



Rates and scales in respect of defendant's costs orders

These rates and scales apply to defendant's costs orders made under section 16 of the Prosecution of Offences Act 1985 in respect of proceedings commenced on or after 31 October 2009, except orders made in the Supreme Court.

They have been determined by the Lord Chancellor with the consent of the Treasury under regulation 7 of the Costs in Criminal Cases (General) Regulations 1986, as amended by the Costs in Criminal Cases (General) (Amendment) Regulations 2009.

30 October 2009

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Contents

| | |
|--|----|
| Part 1 Magistrates' Court | 2 |
| Part 2 Crown Court (not "VHCC" cases) | 5 |
| Part 3 "VHCC" cases in the Crown Court | 6 |
| Part 4 High Court | 14 |
| Part 5 Court of Appeal | 16 |

Part 1 Magistrates' Court

1.1 Litigators

Preparation (including taking instructions, interviewing witnesses, ascertaining the prosecution case, advising on plea and mode of trial, preparing and perusing documents, dealing with letters and telephone calls which are not routine, preparing for advocacy, instructing Counsel and expert witnesses, conferences, consultations, views and work done in connection with advice on appeal or case stated)

National - £49.70 per hour

London - £52.55 per hour

Advocacy (including applications for bail and other applications to the court)

National - £62.35 per hour

London - £62.35 per hour

Attendance at court where Counsel assigned (including conferences with counsel at court)

National - £34.00 per hour

London - £34.00 per hour

Travelling and waiting

National - £26.30 per hour

London - £26.30 per hour

Routine letters written and telephone calls

National - £3.90 per item

London - £4.05 per item

Mileage rate - 45p per mile.

The "London" rate applies where the litigator's office is situated in the Cities of London or Westminster or a London borough.

In respect of any individual item of work, fees may be allowed at less than the relevant rates specified above where it appears reasonable to do so having regard to the competence and dispatch with which the work was done.

Fees may be allowed at more than the rates above where it appears, taking into account all the relevant circumstances of the case, that:

- (a) the work was done with exceptional competence, skill or expertise; or
- (b) the work was done with exceptional dispatch; or
- (c) the case involved exceptional circumstances or complexity.

Where it is considered that any item of work should be allowed at more than the rates above, a percentage enhancement shall be applied to that item of work in accordance with the provisions below.

In determining the percentage by which fees should be enhanced above the prescribed rate, regard shall be had to:

- (a) the degree of responsibility accepted by the solicitor and his or her staff;
- (b) the care, speed and economy with which the case was prepared;
- (c) the novelty, weight and complexity of the case.

Except in proceedings that relate to serious or complex fraud, the percentage above the rate above by which fees for work may be enhanced shall not exceed 100 per cent.

Where proceedings relate to serious or complex fraud, the percentage above the rate above by which fees for work may be enhanced shall not exceed 200 per cent.

Regard may be had to the generality of proceedings to which these provisions apply in determining what is exceptional.

1.2 Counsel

Basic fee (for preparation including preparation for a pre-trial review and, where appropriate, the first day's hearing including, where they took place on that day, short conferences, consultations, applications and appearances (including bail applications, views and any other preparation))

Maximum amount: Junior Counsel - £468.00

Queens Counsel - £4,446.00

Refresher fee (for any day or part of a day during which a hearing continued, including, where they took place on that day, short conferences, consultations, applications and appearances (including bail applications), views and any other preparation)

Rates and scales in respect of defendant's costs orders

Maximum amount: Junior Counsel - £162.00 per day

Queens Counsel - £297.00 per day

Subsidiary fees:

Attendance at consultations, conferences and views not covered by the basic fee or the refresher fee

Junior Counsel - £29.25 per hour, minimum amount £14.50

Queens Counsel - £54.50 per hour, minimum amount £28.00

Written work (on evidence, plea, appeal, case stated or other written work)

Maximum amount: Junior Counsel - £51.25

Queens Counsel - £105.00

Attendance at pre-trial reviews, applications and other appearances (including bail applications and adjournments for sentence) not covered by the basic fee or the refresher fee

Maximum amount: Junior Counsel - £94.00

Queens Counsel - £205.00

Where it appears in respect of any item of work, taking into account all the relevant circumstances of the case, that owing to the exceptional circumstances of the case the amount payable above would not provide reasonable remuneration for some or all of the work allowed, such amounts may be allowed as appear to be reasonable remuneration for the relevant work.

