Working **together** for

fairness, justice and safety

Legal Aid Engagement Paper

Taxation Reform

Department of
Justice
An Roinn Dlí agus Cirt
Männystrie O tha Laa

About this paper

The process of Taxation for publicly funded cases is changing. This paper seeks views on aspects of the proposed revised approach to inform proposals which will be subject to Ministerial consideration and public consultation in coming months.

The Department of Justice (the Department) believes legal aid is critical to ensuring equal access to justice and delivery of our core responsibility of creating a fair, just and safe community. Legal aid is provided to ensure legal remedy can be sought regardless of economic status. It is provided to ensure the rights of individuals are protected and, central to that function is the Departments ability to demonstrate if and how those objectives are being realised. The Department must be able to show that resources are being used to best effect and focused on the most vulnerable. The Department must be able to show that value for money is being achieved and so we are refining the process of Taxation.

The change in approach is to ensure the Department can properly satisfy the requirements of managing public money and the concepts of regularity and propriety which are fundamental to the appropriate use of public funds. The change in approach is to aid clarity on how public resources are being used, so the public, and those charged with scrutinising the Department, can be satisfied we are delivering on our objectives and legal aid is accessible, responsive and sustainable. The change follows recommendations of the Public Accounts Committee which highlighted a need to improve transparency, predictability and accountability on legal aid and recent Northern Ireland Assembly consideration and endorsement of policy intent as reflected in the Justice Bill.

The revised approach will align the process for determining fees for civil proceedings in the High Court and civil and criminal proceedings in the Court of Appeal more closely with that used for other publicly funded cases and other jurisdictions. It is not novel or radical but will instead harness existing processes to standarise practice. The Department nonetheless recognises the importance of ensuring proposals are fully developed and rigorously assessed in advance of implementation and so we are seeking views on aspects of the new approach to inform a full public consultation in coming months. To that end the Department welcomes responses to this paper and

would also be pleased to engage with any stakeholders wishing to discuss matters in more depth so insights can be fully reflected in refined proposals submitted for consultation and Ministerial consideration in due course.

The proposals detailed in this paper do of course reflect evidence already gathered and views already helpfully shared. We thank stakeholders for those submissions and now welcome in particular any new evidence and views contributors wish to share to further enhance the evidence base. Some aspects of proposed revised arrangements are also necessarily more evolved than others, while some issues and practices will be consequential to the issues explored in this paper and must therefore be settled following consideration of views submitted in response to this paper and explored as part of the forthcoming full public consultation.

Introduction

1. In 2017 the Public Accounts Committee recommended that the Department take steps to improve transparency and accountability for legal aid payments made under the direction of the Taxing Master and examine how such expenditure could be brought under the purview of the Departmental Accounting Officer.

2. Work has been progressed under the Department's Enabling Access to Justice Programme which, among other matters, aims to provide assurance on value so the public, and those charged with scrutinising the work of the Department on their behalf, can be satisfied resources are being used to best effect and targeted to areas of greatest need.

3. Initial plans under the draft Programme Delivery Plan anticipated a phased introduction of changes to the Taxation process by business area but policy development work and recent developments have underscored the value and necessity of more immediate action to address policy drivers. The Department also recognises the benefits of concurrent introduction of changes for practitioners, the Legal Services Agency NI (LSA) and office of the Taxing Master in terms of clarity and eliminating the need for multiple processes to be supported. The Reform Programme has consequently been reprioritised so implementation of changes to the Taxation process can be escalated and revised arrangements introduced for all business areas simultaneously.

4. The proposed revised arrangements will change:
   - how fees are set;
   - how bills are submitted; and
   - how bills are assessed;

   but the Department intends to build on existing good practice wherever possible. The Department recognises existing arrangements for the determination of other legal aid fees have the benefit of offering transparency and being tried, tested and familiar to practitioners, the public and scrutiny bodies alike. It is therefore proposed that the Department similarly set hourly rates for solicitors and counsel acting in civil proceedings in the High Court, and

civil and criminal proceedings in the Court of Appeal. As with other fees, the new hourly rates will be specified in secondary legislation subject to the usual statutory and public consultative processes, economic appraisal, regulatory and statutory impact assessments and Assembly scrutiny.

5. The valuable independent adjudicative function of the Taxing Master will also be retained under new arrangements, but the function will change slightly. When assessing costs to be paid out of the legal aid fund, the Master will apply the hourly rates specified by the Department to enable greater budgetary control, transparency and scrutiny.

