

County Court Rules Committee Consultative Document on Scale Costs

serving the community through the administration of justice

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Executive Summary

Following a public consultation in 2010, it was decided to increase the general financial jurisdiction of the county courts from £15,000 to £30,000. In furtherance of its statutory duty, the County Court Rules Committee considered the manner of awarding costs for matters falling within the new jurisdictional limit and existing scales. This paper seeks views on Committee proposals.

The proposals are informed by responses from key stakeholders to a paper issued by the Committee in March of this year.

The proposals recognise the merits of the existing system for the payment of costs, which has long been perceived as a positive attribute of the county court system for all involved in litigation. The Committee proposes to maintain that structure and build on existing scales by providing three additional bands to specify costs for matters up to the new limit of £30,000. In adopting that approach, the Committee is acknowledging that one of the benefits of the proposed increase in jurisdictional limits is enhanced access to the more straightforward procedures applicable in the county courts to which it is committed to retaining and reviewing in the hope of further streamlining.

In deciding the additional bands, the Committee has taken account of the existing scales, the cost of taxation by the Taxing Master, and scales currently applicable to matters valued up to £30,000 in High Court proceedings (Belfast Solicitors' Association; Motor Insurers; Departmental Solicitor's Office; Crown Solicitor's Office; Comerton). Committee proposals have also been informed by responses from key stakeholders to an initial information paper issued by the Committee on 23rd March 2011. Consequently, the Committee is assured that the new scales not only represent fair and reasonable remuneration, but that, in conjunction with the increase in jurisdiction, will provide court users with a more efficient legal service at a cost below that presently paid in respect of proceedings to come within the new jurisdiction.

The Committee also proposes to increase existing scales in line with inflation. An inflationary increase has not been applied to scale costs since 2007, and, in consequence, the legal profession have effectively faced a pay freeze for work done in the county court. In recognition of the challenging economic climate, the Committee has considered the impact of an immediate full implementation of an inflationary increase. Whilst it recognises that any delay in implementation will reduce the value of an increase, the Committee is mindful of the impact on those responsible for paying costs. In an attempt to balance those competing, legitimate, concerns the Committee have constructed two mutually contingent cost frameworks for phased implementation over a two year period.

Final views on these proposals will be informed by responses to this consultation.

1. Introduction

- 1.1 By virtue of Article 47 and 48 of the County Courts (Northern Ireland) Order 1980 and section 21(1) and (2) of the Interpretation Act (Northern Ireland) 1954, the County Court Rules Committee may make rules specifying costs applicable to proceedings before the court.
- 1.2 This consultation paper seeks views on proposals of the Rules Committee to insert additional bands into the existing county court scale costs to specify the costs which shall be applicable to proceedings which fall within the proposed new jurisdictional limit of £30,000.
- 1.3 The paper also seeks views on the proposal to increase existing scales in line with inflation.
- 1.4 The Committee is writing to relevant organisations, groups and individuals with an interest in the legal system in Northern Ireland (listed at Appendix 1). The list of consultees is not meant to be exhaustive or exclusive and responses are welcomed from anyone with views on the subject covered by the paper. A copy of the document is also available on the website of the Northern Ireland Courts and Tribunals Service at www.courtsni.gov.uk which provides secretariat support to the County Court Rules Committee.
- 1.5 The Committee welcomes views on any issue raised by the document and responses are welcomed from organisations and individuals.
- 1.6 It is not the purpose of this paper to consider the merits of forthcoming changes in the financial jurisdictions of the county courts. That issue has already been the subject of a public consultation exercise, copies of which can be obtained from the Northern Ireland Courts and Tribunals website.
- 1.7 An equality screening exercise and impact assessment have been carried out on the Committee proposals. A consultation on that assessment has been published separately by the Northern Ireland Courts and Tribunals Service. Comments you may have on that assessment are also welcomed.
- 1.8 Please respond by **30 September 2011** to:
Email: communicationsgroup@courtsni.gov.uk
Post: Secretariat to the County Court Rules Committee
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2. Background

Impetus for change

Jurisdictional Changes

- 2.1 On 3rd March 2010, the Northern Ireland Court Service (as it was then) published a consultation paper on increasing the jurisdictional limits of the county courts in Northern Ireland¹. The paper sought views on proposals to increase the financial limit of the general civil jurisdiction of the county courts from the current level of £15,000. The paper also considered the options for increases in the financial limits of the District Judges' court and the small claims jurisdiction.
- 2.2 The power to amend jurisdictional limits rests with the Department of Justice², and in the summary of responses to the consultation published on 20th December 2010³, the Department indicated the intention to increase:
- county court jurisdiction from £15,000 - £30,000;
 - District Judges' jurisdiction from £5,000 - £10,000; and
 - small claims jurisdiction from £2,000 - £3,000.
- 2.3 The proposal to increase the jurisdiction of the county court to £30,000 requires that the manner of awarding costs for matters falling between the current and the new limit be considered.
- 2.4 The legal costs payable to a successful party in the county court are set out in the County Court (Northern Ireland) Rules 1981 in a fixed scale up to the current jurisdictional limit of £15,000⁴. The scales are set out in bands related to the value of the case. Costs for matters valued above £15,000, which are currently heard in the High Court, are set differently, being either subject to agreement between the parties or assessment by the Taxing Master, who decides what constitutes fair and reasonable remuneration based on an hourly rate determined by him (presently £100).
- 2.5 The proposal to increase the jurisdiction of the county court to £30,000 requires that the divergence in the two processes for awarding costs be considered.

Inflation

- 2.6 To ensure access to justice and the availability of appropriate professional representation for litigants it is necessary to provide a cost structure which represents fair and reasonable remuneration. Costs do therefore require to

¹ A copy of the consultation document and summary of responses is available on the Northern Ireland Courts and Tribunals Service website.

² The power to amend jurisdictional limits is exercisable by statutory rule under Article 22 of the County Courts (Northern Ireland) Order 1980.

³ Copies of the Summary of Responses can be obtained from the Northern Ireland Courts and Tribunals Service website.

⁴ SR 1981 No. 225 as amended.

be considered in the context of the wider economic environment. County court costs were last amended to take account of inflation in 2007 and it is considered that a review of this is now due.

Power to Specify Costs

- 2.7 By virtue of Articles 47 and 48 of the County Courts (Northern Ireland) Order 1980⁵ ('the Order') it is for the Committee established under Article 46⁶ of that Order to make such rules in relation to the jurisdiction exercisable by county courts as are referred to in section 21(1) and (2) of the Interpretation Act (Northern Ireland) 1954⁷. Section 21(1) of the 1954 Act provides that rules regulating practice and procedure may also prescribe costs.
- 2.8 Rules made by the Committee must be submitted to the Department of Justice which, after consulting the Lord Chief Justice, may allow or disallow them.