Part 2 Crown Court (not "VHCC" cases)

2.1 Litigators in the Crown Court (not "VHCC" cases)

Fees in respect of work done by litigators in the Crown Court (other than "VHCC" cases) will not exceed the fees set out in Schedule 2 to the Criminal Defence Service (Funding) Order 2007, as amended, that applied at the time the proceedings commenced. Except for the quantum of the fees set out in the Schedule, the provisions of the Schedule shall be interpreted with any necessary modifications to apply to privately funded work as opposed to publicly funded work.

2.2 Advocacy in the Crown Court (not "VHCC" cases)

Fees in respect of work done by advocates in the Crown Court (other than "VHCC" cases) will not exceed the fees set out in Schedule 1 to the Criminal Defence Service (Funding) Order 2007, as amended, that applied at the time the proceedings commenced. Except for the quantum of the fees set out in the Schedule, the provisions of the Schedule shall be interpreted with any necessary modifications to apply to privately funded work as opposed to publicly funded work.

Part 3 "VHCC" cases in the Crown Court

3.1 Definitions

A Very High Cost Case ("VHCC") is a Crown Court case where the trial last was estimated to last:

- for more than 40 days
- between 25 and 40 days and meets the criteria below.

Trials that were estimated to last between 25 and 40 days count as very high cost if they are:

- terrorism prosecutions
- SFO prosecutions

or any two of:

- a) at least 10,000 pages of prosecution evidence
- b) at least 10,000 pages of unused or third party material
- c) more than five defendants
- d) fraud or serious drugs cases where the value of the fraud or drugs exceeds £1m.

In the tables following this paragraph:

- a) a reference in the first table to a category is a reference to that category as defined below;
- b) a reference in the first table to a level A or B solicitor-advocate is a reference to a level A or B solicitor-advocate as defined below;
- c) a reference in the second table to a junior includes a solicitor-advocate.

3.2 Preparation (hourly rates)

| (£) | Category 1 | Category 2 | Category 3 | Category 4 | Standard |
|---------------------------|------------|------------|------------|------------|----------|
| Solicitor | | | | | |
| Level A sol | 152.50 | 119.00 | 95.50 | 95.50 | 55.75 |
| Level B sol | 133.00 | 104.50 | 83.50 | 83.50 | 47.25 |
| Level C sol | 88.50 | 69.00 | 54.00 | 54.00 | 34.00 |
| Pupil/junior | 48.00 | 38.50 | 31.50 | 31.50 | |
| Counsel | | | | | |
| QC | 152.50 | 119.00 | 95.50 | 95.50 | |
| Leading junior | 133.00 | 104.50 | 83.50 | 83.50 | |
| Led junior | 95.50 | 76.00 | 65.00 | 65.00 | |
| Junior alone | 104.50 | 85.50 | 74.00 | 74.00 | |
| 2nd Led junior | 67.00 | 53.00 | 46.00 | 46.00 | |
| Solicitor Advocate | | | | | |
| Leading level A | 152.50 | 119.00 | 95.50 | 95.50 | |
| Led level A | 133.00 | 104.50 | 83.50 | 83.50 | |
| Leading level B | 133.00 | 104.50 | 83.50 | 83.50 | |
| Led level B | 110.00 | 90.50 | 69.00 | 69.00 | |
| Level A alone | 138.00 | 115.00 | 93.50 | 93.50 | |
| Level B alone | 116.00 | 99.50 | 78.50 | 78.50 | |
| Second Advocate | 67.00 | 53.00 | 46.00 | 46.00 | |

Standard rates will be used where the task is quasi-administrative – i.e. where the task does not fall within the realms of administration but does not require any legal knowledge or analysis.

The appropriate authority may make an allowance at Level B rate to solicitors for routine correspondence (to include emails) and telephone calls. This will include making appointments to see the client and any advocates, corresponding with the prosecuting authority, responding to correspondence, and corresponding with the court.

3.3 Advocacy

Advocacy rates for counsel are paid per hearing or per day depending upon the duration of the court sitting time. Advocacy rates are non-category specific.

| (£) | Preliminary hearing | Half day | Full day |
|-------------------|---------------------|----------|----------|
| QC | 119.00 | 250.00 | 500.00 |
| Leading junior | 90.50 | 205.25 | 410.50 |
| Led junior | 61.00 | 132.75 | 265.50 |
| Junior alone | 70.00 | 150.00 | 300.00 |
| Second led junior | 35.50 | 67.50 | 135.00 |
| Noter | 30.50 | 57.50 | 115.00 |

Solicitor-advocates will be paid the appropriate rate for a leading junior, a led junior, or a junior alone.

