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Remuneration Proposal

Remunerating Defence Solicitors in Crown Court Cases



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INDEX

	<u>Paragraphs</u>	<u>Page</u>
Overview of the Proposal		2
Background	1 - 3	4
Existing Arrangements	4 - 5	5
New Legislative Framework	6 - 8	5
Framework of Proposals	9 - 11	6
Guilty Pleas	12 - 27	7
Trial Fees	28 - 37	10
Applications and other Fees	38 - 45	13
Very High Cost Cases	46 - 47	15
Exceptional Cases	48 - 56	16
Disbursements	57 - 58	18
Other Proposals	59 - 65	18
Solicitor Advocacy	66 - 81	20
Next Steps	82 - 86	27
Annex 1 Objectives and Principles for the Proposal		28
Annex 2 Criteria for New Remuneration Rules		29
Annex 3 Classes of Offences		30
Annex 4 Very High Cost Case Rates		50

OVERVIEW OF THE PROPOSAL

This consultation paper sets out proposals to remunerate defence solicitors in Crown Court cases which are publicly-funded. It specifically addresses the following issues:

- The legislative basis for the new remuneration system will be the ‘*value for money*’ test included in the Access to Justice (Northern Ireland) Order 2003, which will replace the current ‘*fair remuneration*’ test under Article 37 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.
- At present, under the Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992, for cases in the Crown Court, the majority of legal aid work carried out by solicitors is remunerated on a non-standard basis. This means that, in the majority of such cases, solicitors’ claims are time-based in respect of the work undertaken in any particular case; and these claims must be individually assessed *ex post facto*. Under this proposal, in future the remuneration payable in most cases will be determined by a system of standard fees, which will operate on a ‘swings and roundabouts’ basis.
- The proposed levels of remuneration set out in this proposal have been developed on a ‘cost neutral’ basis. That is, they are based on the number of hours claimed by solicitors in a representative sample of cases which have been submitted under the 1992 Rules. They are neither intended nor expected to produce any overall reduction in the cost to the public purse of remunerating defence solicitors in Crown Court cases.
- Where the proposal refers to “a solicitor”, that means the solicitor with carriage of a case on behalf of the firm which has been assigned to an assisted person under a criminal aid certificate granted under Article 29 of the 1981 Order. Unless the context otherwise requires, this shall also include any other solicitor in the same firm who carries out work under that certificate.

- The proposal recognises the potential for solicitors to provide substantive advocacy in Crown Court cases, and sets out proposed levels of remuneration to enable this to develop.
- There will be periodic reviews of the general operation of the new Remuneration Rules, including the levels of the prescribed fees. It is proposed that the Rules will provide a statutory basis for such reviews.

PROPOSAL
REMUNERATION FOR DEFENCE SOLICITORS
IN CROWN COURT CASES

Background

1. This consultation paper sets out proposals for the remuneration of defence solicitors instructed in publicly-funded Crown Court cases. It forms one strand of the discussions which the Northern Ireland Court Service, acting on behalf of the Lord Chancellor, have been conducting with the legal profession on the reform of criminal legal aid remuneration. The publication of this proposal, and the corresponding draft Rules which accompany it, follows a period of intense and detailed discussions with a Working Group established by the Law Society. The objectives and principles which underpin the proposal are set out at Annex 1.

2. Systemically, the proposal is based on the following tenets:
 - (a) the legislative basis for the new remuneration system will be the ‘*value for money*’ test included in the Access to Justice (Northern Ireland) Order 2003 – see Annex 2;
 - (b) the remuneration payable in most cases will be determined by a system of standard fees, which will operate on a swings and roundabouts basis;
 - (c) the remuneration system will complement existing Crown Court practice;
 - (d) the system should reward early preparation of cases; and
 - (e) there should be appropriate arrangements to remunerate genuinely exceptional cases which would fall outside the standard fee framework.

3. The publication of this proposal marks the second step in a programme of reform which will result in the overhaul of all aspects of the remuneration of defence solicitors and counsel in publicly-funded criminal cases. This area accounted for £5.28m of the £26.86m spent on criminal legal aid in 2002/03. (A corresponding proposal issued for consultation with the Bar of

Northern Ireland in February 2004, together with draft Remuneration Rules in respect of Crown Court Advocacy which issued for consultation in September 2004.)

Existing Arrangements

4. The current remuneration system for criminal legal aid (including solicitors' fees for Crown Court cases) is set out in the Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992 ("the 1992 Rules") which came into operation in January 1993. The 1992 Rules:
 - (a) prescribe standard fees for cases meeting certain criteria; and
 - (b) prescribe rates of remuneration to be applied to work undertaken by lawyers in non-standard fee cases.
5. In respect of solicitors' fees for Crown Court cases, in recent years 98.8% of the value of payments issued were made on a non-standard basis. This creates significant pressures on the Legal Aid Fund and poses serious questions for the Government as to the predictability of its funding commitment and the value for money derived from this area of expenditure. The process which underpins the non-standard fee approach also creates issues for practitioners as it produces considerable time-delays in the assessment and payment of claims.

New Legislative Framework

6. The 1992 Rules will be amended to exclude remuneration for solicitors in Crown Court cases. New freestanding Remuneration Rules dealing with this area will be made under Article 36 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, as amended by the Access to Justice (Northern Ireland) Order 2003. (The new Rules will also supersede the composite fees which have been payable for Crown Court cases in accordance with Directions issued by the Lord Chancellor under the 1992 Rules.)
7. The new instrument will not include a role for the Appropriate Authority in determining solicitors' remuneration for Crown Court cases. Under the new Rules this will be the responsibility of the Northern Ireland Legal Services Commission ("the Commission").

Furthermore, under the new instrument the Taxing Master will not be involved in determining any payments which fall within the standard fees prescribed in the Rules. However, the Taxing Master will continue to have a role in hearing appeals and determining the remuneration payable in cases which fall outside the standard fee regime.

8. This proposal is being issued together with a set of the new Remuneration Rules and consolidating Criminal Aid Certificates Rules, both in draft format, which are also the subject of consultation. Comments on the consultation paper and the draft Rules are invited by **Wednesday 1 December 2004**.

Framework of Proposals

9. This proposal is built upon a matrix of offences which have been grouped into 9 classes of offences. This approach is well established in England and Wales under the Criminal Defence Service (Funding) Order 2001, and provides a common approach for remunerating defence solicitors and counsel for advocacy in Crown Court cases. It also has the advantage of building on the practice of the former Legal Aid Department which also maintained a classification of offences. The proposal sets out the Northern Ireland equivalent to the Table of Offences used in England and Wales, as this is the most exhaustive list available in respect of offences prosecuted in the Crown Court. The Table of Offences is set out at Annex 3. Comments are invited on whether it would be appropriate to reclassify some of the offences into different classes of offence to reflect the typical weight of particular offences in Northern Ireland.
10. Within the proposal *Guilty Plea Fees* and *Basic Trial Fees* are mapped to each of the classes of offences. The proposal also sets out a range of other fees which are not class-specific.
11. In this proposal a case is viewed as proceedings against a single person on a single indictment regardless of the number of counts. If counts have been severed so that two counts are to be dealt with separately, or two defendants are to be dealt with separately, or if two indictments were committed together but dealt with separately, then there are two cases. Conversely, where two or more indictments were committed separately and subsequently joined, they will be treated as one case. If a case is separated this will

attract a separate fee. However, when cases are joined this will result in an enhanced fee being allowed. This principle also applies when a number of cases in respect of the same defendant are disposed of on the same day. In such circumstances, the appropriate fee will be paid for the first case, with an additional 20% being payable for each additional case.

Guilty Pleas

12. All defendants returned for trial to the Crown Court must be arraigned. Crown Court Practice Directions require defendants to be arraigned within six weeks of being committed for trial.
13. A significant percentage of defendants plead guilty when arraigned. A sample of some 500 cases indicated that:
 - (a) 38% of cases pleaded guilty on arraignment;
 - (b) 41% pleaded guilty on re-arraignment before the trial commenced;
 - (c) 1% pleaded guilty during the trial;
 - (d) 4% were otherwise disposed of;
 - (e) 16% proceeded to trial.
14. As a significant number of cases proceed as guilty pleas, it is important that the remuneration system rewards early preparation of cases, thereby enabling the Crown Court system to run as efficiently as possible.
15. Under the current arrangements, a solicitor involved in a case which is disposed of following a guilty plea on arraignment would typically be allowed fees for the hours charged in respect of:
 - (a) preparation;
 - (b) attendance at court where counsel is assigned, including consultations with counsel at court;
 - (c) travelling and waiting.

