

Outline of proposed additional £15m AGFS expenditure

The MoJ has agreed to consider the proposals below but ultimately, they will be subject to all the usual public safeguards for making legislation and the results of a consultation to be undertaken by the MoJ.

£15m – equivalent to a c.6.6% increase¹ – to be split as follows:

- c.£12.5m from date of new Statutory Instrument (equivalent to a c.5.5% increase); and
- 1% increase in all fixed fees from 1.4.2019 (c.£2.5m: if it is less than this, then any shortfall will be added to the £12.5m).

The £12.5m to be split as follows:

- 1) **£8.0m to deal with those who lose most under the new scheme.** The primary focus is on dishonesty and drugs – particularly dishonesty over £100,000 and class A drugs cases – but with an addition also for child sexual offences. A detailed structure and costings are still being worked on, but the breakdown is likely to be along the lines set out in the table below. All figures are approximate, and have been rounded. The modelled loss figures are those set out in the MoJ’s revised Impact Assessment tables, with VAT added.

The focus for fraud and class A drugs is likely to be on the brief fees. The focus in child sexual offences is likely to be on some limited brief fees (e.g. in band 4.3 or for particular offences) and/or the fee for cracks.

Offence category	Offence category description	Modelled loss under new scheme	New money
6	Dishonesty	-£4.8m	£4.8m
9	Drugs Offences	-£2.4m	£2.4m
4	Sexual Offences (Child)	-£1.2m	£0.8m
			£8.0m

- 2) **£4.5m to assist with retention and sustainability, focused on juniors.** The final distribution will depend on the cost of various options, as well as consultation. Options being considered include the following, but these lists are not definitive:

¹ The most recent published figures for a full year of expenditure on AGFS are those for 2016/17. The total expenditure in that year was c.£226m (inc. VAT). £15m (inc. VAT) is approximately 6.6% of that total.

Likely to be asked for at the moment

- a. Minimum refresher of £350. This would be an uplift from £300/£325 in categories 3.5, 6.5, 15.3, 17.1.
- b. Appeal against conviction fee to be £300.
- c. Ineffective trial fee to be £350.

Additional changes being considered at the moment

- d. Sentence hearing fees to be to £150.
- e. Fee for elected cases to be £350.
- f. Higher briefs (with proportionate changes to cracks and pleas) in categories 6.4 and 12-15.
- g. Extra payment for sentences in election cracks.
- h. Higher fees for cracks in other categories.

Additional aspects

The following will also be included:

- 1) A review of the new AGFS – as originally intended – providing an opportunity to address any further problems with the new scheme.
- 2) Public recognition by the Lord Chancellor of the importance and value of the Criminal Bar.
- 3) A commitment to work urgently with the Bar (through the Bar Council) to pilot a scheme of identity cards for all courts (including the criminal courts).
- 4) Settling a process for the Bar and the MoJ to work together to address:
 - a. the future of the criminal justice system; and
 - b. recruitment, retention and sustainability at the Criminal Bar.
- 5) Involvement in Criminal Justice Board discussions which have an impact on the Criminal Bar.
- 6) Further consideration of flexible operating hours in criminal cases.

Other issues that are not being resolved at this stage

These remain live issues:

- 1) Payment to defence counsel for reviewing disclosed, unused material.
- 2) Prosecution fees.
- 3) The MoJ budget from the start of the next spending period in April 2020.
- 4) The outcome of the process in point 4 above, including as regards the court estate/conditions and all else that needs to be done to secure the viable future of the Criminal Bar and the criminal justice system.