3.4 Attendance at court with counsel (hourly rates for solicitors)

| | |
|---------|--------|
| Level A | £42.25 |
| Level B | £34.00 |
| Level C | £20.50 |

3.5 Travelling and waiting

£25 per hour regardless of Litigator Level or Advocacy role.

3.6 Mileage

£0.45 per mile.

3.7 Levels of Litigator

Level A Litigator (including Level A solicitor-advocates)

A 'Level A' Litigator must:

- a) be a solicitor/ solicitor-advocate or employed Barrister; and
- b) have 8 years' post-qualification experience; and
- c) either:
 - (i) during the last three years, have conducted a total of 1,050 hours of working on other Serious Crime Cases; or
 - (ii) in any two of the last three years, have conducted a total of 700 hours working on other Serious Crime Cases; or
 - (iii) have a particular specialism that is relevant and important to the case; or
 - (iv) have a combination of (c)(i) and (c)(iii), or (c)(ii) and (c)(iii).

For (c)(i) and (c)(ii) above, evidence that these hours have been met (by way of Billing Guides) must be provided to the appropriate authority upon request.

Level B Litigator (including Level B solicitor-advocates)

A 'Level B' Litigator must:

- a) be a solicitor/solicitor-advocate or employed Barrister; or
- b) be a Fellow of the Institute of Legal Executives; or
- c) have substantial knowledge and experience of criminal defence casework.

Generally this would be expected to include ten years' experience of criminal defence casework and some experience of serious and complex criminal cases.

Level C fee-earner

A 'Level C' fee-earner must:

- a) be a trainee solicitor; or
- b) be a pupil barrister; or

- c) be a legal executive (although note the criteria for a Level B Litigator above); or
- d) be any other person conducting fee-earning work.

3.8 Category Criteria

3.8.1 General notes

In relation to the categorisation of cases in both fraud and non-fraud cases, there are a number of important points to note outside of the Block A and Block B criteria (set out below):

1. The appropriate authority shall decide whether a case is a fraud VHCC or a non-fraud VHCC and which category that case it falls into
2. Defence Teams will provide full and detailed representations on the category of case.
3. The category of the case is assessed against the criteria set out below. A different category may apply at different stages of a VHCC - for example, the prosecution may present more evidence than expected, or may drop one of a number of charges.
4. Circumstances may arise where co-defendants within the same VHCC will be assigned different categories in order to reflect each defendant's involvement in the VHCC. A Defence Team will need to demonstrate that their defendant's VHCC is able to meet the relevant criteria and provide supporting evidence for each criterion they believe the VHCC satisfies.
5. Evidence that is submitted in support of one criterion cannot be used to support submissions for meeting the requirements of a second criterion.

3.8.2 Criteria for setting hourly rates for fraud VHCCs

Block A

1. The defendant's case is likely to give rise to:
 - a) national publicity; and
 - b) widespread public concern;
2. the defendant's case requires highly specialised knowledge;
3. the defendant's case involves a significant international dimension;
4. the defendant's case requires legal, accountancy and investigative skills to be brought together.

Block B

1. The value of the fraud as described in the indictment and/or the prosecution case statement/summary exceeds:

a) £10m

b) £2m

2. The volume of prosecution documentation, which consists of:

- witness statements
- exhibits
- interview transcripts
- pre-interview disclosure/advance information
- Notices of Further Evidence ("NFEs") exceeds:
 - a) 30,000 pages
 - b) 10,000 pages

Unused material will not be considered for the purposes of this criterion, nor will evidence which has yet to be served.

3. The total costs of representing the defendant(s) are likely to exceed:

a) £500,000

b) £250,000

4. The length of the trial is estimated at over 3 months.

Categorisation of cases

Category 1: All 4 criteria from Block A are met, and all 4 a's from Block B.

Category 2: 2 criteria from Block A are met and at least 2 a's or b's from Block B.

Category 3: All other fraud VHCCs.

Category 4: Non-fraud VHCCs only.