In addition, payment would be made in respect of dealing with routine letters written and telephone calls, and for any disbursements which have been actually and reasonably incurred.

16. Again, under the current arrangements, the costs paid in any individual case is determined by a number of factors, including: the

nature of the offence; the weight of the case (as reflected by the number of pages of documents and witnesses, including expert witnesses); the number of hours claimed; whether the solicitor doing the work (or particular type of work) was of grade A, B or C; whether the case was prepared for a trial and any uplift allowed.

17. This proposal seeks to recognise that pleas can be entered at various stages in the progression of a case. Accordingly, two guilty plea fees have been identified:
- (a) Plea on first arraignment (*Guilty Plea 1 Fee*); and
 - (b) Plea after first arraignment but before the end of the first “full” trial day (*Guilty Plea 2 Fee*).
18. A *Guilty Plea 1 Fee* is proposed for all pleas entered on first arraignment. In developing this fee, we have sought to capture the range of existing fees which are paid for such cases under the 1992 Rules. As such, it is envisaged that this will:
- (a) provide an all-inclusive fee covering all work involved in the case; and
 - (b) encourage early preparation of cases.
19. The proposed *Guilty Plea 1 Fees* are as follows:

Class	Solicitor Guilty Plea 1 Fee
A	£7,750
B	£1,860
C	£1,235
D	£3,840
E	£1,235
F	£1,320
G	£2,160
H	£1,235
I	£1,235

20. As the *Guilty Plea 1 Fee* will operate on a swings and roundabouts basis, it is envisaged that there is likely to be a significant number of cases in which this approach will produce enhanced fees.
21. The analysis outlined at paragraph 13 above indicates that the majority of cases which enter a not guilty plea on arraignment will be re-arraigned before or shortly after the trial commences.
22. Accordingly, it is proposed that a *Guilty Plea 2 Fee* should be payable when a defendant is re-arraigned after the first arraignment but before the end of the first “full” day of the trial. In this context, it is proposed that a day will not be considered as the first full day of trial unless the prosecution has opened its case and the first prosecution witness has begun to give evidence.
23. Unlike the *Guilty Plea 1 Fee*, the *Guilty Plea 2 Fee* will not be an all-inclusive fee. However, the proposed fees have been developed to cover the broad spectrum of work undertaken in the preparation of cases. In addition to this fee, it is proposed that solicitors will be entitled to certain additional fees, such as in respect of work carried out regarding any interlocutory-type applications which may have occurred since the first arraignment. See paragraphs 38 - 45 below.
24. The proposed *Guilty Plea 2 Fees* are as follows:

Class	Solicitor Guilty Plea 2 Fee
A	£8,620
B	£2,170
C	£1,425
D	£4,320
E	£1,425
F	£1,540
G	£2,520
H	£1,425
I	£1,425

25. The above proposals for *Guilty Plea Fees* do not include cases in which the prosecution offer no evidence (or no further evidence) and which are discontinued. It is proposed that all such cases will be treated as substantive trials. This approach will also apply in cases where the prosecution enter a *nolle prosequi*. Details of the

proposed remuneration arrangements for trials are set out at paragraphs 28 - 37 below.

26. When a not guilty plea is entered on arraignment, it is proposed that an appearance fee will be payable to a solicitor for attending the arraignment. See the Table at paragraph 41 below.
27. No additional fee will be payable for entering a guilty plea, irrespective of when it is entered.

Trial Fees

28. It is proposed that cases which run as trials, that is which do not attract a *Guilty Plea 1 or 2 Fee*, will be remunerated primarily through a range of *Basic Trial Fees* prescribed for the class of offence involved together with *Refresher Fees*, as appropriate.
29. It is proposed that cases which are expected to last over 25 days, or which go to trial and, in fact, exceed 25 days, will be designated as *Very High Cost Cases*. Such cases will be paid on a separate basis as set out at paragraphs 46 - 47 below.
30. At present, under the 1992 Rules solicitors can claim that a particular case should be treated as exceptional and paid on a non-standard basis. If successful, their claim will then be individually assessed *ex post facto* and remuneration for the number of allowed hours, together with any uplift, will be payable. Under the proposal, the *Basic Trial Fee* payable will be a standard fee which will cover, on a swings and roundabouts basis, the cost of preparing standard cases for trial in respect of each of the various classes of offences.
31. The proposed *Basic Trial Fees* are as follows:

Solicitor Basic Trial Fee			
Class	Actual Duration of Trial		
	Trial Fee 1 1-8 Days	Trial Fee 2 9-16 Days	Trial Fee 3 17-25 Days
A	£8,620	£11,465	£17,157
B	£3,100	£4,464	£6,517
C	£1,900	£2,717	£3,940
D	£4,800	£7,200	£9,576
E	£1,900	£2,717	£3,940
F	£2,200	£3,146	£4,562
G	£3,600	£5,400	£7,182
H	£1,900	£2,717	£3,940
I	£1,900	£2,717	£3,940

32. The proposed *Basic Trial Fees* seek to capture the full range of work undertaken in preparing cases for trial. The following table indicates the range of work covered by the *Basic Trial Fees*.

Old Expense Description	Unit Type	New Expense Description
Consultation at Court without Counsel	Hour	<i>Basic Trial Fee</i>
Consultation with Counsel	Hour	
Guilty Plea Principal standard fee	Set Fee	
In-House Photocopying	Per Page	
Listen to Audio Tapes	Hour	
Non Routine Letters	Hour	
Non Routine Telephone Calls	Hour	
Preparation	Hour	
Prison Visits	Hour	
Routine Letters Written	Unit Price	
Routine Telephone Calls	Unit Price	
Standard Waiting	Set Fee	
Transcribing Tapes	Hour	
Video Link	Hour	
View Video Tapes	Hour	
Visit Locus	Hour	
Waiting	Hour	

33. In this context, it is not envisaged that specific fees would be payable for these items of work save in exceptional cases. (See paragraphs 48 - 56 below regarding Exceptional Cases.)

34. It is also proposed that for cases which proceed to trial, in addition to the *Basic Trial Fee*, a *Refresher Fee* of £500 per day will be payable to solicitors for a trial lasting between one and eight days. The corresponding half day *Refresher Fee* will be £250. For a trial lasting between nine and sixteen days, it is proposed that the corresponding *Refresher Fees* will be £600 and £300; and for a trial lasting between seventeen and twenty-five days, it is proposed that the corresponding *Refresher Fees* will be £700 and £350.
35. It is recognised that the new Remuneration Rules will have to accommodate ‘re-trials’. To this end, it is proposed that if a trial is aborted (or ends with the jury being unable to agree a verdict) and another trial begins either on the same day or within 15 working days, the case will be considered as comprising one trial. As such, no additional *Basic Trial Fee* will be payable. However, if there is a gap of more than 15 working days between the trial being aborted/ending and another trial beginning this will be considered as comprising two trials and a second *Basic Trial Fee* will be payable.
36. If, following an appeal, a new trial is ordered or the trial falls within the definition of a retrial and the same solicitor acts on behalf of the assisted person in both trials, it is proposed that they will be paid two *Basic Trial Fees*. However, under the proposal, payment for the new trial will be calculated as follows:
- (a) if the new trial starts within two calendar months of the conclusion of the first trial, a solicitor will be paid a new *Basic Trial Fee* but it will be reduced by 40% from the appropriate figure set out in the Table at paragraph 31;
 - (b) if the new trial starts later than two calendar months from the conclusion of the first trial, a solicitor will be paid a new *Basic Trial Fee* but reduced by 25%;
 - (c) if the solicitor at the first trial and the solicitor at the new trial are different (that is, from different firms), each of them will receive a full *Basic Trial Fee*;
 - (d) there will be no change to the way in which *Refresher Fees* are paid.

37. Once the proposed trial matrix is well established, it is envisaged that there will be a review of the appropriateness of the three *Trial Fee* bands together with the *Guilty Plea* and *Basic Trial Fees* as these may require some refinement.

