



Mark Fenhalls QC and Jo Sidhu QC
Chairs, Bar Council and Criminal Bar Association
London
Sent via email

MoJ ref: ADR98715

29 July 2022

Dear Mark and Jo,

CRIMINAL LEGAL AID – PAYMENTS TO CURRENT CASES

Thank you for our meeting on Tuesday 12 July. I welcomed the opportunity to meet you so I could introduce myself as the new Minister responsible for criminal legal aid and hear your concerns.

In the meeting you urged that the MoJ should apply new fees to existing cases, and that this may settle the disruptive action as you, Jo, felt this would lead to you re-balloting your members regarding strike action.

As you know, we recently laid the Statutory Instrument which will increase AGFS fees by 15% for cases with Representation Orders granted on or after 30 September. This uplift was recommended by the Independent Review for Criminal Legal Aid and we are delivering this at speed. We have consistently said that the approach we have taken is realistically the quickest way possible to get money into the system. Legal professionals will begin to see the pay rise before the end of 2022, and we estimate that over two thirds of the additional annual funding for the Advocates Graduated Fee Scheme (AGFS) will be in the system by September 2023.

I am aware that this is only the first phase of the Government's response to the Independent Review. We are carefully considering the responses to the consultation regarding fees for Section 28 cases, written preparation and other AGFS reforms. I look forward to being able to say more about this, including a timetable for further reform, in the autumn when we publish our full response to the consultation.

I can assure you both that we have carefully considered your request to me and my predecessors that the 15% uplift is applied to work done after 30 September in existing cases. The current structure of AGFS is one that the Independent Review said did not require fundamental change, unlike that of the Litigators' Graduated Fee Scheme (LGFS). Complying with your request to pay new fees for existing cases would require fundamental changes to the existing AGFS structure (and LGFS as we would need to deliver similar changes for solicitors), requiring significant operational reforms and changes to the way barristers submit claims. We estimate that implementing this proposal across AGFS and LGFS, including the operational delivery costs, would be between £50m and £60m over this existing Spending Review which ends on March 2025.

We believe that our proposal to uplift AGFS fees by 15%, which matches the recommendation in the Independent Review, is a good deal for criminal barristers.

I hope that criminal barristers come back to work soon and work with us on further reform to AGFS.

Yours sincerely,

A handwritten signature in blue ink that reads "Sarah Dines". The signature is written in a cursive style with a small flourish at the end.

SARAH DINES MP