Approach

- 2.9 The provisions governing the making of county court rules do not contain any direction as to how the Committee is to approach the task of specifying costs. The Committee has, however, taken the view that it should ensure that costs are "fair and reasonable".
- 2.10 That approach was endorsed by the Civil Justice Reform Group established by the Lord Chancellor on 21 February 1998 to make recommendations for the reform of the civil justice system with the objective of making it as accessible, economic and efficient as possible. The Civil Justice Reform Group's report (published in June 2001) recommended that county court scale costs should be regularly reviewed. It also recommended that, when conducting a review of costs, the Rules Committee should have regard to:
- any similar scales prescribed for England and Wales;
 - the need for professional services to be remunerated on a fair and reasonable basis; and
 - the need to ensure that litigation is conducted efficiently and economically.

Existing County Court Scale Costs

- 2.11 Appendix 2 to the County Court Rules (Northern Ireland) 1981 set out in tables various scales for costs in respect of proceedings in the county courts.

⁵ SI 1980/397 (N.I. 3) – Appendix 2

⁶ Membership of the Committee is prescribed by Article 46 of the County Courts (Northern Ireland) Order 1980 - Appendix 3.

⁷ N.I. c.33 – Appendix 2.

- 2.12 In light of the recommendations of the Civil Justice Reform Group, the County Court Rules Committee has routinely reviewed and amended the costs in the scales. The Committee also carried out a fundamental review of costs in 2001 – 2002. That review examined the system on which the scale costs were based and was informed by responses to the consultation conducted by the Civil Justice Reform Group. Following completion of the fundamental review on 13 June 2002, the Committee made the County Court (Amendment No.2) Rules (Northern Ireland) 2002 which amended scale costs to:
- reduce the number of bands in the scales from thirteen to seven;
 - increase costs payable within the new bands and implement an overall increase of approximately 20% on solicitors costs and approximately 27% in counsel's fee;
 - allow costs in complex cases to be uplifted by one-third if the judge so certifies; and
 - increase costs for drafting interlocutory proceedings.
- 2.13 The fundamental review invited comments from the legal professions, the Association of British Insurers and the General Consumer Council for Northern Ireland but the Rules made in consequence of the consultation were challenged in judicial review by a number of solicitors on behalf of the Belfast Solicitors' Association. The review⁸ sought, from the Committee, and the Lord Chancellor (who, prior to devolution, was responsible for allowing rules made by the Committee), information on issues which were considered when determining the scales. Among other matters it was noted that the deliberations were based on the premises that:
- professional services require a fair and reasonable return for work done;
 - an assessment of fair and reasonable remuneration requires consideration of rates which would be applicable if cases were subject to taxation;
 - in having regard to scales fees prescribed for England and Wales it was important to ensure the work to which the fees applied were comparable, and in that regard, it was noted that fast track costs operated on a different premise and for a different purpose than county court scale costs;
 - the Civil Justice Reform Group expected the advantages of the civil justice system being less expensive than that in England and Wales to be maintained, and the Rules Committee to be alert to the need to keep the cost of litigation as economical as possible, consistent with the need to ensure that professional services are properly remunerated (*this is reflected in the comments of the Lord Chief Justice in Re C&H Jefferson when he observed that the county court should be a court 'in respect of whose proceedings the costs and fees should be both moderate and ascertainable' [1998] NI at 409*); and

⁸ *In the matter of an application by Peter Campbell, Martin Mallon and Frank MacElhatton for Judicial Review [2005] NIQB 5.*

- the Committee should seek to maintain the principle that there should be a measure of proportionality between the amounts awarded and costs.

2.14 The 2001 review also considered that the operation of the swings and roundabouts principle was fundamental to the scale cost's system as, by their very nature, scales cannot provide for the circumstances of every individual case, which may vary widely. That was recognised in *Re C&H Jefferson* where the Lord Chief Justice commented that:

“the scales are largely related to the amount at stake in the proceedings and operate on the swings and roundabouts principle: in some cases solicitors and counsel may be fairly handsomely paid for a case which does not involve a great expenditure of time and effort, and others they may have to do a great deal of work for a very modest reward”.

In conducting the fundamental review, the Committee noted that, whilst the majority of cases heard in the county courts are road traffic accidents and other straightforward personal injury cases, there was a significant number of cases which were particularly complex and demanding in terms of expertise and preparation, and these tended to distort the operation of the swings and roundabouts principle, because the cost of preparing them can substantially exceed the scale costs permitted. In acknowledgment of that issue, the Committee amended the 1981 Rules to provide a mechanism for an uplift of one-third on the costs in certain statutory defined categories at the discretion of the judge.

2.15 The Court approved the approach which had been adopted by the Committee to the fundamental review. The Committee has therefore continued to apply those guiding principles to subsequent changes to scale costs⁹.

⁹ Further changes were made to scale costs in respect of solicitors' costs and counsel's fees in equity proceedings with effect from 1st June 2003 (County Court (Amendment) Rules (Northern Ireland) 2003 (SR 2003 No.272)).

In 2006, the Committee undertook a further review of the scales and decided that another fundamental review was not yet required. The Rules Committee did, however, agree an uplift in scale costs in line with inflation. The measure of inflation over the period April 2002 to the end of March 2006 as measured against the GDP deflator was 10.47%. As part of this process key stakeholders were again consulted and a partial Regulatory Impact Assessment in respect of the proposed increase was published (County Court (Amendment) Rules (Northern Ireland) 2006 (SR 2006 No.521) which came into operation on 8th January 2007).

The Committee reviewed the scales again in 2007 following targeted consultation with the profession and insurers representatives. The scales were again increased in line with inflation from April 2006 to the end of June 2007. The County Court (Amendment) Rules (Northern Ireland) 2007 (S.R 2007 No.500) which effected the change came into operation on 7th January 2008.

England and Wales

- 2.16 In England and Wales, the Civil Procedure Rules provide for the operation, in limited circumstances, of a scale costs system, known as fast track costs. Fast track trial costs are payable to party's advocate for preparing for, and appearing at, a hearing. The procedure is designed only to facilitate the trial of straightforward cases.
- 2.17 The Civil Procedure Rules also provide a scale for fixed costs (Part 45, section II) which apply to road traffic accident, personal injury and vehicle damage only claims which settle prior to proceedings being issued but which do not exceed £10,000 in damages. The fixed costs are a base recoverable rate of £800 plus an amount in costs equivalent to 20% of the damages up to £5,000 and 15% of damages between £5,000 and £10,000.
- 2.18 The system in England and Wales has been the subject to some criticism and a fundamental review of costs in civil litigation led by Lord Justice Jackson was commissioned to consider the issue. The final report of the Jackson Review¹⁰ made a number of recommendations aimed at addressing the issues which have been the subject of criticism. It was proposed that:
- the costs system should be based on legal expenses that reflect the nature and complexity of the case;
 - to eliminate the greatest contributors to disproportionate costs, success fees and after the event insurance premiums should be irrecoverable in conditional fee agreements;
 - to offset the effects of disproportionate costs for claimants, general damages awards for personal injuries and other civil wrongs should be increased by 10%;
 - legally expenses insurance should be encouraged;
 - contingency fee agreements should be permitted; and
 - to remove the need for after the event insurance, one way cost shifting should be qualified and claimants should only be required to make a small contribution to defendant costs if a claim is unsuccessful and they have behaved reasonably.
- 2.19 Of most note, however, are the recommendations that:
- fixed costs should be set for fast track cases; and
 - that a costs council should be established to review fixed costs and lawyers' hourly rates annually so as to ensure that they are fair to both lawyers and clients.