Applications and Time-Based fees

38. Both cases which attract a *Guilty Plea 2 Fee* and those which run as trials will potentially also attract a range of other fees. It is proposed that the remuneration available for this range of work should broadly reflect existing practice, although the fees payable have been revised to streamline the number of fees of different values. It is proposed that an application which lasts up to 1 hour will attract an *Application Fee 1*, whereas if the application exceeds 1 hour but is less than 3.5 hours (excluding luncheon adjournments) it will attract an *Application Fee 2*. Any application which lasts in excess of 3.5 hours (excluding luncheon adjournments) will attract an *Application Fee 3*. (For this purpose, the term ‘application’ includes attendance for adjournments, appearances, mentions, breach and confiscation hearings, and bench warrant applications.)
39. Under this proposal, applications such as a *voir dire* will be paid as a separate application. (However, any day on which a *voir dire* is held will count towards calculating the duration of the trial for the purpose of determining whether the level of the relevant *Basic Trial Fee* payable should be the *Trial Fee 1*, *Trial Fee 2* or *Trial Fee 3*.) The remuneration payable for substantive applications will be consistent with half and full day *Refresher Fees*.
40. It should be noted that – in keeping with the analysis provided at paragraph 32 above – certain items of work, which would currently attract specific fees under the 1992 Rules, have been absorbed into the proposed *Basic Trial Fees* as they can be viewed as forming part of the overall preparation of the case.
41. The proposed fees covering various types of applications, mentions and appearances are as follows:

FIXED and TIME-BASED FEES

Fee Type	Fee
Arraignment – Not Guilty	£90
Standby Fee	£500
Appearing at deferred sentencing hearing	£250
Appearing at other sentencing hearing	£100
Late Sitting Fee	£250
Application Fee 1 (hearing not exceeding 1 hour)	£90
Application Fee 2 (hearing exceeding 1 hour but not exceeding 3.5 hours)	£250
Application Fee 3 (hearing exceeding 3.5 hours)	£500

42. It is proposed that the fee payable for “standby” will only be payable if a solicitor is required to attend court for a case which is listed as the back-up case. In such circumstances, it is accepted that the solicitor is leaving himself free to accommodate the court. However, if prior to the standby day a solicitor is advised that his case is no longer on standby and is now only listed for mention, it is proposed that a time-based *Application Fee* will be payable, as appropriate to the duration of the hearing on that day.
43. It is further proposed that no *Standby Fee* shall be payable where the defendant chooses to plead guilty on the day when the case is subsequently listed for trial. In such circumstances, it is proposed that the *Guilty Plea 2 Fee* will apply.
44. This proposal also envisages that applications such as “No Bill,” “Abuse of Process” and “Fitness to Plead” which successfully

bring the case to a conclusion will attract the appropriate *Basic Trial Fee* (and *Refresher Fees*, if applicable) set out in the table at paragraph 31 above. Applications of this nature which are unsuccessful will be remunerated by reference to the appropriate *Application Fee*.

45. As the analysis and proposed fees as set out at paragraphs 31 and 32 above indicates, the proposed *Basic Trial Fees* include the average ‘waiting’ time currently paid for each category of offence. Accordingly, it is proposed that any *Application Fees* payable for an individual case will be based on the actual court hearing time involved in dealing with such applications, and will not attract an additional allowance for waiting unless the total waiting time for all applications made exceeds 2 hours. Should the total waiting time exceed 2 hours, it is proposed that the Commission may allow a higher level of *Application Fee* than the court time involved would otherwise determine.

Very High Cost Cases

46. It is proposed that cases which are projected to last more than 25 days (or which proceed to trial and, in fact, last more than 25 days) will be subject to separate remuneration arrangements. In such circumstances, the solicitor may apply to the Commission for a *Very High Cost Case Certificate*.
47. Remuneration for *Very High Costs Cases* will be assessed and determined by the Taxing Master. It is proposed that, when assessing the costs payable in such cases, the Taxing Master will have regard, among the matters which are relevant, to:
 - (a) the *Basic Trial Fee*, the *Guilty Plea 1 Fee* or the *Guilty Plea 2 Fee* which could otherwise be applicable if the case were not a *Very High Cost Case* according to the offence for which the defendant is tried, and
 - (b) the rates of payment set out in Annex 4.

Exceptional Cases

48. The previous section dealt with *Very High Cost Cases* – clearly all such cases may be regarded as being exceptional in nature. It is, however, recognised that other cases which do not fall within the *Very High Cost Case* category could also be deemed as being so unusual as to merit exceptional funding. In principle, it is accepted that cases which fall within the *Guilty Plea 1* and *2 Fee* brackets or the *Trial Fee* matrix could be viewed as being so exceptional that, even on a swings and roundabouts approach, it would be inappropriate to apply the prescribed standard fees.
49. Although the principle that exceptional cases can emerge throughout the remuneration system is recognised, this proposal also recognises another principle: namely, that ‘exceptional’ must mean exceptional. The proposal does not seek to set quotas for exceptional cases but does assume that the number of exceptional cases will be small.
50. Under the proposal, if a solicitor considers that, owing to the exceptional circumstances of the case and the specific additional work which needs to be done, the amount which would otherwise be payable by way of the appropriate standard fees would not provide reasonable remuneration for some or all of the work involved, he may apply to the Commission for a *Certificate of Exceptionality*. It will be for the solicitor to make a compelling case as to the exceptionality of individual cases, but the final decision will rest with the Commission. To assist this process, it is envisaged that a specific form will be developed to enable applications for exceptional status to be submitted to the Commission. The Commission will establish a mechanism to enable it to consider applications for a *Certificate of Exceptionality* and any consequential revisions as to the remuneration payable under the new Remuneration Rules.
51. In considering applications for a *Certificate of Exceptionality* the Commission will develop working assumptions which it may publish as guidance for practitioners. One such assumption may include recognition of the ‘funding shadow’ which the swings and roundabouts approach casts over the levels of the proposed standard fees. It is envisaged that this could result in the Commission forming views on the level of additional work which could be caught by the ‘funding shadow’ and which, accordingly,

would not ordinarily attract additional funding.

52. Under the proposal, it will be vital that the Commission's agreement be secured at the earliest opportunity to part or the whole of a case being treated as exceptional. With this in mind, the solicitor will be responsible for submitting an application to the Commission for a *Certificate of Exceptionality* at the earliest opportunity, setting out the grounds for the application, the particular work which is the subject-matter of the application and the details of the additional funding sought. Before the Commission will certify a case to be treated as exceptional (other than *Very High Cost Cases*), it will have to be satisfied that the case is truly 'exceptional'. In so doing, it is proposed that the factors which the Commission shall have regard to, among the matters which are relevant, include:
- (a) whether the issues involved are/were significantly more complex than other cases involving the same offence or Class of Offence;
 - (b) whether the volume of evidence (including any unused evidentiary material) is/was significantly greater than that in other cases involving the same offence or Class of Offence;
 - (c) any novel issues of law which are to be/were involved in the case; and
 - (d) any new precedents established in the case.
53. If the Commission decides that there were no such exceptional circumstances, it is proposed that the standard fees as outlined at paragraphs 17 - 36 above will apply.
54. It is assumed that solicitors will wish to apply for a *Certificate of Exceptionality*, and the associated approval for additional work, on a prospective basis. The draft Remuneration Rules do, however, provide a mechanism for the Commission to consider applications on a retrospective basis, although it is not anticipated that this provision will be used routinely.
55. It is proposed that, if the Commission grants a *Certificate of Exceptionality*, it may allow a specified block of additional funding (or a specified number of additional hours) for specified work. It is

also proposed that, in very exceptional circumstances, the Commission may consider further applications for approval of additional work.

56. It is proposed that, if it grants a *Certificate of Exceptionality*, the Commission will be limited as to the extent of the additional funding which it can authorise. The draft Remuneration Rules confer on the Commission a power to allow additional funding which in total does not exceed 175% of the standard fee provided for in the Rules in respect of the work which is the subject-matter of the application. However, it is proposed that if the Commission is satisfied that an individual application is wholly exceptional and that, due to the specific nature of the case, it would be minded to approve additional funding in excess of that which it is authorised to approve, the Commission may approve funding up to the maximum prescribed level and then refer the case to the Taxing Master for consideration as to whether further additional funding should be allowed.

Disbursements

57. As provided for under the arrangements with the current 1992 Rules, the Commission will be responsible for the processing of payments for disbursements. The proposed new remuneration system will seek to minimize any delay in progressing work by avoiding the need to secure prior approval to incur certain disbursements, subject to prescribed financial limits.
58. It is envisaged that, in certain circumstances, interim payments for disbursements incurred and discharged by a solicitor may be made before the solicitor submits his claim for the full costs in the case. The draft Remuneration Rules provide for interim payments which exceed a prescribed threshold. As this provision is an enhancement to the existing system, it is proposed that the threshold will be set, in the first instance, at £500 to ensure that this new initiative does not adversely impact upon the efficiency of the Commission's overall handling of cases under the new Rules.