6. As regards process, it is again intended to replicate existing good practice where possible, and to standardise billing arrangements with barristers submitting itemised bills in line with current practice for solicitors and counsel representing public bodies rather than a brief fee.

7. Collectively the Department believes these changes will improve the administration and application of public legal services in line with the requirements of managing public money and better enable the Department to demonstrate the value that attaches to legal aid spend.

Background

8. Legal aid is a system of publicly funded legal assistance designed to ensure that individuals who cannot afford representation are able to access justice. It reflects the principle that legal rights should be enforceable regardless of financial means. In Northern Ireland, legal aid is currently provided across two broad areas:

- **Civil legal aid,** which supports advice, assistance and representation in civil and family matters, including cases involving children, divorce, personal injury, injunctions, bankruptcy, negligence, and judicial review.

- **Criminal legal aid,** which supports individuals who are subject to criminal investigation or prosecution, ensuring access to appropriate legal advice, assistance and representation.

9. Remuneration for those delivering public legal services in civil and criminal proceedings is governed by legislation, with the 2003 Order prescribing the overarching framework and fee arrangements predominantly prescribed in secondary legislation (remuneration orders) made by the Department subject to Assembly consideration. The process for determining fees in civil proceedings in the High Court, and civil and criminal proceedings in the Court of Appeal has traditionally diverged from that overarching process with costs assessed through the process known as Taxation rather than claimed in line with fees legislatively prescribed by the Department in remuneration orders.

10. Under the process of Taxation, solicitors submit a bill of costs to the Taxing Master, an independent judicial office holder, who assesses and determines the amount payable. In determining solicitor costs, the Master will set and apply an hourly rate for the majority of work carried out and apply an item rate for specific activities such as issuing standard letters, emails and making phone calls. Fees so determined are then uplifted by a percentage amount to reflect "care and conduct". As with the hourly rates deployed by the Master, the uplifts are not prescribed in legislation but are instead applied at the Masters discretion on a case-by-case basis and without reference to the Departmental Accounting Officer and usual governance procedures for expenditure of public money. Once assessed, a Certificate of Taxation is issued without any recourse to the Department or the Departmental Accounting Officer, and the LSANI will authorise payment of the amount certified.

11. A different and more opaque process applies to the current determination of barrister's fees. Unlike their solicitor colleagues and counsel acting in other capacities, publicly funded barristers in civil proceedings in the High Court and civil and criminal proceedings in the Court of Appeal will submit a brief fee rather than an itemised bill. The brief fee will cover all, or the vast majority, of the work carried out by counsel with the remainder made up of interlocutory fees which are set by the Taxing Master in consultation with the Bar.

12. The challenges to the existing system were recognised by the Public Accounts Committee (PAC) in its Report on Managing Legal Aid in January 2017. The Report recommended reform noting:

> ‘There is a need for improved transparency and accountability for legal aid payments made under direction from the Taxing Master.’

The Report further reflected:

> ‘The Taxing Master is an independent judicial figure and so sits outside the usual public sector accountability structures. The Committee considers that these arrangements lack transparency and accountability. In particular, there is no line of accountability from the Taxing Master through the Accounting Officer to this Committee.’,

with the PAC recommending:

> ‘the Department conducts a review of how expenditure currently adjudicated by the Taxing Master can properly be brought under the purview of the Accounting Officer’.

13. That recommendation was driven by the expectation of accountability on part of those expending public funds, in this the Department in paying legal aid fees, and that those decisions should be capable of robust examination and challenge through public engagement and Assembly policy and legislative oversight. Current arrangements mean the Department is not meeting that expectation. They also mean the Justice Committee cannot properly undertake its rightful scrutiny of Departmental decisions and expenditure as the £30 million plus of current expenditure on legal aid per annum that is determined through Taxation is neither set nor interrogable and explainable by the Department.

14. Recent developments have further validated the PAC recommendation and underscored the need for reform to address the absence of a Departmental and Assembly role in determining fees subject to Taxation. In April 2025 the Taxing Master increased solicitors’ hourly rate for taxed cases by 52% (from £102 to £155 per hour) and in June 2025, a judicial practice direction raised interlocutory fees for counsel by approximately 53%. While those decisions were entirely within the gift of the Taxing Master, they have had a significant impact on the Departmental budget and were made without reference to those factors the Department is ordinarily required to consider as part of business and

governance processes to assess value for money, the impact on citizens and the impact on other deliverables. They were also made without the usual engagement process, with fees set by the Department subject to public consultation and specific engagement with the Lady Chief Justice, the Attorney General, the Law Society and the Bar of NI (by virtue of the 2003 Order) and without the scrutiny of the Justice Committee and Assembly that also attaches to fees determined by the Department.