Having considered these structures and proposals, the Committee have reinforced their recognition of the benefit of the existing system in Northern Ireland to uplift scale costs to the new jurisdictional limit of the county court.

¹⁰ Published on 14 January 2010.

2.20 The proposed reforms also endorse the underlying principles established during the 2001 fundamental review as they too are designed to establish a framework which will provide parties entering into litigation with greater certainty about the costs involved.

3. Initial Consultation

Stakeholder Engagement

- 3.1 To inform the current review, the County Court Rules Committee sought the views of stakeholders on a number of issues by way of a paper issued on 23rd March 2011. Responses were sought by 6th May 2011¹¹.
- 3.2 Fourteen responses were received to the Committee paper, the largest proportion of which, 64%, were from the legal profession (four responses were received from solicitors' associations, three from representative organisations for lawyers generally and two from the Bar or representative organisation of the Bar). Three respondents were from the Insurers Industry (21%) and two other responses were received from public bodies (the Equality Commission for Northern Ireland and the Northern Ireland Legal Services Commission). The vast majority of respondents were in favour of the Northern Ireland system of scale costs.
- 3.3 No responses were received from Department of Finance and Personnel or the Departmental Solicitors Office. However, at an early stage of the review, Central Claims Unit in the Department of Regional Development provided information on the approach taken to the setting of costs. Generally, these are in line with the Departmental Solicitor's Office scales for solicitors and Comerton scale for counsel.

Views of Respondents

Bands

- 3.4 The Committee indicated in the stakeholder paper that it was minded to increase the scale costs in line with the proposed new jurisdictional limit by way of insertion of three additional bands:
- £15,000-£20,000
 - £20,000-£25,000
 - £25,000-£30,000
- and sought views on that approach.
- 3.5 It was noted that, in devising the new bands, the Committee had revisited the essential guiding elements that informed the fundamental review in 2001.
- 3.6 An overwhelming majority of respondents were supportive of the proposal to insert three additional bands. However, one respondent suggested the insertion of six additional bands at intervals of £2,500 would provide greater certainty for the plaintiff and defendant as to the outcome of costs at the top end of the brackets.

¹¹ Copies of the initial paper can be obtained from the Rules Committee Secretariat at the address noted at the start of this document.

Guiding Principles

- 3.7 The Committee also specifically sought views on the continued application of the guiding principles established during the 2001 fundamental review of costs. Again, an overwhelming majority of respondents were supportive of the continued use of the framework. One respondent did, however, argue for an exception in respect of lower value claims where costs exceed the damages involved. That respondent further suggested that there should be a general move towards a “no costs” regime for low value claims.
- 3.8 One respondent suggested that, as road traffic claims are more straightforward in terms of liability and quantum, the new scales should differentiate between motor and non motor liabilities and either offer a lower rate for road traffic claims or follow the example in other jurisdictions where in the interests of access to fair and speedy settlement, compensation systems for smaller claims do not attract legal costs.

Approach to setting the New Scales

- 3.9 Views of respondents were sought on the Committee’s proposed approach to the setting scales within the new bands.
- 3.10 The paper noted that, in the Committee’s view, the logical starting point for the development of the new scales was to consider those payable in respect of matters up to £15,000 and then to apply the guiding principles which underlay the scales. It was also noted that the Committee considered it useful to have regard to information obtained from other sources including professional bodies, the Taxing Master and those responsible for the payment of costs (including Government departments and the insurance industry).
- 3.11 A number of respondents did not comment on the issue. Five agreed that the Committee should consider information on rates applicable elsewhere in order to ensure that proposed fees were fair, reasonable and commensurate. Two respondents went further to propose the same scales for Counsels’ fees for the additional three bands.
- 3.12 One respondent suggested it would be appropriate to engage an independent cost drawer to assess an appropriate level of costs and that yearly inflationary increases and five year reviews should be implemented thereafter. Another respondent referred the Committee to scales applicable in the High Court for solicitors and counsel and noted the work involved in preparing a High Court case.

Complex Cases

- 3.13 Acknowledging that the change in jurisdiction could increase the number of complex cases heard before the county court, the Committee sought views on the present discretionary power of the judge to award a one-third uplift of costs in specified complex under Order 55 of the County Court (Northern Ireland) Rules 1981.

- 3.14 Order 55, Rule 11 sets out the cases where the judge may certify an enhancement including:
- where the principal cause of action relates to contract for works or engineering construction, contracts of engagement of architects, engineers or quantity surveyors, the sale of goods, insurance, banking, the export or import of merchandise, shipping or other mercantile matters, agency, bailment, carriage of goods, professional or clinical negligence or title to land;
 - a claim for assault, battery, wrongful arrest or imprisonment (where defendant is the Ministry of Defence or PSNI); and
 - claims brought under:
 - Part IV of the Sex Discrimination (Northern Ireland) Order 1976;
 - Part III of the Race Relations (Northern Ireland) Order 1997;
 - Part IV of the Fair Employment and Treatment (Northern Ireland) Order 1998;
 - Part III of the Disability Discrimination Act 1995;
 - Section 76 of the Northern Ireland Act 1998;
 - Regulations 24 or 25 of the Employment Equality (Age) Regulations (Northern Ireland) 2006;
 - Regulations 5 to 17 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.
- 3.15 The Committee asked for views on whether the present approach of specifying cases where discretion can be applied and of limiting the extent of discretion to a one-third uplift should continue. The Committee also asked for views on alternative approaches to dealing with complexity.
- 3.16 A number of respondents did not comment on the issue. One respondent indicated that they were not content with the existing mechanism for enhancing costs in complex cases. Another expressed the opinion that a one-third uplift was not sufficient to reflect the extra work required for complex cases, whilst a further response commented that the court rarely exercised its discretion and few uplifts were granted.
- 3.17 Seven respondents indicated that they were content with the present system but it was suggested that rules setting out where discretion can be exercised should be extended (to include mesothelioma cases, those under the Consumer Credit Act 1974¹², and the Special Educational Needs and Disability (NI) Order 2005¹³). One respondent noted that the present system was preferable to that applicable in England and Wales, where a mechanism is in place to provide for a budgeted estimate of costs to be submitted and kept under the control of the court and which is subject to the final discretion of the court.