Other Proposals

59. As provided for currently under the 1992 Rules, when a solicitor represents more than one defendant in respect of the same case, the fee payable will be subject to a 20% uplift for each additional

defendant. Similarly, where a solicitor is involved in two or more cases for the same defendant which are heard concurrently, he shall be paid a fixed fee of 20% of the relevant fee which is payable for the main hearing of each of the additional cases.

60. The proposed fees do not include travel which will be dealt with on the same basis as at present.
61. It is proposed that, where a criminal aid certificate has been granted in respect of any proceedings in the Crown Court, a solicitor shall not be permitted to receive or be a party to the making of any payment for work done in connection with those proceedings except such payments as may be made by the Commission. It is also proposed that this restriction on payment will apply, in modified form, with respect to disbursements.
62. It is proposed that, in the future, a power will be taken to enable the court to make a *Wasted Costs Order*.
63. It is envisaged that the Crown Court will be empowered to disallow or, as the case may be, order the legal or other representative concerned to meet the whole of any wasted costs or such part of them as may be determined. It is also envisaged that such orders would be subject to an appeal to the Court of Appeal.
64. Although the details on this aspect of the proposal have yet to be developed, it is proposed that such orders could be made:
 - (a) where wasted costs are incurred as a result of any improper, unreasonable or negligent act or omission on the part of any representative or any employee of a representative; and/or
 - (b) if the court considers it reasonable to expect one party to pay those costs in the light of any such act or omission.
65. A practical example of when such an order may be appropriate is where repeated applications are made for adjournments, and the court considers such applications to be unreasonable, the court could direct that no fee be paid for the adjournment application.

Solicitor Advocacy

66. The proposal recognises the potential for solicitors to provide substantive advocacy in Crown Court cases. The Law Society has argued that as solicitors have a right of audience before the Crown Court, subject to any direction which the Lord Chief Justice may issue under section 50 of the Judicature (Northern Ireland) Act 1978, appropriate remuneration should be provided to solicitors to enable solicitor advocacy to develop.
67. Subject to the statutory position as outlined at paragraph 66 above, and to the outcome of the consultation exercise on this proposal (and the accompanying draft Remuneration Rules, and draft Criminal Aid Certificates Rules), the proposal seeks to provide for substantive solicitor advocacy in Crown Court cases.
68. The proposed draft Criminal Aid Certificates Rules (Northern Ireland) 2005 (“the Certificates Rules”) will revoke the existing sets of Rules which govern the grant of legal aid for representation in criminal matters in the Magistrates’ Courts, the County Court and the Crown Court. The existing Rules are:
 - the Legal Aid Certificates Rules (Northern Ireland) 1966, as amended;
 - the Legal Aid (Appeal Aid Certificates) Rules (Northern Ireland) 1966; and
 - the Legal Aid (Defence Certificates) Rules (Northern Ireland) 1966.
69. The new set of Certificates Rules is primarily a consolidating instrument, which also removes some of the requirements of the 1966 Rules which have long since fallen into disuse. However, it is proposed that the Certificates Rules will also expand the definition of “counsel” to ensure that solicitor advocacy is recognised in the new Remuneration Rules. As such, the provision of enhanced remuneration for solicitor advocacy as envisaged in this proposal is dependant on the draft Certificates Rules being made.
70. As part of the package of measures which are set out in the proposal, there is a clear quality assurance dimension to the proposed approach to solicitor advocacy. Accordingly, the proposal envisages that the full remuneration package will only be available to solicitor advocates who are certified by the Law Society as having been granted a Certificate in ‘Advanced Advocacy’.

However, it is recognised that there will be a limited number of solicitors who could be certified under this criterion at present. To address this limitation, the proposal also envisages that the Law Society may wish to develop a mechanism to certify other solicitors as having:

- (a) extensive experience of running a wide range of Crown Court cases over a sustained period of time; and
- (b) a recognised expertise in providing advocacy for clients in criminal cases.

Subject to such a mechanism being developed and it securing the necessary judicial support, the draft Legal Aid for Crown Court Advocacy (Costs) Rules (Northern Ireland) 2004 (“the Advocacy Rules”) could be amended to accommodate such a provision.

71. Furthermore, in recognition of their existing right of audience and the fact that, from time to time, some solicitors do provide advocacy in Crown Court cases, the proposal provides for a reduced level of funding to be payable to solicitors who have not been certified by the Law Society as an ‘Advanced Advocate’. Under this proposal, the funding for uncertified practitioners would equate to one-half of the proposed fees which would be payable to certified solicitor advocates.
72. Under the proposal, a certified solicitor advocate will attract the same fee as will be payable to sole junior counsel under the draft Advocacy Rules. This proposal assumes that the certified solicitor advocate will not be responsible for both the preparation and presentation of the case. If, however, the same solicitor prepares the case and appears as the advocate at the hearing, then it is proposed that the fee payable will be reduced by 10% to reflect the saving on time/work which solicitor advocacy represents compared with a solicitor preparing and counsel reading the brief. If a different solicitor in the same firm (or a different firm) prepares a case before instructing a solicitor advocate to present it, then the 10% reduction shall not apply. It is proposed that it will be for the solicitor claiming payment to satisfy the Commission that there has been a clearly maintained division of responsibility in the conduct of the case. This provision will not apply to uncertified solicitor advocates.

73. The proposed fees which will be payable to certified and uncertified solicitor advocates are as follows:

(a) Guilty Plea 1 Fee

Class	Certified Solicitor Advocate	Uncertified Solicitor Advocate
A	£2,324	£1,162
B	£1,479	£740
C	£1,268	£634
D	£1,606	£803
E	£1,268	£634
F	£1,268	£634
G	£1,606	£803
H	£1,268	£634
I	£1,268	£634

(b) Guilty Plea 2 Fee

Class	Certified Solicitor Advocate	Uncertified Solicitor Advocate
A	£3,656	£1,828
B	£1,950	£975
C	£1,706	£853
D	£2,438	£1,219
E	£1,706	£853
F	£1,706	£853
G	£2,438	£1,219
H	£1,706	£853
I	£1,706	£853

(c) **Basic Trial Fees**

Certified Solicitor Advocate			
Class	Actual Duration of Trial		
	Trial Fee 1 1-8 Days	Trial Fee 2 9-16 Days	Trial Fee 3 17-25 Days
A	£4,875	£6,500	£9,750
B	£2,600	£3,738	£5,444
C	£2,275	£3,250	£4,713
D	£3,250	£4,875	£6,500
E	£2,275	£3,250	£4,713
F	£2,275	£3,250	£4,713
G	£3,250	£4,875	£6,500
H	£2,275	£3,250	£4,713
I	£2,275	£3,250	£4,713

Uncertified Solicitor Advocate			
Class	Actual Duration of Trial		
	Trial Fee 1 1-8 Days	Trial Fee 2 9-16 Days	Trial Fee 3 17-25 Days
A	£2,438	£3,250	£4,875
B	£1,300	£1,869	£2,722
C	£1,138	£1,625	£2,357
D	£1,625	£2,438	£3,250
E	£1,138	£1,625	£2,357
F	£1,138	£1,625	£2,357
G	£1,625	£2,438	£3,250
H	£1,138	£1,625	£2,357
I	£1,138	£1,625	£2,357

74. Save for the disparity between a certified and uncertified solicitor advocate and the potential reduction of 10% in the *Basic Trial Fees*, *Guilty Plea 1 Fees* and *Guilty Plea 2 Fees* which a certified solicitor advocate may attract in certain circumstances, it is proposed that both certified and uncertified solicitor advocates will have the same rights and privileges as counsel in the determination of any fees payable.
75. In addition to the proposed fees set out at paragraphs 71 - 74 above, it is proposed that, depending on the circumstances of any particular case, a solicitor advocate (whether certified or

uncertified) may be allowed a range of other fees. The proposed *Fixed and Time-based Fees*, payable where applicable, are as follows:

Table of Fixed and Time-based Fees

Fee Type	Solicitor Advocate
Trial Status Report form	£163
Arraignment – Not Guilty	£98
Standby Fee	£325
Appearing at deferred sentencing hearing	£260
Appearing at other sentencing hearing	£195
Late Sitting Fee	£163
Application Fee 1 (hearing not exceeding 1 hour)	£76
Application Fee 2 (hearing exceeding 1 hour but not exceeding 3.5 hours)	£163
Application Fee 3 (hearing exceeding 3.5 hours)	£325
Consultation/views (per hour)	£41
Listening to or viewing tapes etc. (per 10 mins)	£18

76. Under this proposal, any fee payable to a certified (or uncertified) solicitor advocate in relation to advocacy shall not prejudice the solicitor claiming fees payable for non-advocacy work in the same case. The only exception to this rule is that a solicitor would not be

paid for the same work twice. For example, it is proposed that an individual solicitor will not be paid a fee for attending court both as a solicitor advocate and as an ‘attending’ solicitor. In such circumstances, only one fee would be payable.