15. The Department is therefore introducing a revised framework for the assessment and payment of fees for publicly funded cases currently subject to Taxation.

Proposed Approach

16. The revised framework will apply to the assessment and payment of both counsel and solicitors' fees in cases currently subject to taxation that are paid from the legal aid fund.

17. As noted above, the proposed model seeks to enhance transparency, accountability and budgetary control with regards to legal aid expenditure, while maintaining independent and informed assessment of bills by the Taxing Master.

18. The key elements of the revised process are:

- The Department will prescribe the fees, rates and administrative arrangements relating to assessment and payment of fees to all legal practitioners in all cases subject to taxation that are paid from the legal aid fund within secondary legislation, including;
    - Setting hourly rates for counsel;
    - Setting hourly rates which include a reasonable profit margin for solicitors;
    - Setting out criteria for potential enhancement to bills, replacing the current use of uplifts;
    - Setting out the requirement for counsel to record and evidence time spent on legal aided work subject to taxation;

    - Setting out the requirement for solicitors to record and evidence time spent on legal aided work subject to taxation;
    - Setting out the form and manner that bills for legal aid work subject to taxation must be submitted to the Taxing Master; and
    - Setting criteria that the Taxing Master must have regard to when assessing bills;
- Retention of the current per item fees;
- Retention of the current interlocutory fees;
- Retention of the Taxing Master role to assess bills and determine cost order for payment by LSA;
- Retention of the current appeal mechanisms; and
- Potential amendment to current arrangements for payment of stamp duty to reduce/remove impact on legal practitioners.

Department-set fees and rates

19. The Department believes the new legislatively prescribed fees, rates and administrative arrangements will:
    - allow for scrutiny by the Northern Ireland Assembly and the Justice Committee;
    - support value for money and affordability in the use of public funds; and
    - improve transparency and consistency in the assessment of legal costs.

Introduction of hourly rates for counsel

20. The Department recognises the introduction of time-based billing represents a departure from current practice for taxed cases and may require some adjustment by practitioners but also recognises it is a process with which they will also be familiar. This section sets out the evidence considered by the Department in determining an appropriate hourly rate for barristers in taxed cases and invites stakeholders to submit any additional evidence to inform and refine proposals that will be included the public consultation scheduled to commence in the Autumn.

Current billing – the Brief Fee

21. As noted above, in taxed cases, the remuneration of counsel is primarily determined through the award of a **brief fee**. The brief fee is a single fee intended to encompass the work undertaken by counsel in preparing a case for hearing and attending at the first day of the hearing. As described in *Butterworths Costs Service*, the brief fee covers:

> ‘(a) all the work done by way of preparation for representation at the trial or hearing;
> (b) attendance on the first day;
> (c) [certain post-hearing work where no refresher fee is payable];
> (d) any necessary 'after-care' conference with the lay client following judgment; and
> (e) the commitment of time that delivery and acceptance of the brief involves.’

22. In Northern Ireland, the brief fee is the primary mechanism through which remuneration of counsel in High Court civil proceedings and civil and criminal Court of Appeal proceedings, is assessed with responsibility for assessing the relative reasonableness resting with the Taxing Master. While some itemised fees may be claimed for interlocutory matters, the majority of counsel's remuneration is generally represented by the general brief fee.

23. While this model has been in place for many years, the challenge, in terms of public expenditure, is that under those arrangements, counsel are not required to provide a detailed account of the time spent on a case or a breakdown of the individual tasks undertaken. Instead, a narrative called a report on case is submitted to the Taxing Master, outlining the nature of the proceedings, the issues involved and any factors said to justify the level of fee claimed. The Taxing Master then determines an appropriate fee, having regard to the circumstances of the case and established taxation principles.

24. The absence of detailed recording of the time spent or the work undertaken means it is not possible to clearly identify how a particular fee has been derived or the extent to which it reflects the work actually carried out. The assessment

process is necessarily reliant upon professional judgment and narrative descriptions of a case rather than objective measures of work undertaken. That subjective approach means it can be difficult to predict costs, compare fees across similar cases, or demonstrate that expenditure represents value for money. It creates challenges for those responsible for the stewardship of public funds, as there is limited visibility of the relationship between the work performed and the remuneration awarded.

25. The absence of recording on individual cases, also means it is not currently possible to determine the effective hourly rates being paid from public funds through the brief fee system which limits the Department's ability to assess whether remuneration is consistent, proportionate and representative of the work undertaken.