¹² c.39

¹³ SI 2005/1117 (N.I.6).

- 3.18 A number of alternative options were suggested for dealing with complex cases. One respondent suggested that those classes of case subject to a one-third uplift, should, when valued above £15,000, be subject to a 100% uplift as of right. A number of respondents suggested a guaranteed uplift for matters listed in Order 55, with one suggesting a separate scale should be developed to that effect. A further response proposed that it should be possible to amend a Civil Bill to include a claim for enhanced costs under Order 55, Rule 11 and that the uplift should be 50%.

Penalties

- 3.19 Given the proposal to increase the discretion of District Judges' court to £10,000, views were sought on the extension of Order 55, Rule 19 to the new jurisdictional limit of that court. Rule 19 provides that, when an award of the county court does not exceed District Judge jurisdiction, only two thirds of the scale costs shall be allowed unless the judge otherwise directs. The purpose of the penalty is to ensure proceedings issue in the correct tier.
- 3.20 The majority of respondents supported the extension of Order 55, Rule 19. One response also specifically proposed that the application of Rule 19(1)(b) (which provides that, if an award does not exceed the jurisdiction of the small claims court, and the judge is satisfied that proceedings should have been brought before that court, no costs except the applicable fee shall be awarded) should be extended.

Inflation

- 3.21 The Committee indicated in the initial consultation paper that it was minded to approach any uplift in the scale costs by reference to the rate of inflation.
- 3.22 Two respondents indicated that they were not in favour of increasing scales by the rate of inflation, arguing that general damages (and special damages) reflect inflation and that that fact offsets the need to also increase scale costs. One respondent did, however, put forward a counter argument to that proposition, suggesting that inflation has acted as a drag on the scale costs system as the amount awarded in general damages has not increased. They further commented that the operation of inflation as a benchmark to ensure sustained and proper remuneration in the face of price increases would be compromised if the amount of damages did not also rise with inflation.
- 3.23 Other respondents agreed that current scales should be increased with the rate of inflation but one asked that the rate applied be weighed to reflect the more modest approach to business wage increases in recent years. Others suggested that, unlike previous rises which were linked to the GDP deflator, the inflationary rise should be linked to the Retail Price Index and that there should be an annual uplift based on that index. One response specifically noted the increased cost of travel, whilst a further response argued in favour of a fundamental review of scale costs.
- 3.24 It was noted in responses that the Legal Services Commission currently follows the county court scale costs for legally aided cases but that, as part

of the Civil Legal Aid Reform Programme, the Commission was developing its own remuneration scheme. It was further noted that, if the scales are increased by the reference to inflation, the Commission would not have the financial resources to remunerate on an equivalent basis and, therefore, would not be in a position to continue to follow the scale. It was asserted that, in such circumstances, the Commission may instead follow the existing threshold for bands under £15,000 or such lesser amounts as it may determine consistent with its finite financial resources and limited budget.

4. Proposals

Bands

- 4.1 The Committee agrees with the overwhelming majority of respondents to the initial consultation that scale costs should extend to the new jurisdiction of £30,000 and that there should be three additional bands each of £5,000 from £15,000 - £30,000.
- 4.2 In the Committee's view, the insertion of bands at intervals of £5,000 will provide certainty to parties to litigation. The matters to which the new scales relate are currently heard in the High Court for which there are no agreed scales¹⁴. The Committee therefore recognises the benefit that these new scales provide to litigants. Both Plaintiff and Defendant will know with certainty the financial implications of commencing and defending proceedings in the county court. Given the increased jurisdictional limits, this means that the vast majority of civil litigants in Northern Ireland (unlike those in England and Wales) will be able to assess with greater certainty the financial risks of litigation.

Guiding Principles

- 4.3 The Committee agrees with the majority of respondents that the 2001 principles should be applied to the present review.
- 4.4 The Committee noted the concerns expressed in responses in relation to low value claims. However, it noted that the guiding principles already provide that there should be a measure of proportionality between the amounts awarded and costs. It is also the case that many low cost claims are amenable to being dealt with in the small claims court whose jurisdiction has been increased to £3,000 (and where a no costs regime exists), and that on a significant number of occasions, claims are made based on a relatively small amount such as an insurance excess, but which in reality can determine the liability of parties in respect of very large claims for general damages.
- 4.5 The Committee also considered the suggestion that scale costs should differentiate between motor and non motor liabilities but it does not believe that there is evidence to support the argument that road traffic cases are more straightforward in terms of liability and quantum. In light of the swings and roundabouts principle, the Committee is not minded to change the existing structure of the scale costs by providing a different costing structure for such cases. In reaching that conclusion the Committee has also been persuaded by the fact that, with the exception of insurer's scales, existing

¹⁴ There are presently two scales for solicitors costs Belfast Solicitors' Association and Insurers with costs negotiated on an ad hoc basis.

scales for High Court actions do not differentiate between motor and non motor claims.

Approach to setting the New Scales

- 4.6 The Committee noted that there was a general consensus among respondents on the approach to setting the new scales. The Committee recognises that the value of a claim can be used as a means of measuring its importance to the parties and consequently of the level of legal representation expected. The Committee also notes, however, that one of the benefits of increasing the jurisdiction of the county court is to extend the more straightforward procedures applicable there.
- 4.7 The Committee has considered the Crown and Departmental Solicitors scales (noting however that they do not make provision for profit costs). The Committee has also referred to costs on taxation and Belfast Solicitors' Association, Motor Insurers, and Comerton scales. In respect of all those existing scales, the Committee notes there is a degree of uniformity in the approach of each scale to the costs applicable to the new bands which acknowledged the elements of time and complexity in cases above those of £15,000. The Committee is, however, minded that the proposed new scales should reflect the simpler procedures applicable in the county court which may potentially lead to substantial savings in costs.
- 4.8 The Committee has reviewed the costs awarded for similar value cases in England and Wales. In particular, it noted *Allen –v- Balkan Holidays Ltd*¹⁵ where the total award of damages in respect of a holiday gone wrong was £13,053.79 but the defendant and the claimant claimed £44,629.52 and £61,547.92 respectively in costs (which were disproportionately 3.5 and 4.75 times the value of the claim). The Committee has also noted the recent case of *Morgan –v- Spirit Group Ltd*¹⁶ in which the claimant was awarded little over £13,000 in respect of a broken wrist but presented a costs schedule seeking a total of £99,206 which included a 100% success fee. Once additional liabilities were stripped out, costs in the case were in the region of £52,969.
- 4.9 The Committee's approach to establishing fair and reasonable remuneration in respect of the three new bands was to take account of the mid-point on those existing scales for High Court proceedings and the degree of uniformity in the increase referred to in paragraph 4.7 above, establish an average and then to reduce that figure to take account of the simpler procedures applicable in the county court. In setting counsel's fees, account was taken of the existing scale in High Court proceedings and the need to balance any reduction made to take account of simpler county court processes against the fact that junior counsel will have sole carriage of

¹⁵ *Allen –v- Balkan Holidays Ltd* (2010) EW Misc 12 (EWCC) (27 May 2010).