77. If, however, a solicitor is providing advocacy as a certified solicitor advocate it is envisaged that he may be supported at court by a solicitor from the instructing firm, consistent with the terms of the criminal aid certificate granted to his client. In such circumstances, it is proposed that separate fees would be payable. This specific provision does not apply to uncertified solicitor advocates.
78. In cases where counsel is instructed, but he is unable to attend for a particular mention etc., it is proposed that an uncertified solicitor who represents his client as a solicitor advocate shall be entitled to the appropriate fee as outlined in paragraph 75 above.
79. If a solicitor begins to conduct a case (or part of a case) as a solicitor advocate and then has to withdraw from his role as advocate, it is proposed that no advocacy fees will be payable to the solicitor. However, where the Commission is satisfied that the solicitor was obliged to withdraw from the case for compelling professional reasons (such as, that the defendant has incriminated himself in the course of consultation and the solicitor cannot continue to represent him), it may allow such amount as appears to it to be reasonable having regard to the fees which would otherwise be payable. In such circumstances, it is anticipated that the solicitor’s firm could no longer act for the defendant in that case.
80. Likewise, if a solicitor involved in the general preparation of a case (that is, without providing advocacy services) is dismissed by the defendant, or he is obliged to withdraw from the case for such compelling professional reasons, it is proposed that the Commission may allow the following fees as representing appropriate and reasonable remuneration:
 - (a) a *Guilty Plea 1 Fee* – if the solicitor came off the record within one week of the date of first arraignment;
 - (b) a *Guilty Plea 2 Fee* – if the solicitor came off the record after the defendant’s first arraignment and before the trial (if any) commenced; and

- (c) in any other circumstances, such level of remuneration as appears reasonable to the Commission in the circumstances.
81. To give effect to the proposals in respect of solicitor advocates, it is considered that the accompanying draft Certificates Rules will have to come into force. It will also be necessary to amend the text of the draft Advocacy Rules once made. It is considered that the following principal changes will be required to the Advocacy Rules:
- (a) In each of the tables following paragraphs 7 and 9 of Schedule 1 to the draft Advocacy Rules, the “Sole Junior Counsel” column will be amended to provide that the applicable fees shall also be payable to a “Certified Solicitor Advocate”;
 - (b) In each of the tables following paragraphs 7 and 9 of Schedule 1 to the draft Advocacy Rules, an additional column will be added to set out the corresponding fees for “Uncertified Solicitor Advocates” as outlined at paragraph 73 above;
 - (c) In the table following paragraph 19 of Schedule 1 to the draft Advocacy Rules, the “Sole Junior Counsel” column will be amended to provide that the applicable fees shall also be payable to “Solicitor Advocates”;
 - (d) Paragraphs 6 and 8 of Schedule 1 to the draft Advocacy Rules will be amended to reflect the fact that, where a solicitor prepares a case and then presents it as a certified solicitor advocate, there will be a 10% deduction on the applicable advocacy fee (unless the solicitor satisfies the Commission there has been a clearly maintained division of responsibility, as referred to at paragraph 72 above);
 - (e) A new paragraph 25A will be inserted in Schedule 1 to the draft Advocacy Rules to enable the Commission to provide remuneration to a solicitor advocate who is obliged to withdraw from a case, as outlined at paragraph 79 above.

Next Steps

82. The Court Service invites views and comments on this Remuneration Proposal – and on the accompanying draft Remuneration Rules and the draft Certificates Rules – by **Wednesday 1 December 2004**.
83. Responses received will be regarded as being open unless it is requested that they be treated as confidential.
84. Responses should be sent either to:

Consultation Co-ordinator
Public Legal Services Division
Northern Ireland Court Service
Windsor House
9-15 Bedford Street
BELFAST
BT2 7LT

or publiclegalservicesdivision@courtsni.gov.uk
85. Officials from the Public Legal Services Division of the Court Service will be available to discuss the proposal (and the accompanying sets of draft Rules) throughout the consultation period. In particular, officials would welcome the opportunity to meet with representatives from the various Local Solicitors' Associations to discuss the proposals, and will make themselves available for this purpose.
86. Two draft instruments have been issued together with this consultation paper: the draft Legal Aid for Crown Court Proceedings Rules (Northern Ireland) 2004 and the draft Criminal Aid Certificates Rules (Northern Ireland) 2005. At the close of the consultation period, consideration will be given to any necessary revision of the draft Rules in the light of the responses received. The revised draft Rules will then be referred to the Crown Court Rules Committee under Article 36(3) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981. (In addition, the draft Certificates Rules will also be referred to the Magistrates' Courts and County Court Rules Committees.) It is anticipated that the new Remuneration Rules will commence early in 2005.

OBJECTIVES AND PRINCIPLES

In seeking to deliver the three objectives set by the Government for criminal remuneration, namely control, predictability and value for money, the following principles have been established:

- (a) the system should be based on standard or fixed fees;
- (b) the standard fees should cover the majority of cases;
- (c) the number of exceptional cases will be minimised;
- (d) very high cost cases will be remunerated separately;
- (e) the system should be compatible with Crown Court practice;
- (f) the system should be administratively uncomplicated;
- (g) the system should facilitate prompt payment;
- (h) the number of uplifts per case should be minimised;
- (i) variations should be standardised;
- (j) assessment/determination of fees should be performed by the Commission;
- (k) no certification role for the Taxing Master in standard fee cases; and
- (l) periodic review of the general operation of the new Remuneration Rules, including the levels of the prescribed fees.

CRITERIA FOR NEW REMUNERATION RULES

Article 37 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 will be amended – by Article 49(1) of, and paragraph 6(3) of Schedule 4 to, the Access to Justice (Northern Ireland) Order 2003 – to introduce a ‘*value for money*’ test in place of the current ‘*fair remuneration*’ test.

When making new Remuneration Rules the Lord Chancellor shall have regard, among the matters which are relevant, to -

- (a) the time and skill which work of the description to which the rules relate requires;
- (b) the number and general level of competence of persons undertaking work of that description;
- (c) the cost to public funds of any provision made by the rules; and
- (d) the need to secure value for money.

CLASSES OF OFFENCES

NOTES

1. Where an assisted person is charged with more than one offence on one indictment, the fee payable to a solicitor shall be based on whichever of those offences he shall select for the purpose.
2. (i) For the purposes of determining the appropriate fee which is payable in any individual case, every indictable offence falls within the Class under which it is listed in the Table of Offences and, subject to sub-paragraph (ii), indictable offences not specifically so listed shall be deemed to fall within Class H.

(ii) If in any individual case the solicitor is dissatisfied with the classification within Class H of an indictable offence not listed in the Table of Offences, he may apply to the Commission to reclassify the offence for the purposes of that case.
3. Conspiracy to commit, incitement to commit and attempts to commit an indictable offence each fall within the same Class as the substantive offence to which they relate.
4. Where the Table specifies that the Class within which an offence falls depends on whether the value involved exceeds a specified limit, the value shall be presumed not to exceed that limit unless the solicitor proves otherwise to the satisfaction of the Commission.
5. Where an entry in the Table of Offences specifies an offence as being contrary to a statutory provision, then subject to any express limitation in the entry that entry shall include every offence contrary to that statutory provision whether or not the words of description in the entry are apt to cover all such offences.