3.8.3 Criteria for setting hourly rates for non-fraud VHCCs

Block A

1. Pursuant to statute, the case must be a class 1 or 2 offence.
2. The maximum sentence for the offence is imprisonment for life or over 30 years, per statute.
3. The case is likely to attract national interest.
4. One of the following applies:
 - a) where the offence is of a violent or sexual nature, there must be multiple victims;
 - b) if the offence is of a violent or sexual nature and there is only a sole victim, there must be something significant about the crime;
 - c) if the case involves drugs, their total value is estimated by the prosecuting authority to exceed £10m;
 - d) the case in which the main offence with which the defendant is charged, whether at common law or under any statutory enactment, is primarily founded on allegations of terrorism as defined in the Terrorism Act 2000.

Block B

1. The volume of prosecution documentation, which consists of:
 - witness statements
 - exhibits
 - interview transcripts
 - pre-interview disclosure/advance information
 - Notices of Further Evidence ("NFEs") exceeds:
 - a) 10,000 pages
 - b) 5,000 pages

Unused material will not be considered for the purposes of this criterion, nor will evidence which has yet to be served.

2. The total costs of representing the defendant(s) are likely to exceed:
 - a) £400,000
 - b) £200,000

Categorisation of cases

Category 1: Terrorism cases uplifted from category 2.

Category 2: For cases not involving drugs:

All 4 criteria from Block A are met and 2 a's from Block B; OR

For serious drugs cases:

3 criteria from Block A and 2 a's from Block B.

Category 3: 3 criteria from Block A are met and at least 1 a or b from Block B.

Category 4: All other VHCCs.

If the case is primarily founded on allegations of terrorism, apply an uplift of one category.

Part 4 High Court

4.1 Litigators

Routine letters out - £7.50 per item

Routine telephone calls - £4.15 per item

All other preparation work including any work which was reasonably done arising out of or incidental to the proceedings, interviews with client, witnesses, and other parties; obtaining evidence; preparation and consideration of, and dealing with, documents, negotiations and notices; dealing with letters written and received and telephone calls which are not routine - £75.00 per hour (£79.50 per hour where the litigator's office is situated in the Cities of London or Westminster or a London borough)

Attending counsel in conference or at the trial or hearing of any summons or application at court, or other appointment - £37.00 per hour

Attending without counsel at the trial or hearing of any cause or the hearing of any summons or other application at court, or other appointment - £75.00 per hour

Travelling and waiting in connection with the above matters - £33.25 per hour

4.2 Counsel

Basic fee (for preparation including preparation for a pre-trial review and, where appropriate, the first day's hearing including, where they took place on that day, short conferences, consultations, applications and appearances (including bail applications, views and any other preparation))

Maximum amount: Junior Counsel - £468.00

Queens Counsel - £4,446.00

Refresher fee (for any day or part of a day during which a hearing continued, including, where they took place on that day, short conferences, consultations, applications and appearances (including bail applications), views and any other preparation)

Maximum amount: Junior Counsel - £162.00 per day

Queens Counsel - £297.00 per day

Subsidiary fees:

Attendance at consultations, conferences and views not covered by the basic fee or the refresher fee

Junior Counsel - £29.25 per hour, minimum amount £14.50

Queens Counsel - £54.50 per hour, minimum amount £28.00

Written work (on evidence, plea, appeal, case stated or other written work)

Maximum amount: Junior Counsel - £51.25

Queens Counsel - £105.00

Attendance at pre-trial reviews, applications and other appearances (including bail applications and adjournments for sentence) not covered by the basic fee or the refresher fee

Maximum amount: Junior Counsel - £94.00

Queens Counsel - £205.00

Where it appears in respect of any item of work, taking into account all the relevant circumstances of the case, that owing to the exceptional circumstances of the case the amount payable in accordance with the table above would not provide reasonable remuneration for some or all of the work allowed, such amounts may be allowed as appear to be reasonable remuneration for the relevant work.