¹⁶ *Morgan –v- Spirit Group Ltd* (2011) EWCA Civ 68.

cases within the new bands. The Committee believes that the new scales safeguard against disproportionate costs and provide a civil justice system less expensive than England and Wales in line with the guiding principles established during the 2001 fundamental review.

- 4.10 Taking both existing scales, and the views of respondents into account, the Committee proposes the new scales detailed in Appendix 4. Two separate scales are proposed. It is intended the first be implemented to coincide with the increase in jurisdiction and the second in 2013 (see paragraphs 4.14 – 4.17 below).

Complex Cases

- 4.11 Having considered the views of respondents to the initial Committee paper, it is proposed to retain the existing arrangements for a discretionary uplift of one-third for complex cases and to extend its application to awards of £15,000 - £30,000.
- 4.12 Although concerns have been expressed that an uplift is rarely awarded, it is unclear whether this arises because it is not claimed, or because the judge decides not to grant the uplift. The Committee does, however, recognise the increasing likelihood of claims above £15,000 falling within the categories listed in Order 55, Rule 11 and the need to ensure that fair and reasonable remuneration is provided. Consequently, the Committee proposes to remove the requirement that a Civil Bill must include a claim for an uplift. The Committee notes that as the Rules prescribe those cases where a 1/3 uplift may be granted certainty of costs of litigation is still provided. In light of responses to the initial consultation, the Committee also proposes to amend the list of cases in Order 55, Rule 11 to include:
- Diffuse Mesothelioma or any asbestosis related disease;
 - Consumer Credit Act 1974; and
 - Special Educational Needs and Disability (Northern Ireland) Order 2005.

Penalties

- 4.13 As the majority of respondents supported the continued operation and extension of Order 55, Rule 19, the Committee has decided that the 2/3 rule should apply to the increased jurisdiction of the county court.

Inflation

- 4.14 The Committee noted the comments made in relation to the proposed inflationary rise. The Committee consulted an economist from the Department of Justice on this matter. In respect of the suggestion that rises in damages offset the need for an inflationary rise to scale costs, the

Committee undertook a review of the Green Book¹⁷ but did not easily quantify any potential “overlap effect” that might occur. Whilst the Committee appreciates the potential for such an eventuality, it occurs that the issue would only affect general and special damages which were on the periphery of the existing bands and which may, with inflation, move up into a new band and new set of scale costs. The Committee also noted that the level of movement would be dependent upon the inflationary figure used and that damages between 2004 - 2009 had remained broadly static above £1,000 (see table below).

Percentage of ordinary civil bills cases by amount awarded in 2004 - 2009

	No award	Under £1000	£1001-£3000	£3001-£5000	Over £5000
2004	31%	8%	27%	21%	13%
2005	36%	7%	23%	20%	15%
2006	34%	8%	23%	20%	15%
2007	27%	9%	26%	22%	15%
2008	28%	9%	26%	20%	16%
2009	27%	10%	24%	21%	18%

(Figures taken from the Northern Ireland Judicial Statistics 2004 – 2009)

- 4.15 The Committee has noted some respondents favoured linking costs to the Retail Price Index. The Committee is, however, aware of the previous application of GDP deflator (on the basis of Treasury guidance) and is not persuaded that grounds exist to argue for a change to the measure of inflation and is therefore minded to continue to take account of that index in this review.

¹⁷ Guidelines for the Assessment of General Damages in Personal Injury Cases in Northern Ireland (‘the Green Book’) (Judicial Studies Board for Northern Ireland).

- 4.16 On the issue of travel costs, while the Committee notes the concerns expressed in respect of increased expenditure, it recognises that this increase is faced by all in the community. The Committee is therefore not minded to increase travel costs. The Committee is also not minded that a fundamental review of costs is appropriate at this stage. Practice and procedure has not changed significantly since the 2001 review was conducted and respondents to the Committee's earlier paper endorsed the continued use of the principles underpinning that earlier review.
- 4.17 The Committee considered the suggested potential impact of an inflationary rise on the remuneration of legally funded cases. The Committee notes, however, that the number of cases that are legally aided has been declining and that the amount spent on county court personal injury cases has reduced significantly since 2007/2008. Expenditure in 2009/2010 was 50% of that in which arose in 2007/2008 and, on the basis of the spend to date for the year 2010/2011, it appears that expenditure continues to reduce on a year on year basis.¹⁸ The figure spent by the Legal Services Commission on counsels' fees in the county court during 2009/2010 was less than £65,000. The Committee notes the reducing impact of county court litigation on the legal aid budget (see below) and the implications of any decision to apply scale cost rates in publicly funded cases, which is a matter for the discretion of the Commission in any event.

Jurisdictional Information							
	2006/07	2007/08	2008/09	2009/10	2010/11 ytd		
Certificates Issues							
County Court (PI)	788	561	464	585	605	PI = Employer liability; Neg - General, Tripping & RTA	
Cases with claim on Fund							
County Court (PI)	170	190	165	87	71	PI = Employer liability; Neg - General, Tripping & RTA	
2006/2007							
Amounts Paid from Fund	No of Pymts	Sol Costs	Sol VAT	Counsel	Counsel VAT	Disbursements	Total
County Court (PI)	605	£334,561	£58,583	£95,706	£12,645	£120,622	£622,118
2007/08							
Amounts Paid from Fund	No of Pymts	Sol Costs	Sol VAT	Counsel	Counsel VAT	Disbursements	Total
County Court (PI)	696	£403,641	£70,638	£115,060	£13,797	£143,758	£746,893

¹⁸ On the basis of provisional figures provided in January 2011.

