

Up to £50 million on offer in first stage of criminal legal aid review

- consultation addresses areas identified by the legal profession as needing accelerated action
- between an estimated £32 million and £50 million increase in criminal legal aid funding proposed by government
- proposals follow extensive engagement with legal professionals

The proposed reforms include a variety of changes to the way legal aid fees are paid to criminal advocates and solicitors and could reach up to £50 million depending on the volume of cases.

The consultation, published by the Ministry of Justice, marks the first step of a comprehensive review of criminal legal aid and aims to address some of the most pressing concerns of the criminal defence profession. The aim of the fuller Criminal Legal Aid Review will be to ensure an efficient, effective and sustainable system, while delivering legal aid for the most vulnerable in society and value for money for the taxpayer.

Proposals out for consultation include:

- new payments for litigators and advocates for reviewing unused material
- additional payments for advocates with high volumes of pages of prosecution evidence
- increased payments for advocates on cracked trials
- additional payments for litigators for work done on sending cases to the Crown Court

Taken together, if implemented, they would result in an additional £32 million – £50 million for legal aid, which it is estimated would be split evenly between solicitor firms and barristers. This would ensure more funding in the areas professionals identified as needing immediate action.

Lord Chancellor, Robert Buckland, said:

These proposals are an important first step towards reviewing sustainability in the long term, ensuring fair fees, and delivering value for the taxpayer.

I am grateful for the engagement of defence practitioners to get us this far, and I look forward to working with them as we progress.

The proposed measures follow considerable engagement with defence practitioners, who have helped the government build an evidence base to underpin the proposals. They include:

- Paying litigators and advocates the equivalent of 1.5 hours work for up

to 3 hours spent reviewing unused material disclosed to the defence. For those cases where more than three hours is spent, payment would be at hourly rates equivalent to the existing special preparation hourly rates for litigators and advocates.

- Additional payment for advocates in cases involving an unusually high amount of evidence, based on pages of prosecution evidence.
- Increasing the basic fee for advocates in cracked trials from 85% to 100% of the brief fee and extending this to all cases that crack after the first Crown Court hearing.
- Increasing litigators' fees to better pay for the work done ahead of cases being sent to the Crown Court.

The changing nature of crime and new measures to crack down on it, including 20,000 extra police officers, longer sentences for serious offenders and a new digital landscape, means the criminal legal profession is facing an increase in volume and complexity of criminal cases.

These areas for consultation represent a first step towards delivering the wider aims of the fuller Criminal Legal Aid Review. This will ensure a sustainable system where legal aid services are delivered by practitioners with the rights skills and experience, efficient and effective case progression and value for money for the taxpayer while ensuring access to justice.

Notes to editors

1. The [consultation document](#) was published on 28 February 2020
2. It will be open for 4 weeks, closing on 27 March 2020 following which the government will respond with final proposals.
3. A [blog from the Lord Chancellor outlining the proposals](#) has also been published today (28 February 2020)
4. The Criminal Legal Aid Review was announced in December 2018 and will look at criminal legal aid throughout the lifecycle of a case, including all fee schemes and the wider market.
5. Five accelerated areas were fast-tracked after agreement with the professions in June 2019.

These are:

- how litigators and advocates are paid for work on unused material
- how advocates are paid for work on paper heavy cases
- how advocates are paid for cracked trials in the Crown Court
- how litigators are paid for work on sending cases to the Crown Court
- how litigators are paid for pre-charge engagement

6. The government will consult on a proposal to pay litigators for work engaging the police or prosecution ahead of a decision to charge following the issue of new disclosure guidelines by the Attorney General. This is currently out for public consultation.