Part 5 Court of Appeal

5.1 Litigators

| <i>Class of work</i> | <i>Grade of fee earner</i> | <i>Rate</i> | <i>Variations</i> |
|---|---|-----------------|--|
| Preparation | Senior solicitor | £53.00 per hour | £55.75 per hour for a litigator whose office is situated in London |
| | Solicitor, legal executive or fee earner of equivalent experience | £45.00 per hour | £47.25 per hour for a litigator whose office is situated in London |
| | Trainee or fee earner of equivalent experience | £29.75 per hour | £34.00 per hour for a litigator whose office is situated in London |
| Advocacy | Senior solicitor | £64.00 per hour | |
| | Solicitor | £56.00 per hour | |
| Attendance at court where more than one representative assigned | Senior solicitor | £42.25 per hour | |
| | Solicitor, legal executive or fee earner of equivalent experience | £34.00 per hour | |
| | Trainee or fee earner of equivalent experience | £20.50 per hour | |
| Travelling and waiting | Senior solicitor | £24.75 per hour | |
| | Solicitor, legal executive or fee earner of equivalent experience | £24.75 per hour | |
| | Trainee or fee earner of equivalent experience | £12.50 per hour | |
| Routine letters written and routine telephone calls | | £3.45 per item | £3.60 per item for a fee earner whose office is situated in London |

The "London" rate applies where the litigator's office is situated in the Cities of London or Westminster or a London borough.

1. In respect of any item of work, the appropriate authority may allow fees at less than the relevant prescribed rate specified above where it appears to him reasonable to do so having regard to the competence and despatch with which the work was done.

2.—(1) Upon a determination of fees the appropriate authority may, subject to the provisions of this paragraph, allow fees at more than the relevant prescribed rate specified above for preparation, advocacy, attendance at court where more than one representative is assigned, routine letters written and routine telephone calls, in respect of offences in Class A, B, C, D, G, I, J or K in the Table of Offences in Schedule 1 of the Criminal Defence Service (Funding) Order 2007.

(2) The appropriate authority may allow fees at more than the prescribed rate where it appears to him, taking into account all the relevant circumstances of the case, that—

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

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

(c) the case involved exceptional complexity or other exceptional circumstances.

(3) Where the appropriate authority considers that any item or class of work should be allowed at more than the prescribed rate, he must apply to that item or class of work a percentage enhancement in accordance with the following provisions of this paragraph.

(4) In determining the percentage by which fees should be enhanced above the prescribed rate the appropriate authority may have regard to—

(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.

(5) The percentage above the relevant prescribed rate by which fees for work may be enhanced must not exceed 100 per cent.

(6) The appropriate authority may have regard to the generality of proceedings to which these provisions apply in determining what is exceptional within the meaning of this paragraph.

5.2 Counsel

Junior counsel

| <i>Type of proceedings</i> | <i>Basic fee</i> | <i>Full day refresher</i> | <i>Subsidiary fees</i> | | |
|----------------------------|----------------------------------|---------------------------------|--|---------------------------------|--|
| | | | <i>Attendance at consultation, conferences and views</i> | <i>Written work</i> | <i>Attendance at pre-trial reviews, applications and other appearances</i> |
| All appeals | Maximum amount: £545.00 per case | Maximum amount: £178.75 per day | £33.50 per hour, minimum amount: £16.75 | Maximum amount: £58.25 per item | Maximum amount: £110 per appearance |

QC

| <i>Type of proceedings</i> | <i>Basic fee</i> | <i>Full day refresher</i> | <i>Subsidiary fees</i> | | |
|----------------------------|------------------------------------|---------------------------------|--|----------------------------------|--|
| | | | <i>Attendance at consultation, conferences and views</i> | <i>Written work</i> | <i>Attendance at pre-trial reviews, applications and other appearances</i> |
| All appeals | Maximum amount: £5,400.00 per case | Maximum amount: £330.50 per day | £62.50 per hour, Minimum amount: £32.00 | Maximum amount: £119.50 per item | Maximum amount: £257.50 per appearance |

1. Where an hourly rate is specified in the Table above, the appropriate authority must determine any fee for such work in accordance with that hourly rate; provided that the fee determined must not be less than the minimum amount specified.

2. Where a refresher fee is claimed in respect of less than a full day, the appropriate authority must allow such fee as appears to him reasonable having regard to the fee which would be allowable for a full day.

3. Where it appears to the appropriate authority, taking into account all the relevant circumstances of the case, that owing to the exceptional circumstances of the case the amount payable by way of fees in accordance with the Table above would not provide reasonable remuneration for some or all of the work he has allowed, he may allow such amounts as appear to him to be reasonable remuneration for the relevant work.

Signed by authority of the Lord Chancellor

Bach

Parliamentary Under Secretary of State

Ministry of Justice 26th October 2009