2008/09							
Amounts Paid from Fund	No of Pymts	Sol Costs	Sol VAT	Counsel	Counsel VAT	Disbursements	Total
County Court (PI)	604	£259,321	£43,923	£73,721	£8,936	£115,222	£501,124
2009/10							
Amounts Paid from Fund	No of Pymts	Sol Costs	Sol VAT	Counsel	Counsel VAT	Disbursements	Total
County Court (PI)	632	£187,244	£30,076	£64,711	£8,145	£85,326	£375,504
2010/11 ytd							
Amounts Paid from Fund	No of Pymts	Sol Costs	Sol VAT	Counsel	Counsel VAT	Disbursements	Total
County Court (PI)	456	£146,972	£26,075	£40,904	£5,804	£53,294	£273,048

- 4.18 The Committee notes that the increase in county court jurisdiction will result in a significant number of cases (approximately 1500¹⁹) moving from the High Court to the county court which in turn will reduce the number of cases involving senior counsel and requiring taxation. A significant reduction in costs of legal proceedings is therefore to be expected as a result of the increase in county court jurisdiction. In that context, the Committee anticipates that the proposed new scale, while representing fair and reasonable remuneration, will provide value for money for court users and stakeholders including the legal aid fund. (The costs of preparing the bill for taxation are payable by the losing party. The average cost of one party's set of costs in the High Court including counsel (senior and junior) and solicitor range from £6.5 to £8k depending on which scale applies. This is expected to reduce to just over £5k when the claim is in the county court. This figure excludes taxation costs for interlocutory proceedings which cost approximately £500. In the county court the cost is more likely to be in the region of £200).
- 4.19 The Committee recognises that scale costs have not increased since 2007²⁰ and, in consequence, the legal profession have effectively faced a pay freeze for work done in the intervening period and have subsumed increasing costs in respect of the cases issued and settled (as the vast majority will have been). The Committee is, however, acutely aware that that issue requires to be considered in the context of the current economic climate and the challenges faced by all sectors of our community. The Committee therefore believes that, on balance, scale costs should be increased in line with inflation as determined by the GDP deflator but that the increase should be staged over a 2 year period. The new scales at Appendix 4 reflect that proposal.

¹⁹ Based on Judicial Statistics for 2009

²⁰ The County Court (Amendment) Rules (Northern Ireland) 2007 S.R 2007 No.500 which effected the change came into operation on 7th January 2008.

Miscellaneous Issues

Costs where no notice of intention to defend is served²¹

- 4.20 Again the Committee is of the view that it would be difficult to move away from the existing band system and that the scale costs should increase in line with the proposed new jurisdictional limit by way of an additional three bands:
- exceeds £15,000 but does not exceed £20,000;
 - exceeds £20,000 but does not exceed £25,000; and
 - exceeds £25,000 but does not exceed £30,000.

- 4.21 The Committee is also minded that a percentage increase of 4.925% should be applied to existing scales to take account of inflation. It is intended that the new scales come into effect to coincide with the increase in jurisdiction. The Committee are also minded that there should be a further inflationary increase of 4.925% to take effect in 2013. See new scales at Appendix 4.

Additional day hearings

- 4.22 At present the Rules²² provide that, for each additional day a hearing runs counsel and solicitor are awarded costs equivalent to a third of counsel's scale fee. The Committee accepts that if cases of greater value proceed to hearing they are more likely to require additional days in court. The Committee further notes that existing scales for High Court proceedings (the Belfast Solicitors' Association, Insurers and Taxing Master etc) allow an additional fee for solicitors and counsel for each additional day. These scales range from £825 for each additional day (or £660 for each additional half day) under the Belfast Solicitors' Scales to £450 under the insurers scales. On balance, to ensure fair and reasonable remuneration, the Committee is minded to amend the existing rule for all county court claims to provide that solicitors' costs for an additional day shall be 50% of the scale costs on the amount claimed/decreed (as appropriate) up to a ceiling of £600. Counsel's fee for an additional day will be 50% of counsel's scale fee.

Costs where more than one defendant

- 4.23 The Committee notes that there are concerns that additional work arising from prosecuting against separately represented defendants should be properly remunerated. The Committee also notes that existing scales provide for additional remuneration to reflect the additional work (Belfast Solicitors' Association and Motor Insurers). In those circumstances the Committee is minded to provide a discretionary uplift in any action where there is more than one defendant separately represented. It is proposed to amend the Rules to provide that the judge has a discretion to award an uplift from 5% up to a ceiling of one-third of the relevant scale costs in circumstances where there is more than one separately represented

²¹ Table 2, Appendix 2, Part 1 to the County Court (Northern Ireland) Rules 1981

²² Paragraph 5 to Table 1, Appendix 2, Part 1 to the County Court (Northern Ireland) Rules 1981

defendant (up to and including 21 days prior to the first day of the hearing). It is also proposed to amend the 1981 Rules to ensure the increase does not apply in addition to any other increase provided in the Rules, for example, uplifts applicable in respect of costs for hearing running into additional days.

Notice for Particulars and Replies

- 4.24. The Committee is minded that the fee for notice for particulars or replies should be increased to take account of inflation²³. Again, it is intended that the increase would take effect in two stages – by 4.925% to coincide with the increase in jurisdiction and then by 4.925% in 2013.

Travel Costs

- 4.25. As noted above the Committee is minded that travel costs should not be increased.

Miscellaneous costs

- 4.26 The Committee does not believe that, other than those already set out in Part IX of Appendix 2, provision for fees for interlocutory matters does not require to be made. The Committee does however consider that the proposed inflationary case should also be applied to those fees (4.925% to coincide with the increase in jurisdiction and a further 4.925% in 2013).

Other costs set out in Appendix 2 to the County Court (Northern Ireland) Rules 1981 not already mentioned

- 4.27 In respect of other miscellaneous costs not otherwise specifically mentioned above, the Committee is minded that the proposed two stage percentage increase should also be applied. This is consistent with the Committee's approach in previous reviews of scale costs.

²³ Paragraphs 3 & 4 to Table 1, Appendix 2, Part 1 to the County Court (Northern Ireland) Rules 1981

5. How to Respond

Responding

5.1 The final closing date for responses to this consultation is **30 September 2011**.

5.2 Preferably responses should be submitted in the questionnaire which accompanies this document and sent to:

Email: communicationsgroup@courtsni.gov.uk

Post: Secretariat to the County Court Rules Committee
Northern Ireland Courts and Tribunals Service
Laganside House
23 – 27 Oxford Street
Belfast
BT1 3LA

Tel: 028 90418956

Fax: 028 90728944

Textphone: 028 90142920

5.3 When responding, please state whether you are responding as an individual or representing the view of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and where applicable, how the views of members were assembled.

5.4 This consultation document is available a www.courtsni.gov.uk.

5.5 A list of consultees who have been notified about this consultation is presented at Appendix 1.

Confidentiality

5.6 At the end of the consultation period copies of responses received by the Committee may be made publicly available. The information they contain may also be published in a summary of responses. If such a summary is published, it will be made available on the Northern Ireland Courts and Tribunals Service website. If you do not want all or part of your response or name made public, please state this clearly in your response. Any confidentiality disclaimer that may be generated by you or your organisation's IT system or included as a general statement in your fax cover sheet, will be taken to apply only to information in your response for which confidentiality has been specifically requested.

5.7 Any personal data which you provide will be handled in accordance with the Data Protection Act 1998.

- 5.8 You should also be aware that there may be circumstances in which the Committee will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000.
- 5.9 Please contact the Secretariat to the County Court Rules Committee at the above address to request copies of consultation responses. An administrative charge may be made to cover photocopying of the responses and postage costs.