TABLE OF OFFENCES

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Class A: Homicide and related grave offences		
Murder	Common law	
Manslaughter	Common law	
Soliciting to murder	Offences against the Person Act 1861 s.4	1861 c.100
Child destruction	Criminal Justice Act (Northern Ireland) 1945 s.25(1)	1945 c.15
Infanticide	Infanticide Act (Northern Ireland) 1939 s.1(1)	1939 c.5
Causing explosion likely to endanger life or property	Explosive Substances Act 1883 s.2	1883 c.3
Attempt to cause explosion, making or keeping explosive etc.	Explosive Substances Act 1883 s.3	as above
Class B: Offences involving serious violence or damage, and serious drugs offences		
Kidnapping	Common law	
False imprisonment	Common law	
Aggravated criminal damage	Criminal Damage (Northern Ireland) Order 1977 Art.3(2)(b)	1977 N.I. 4
Aggravated arson	Criminal Damage (Northern Ireland) Order 1977 Art.3(3)	as above
Arson (where value exceeds £30,000)	Criminal Damage (Northern Ireland) Order 1977 Art.3(3)	as above
Possession of firearm with intent to endanger life	Firearms (Northern Ireland) Order 1981 Art.17	1981 N.I. 2
Use of firearm to resist arrest	Firearms (Northern Ireland) Order 1981 Art.18	as above

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Possession of firearm with criminal intent	Firearms (Northern Ireland) Order 1981 Art.19	as above
Possession or acquisition of certain prohibited weapons etc.	Firearms (Northern Ireland) Order 1981 Art.6	as above
Aggravated burglary	Theft Act (Northern Ireland) 1969 s.10	1969 c.16
Armed robbery	Theft Act (Northern Ireland) 1969 s.8(1)	as above
Assault with weapon with intent to rob	Theft Act (Northern Ireland) 1969 s.8(2)	as above
Blackmail	Theft Act (Northern Ireland) 1969 s.20	as above
Riot	Common law	
Contamination of goods with intent	Public Order Act 1986 s.38	as above
Causing death by dangerous driving	Road Traffic (Northern Ireland) Order 1995 Art.9	1995 N.I. 18
Causing death by careless driving while under the influence of drink or drugs	Road Traffic (Northern Ireland) Order 1995 Art.14	as above
Aggravated vehicle taking resulting in death	Road Traffic (Northern Ireland) Order 1981 Art.172B	1981 N.I. 1
Causing danger to road users	The Road Traffic (Northern Ireland) Order 1995 Art.53	1995 N.I. 18
Attempting to choke, suffocate, strangle etc.	Offences against the Person Act 1861 s.21	1861 c.100
Causing miscarriage by poison, instrument	Offences against the Person Act 1861 s.58	as above

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Making threats to kill	Offences against the Person Act 1861 s.16	as above
Wounding or grievous bodily harm with intent to cause grievous bodily harm etc.	Offences against the Person Act 1861 s.18	as above
Endangering the safety of railway passengers	Offences against the Person Act 1861 ss.32, 33, 34	as above
Impeding persons endeavouring to escape wrecks	Offences against the Person Act 1861 s.17	as above
Administering chloroform, laudanum etc.	Offences against the Person Act 1861 s.22	as above
Administering poison etc. so as to endanger life	Offences against the Person Act 1861 s.23	as above
Cruelty to persons under 16	Children and Young Persons Act (Northern Ireland) 1968 s.20	1968 c.34
Aiding and abetting suicide	Criminal Justice Act (Northern Ireland) 1966 s.13	1966 c.20
Placing wood etc. on railway	Malicious Damage Act 1861 s.35	1861 c.97
Exhibiting false signals etc.	Malicious Damage Act 1861 s.47	as above
Acquiring, possessing etc. the proceeds of criminal conduct	Proceeds of Crime Act 2002	2002 c.29
Producing or supplying a Class A or B drug	Misuse of Drugs Act 1971 s.4	1971 c.38
Possession of a Class A or B drug with intent to supply	Misuse of Drugs Act 1971 s.5(3)	as above
Manufacture and supply of scheduled substances	Criminal Justice (International Co-operation) Act 1990 s.12	1990 c.5
Fraudulent evasion of controls on Class A and B drugs	Customs and Excise Management Act 1979 s.170 (2)(b) and (c)	1979 c.2
Illegal importation of Class A and B drugs	Customs and Excise Management Act 1979 s.50	as above

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Offences in relation to money laundering investigations	Proceeds of Crime Act 2002 ss.327-333	as above
Practitioner contravening drug supply regulations	Misuse of Drugs Act 1971 ss.12 and 13	1971 c.38
Cultivation of cannabis plant	Misuse of Drugs Act 1971 s.6	as above
Occupier knowingly permitting drugs offences etc.	Misuse of Drugs Act 1971 s.8	as above
Activities relating to opium	Misuse of Drugs Act 1971 s.9	as above
Drug trafficking offences at sea	Criminal Justice (International Co-operation) Act 1990 s.18 and s. 19	1990 c.5
Firing on Revenue vessel	Customs and Excise Management Act 1979 s.85	1979 c.2
Making or possession of explosive in suspicious circumstances	Explosive Substances Act 1883 s.4(1)	1883 c.3
Causing bodily injury by explosives	Offences against the Person Act 1861 s.28	1861 c.100
Using explosive or corrosives with intent to cause grievous bodily harm	Offences against the Person Act 1861 s.29	as above
Hostage taking	Taking of Hostages Act 1982 s.1	1982 c.28
Assisting another to retain proceeds of terrorist activities	Northern Ireland (Emergency Provisions) Act 1991 s.53	1991 c.24
Concealing or transferring proceeds of terrorist activities	Northern Ireland (Emergency Provisions) Act 1991 s.54	as above
Offences against international protection of nuclear material	Nuclear Material (Offences) Act 1983 s.2	1983 c.18
Placing explosives with intent to cause bodily injury	Offences against the Person Act 1861 s.30	1861 c.100

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Membership of prescribed organisations	Terrorism Act 2000 s.11	2000 c.11
Support or meeting of prescribed organisations	Terrorism Act 2000 s.12	as above
Uniform of prescribed organisations	Terrorism Act 2000 s.13	as above
Fund-raising for terrorism	Terrorism Act 2000 s.15	as above
Other offences involving money or property to be used for terrorism	Terrorism Act 2000 ss.16-18	as above
Disclosure prejudicing, or interference of material relevant to, investigation of terrorism	Terrorism Act 2000 s.39	as above
Weapons training	Terrorism Act 2000 s.54	as above
Directing terrorist organisation	Terrorism Act 2000 s.56	as above
Possession of articles for terrorist purposes	Terrorism Act 2000 s.57	as above
Unlawful collection of information for terrorist purposes	Terrorism Act 2000 s.58	as above
Incitement of terrorism overseas	Terrorism Act 2000 s.60	as above
Endangering the safety of an aircraft	Aviation Security Act 1982 s.2(1)(b)	1982 c.36

Class C: Lesser offences involving violence or damage, and less serious drugs offences

Robbery (other than armed robbery)	Theft Act (Northern Ireland) 1969 s.8(1)	1969 c.16
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<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Unlawful wounding	Offences against the Person Act 1861 s.20	1861 c.100
Assault occasioning actual bodily harm	Offences against the Person Act 1861 s.47	as above
Concealment of birth	Offences against the Person Act 1861 s.60	as above
Abandonment of children under two	Offences against the Person Act 1861 s.27	as above
Arson (other than aggravated arson) where value does not exceed £30,000	Criminal Damage (Northern Ireland) Order 1977 Art.3	1977 N.I. 4
Criminal damage (other than aggravated criminal damage)	Criminal Damage (Northern Ireland) Order 1977 Art.3	as above
Possession of firearm without certificate	Firearms (Northern Ireland) Order 1981 Art.3(1)	1981 N.I. 2
Carrying loaded firearm in public place	Firearms (Northern Ireland) Order 1981 Art.20	as above
Trespassing with a firearm	Firearms (Northern Ireland) Order 1981 Art.21	as above
Shortening of shotgun or possession of shortened shotgun	Firearms (Northern Ireland) Order 1981 Art.5(1)	as above
Possession or acquisition of shotgun without certificate	Firearms (Northern Ireland) Order 1981 Art.3	as above
Possession of firearms by person convicted of crime	Firearms (Northern Ireland) Order 1981 Art.22	as above