26. The absence of recording also means an inconsistent approach is being taken to work undertaken by solicitors and counsel and work undertaken by counsel acting in other capacities and a higher degree of opaqueness accepted which is difficult to rationalise. In considering potential alternatives, the Department has therefore examined remuneration arrangements operating in other jurisdictions and across comparable legal services schemes with a view to assessing how other systems balance fair remuneration for counsel with transparency, consistency, accountability and effective control of public expenditure. The key findings set out below have informed reform proposals.

Benchmarking

Government Legal Services

27. The Government Legal Service (GLS) is an umbrella organisation that brings together legal staff working in several Departments and Agencies, in both the devolved and non-devolved sectors. GLS appoints barristers by open recruitment to Government Civil Panels. The Government Civil Panels comprise four panels of junior counsel and one panel of senior counsel to undertake civil work in courts and tribunals in Northern Ireland. The purpose of the Civil Panels is to provide Government office holders with access to the best legal advice and advocates for its legal work. The criteria for each panel

are as follows:

- "D" Panel have completed their pupillage (to include any period of restricted practice) and have less than 2 years' experience in actual practice.
- "C" Panel have at least 2 and less than 5 years' experience in actual practice.
- Applicants for the "B" Panel should have at least 5 and less than 10 years' experience in actual practice.
- Applicants for the "A" Panel have at least 10 years in actual practice.
- Applicants for the Senior Panel are KCs and have extensive experience of working for or against the Government and/or public bodies for not less than 5 years within the last 7 years immediately preceding the date of their application to the panel.

28. Barristers on the panels are remunerated via the hourly rates displayed below with fees paid following submission of a standard template, setting out the dates and times work was completed and the type of work carried out. Invoices are submitted to the Departmental Solicitors Office (DSO) for review by experienced costs' staff and when satisfied that the amounts claimed are reasonable, they will submit to bill to the relevant instructing department/organisation for approval and payment.

<u>GLS Barrister Hourly Rates</u>

	Rate from 1 June 2025	**Experience**
Senior Panel	**£225 < 10 years KC 1 June 2025** **£245 > 10 years KC 1 June 2025**	**KC for less than 10 years** **KC for more than 10 years**
Panel A	**£137.50**	**At least 10 years practice**
Panel B	**£112.50**	**At least 5 years but less than 10 years practice**
Panel C	**£75**	**At least 2 years but less than 5 years practice**
Panel D	**£37.50**	**Completed pupillage with less than 2 years' experience in actual practice**

29. The Department recognises an experience-based remuneration model such as that used by GLS has the potential to address concerns that purely time-based models with one rate could disadvantag an experienced barrister who may complete more quickly than less experienced colleagues.

England and Wales

30. Legal aid remuneration in England and Wales (E&W) is also based on hourly rates. Brief fees were used in E&W prior to the introduction of hourly rates but are generally no longer available. Instead, rates are dependent on the work conducted, and the relative seniority of counsel with a high fee attaching to work at levels conducted in London. There are two tracks for assessment of costs, assessors at the Legal Aid Agency (LAA), or costs' officers/judges of the court, but the specified legal aid rates must be applied irrespective of the method of assessment. Currently costs payable in about 90% of cases are determined by the LAA, with the courts determining 10% of cases. However, LAA is considering bringing all cases under the purview of the Agency.

Barrister Fees in the High Court and Court of Appeal

31. The Civil Legal Aid (Remuneration) Regulations 2013 sets out current fees payable to Counsel in the High Court and Court of Appeal *for non-family proceedings* and public law. Regulation 7 provides for remuneration for barristers in independent practice with fees set out in Schedule 2, which provides the remuneration for Counsel and KCs in the High Court and Court of Appeal based on hourly rates.

32. Bills in E&W are assessed by the LAA in a process called detailed assessment which is similar to the function of the Taxing Master in Northern Ireland. The legislation does include the option for this assessment to be carried out by costs' judges, however, the majority of assessments are completed by LAA assessors.

High Court Junior Counsel Hourly Rates (non-family)

Activity	High Court London Rate		High Court Non- London Rate	
	Minimum	Maximum*	Minimum	Maximum*
Preparation and attendance	£71.55	£143.10	£67.50	£135
Attendance at court/conference in the High Court	£33.30	£66.60	£33.30	£66.60
Advocacy	£67.50	£135	£67.50	£135
Travelling and Waiting Time	£29.93	£29.93	£29.93	£29.93

High Court Kings Counsel Hourly Rates (non-family)

Activity	High Court London Rate		High Court Non- London Rate	
	Minimum	Maximum*	Minimum	Maximum*
Preparation and attendance	£180	£360	£180	£360
Attendance at court/conference in the High Court	£180	£360	£180	£360
Advocacy	£180	£360	£180	£360
Travelling and Waiting Time	£29.93	£29.93	£29.93	£29.93

*Maximum rates incorporate the maximum 100% enhancement. There may be an uplift or "enhancement" to the costs claimed of up to 100%.