Complaints

- 5.10 If you have any comments about the way this consultation has been conducted, these should be sent to the Secretary to the Committee at the above address.

Additional Copies

- 5.11 You may make copies of this document without seeking permission. If you require further printed copies of the consultation document, we would invite you to access the document through our website and make the copies yourself. If you do not have access to the internet and require us to provide you with further copies, please contact the Consultation Coordinator with your specific request.
- 5.12 This document is available in alternative formats on request. Please contact the Information Centre at the address above with your request.

What Happens Next?

- 5.13 We will aim to publish a summary of the views expressed by consultees and the Committee's response on the Northern Ireland Courts and Tribunals Service website within three months of the end of the consultation period.

Publication of Results

- 5.14 Decisions taken in the light of the consultation shall be made public promptly with a summary of the views expressed (subject to respondents' requests for confidentiality) and reasons for the decisions finally taken.
- 5.15 The information you send the Committee may need to be shared with officials in the Northern Ireland Courts and Tribunals Service and/or published in a summary of responses to this consultation. We will assume that you are content for us to do this, and that if you are replying by email, your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system unless you specifically include a request to the contrary in the main text of your submission to us.

Appendix 1 - Consultees

ABI (Association of British Insurers)
Antrim and Ballymena Solicitors Association
Allianz
APIL (Association of Personal Injury Lawyers)
Armagh Solicitors Association
Association of District Judges
Aviva
AXA Insurance Ltd
Bangor Solicitors Association
Bar Council
Belfast Solicitors' Association
CBI Northern Ireland
Citizens Advice Bureau
Coalisland and Dungannon Solicitors Association
Coleraine and Ballymoney Solicitors Association
Cookstown Solicitors Association
Crown Solicitors Office for Northern Ireland
Departmental Solicitors Office
Department of Finance & Personnel
Department of Health Social Services & Public Safety
Department of Regional Development
Directorate of Legal Services
Down and District Solicitors Association
Endsleigh
Equality Commission for Northern Ireland
Federation of Small Businesses
Fermanagh Solicitors Association
Forum of Insurance Lawyers
Foyle Solicitors Association
Freight Transport Association
Her Majesty's Council of County Court Judges

High Court Judges
Hughes Insurance
Law Society of Northern Ireland
Limavady Solicitors Association
Lisburn Solicitors Association
Lord Chief Justice of NI
Newry and Banbridge Solicitors Association
Northern Ireland Chamber of Commerce
Northern Ireland Housing Executive
Northern Ireland Human Rights Commission
Northern Ireland Legal Services Commission
Omagh Solicitors Association
Open + Direct Insurance
Personal Injuries Bar Association
Portadown Solicitors Association
Quarry Products Association
Quinn Direct
Royal Sun Alliance Insurance Plc
Strabane Solicitors Association
South Derry and Magherafelt Solicitors Association
Translink
Zurich Insurance

Appendix 2 – Provision Governing Making of County Court Rules

County Courts (Northern Ireland) Order 1980

Making of county court rules

47.—(1) For the purposes of or in relation to any jurisdiction exercisable by county courts, any such rules as are referred to in section 21(1) and (2) of the Interpretation Act (Northern Ireland) 1954 [1954 c.33] or Article 48 may—

(a) be made by the Rules Committee in accordance with Article 46 and the following provisions of this Article; and

(b) be known as “county court rules”.

(1A) For the purposes of this Article, “relevant authority” means-

(a) in relation to county court rules which deal (or would deal) with an excepted matter, the Lord Chancellor; and

(b) otherwise, the Department of Justice;

and for the purposes of this paragraph “deal with” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998.

(2) County court rules must be certified under the hand of the members of the Rule Committee, or any three or more of them.

(3) After making and certifying county court rules the Rules Committee must submit them to the Department of Justice.

(4) The relevant authority must, after consultation with the Lord Chief Justice, allow or disallow county court rules submitted to it.

(5) County court rules have effect only if the relevant authority allows them.

(6) If the relevant authority disallows county court rules, the relevant authority must give the Rules Committee written reasons why it has disallowed them.

(7) County court rules allowed by the relevant authority shall come into operation on such day as relevant authority shall direct.

(8) Paragraph (9) applies if the relevant authority gives the Rules Committee written notice that it thinks it is expedient for county court rules to include provision that would achieve a purpose specified in the notice.

(9) The Rules Committee must make such county court rules as it considers necessary to achieve the specified purpose.

(10) Those rules must be—

(a) made within a reasonable period after the relevant authority gives notice under paragraph (8);

(b) made in accordance with this Article.

Powers of Rules Committee

48. Without prejudice to the generality of section 21 of the Interpretation Act (Northern Ireland) 1954, the Rules Committee may, notwithstanding anything in any statutory provision, make county court rules with respect—

(a) to all matters of procedure or practice, or matters relating to or concerning the effect or operation in law of any procedure or practice, in any civil proceedings within the jurisdiction of county courts as to which rules of court have been or might lawfully be made for proceedings within the cognizance of the High Court;

(b) without prejudice to the generality of paragraph (a)—

(i) to prescribing the circumstances in which civil proceedings may be transferred from one court to another, and the procedure preliminary to and consequent upon such transfer;

(ii) to authorising any civil actions in which the defendant fails to appear at the hearing or admits the claim to be heard and determined by the prescribed officer or by a circuit registrar;

(iii) to authorising a decree to be obtained through the Office in any action in which, if it had been brought in the High Court, the plaintiff could have obtained judgment by default;

(iv) to providing that in such cases or classes of case as may be prescribed the costs are to be in the discretion of the judge;

(c) to regulating matters of practice, procedure and costs in cases within the appellate jurisdiction of county courts;

(d) to regulating or providing for any matter which immediately before 1st April 1960 was regulated or provided for or authorised by any statutory provision to be regulated or provided for by county court rules or county court orders;

(e) to the amendment or repeal of any statutory provision relating to or affecting practice or procedure in the county court.

(f) the service of process outside Northern Ireland, and the conditions subject to which process may be so served.

Interpretation Act (Northern Ireland) 1954

21. —(1) Where an enactment confers any jurisdiction on a court or other tribunal or extends or varies the jurisdiction of a court or tribunal, the authority having for the

time being power to make rules or orders regulating the practice and procedure of that court or tribunal may make such rules or orders (including rules or orders regulating costs, ..., witnesses and other expenses) as appear to the authority to be necessary for regulating the practice and procedure of such court or tribunal in the exercise of the jurisdiction so conferred, extended or varied, and it shall not be necessary for any other enactment to confer power on the authority to make any rules or orders for those purposes.

(2) A county court rule or magistrates' courts rule which

(a) directs money to be paid out of or in aid of public funds;

... ..

shall not be made without the concurrence of the Treasury, but the validity of any county court rule or magistrates' courts rule shall not in any proceedings in any court be impugned either by the court or by any party to the proceedings on the ground only that any such concurrence as aforesaid had not been given or is not expressed to have been given.

