not less than 21 days and not more than 25 days, one further pre-trial conference or view not exceeding two hours;
- (b) for trials lasting not less than 26 and not more than 35 days, and cracked trials where it was accepted by the court at the plea and case management hearing that the trial would last not less than 26 days and not more than 35 days, two further pre-trial conferences or views each not exceeding two hours; and
- (c) for trials lasting not less than 36 days, and cracked trials where it was accepted by the court at the plea and case management hearing that the trial would last not less than 36 days and not more than 40 days, three further pre-trial conferences or views each not exceeding two hours.

(4) Travel expenses must be paid for all conferences and views set out in sub-paragraph (1)(a) to (c), provided that the trial advocate satisfies the appropriate officer that they were reasonably incurred.

(5) Travelling time must be paid for all conferences and views set out in sub-paragraph (1)(a) to (c), provided that the trial advocate satisfies the appropriate officer that it was reasonable.

Fees for appeals, committals for sentence and breach hearings

17.—(1) Subject to sub-paragraphs (4) and (5) and paragraph 21 the fee payable to a trial advocate in any of the hearings referred to in paragraph 2(1)(b) is the fixed fee specified in the Table following paragraph 19.

(2) Where a hearing referred to in paragraph 2(1)(b) is listed but cannot proceed because of the failure of the assisted person or a witness to attend, the unavailability of a pre-sentence report, or other good reason, the fee payable to the advocate is the fixed fee specified in the Table following paragraph 19.

(3) Where—

- (a) a bail application;
- (b) a mention hearing; or
- (c) any other application

takes place in the course of a hearing referred to in paragraph 2(1)(b), the fee payable to the advocate is the fixed fee specified in the Table following paragraph 19.

(4) Where it appears to the appropriate officer that the fixed fee allowed under sub-paragraph (1) would be inappropriate taking into account all of the relevant circumstances of the case he may instead allow fees in such amounts as appear to him to be reasonable remuneration for the relevant work in accordance with sub-paragraph (5).

(5) The appropriate officer may allow any of the following classes of fees to an advocate in respect of work allowed by him under this paragraph—

- (a) a fee for preparation including, where appropriate, the first day of the hearing including, where they took place on that day—
 - (i) short conferences;

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- (ii) consultations;
 - (iii) applications and appearances (including bail applications);
 - (iv) views at the scene of the alleged offence; and
 - (v) any other preparation;
- (b) a refresher fee for any day or part of a day for which a hearing continued, including, where they took place on that day—
- (i) short conferences;
 - (ii) consultations;
 - (iii) applications and appearances (including bail applications);
 - (iv) views at the scene of the alleged offence; and
 - (v) any other preparation; and
- (c) subsidiary fees for—
- (i) attendance at conferences, consultations and views at the scene of the alleged offence not covered by paragraph (a) or (b);
 - (ii) written advice on evidence, plea, appeal, case stated or other written work; and
 - (iii) attendance at applications and appearances (including bail applications and adjournments for sentence) not covered by paragraph (a) or (b).

Discontinuance or dismissal of sent or transferred proceedings

18.—(1) This paragraph applies to proceedings which are—

- (a) sent for trial to the Crown Court under section 51 of the Crime and Disorder Act 1998 (no committal proceedings for indictable-only offences); or
- (b) transferred to the Crown Court under—
 - (i) section 4 of the Criminal Justice Act 1987 (transfer of serious fraud cases); or
 - (ii) section 53 of the Criminal Justice Act 1991 (transfer of certain cases involving children).

(2) Where proceedings referred to in sub-paragraph (1) are discontinued by a notice served under section 23A of the Prosecution of Offences Act 1985 (discontinuance of proceedings after accused has been sent for trial) at any time before the prosecution serves its evidence in accordance with the Crime and Disorder Act 1998 (Service of Prosecution Evidence) Regulations 2005⁽⁶⁾ the advocate must be paid 50 percent of the Basic fee (B) for a guilty plea, as specified in the Table following paragraph 7 as appropriate to the offence for which the assisted person is charged and the category of advocate.

(3) Where proceedings referred to in sub-paragraph (1) are discontinued by a notice served under section 23A of the Prosecution of Offences Act 1985 (discontinuance of proceedings after accused has been sent for trial) at any time after the prosecution serves its evidence in accordance with the Crime and Disorder Act 1998 (Service of Prosecution Evidence) Regulations 2005, the advocate must be paid a graduated fee calculated in accordance with paragraph 6, as appropriate for representing an assisted person in a guilty plea.

(4) Where, at the plea and case management hearing or any other hearing after the prosecution serves its evidence,—

- (a) the prosecution offers no evidence and the assisted person is discharged; or

(6) [S.I. 2005/902](#).

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- (b) the assisted person is charged on an indictment which includes no offence that is triable only on indictment and the case is remitted to the magistrates' court in accordance with paragraph 10(3)(a) of Schedule 3 to the Crime and Disorder Act 1998 (procedure where no indictable-only offence remains),

the advocate instructed in the proceedings must be paid a graduated fee calculated in accordance with paragraph 6, as appropriate for representing an assisted person in a guilty plea.