Court of Appeal Barrister Hourly Rates (non-family)

Category of Representative	Hourly Rate
Led Junior*	£112.50
Leading Senior**	£157.50
KC	£180

*Junior is a barrister of less than 10 years call

**Senior is a barrister of 10 years call or more

Family Fees in the High Court

33. In family proceedings in the High Court in England and Wales, there are no hourly rates with barristers paid under a graduated fee scheme. The fee scheme is found at schedule 3 to The Civil Legal Aid (Remuneration) Regulations 2013.

EAJD Bill Analysis

34. The Department undertook a review of a selection of taxed Bills from the LAMS system in in an effort to approximate an average hourly rate by applying assumptions to the brief fee. This included:

- The brief fee divided by the hours claimed by Solicitors on the same case;
- The brief fee divided by GLS rates; and
- The total legal aid Counsel spend by number of barristers who had submitted a bill and the assumed hours worked.

35. Unfortunately, the results of that analysis were inconsistent and produced hourly rates that vary wildly between case types and individual bills and underscored the sense that the total legal aid spend includes too many variables to be used as a reliable metric when trying to calculate or predict the number of hours worked by barrister and the proportion of their work that legal aid makes up. However, while this exercise did not aid the prescription of hourly rates, it did highlight the difficulty in assessing brief fees in a meaningful way for the purposes of transparency and predictability and underscored the case for reform.

Accelerated Review

36. Hourly rates are of course already used to remunerate barristers for work in the Crown Court under "exceptional preparation". Those rates have recently been examined as part of the Accelerated Review of Criminal Legal Aid commissioned by the Department. The Review team set out methodology in the final report which sought to determine a reasonable hourly rate for KCs and barristers working in the Crown Court. As the Crown Court is part of the Court of Judicature, with appeals from the Crown Court going to the Court of Appeal the Department considers work involved to be comparable to other work in the High Court and therefore to be a reasonable benchmark.

<u>Accelerated Review Methodology</u>

37. In determining appropriate rates, the Review looked at the overheads payable by barristers in Northern Ireland to enable them to run a practice. As barristers are sole practitioners operating out of the Bar library, which is a shared services environment, overheads are not equivalent to a solicitor's practice. Applicable overheads detailed by the Review team were gathered from evidence provided by the Bar:

Barrister Overheads

Overhead	Senior Barrister	Junior Barrister
Bar Library Fees	**£8,697**	**£6,596**
Private Office	**£3,300**	
Car Parking	**£1,500**	**£1,500**
Professional Development	**£330**	**£330**
Conference Attendance	**£100**	**£100**
IT Software and Hardware	**£1,319**	**£1,319**
Textbooks/Publications	**£442**	**£442**
Accountancy Services	**£1,700**	**£1,700**
Printing and Sundries	**£233**	**£233**
Total	**£17,621**	**£12,200**

Income Comparators

38. In determining appropriate rates, the Review team also sought to determine the professions and associated income levels that would provide a reasonable benchmark for barristers. They settled on a range of judicial and NHS consultant income levels.

Barrister Benchmarks

Profession	Base Salary	Allocated Overheads	Pension at 20%	Total	Working Hours	Hourly Rate
Mid Point CC Judge & NHS Consultant 4	**£166,610**	**£17,621**	**£33,322**	**£217,553**	**1,485**	**£146.50**
Mid Point District Judge & NHS Consultant 1	**£124,597**	**£12,220**	**£24,919**	**£161,736**	**1,485**	**£108.91**
NHS Consultant Threshold 4	**£145,478**	**£17,621**	**£29,096**	**£192,195**	**1,485**	**£129.42**
NHS Consultant Threshold 1	**£109,725**	**£12,220**	**£21,945**	**£143,890**	**1,485**	**£96.90**
County Court Judge (NI)	**£187,743**	**£17,621**	**£37,549**	**£242,913**	**1,485**	**£163.58**
District Judge (MC) (NI)	**£139,469**	**£12,220**	**£27,894**	**£179,583**	**1,485**	**£120.93**