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Acquisition by or supply of firearms to person denied them	Firearms (Northern Ireland) Order 1981 Art.22(7)	as above
Dealing in firearms	Firearms (Northern Ireland) Order 1981 Art.9	as above
Failure to comply with certificate when transferring firearm	Firearms (Northern Ireland) Order 1981 Art.4(2)	as above
Permitting an escape (By person failing to perform any legal or official duty)	Common law Prison Act (Northern Ireland) 1953 s.31	1953 c.18
Rescue	Common law Prison Act (Northern Ireland) 1953 s.29	as above
Escaping from lawful custody without force	Common law Prison Act (Northern Ireland) 1953 s.26	as above
Breach of prison	Common law Prison Act (Northern Ireland) 1953 s.28	as above
Assisting prisoners to escape	Prison Act (Northern Ireland) 1953 s.30	1953 c.18
Fraudulent evasion of agricultural levy	Customs and Excise Management Act 1979 s.68A	1979 c.2
Offender armed or disguised	Customs and Excise Management Act 1979 s.86	as above
Making threats to destroy or damage property	Criminal Damage (Northern Ireland) Order 1977 Art.4	1977 N.I. 4
Possessing anything with intent to destroy or damage property	Criminal Damage (Northern Ireland) Order 1977 Art.5	as above

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Child abduction by connected person	Child Abduction (Northern Ireland) Order 1985 Art.3	1985 N.I 17
Child abduction by other person	Child Abduction (Northern Ireland) Order 1985 Art.4	as above
Bomb hoax	Criminal Law (Amendment) (Northern Ireland) Order 1977 Art.3	1977 N.I. 16
Cutting away buoys etc.	Malicious Damage Act 1861 s.48	1861 c.97
Producing or supplying Class C drug	Misuse of Drugs Act 1971 s.4	1971 c.38
Possession of a Class C drug with intent to supply	Misuse of Drugs Act 1971 s.5(3)	as above
Fraudulent evasion of controls on Class C drugs	Customs and Excise Management Act 1979 s.170(2)(b), (c)	1979 c.2
Illegal importation of Class C drugs	Customs and Excise Management Act 1979 s.50	as above
Possession of Class A drug	Misuse of Drugs Act 1971 s.5(2)	1971 c.38
Failure to disclose knowledge or suspicion of money laundering	Proceeds of Crime Act 2002 ss.330-332	2002 c.29
Tipping-off in relation to money laundering investigations	Proceeds of Crime Act 2002 s.333	as above
Assaults on officers saving wrecks	Offences against the Person Act 1861 s.37	1861 c.100
Attempting to injure or alarm the Sovereign	Treason Act 1842 s.2	1842 c.51

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Assisting illegal entry or harbouring persons	Immigration Act 1971 s.25	1971 c.77
Administering poison with intent to injure etc.	Offences against the Person Act 1861 s.24	1861 c.100
Neglecting to provide food for or assaulting servants etc.	Offences against the Person Act 1861 s.26	as above
Setting spring guns with intent to inflict grievous bodily harm	Offences against the Person Act 1861 s.31	as above
Supplying instrument etc. to cause miscarriage	Offences against the Person Act 1861 s.59	as above
Failure to disclose information about terrorism	Terrorism Act 2000 s.19	2000 c.11
Circumcision of females	Prohibition of Female Circumcision Act 1985 s.1	1985 c.38
Breaking or injuring submarine telegraph cables	Submarine Telegraph Act 1885 s.3	1885 c.49
Failing to keep dogs under proper control resulting in injury	Dogs (Northern Ireland) Order 1983 Art.29(1A)	1983 N.I. 8
Making gunpowder etc. to commit offences	Offences against the Person Act 1861 s.64	1861 c.100
Stirring up racial hatred	Public Order (Northern Ireland) Order 1987 Arts.8-13	1987 N.I. 7
Racially-aggravated assault	Offences Against the Person Act 1861 s.47	1861 c.100

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Racially-aggravated criminal damage	Criminal Damage (Northern Ireland) Order 1977	1977 N.I. 4
Class D: Serious sexual offences, offences against children		
Rape	Common law	
Administering drugs to obtain intercourse	Criminal Law Amendment Act 1885 s.3	1885 c.69
Unlawful carnal knowledge of a girl under 14 years	Criminal Law Amendment Act 1885 s.4	as above
Unlawful carnal knowledge of a girl under 17 years	Criminal Law Amendment Act 1885 s.4	as above
Sexual intercourse with defective	Mental Health (Northern Ireland) Order 1986 Art.122(1)(a)	1986 N.I. 4
Procurement of a defective	Mental Health (Northern Ireland) Order 1986 Art.122(1)(b)	as above
Incest	Punishment of Incest Act 1908 ss.1 and 2	1908 c.45
Intercourse with an animal	Sexual Offences Act 2003 s.69	2003 c.42
Gross indecency between male of 21 or over and male under 16	Criminal Law Amendment Act 1885 s.11	1885 c.69
Indecent assault on a woman	Offences against the Person Act 1861 s.52	1861 c.100
Indecent assault on a man	Offences against the Person Act 1861 s.62	as above
Abuse of position of trust: sexual activity with child	Sexual Offences Act 2003 s.16	2003 c.42

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Abuse of position of trust: causing or inciting child to engage in sexual activity	Sexual Offences Act 2003 s.17	2003 c.42
Abuse of position of trust: sexual activity in presence of child	Sexual Offences Act 2003 s.18	2003 c.42
Abuse of position of trust: causing a child to watch a sexual act	Sexual Offences Act 2003 s.19	2003 c.42
Indecency with children under 17	Children and Young Persons Act (Northern Ireland) 1968 s.22	1968 c.22
Taking, having etc. indecent photographs of children	Protection of Children (Northern Ireland) Order 1978 Art.3	1978 N.I. 17
Abduction of woman by force	Offences against the Person Act 1861 s.54	as above
Permitting girl under 13 to use premises for sexual intercourse	Criminal Law Amendment Act 1885 s.6	1885 c.69
Controlling prostitution for gain	Sexual Offences Act 2003 s.53	2003 c.42
Incitement to commit incest	Punishment of Incest Act 1908 s.1	1908 c.45
	Criminal Justice (Northern Ireland) Order 1980 Art.9	1980 N.I. 6
Trafficking into the UK for sexual exploitation	Sexual Offences Act 2003 s.57	2003 c.42
Trafficking within the UK for sexual exploitation	Sexual Offences Act 2003 s.58	2003 c.42
Trafficking out of the UK for sexual exploitation	Sexual Offences Act 2003 s.59	2003 c.42
Sexual intercourse with patients	Mental Health (Northern Ireland) Order 1986 Art.123	1986 N.I. 4

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Ill-treatment of persons of unsound mind	Mental Health (Northern Ireland) Order 1986 Art.121	as above
Abduction of unmarried girl under 18 from parent	Common Law Criminal Law Amendment Act 1885 s.7	1885 c.69
Abduction of unmarried girl under 16 from parent	Offences against the Person Act 1861 s.55	1861 c.100
Abduction of defective from parent	Mental Health (Northern Ireland) Order 1986 Art. 122(e)	1986 N.I. 4
Procuration of girl under 21	Criminal Law Amendment Act 1885 s.2(1)	1885 c.69
Permitting girl under 17 to use premises for intercourse	Criminal Law Amendment Act 1885 s.6	as above
Permitting defective to use premises for intercourse	Mental Health (Northern Ireland) Order 1986 Art.122(1)(d)	1986 N.I. 4
Causing or encouraging seduction girl under 17	Children and Young Persons Act (Northern Ireland) 1968 s.21	1968 c.34
Causing or inciting child prostitution or pornography	Sexual Offences Act 2003 s.48	2003 c.42
Causing or encouraging prostitution of defective	Mental Health (Northern Ireland) Order 1986 Art.122(1)(c)	1986 N.I. 4

Class E: Burglary etc.