(5) Where an application for dismissal is made under paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (applications for dismissal), section 6 of the Criminal Justice Act 1987 (applications for dismissal) or paragraph 5 of Schedule 6 to the Criminal Justice Act 1991 (applications for dismissal), the advocate must be remunerated for attendance at the hearing of the application for dismissal—

- (a) in respect of any day where the hearing begins before and ends after the luncheon adjournment, at the daily rate set out in the Table following paragraph 19 as appropriate to the category of advocate; or
- (b) in respect of any day where the hearing begins and ends before the luncheon adjournment, or begins after the luncheon adjournment, at the half-daily rate set out in that Table as appropriate to the category of advocate,

provided that a fee is not payable elsewhere under this Schedule in respect of any day of the hearing.

(6) Where an application for dismissal is made under paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998, section 6 of the Criminal Justice Act 1987 or paragraph 5 of Schedule 6 to the Criminal Justice Act 1991, and—

- (a) the charge, or charges, are dismissed and the assisted person is discharged; or
- (b) the charge, or charges, of an offence triable only on indictment are dismissed and the case is remitted to the magistrates' court in accordance with paragraph 10(3)(a) of Schedule 3 to the Crime and Disorder Act 1998,

in respect of the first day of the hearing of the application to dismiss, the advocate instructed in the proceedings must be paid a graduated fee calculated in accordance with paragraph 6, as appropriate for representing an assisted person in a guilty plea.

(7) Where an advocate represents more than one assisted person in proceedings referred to in sub-paragraph (1), the advocate must be paid a fixed fee of 20 percent of —

- (a) the fee specified in sub-paragraph (2) where that sub-paragraph applies; or
- (b) the Basic fee (B) specified in the Table following paragraph 7 where sub-paragraph (3), (4) or (5) applies, as appropriate for the circumstances set out in the relevant sub-paragraph,

in respect of each additional assisted person he represents.

Noting brief fees

19. The fee payable to an advocate retained solely for the purpose of making a note of any hearing must be the daily fee set out in the table following this paragraph.

Fixed Fees

<i>Category of work</i>	<i>Paragraph providing for fee</i>	<i>Fee for QC</i>	<i>Fee for leading junior</i>	<i>Fee for led junior or junior alone</i>
Standard appearance	9(2)	£200 per day	£150 per day	£100 per day

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<i>Category of work</i>	<i>Paragraph providing for fee</i>	<i>Fee for QC</i>	<i>Fee for leading junior</i>	<i>Fee for led junior or junior alone</i>
Paper plea and case management hearing	9(3)	£30 per case	£30 per case	£30 per case
Abuse of process hearing	10(1)(a)	Half day £300 Full day £575	Half day £225 Full day £400	Half day £150 Full day £275
Hearings relating to disclosure	10(1)(b) and (c)	Half day £300 Full day £575	Half day £225 Full day £400	Half day £150 Full day £275
Hearings relating to the admissibility of evidence	10(1)(d)	Half day £300 Full day £575	Half day £225 Full day £400	Half day £150 Full day £275
Hearings on withdrawal of a plea of guilty	10(1)(e)	Half day £300 Full day £575	Half day £225 Full day £400	Half day £150 Full day £275
Confiscation hearings	11	Half day £300 Full day £575	Half day £225 Full day £400	Half day £150 Full day £275
Deferred sentencing hearing	12(1)(a)	£375 per day	£275 per day	£200 per day
Sentencing hearing	12(1)(b)	£300 per day	£200 per day	£125 per day
Ineffective trial payment	13	£325 per day	£225 per day	£150 per day
Special preparation	14	£85 per hour	£65 per hour	£45 per hour
Wasted preparation	15	£85 per hour	£65 per hour	£45 per hour
Conferences and views	16	£85 per hour	£65 per hour	£45 per hour
Appeals to the Crown Court against conviction	17(1)	£300 per day	£225 per day	£150 per day
Appeals to the Crown Court against sentence	17(1)	£250 per day	£175 per day	£125 per day
Proceedings relating to breach of an order of the Crown Court	17(1)	£250 per day	£175 per day	£125 per day
Committal for sentence	17(1)	£300 per day	£225 per day	£150 per day
Adjourned appeals, committals for sentence and breach hearings	17(2)	£200 per day	£150 per day	£100 per day

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<i>Category of work</i>	<i>Paragraph providing for fee</i>	<i>Fee for QC</i>	<i>Fee for leading junior</i>	<i>Fee for led junior or junior alone</i>
Bail applications, mentions and other applications in appeals, committals for sentence and breach hearings	17(3)	£200 per day	£150 per day	£100 per day
Second and subsequent days of an application to dismiss	18(6)	Half day £300	Half day £225	Half day £150
		Full day £575	Full day £400	Full day £275
Noting brief	19			£125 per day