Crown Court Barrister Hourly Rates

39. Those comparators, with an additional 20% pension contribution, and the overheads stated above, were then used by the Review team to arrive at composite income levels which were then apportioned into hourly rates. The rates recommended by the Review team (and accepted by the Minister) are:

	EP Hourly Rate
Senior Counsel	**£164**
Leading Junior Counsel	**£128**
Sole Junior Counsel	**£109**
Led Junior Counsel	**£97**

40. The Minister subsequently agreed to a revision of the hourly rates payable for counsel in the Crown Court, resulting in a small increase to the rates applicable for junior counsel as set out below:

	EP Hourly Rate
Senior Counsel	**£164**
Leading Junior Counsel	**£132**
Sole Junior Counsel	**£113**
Led Junior Counsel	**£101**

Proposed Counsel Hourly Rates

41. The Department is committed to establishing hourly rates that fairly compensate barristers for their work and with appropriate regard to the statutory criteria. With that in mind, and considering all available evidence, the Department considers the hourly rates for counsel recommended by the Accelerated Review team, and subsequently increased slightly for junior counsel, provide an appropriate and fair basis for remuneration and proposes the hourly rates set out below for all cases subject to taxation where costs will be paid from the legal aid fund.

Category	Rate
Senior Counsel	**£164**
Counsel A (10 years +)	**£132**
Counsel B (5 years-10 years)	**£113**
Counsel C (Under 5 years)	**£101**

42. The Department would however welcome submissions and any additional information/evidence to inform final proposals on counsel hourly rates.

Solicitor Hourly Rates and Fees

43. In determining an appropriate hourly rate for solicitors, the Department has, as with counsel, considered the cost of production for legal services. Two principal sources have in particular, informed this analysis:

- The BDO Report (commissioned by the Law Society); and
- The Strategic Investment Board (SIB) Review) and subsequent Accelerated Review.

44. These reports adopt broadly similar methodologies, calculating the cost of operating a solicitor's practice, including salaries and overheads.

Evidence

45. The BDO Report focused on estimating the cost of production only and did not include any allowance for profit. It concluded that the cost of production falls within a range of £150–£160 per hour.

46. In arriving at those rates, the report considered five approaches:

Method	Description	Rate
1	Survey-based overhead and salary allocation	£151.17
2	Overheads per fee earner	£157.40
3	Verified accounts analysis	£151.54
4	Inflation-adjusted rates (excluding CPIH)	£155.28
5	Adjusted chargeable hours	£174.68

47. Excluding the fifth method (which assumes significantly lower chargeable hours), the results are tightly grouped between £151 and £157, providing a consistent estimate of baseline costs and the findings were considered by the Taxing Master in the development of the June 2025 Practice Direction on hourly rates for taxation.

SIB Review

48. Following the BDO Report, the Department commissioned SIB to review the methodology and assumptions applied. Whilst noting that the BDO report was robust, SIB made several adjustments to their methodology which:
    - applied similar cost methodologies;
    - incorporated trainees, paralegals, and other fee earners; and
    - used updated workforce composition data.

49. This broader approach resulted in lower estimated costs of production:
    - £114 per hour (including all fee earners); and
    - £137.83 per hour (excluding paralegals and trainees).

    Unlike the BDO Report, SIB also included a suggested reasonable profit margin of 20%, producing an indicative hourly rate of £143.27 per hour notwithstanding that the SIB report noted that BDO figures may already incorporate an implicit level of profitability.

Accelerated Review

50. In determining hourly rates for solicitors, the Accelerated Review team refined the SIB methodology further by:
    - adopting BDO-derived overheads and salary data;
    - increasing chargeable hours to 1,155 per annum (approximately 70% utilisation); and
    - retaining a 20% profit margin.

51. This produced revised hourly rates of:
    - £172.21 per hour (including profit); and
    - £137.77 per hour (cost of production only).

    That weighted approach reflected the distribution of work across different types of preparation and fee earners.

Profitability

52. In taxation, “care and conduct” uplifts are used as a proxy for profit. Current practice suggests:

- At least 50% uplifts for preparation and hearings; and
- 33% uplifts for court consultations.

53. Data compiled by the LSA which records the uplift applied to taxed cases, shows that in 2025/26 the average uplift to a taxed bill was approximately 66%, which would equate to an average profit margin of 39.7%. This is significantly higher than comparator evidence, including the 20% profit margin suggested in the SIB and Accelerated Review methodologies and in the interests of value, fairness, standardisation and sustainability it is intended that a reasonable level of profit will be included in the hourly rate and routine uplifts will be removed.