Burglary (domestic)	Theft Act (Northern Ireland) 1969 s.9	1969 c.16
Going equipped to steal	Theft Act (Northern Ireland) 1969 s.24	as above

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Burglary (non-domestic)	Theft Act (Northern Ireland) 1969 s.9	as above

Classes F and G: Other offences of dishonesty

The following offences are always in Class F

Destruction of registers of births etc.	Forgery Act 1861 s.36	1861 c.98
Making false entries in copies of registers sent to register	Forgery Act 1861 s.37	as above

The following offences are always in Class G

Counterfeiting notes and coins	Forgery and Counterfeiting Act 1981 s.14	1981 c.45
Passing counterfeit notes and coins	Forgery and Counterfeiting Act 1981 s.15	as above
Offences involving custody or control of counterfeit notes and coins	Forgery and Counterfeiting Act 1981 s.16	as above
Making, custody or control of counterfeiting materials etc.	Forgery and Counterfeiting Act 1981 s.17	as above
Illegal importation: counterfeit notes or coins	Customs and Excise Management Act 1979 s.50 Forgery and Counterfeiting Act 1981 s.20	1979 c.2 1981 c.45
Fraudulent evasion: counterfeit notes or coins	Customs and Excise Management Act 1979 s.170(2)(b), (c)	as above
Undischarged bankrupt being concerned in a company	Companies (Northern Ireland) Order 1989 Art.14	1989 N.I. 18

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
<i>The following offences are in Class G if the value involved exceeds £30,000 and in Class F otherwise</i>		
Theft	Theft Act (Northern Ireland) 1969 s.1	1969 c.16
Removal of articles from places open to the public	Theft Act (Northern Ireland) 1969 s.11	as above
Abstraction of electricity	Theft Act (Northern Ireland) 1969 s.13	as above
Obtaining property by deception	Theft Act (Northern Ireland) 1969 s.15	as above
Obtaining pecuniary advantage by deception	Theft Act (Northern Ireland) 1969 s.16	as above
False accounting	Theft Act (Northern Ireland) 1969 s.17	as above
Handling stolen goods	Theft Act (Northern Ireland) 1969 s.21	as above
Obtaining services by deception	Theft (Northern Ireland) Order 1978 Art.3	1978 N.I. 23
Evasion of liability by deception	Theft (Northern Ireland) Order 1978 Art.4	as above
Illegal importation: not elsewhere specified	Customs and Excise Management Act 1979 s.50	1979 c.2
Counterfeiting Customs documents	Customs and Excise Management Act 1979 s.168	as above
Fraudulent evasion: not elsewhere specified	Customs and Excise Management Act 1979 s.170(2)(b), (c)	as above
Forgery	Forgery and Counterfeiting Act 1981 s.1	1981 c.45
Copying false instrument with intent	Forgery and Counterfeiting Act 1981 s.2	as above

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Using a false instrument	Forgery and Counterfeiting Act 1981 s.3	as above
Using a copy of a false instrument	Forgery and Counterfeiting Act 1981 s.4	as above
Custody or control of false instruments etc.	Forgery and Counterfeiting Act 1981 s.5	as above
Offences in relation to dies or stamps	Stamp Duties Management Act 1891 s.13	1891 c.38
Counterfeiting of dies or marks	Hallmarking Act 1973 s.6	1973 c.43
Unauthorised use of trade mark, &c. in relation to goods	Trade Marks Act 1994 s.92(1)(c)	1994 c.26
VAT offences	Value Added Tax Act 1994 s.72(1-8)	1994 c.23
Fraudulent evasion of duty	Customs and Excise Management Act 1979 s.170(1)(b)	1979 c.2
Class H: Miscellaneous lesser offences		
Possession of offensive weapon	Public Order (Northern Ireland) Order 1987 Art.22(1)	1987 N.I. 7
Affray	Common law	
Assault with intent to resist arrest	Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 s.7(1)(b)	1968 c.28
Unlawful eviction and harassment of occupier	Rent (Northern Ireland) Order 1978 Art.54	1978 N.I. 20

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Acts outraging public decency	Common law	
Offences of publication of obscene matter	Common law	
Keeping a disorderly house	Common law	
Procurement of intercourse by threats etc.	Criminal Law Amendment 1885 s.3	1885 c.69
Causing or inciting prostitution for gain	Sexual Offences Act 2003 s. 52	2003 c.42
Detention of woman in brothel or other premises	Criminal Law Amendment Act 1885 s.8	1885 c.69
Procurement of a woman by false pretences	Criminal Law Amendment Act 1885 s.3	as above
Trade description offences (9 offences)	Trade Descriptions Act 1968 ss.1, 8, 9, 12, 13, 14, 18	1968 c.29
Absconding by person released on bail	Prison (Northern Ireland) Act 1953 s.26(d)	1953 c.18
Misconduct endangering ship or persons on board ship	Merchant Shipping Act 1995 s.58	1995 c.21
Obstructing engine or carriage on railway	Malicious Damage Act 1861 s.36	1861 c.97
Offences relating to the safe custody of controlled drugs	Misuse of Drugs Act 1971 s.11	1971 c.38
Possession of Class B or C drug	Misuse of Drugs Act 1971 s.5(2)	as above
Wanton or furious driving	Offences against the Person Act 1861 s.35	1861 c.100
Dangerous driving	Road Traffic (Northern Ireland) Order 1995 Art.10	1995 N.I. 18

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Forgery of driving documents	Road Traffic (Northern Ireland) Order 1981 Art.174(2)	as above
Forgery etc. of licences and other documents	Road Traffic (Northern Ireland) Order 1981 Art.174(2)	as above
Mishandling or falsifying parking documents etc.	Road Traffic Regulation (Northern Ireland) Act 1997 s.23	1997 N.I. 2
Aggravated vehicle taking	Road Traffic (Northern Ireland) Order 1981 Art.172A	1981 N.I. 1
Forgery, alteration, fraud of licences etc.	Vehicle (Excise) and Registration Act 1994 ss.44-45	1994 c.22
Making off without payment	Theft (Northern Ireland) Order 1978 Art.5	1978 N.I. 23
Agreeing to indemnify sureties	Common Law	
Sending prohibited articles by post	Postal Services Act 2000 s.85	2000 c.26
Impersonating Customs officer	Customs and Excise Management Act 1979 s.13	1979 c.2
Obstructing Customs officer	Customs and Excise Management Act 1979 s.16	as above
Breach of anti-social behaviour order	Anti-social Behaviour (Northern Ireland) Order 2004 Art.7	2004 N.I. 12
Racially-aggravated harassment/putting another in fear of violence	Protection from Harassment (Northern Ireland) Order 1997 Art.3	1997 N.I. 9
Having an article with a blade or point in a public place	Criminal Justice Act 1988 s.139	1988 c.33

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Breach of harassment injunction	Protection from Harassment (Northern Ireland) Order 1997 Art.5(6)	1997 N.I. 9
Putting people in fear of violence	Protection from Harassment (Northern Ireland) Order 1997 Art.6(1)	as above
Breach of restraining order	Protection from Harassment (Northern Ireland) Order 1997 Art.7	as above
Being drunk when in aircraft	Air Navigation (No.2) Order 1995 Art.57	1995 No. 1970

Class I: Offences against public justice and similar offences

Perverting the course of public justice	Common law	
Perjuries (7 offences)	Perjury (Northern Ireland) Order 1979 Arts. 3-12	1979 N.I. 19
Corrupt transactions with agents	Prevention of Corruption Act 1906 s.1	1906 c.34
Corruption in public office	Public Bodies Corrupt Practices Act 1889 s.1	1889 c.69
Embracery	Common law	
Fabrication of evidence with intent to mislead a tribunal	Common law	
Personation of jurors	Common law	
Concealing an arrestable offence	Criminal Law Act (Northern Ireland) 1967 s.5	1967 c.18

<i>Offence</i>	<i>Contrary to</i>	<i>Year and chapter</i>
Assisting offenders	Criminal Law Act (Northern Ireland) 1967 s.4(1)	as above
False evidence before European Court	European Communities Act 1972 s.11	1972 c.68
Personating for purposes of bail etc.	Forgery Act 1861 s.34	1861 c.60
Intimidating a witness, juror etc.	Criminal Justice (Northern Ireland) Order 1996 Art.47(1)	1996 N.I. 24
Harming, threatening to harm a witness, juror etc.	Criminal Justice (Northern Ireland) Order 1996 Art.47(2)	as above
Prejudicing a drug trafficking investigation	Proceeds of Crime Act 2002 s.342	2002 c.29
False statement tendered under section 1 of the Criminal Justice Act (Miscellaneous Provisions) (Northern Ireland) 1968	Perjury (Northern Ireland) Order 1979 Art.4	1979 N.I. 19
Tendering false statement in evidence	Perjury (Northern Ireland) Order 1979 Art.4	1979 N.I. 19
Making false statement to authorised officer	Trade Descriptions Act 1968 s.29(2)	1968 c.29
Conspiring to commit offences outside the United Kingdom	Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 Art.9A	1983 N.I. 13

VERY HIGH COST CASE RATES**Table 1 – Hourly rates for preparation**

	Range £ per hour
Senior Solicitor	100 - 180
Solicitor	80 - 140
An apprentice or fee-earner of equivalent experience	60 - 100

Table 2 – Hourly Rates for non-preparatory work

	Range of hourly rates payable £
<u>Attendance at Court</u>	
Senior Solicitor	45-90
Solicitor	
An apprentice or fee-earner of equivalent experience	
<u>Travel and waiting</u>	25