(3) All such rules or orders heretofore made under any enactment shall be deemed to have been made under this section and may be varied or revoked accordingly.

(4) In any enactment—

“rules of court” shall mean rules of court made, or having effect as if made, under section 55 of the Judicature (Northern Ireland) Act 1978;
“Crown Court rules” shall mean rules made under section 52 of the Judicature (Northern Ireland) Act 1978.

(5) In any enactment—

“county court rules” shall mean county court rules made, or having effect as if made, by the authority having for the time being power to make rules regulating the practice and procedure in county courts;
“magistrates' courts rules” shall mean rules made under Part IV of the Magistrates' Courts (Northern Ireland) Order 1981 and shall include any rule or order which under paragraph 5 or 7 of Schedule 5 of that Order has effect as if it was a rule so made.

(6) References in this section to rules or orders shall include—

- (a) in relation to the Supreme Court, the High Court or the Court of Appeal ..., references to rules of court;
- (aa) in relation to the Crown Court, references to Crown Court rules;
- (b) in relation to the county court ..., references to county court rules; and
- (c) in relation to magistrates' courts references to magistrates' courts rules.

Appendix 3 – County Court Rules Committee

County Courts (Northern Ireland) Order 1980

County Court Rules Committee

46.—(1) There shall be a committee known as the County Court Rules Committee (in this Order referred to as “the Rules Committee”) which shall be appointed by the Lord Chief Justice and shall consist of—

- (a) three county court judges (of whom one shall be the chairman);
- (b) two barristers-at-law;
- (c) two solicitors;
- (d) one District Judge;
- (e) one chief clerk; and
- (f) one other person.

(1A) The Lord Chief Justice must consult the Department of Justice before making an appointment under paragraph (1)(b), (c), (e) or (f).

(2) Nothing done by the Rules Committee shall be invalid by reason only of a vacancy among the members thereof.

(3) The Rules Committee shall have power to regulate its own quorum and procedure.

(4) The secretary of the Rules Committee shall be such person as the Department of Justice shall from time to time designate.

(5) The Rules Committee for the purpose of performing its functions may incur such expenses as may be approved by the Department of Justice.

Appendix 4 – Proposed New Scales

Comparative Table of Solicitors Costs

Inflation of 9.85% over 2 years (4.925% per year)

YEAR 1

Amount Claimed	Existing Scale Cost	Existing Cost plus half of Inflation increase at 9.85%	New Bands
£	£	£	£
Does not exceed 1,000	517	542	
1,001 - 2,500	1092	1145	
2,501 - 5,000	1,552	1,628	
5,001 - 7,500	2,012	2,111	
7,501 - 10,000	2,299	2,412	
10,001 - 12,500	2,529	2,654	
12,501 - 15,000	2,759	2,895	
15,001 - 20,000	N/A	N/A	3,800
20,001 - 25,000	N/A	N/A	4,170
25,001 - 30,000	N/A	N/A	4,600

YEAR 2

Amount Claimed	Existing Scale Cost	Existing Cost plus Inflation increase at 9.85%	New Bands
£	£	£	£
Does not exceed 1,000	517	568	
1,001 - 2,500	1092	1200	
2,501 - 5,000	1,552	1,705	
5,001 - 7,500	2,012	2,210	
7,501 - 10,000	2,299	2,525	
10,001 - 12,500	2,529	2,778	
12,501 - 15,000	2,759	3,031	
15,001 - 20,000	N/A	N/A	3,987
20,001 - 25,000	N/A	N/A	4,806
25,001 - 30,000	N/A	N/A	5,302

Comparative Table of Counsel's Fees

Inflation of 9.85% over 2 years (4.925% per year)

YEAR 1

Amount Claimed	Existing Scale Cost	Existing Cost plus half of Inflation increase at 9.85%	New Bands
£	£	£	£
Does not exceed 1,000	173	182	
1,001 - 2,500	253	265	
2,501 - 5,000	368	386	
5,001 - 7,500	460	483	
7,501 - 10,000	540	567	
10,001 - 12,500	615	645	
12,501 - 15,000	690	724	
15,001 - 20,000	N/A	N/A	825
20,001 - 25,000	N/A	N/A	934
25,001 - 30,000	N/A	N/A	1039

YEAR 2

Amount Claimed	Existing Scale Cost	Existing Cost plus Inflation increase at 9.85%	New Bands
£	£	£	£
Does not exceed 1,000	173	190	
1,001 - 2,500	253	278	
2,501 - 5,000	368	404	
5,001 - 7,500	460	505	
7,501 - 10,000	540	593	
10,001 - 12,500	615	676	
12,501 - 15,000	690	758	
15,001 - 20,000	N/A	N/A	866
20,001 - 25,000	N/A	N/A	978
25,001 - 30,000	N/A	N/A	1,090

**Comparative Table of Plaintiff's Solicitor's Costs (excluding disbursements) –
Table 2 (21 day Costs)**

Inflation of 9.85% over 2 years (4.925% per year)

YEAR 1

Amount Claimed	Existing Scale Cost	Existing Cost plus half of Inflation increase at 9.85%	Amount Claimed	New Bands
£	£	£	£	£
Does not exceed 500	76	79	Does not exceed 500	
501 - 1,000	120	126	1,000	102
1,001 - 2,000	150	157		
2,001 - 3,000	172	180		
3,001 - 4,000	187	196	5,000	187
4,001 - 5,000	208	218		
5,001 - 6,000	232	243		
6,001 - 7,000	253	265		
7,001 - 8,000	273	286	10,000	283
8,001 - 9,000	289	303		
9,001 - 10,000	305	320		
10,001 - 12,500	331	347		
12,501 - 15,000	366	384	15,000	365
15,001 - 20,000	N/A	N/A	20,000	431
20,001 - 25,000	N/A	N/A	25,000	488
25,001 - 30,000	N/A	N/A	30,000	555

YEAR 2

Amount Claimed	Existing Scale Cost	Existing Cost plus half of Inflation increase at 9.85%	Amount Claimed	New Bands
£	£	£	£	£
Does not exceed 500	76	83	Does not exceed	
501 - 1,000	120	132	1,000	108
1,001 - 2,000	150	164		
2,001 - 3,000	172	189		
3,001 - 4,000	187	205	5,000	196
4,001 - 5,000	208	228		
5,001 - 6,000	232	255		
6,001 - 7,000	253	278		
7,001 - 8,000	273	300	10,000	297
8,001 - 9,000	289	317		
9,001 - 10,000	305	335		
10,001 - 12,500	331	364		
12,501 - 15,000	366	402	15,000	383
15,001 - 20,000	N/A	N/A	20,000	452
20,001 - 25,000	N/A	N/A	25,000	512
25,001 - 30,000	N/A	N/A	30,000	582

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