Benchmarking

England and Wales Publicly Funded Cases

54. Due to the differences in legal systems, legal aid eligibility, legal aid scope and legal aid remuneration arrangements, it is difficult to make direct comparisons between legal aid rates of payment in the two jurisdictions but the table details current E&W rates for non-family civil cases.

Solicitor hourly rates

Activity	London rate - High Court	Non-London rate - High Court	London rate - County Court	Non-London rate - County Court
Preparation and attendance	£71.55	£67.50	£63.00	£59.40
Attendance at court/conference with counsel	£33.30	£33.30	£29.25	£29.25
Advocacy	£67.50	£67.50	£59.40	£59.40
Travelling and Waiting Time	£29.93	£29.93	£26.28	£26.28

55. Since 2018, that work is carried out by solicitors' firms who have been awarded contracts by the Legal Aid Agency as part of a tendering process. The rates allowed are set out in the Civil Legal Services Remuneration Order 2013 and there is detailed guidance for assessing the costs – Costs Assessment Guidance for use with the 2018 Standard Civil Contracts.

56. The rates in use are notably lower than current remuneration rates set by the Taxing Master. They also fall below all estimated production costs, and the Department therefore considers they could not reasonably be adopted as a proposed hourly rate.

57. The Department is also not persuaded as to the value of multiple hourly rates which apply in E&W depending on the work being completed as compared to the composite rate used in Northern Ireland. We consider there is little value in adding complexity to existing bills at this time and believe further evidence would be needed to assess if moving away from a composite rate balance would in fact generate benefits.

England and Wales – other cases

58. Other evidence from E&W does, however, provide some useful context and indicators. Data on privately funded cases, including:

- Breakeven rate: £123.40 per hour (Law Society Financial Benchmarking Survey 2025)[1];
- Median profit margin: 22.4%;
- Upper quartile: 30.3%; and
- Other studies (e.g. Moore Kingston Smith[2]) suggest average profits of approximately 23%;

suggest a typical profit range of 20–30%, with higher margins generally limited to the most profitable firms.

59. While commercial sector comparisons (PwC Survey[3]) show significantly higher hourly rates in large firms (e.g. £247–£449 in 2024), but notably:

- these firms operate in different markets;
- revenues often include international and commercial work; and
- their cost structures are substantially higher.

Also notable, is that commercial sector profit margins (typically 22–41%) remain

[1] Financial Benchmarking Survey 2025 | The Law Society
[2] Law-firm-mid-market-benchmarking-report-25-26.pdf
[3] Law+Firms+Survey+2024_FINAL+version.pdf

below current effective uplifts in legal aid taxation.

Key Observations

60. Drawing on the collective evidence:

- The cost of production is estimated at:
  - £150–£160 (based on BDO assumptions);
  - £114–£138 (SIB, depending on assumptions); and
  - £137.77 (Accelerated Review baseline);

- A 20% profit margin brings rates broadly into the range:
  - £140–£170 depending on methodology;

- The Accelerated Review produced a figure of:
  - £172.21, closely aligned with the current rate; and

- Current taxation practice may result in higher effective returns than those observed in comparator jurisdictions.

61. Having considered all those factors the Department considers that the Accelerated Review methodology provides the most balanced and transparent basis for setting rates on the basis:

- It has been informed by the BDO report provided by the Law Society;
- it uses verified cost data;
- it accounts for workforce composition;
- it applies a clearly defined and benchmarked profit margin; and
- it produces an outcome consistent with the current rate.

62. Accordingly, the Department proposes that a rate aligned with this methodology should be applied for taxed cases under revised arrangements.

Proposed Solicitors Hourly Rates

63. The Department considers the Accelerated Review provides the most comprehensive consideration of costs of production of all types of work and fee

earners. The Department therefore proposes to apply an hourly rate of £138 for the cost of production. The Department then proposes to uplift that rate by the 20% recommended by the SIB report and Accelerated Review as the base rate for reasonable profit element giving an overall proposed hourly rate for billing purposes of **£173** for solicitors. The Department is, however, aware that an update to the recent BDO report has been commissioned by the Law Society and would welcome the opportunity to consider that report alongside any other submissions to inform final proposals on the hourly rate for solicitors.

Interlocutory Fees

64. The Department proposes that interlocutory fees remain in their current form as set out in the Taxing Masters Practice Direction 16/06/2025 in both the fee amount and the items prescribed by it and will take steps to ensure remuneration orders replicate those fees. A review of those fees will take place along with any review of hourly rates. The Department recognises that the number of fees and the lack of existing evidence for the level of interlocutory fees means that review process could be lengthy.

Untimed professional work

65. Untimed professional work currently is set at 10% of the hourly rate for both solicitors and legal executives. The Departments proposes that convention be retained in the new remuneration system and the fixed sums of £17.30 and £13.00 be claimed respectively by solicitors and legal executives per item subject to the usual assurances that all items have been reasonably incurred and are properly documented.

Uplifts

Benchmarking

66. Evidence indicates that in E&W uplifts are routinely requested but rarely granted. The uplifts are considered on a case-by-case basis and when appropriate criteria have been met. The criteria is set out in Regulation 7 of The

Civil Legal Aid (Remuneration) Regulations 2013 and a two-stage test is applied. The first is a threshold test to consider whether enhancement should be allowed and one, some or all of the following criteria must be met:

(a) the work was done with exceptional competence, skill or expertise;

(b) the work was done with exceptional speed; or

(c) the case involved exceptional circumstances or complexity.

67. The second test is to determine the level of enhancement based on:

(a) the degree of responsibility accepted by the fee earner;

(b) the care, speed and economy with which the case was prepared; and

(c) the novelty, weight and complexity of the case.

Uplift Proposals

68. The Department proposes to limit the criteria for which an uplift/enhancement of rates may be appropriate solely to cases where the Taxing Master is satisfied the care, speed and economy with which a case was prepared merits an enhancement. In addition, the Department proposes to limit the level of enhancement the Taxing Master may apply in such cases to no more than 100%. The Department would however welcome submissions on the potential inclusion and rationale of additional criteria for when enhancements may apply.

Requirement for the Taxing Master to review costs of other parties paid through public funds

69. Our proposed approach is to maintain the existing role of the Taxing Master in assessing claimed disbursements. This will ensure that the valuable independent expertise of the Taxing Master continues to be applied in determining, pursuant to Article 11 of The Criminal Defence Services (Remuneration) Order (Northern Ireland) 2016, whether claimed disbursements have been actually and reasonably incurred.

Recording time and submission of bills to the Taxing Master and LSA

Submission of bills

70. The Department does not propose to amend the current process for submission of bills for solicitors at this time. We consider the current approach provides sufficient detail to enable the Taxing Master to assess bills and meets the requirements of managing public money in terms of transparency. We will, however, continue to engage with the Taxing Master and his Office to determine if the process for submission of bills can be simplified and would welcome views from practitioners on these processes to inform development of final proposals for inclusion in the planned public consultation.

71. Under the proposed new arrangements, barristers will be responsible for submitting their bills directly to the Taxing Master. We are currently developing the billing template, but expect it will require counsel to provide the following standard information:

- date/time and hours worked;
- a breakdown of work undertaken (e.g. preparation, drafting, consultation, court attendance);
- applicable hourly rate;
- case details and legal aid certificate reference; and
- total fee and VAT.

72. We would welcome views from counsel on that proposed approach to inform development of final proposals for inclusion on the forthcoming public consultation.

73. We are also considering potential amendments to the current approach for payment of stamp duty with the aim of reducing/removing the impact of this process on practitioners. We will provide further details on potential changes as soon as possible.

74. Looking ahead to the next Assembly mandate, and subject to discussions with

the Taxing Master and stakeholders, we consider there is potential significant benefits to be derived from all bills being submitted through the Legal Aid Management System (LAMS) in the first instance and then forwarded for consideration by the Taxing Master. This would enable the LSA to develop a comprehensive dataset on legally aided work, supporting:

- improved audit and assurance;
- enhanced financial monitoring;
- greater transparency; and
- evidence-based policy development to inform review of fees and processes.

Assessment process

75. As noted above, bills submitted will continue to be assessed by the Taxing Master, who will determine the appropriate level of costs in accordance with the prescribed legislative framework. The legislation will make provision for bills to be submitted in a form and manner directed by the Department but the Taxing Master will have the capacity to request additional information where required.

76. Criteria to which the Taxing Master must have regard when assessing bills paid from the legal aid fund is a matter of ongoing consideration. If relevant, details of any proposed criteria will be set out in the public consultation scheduled for issue in the Autumn.

77. Prior to the aforementioned potential change requiring initial bills to be submitted through LAMS the Department proposes that, following assessment, practitioners submit finalised bills and supporting documentation through LAMS with claims then verified and processed by LSA.

Review of Rates

78. The Department would also welcome views and submissions on the frequency and basis/approach of any reviews that should be undertaken on rates, fees and administrative processes.

Enabling Access to Justice Division

Department of Justice

14 August 2026