



# Ministry of Justice

**LEGAL AID UPDATE**  
**Monday 27 January 2014**

Following a meeting between the Lord Chancellor, the Chairman of the Bar Council and the Chairman of the Bar, the Ministry of Justice hosted a meeting with representatives from the Bar on Friday.

The purpose of the meeting was to explain the financial challenge facing the Ministry, and the context for the further reform of legal aid. We also sought to present our analysis of the impact of the two proposed models for a revised advocacy graduated fee scheme, both of which would impact most on higher earners and seek to protect those on the lowest incomes in relative terms.

Presented below are the key facts shared at Friday's meeting:

## **Financial Challenge for the Ministry of Justice**

The financial crisis had a very significant impact on the UK economy, resulting in the largest deficit since the Second World War and an urgent need to reduce spending and to bring public finances back to a sustainable path.

The Ministry of Justice, like many other Departments, is having to take difficult decisions right across its budget to meet its 2010 Spending Review settlement (SR10) and subsequent reductions in Budget 2013 and the Autumn Statement 2013:

Over the SR10 period to 2014/15 the Department must reduce expenditure by around £2.7 billion per annum; a 27% reduction in real terms.

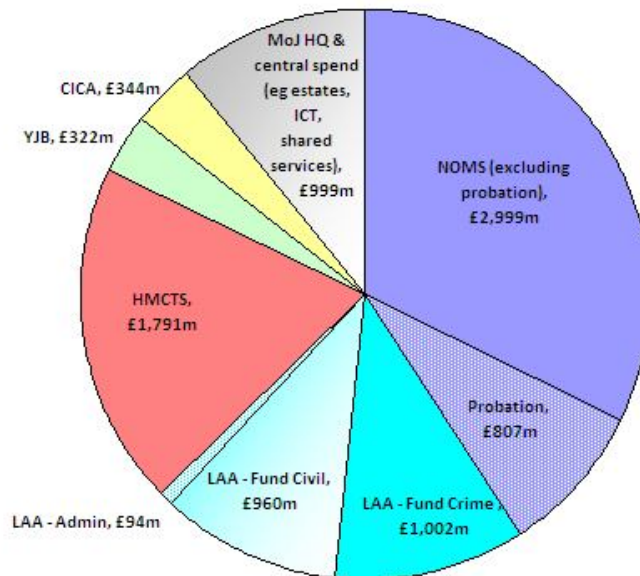
This represents a particular challenge for MoJ:

Our business is demand-led and sensitive to volume change and the actions of other criminal justice agencies;

Around 90% of our spend sits in our delivery agencies (courts, prisons, probation, legal aid) delivering front line services to the public; and

Much of our spending is tied up in the workforce and buildings necessary to deliver these frontline services, and delivering savings takes time to achieve.

Most of MoJ's spend goes on prisons and legal aid (pie chart shows 2012/13 gross spend figures):



Our saving plans between 2011/12 and 2014/15 cover all areas of MoJ spend:

- 33% savings from HQ and administration costs;
- 20% savings in frontline efficiency;
- c.£150m from closing courts and replacing old and inefficient prison places (by 2013/14); and
- £160m from efficiencies in the prison service (by 2014/15).

Looking ahead the 2013 Spending Round requires us to save around an **additional** £1 billion in 2015/16; a reduction of around 10% percent on the 2014/15 budget.

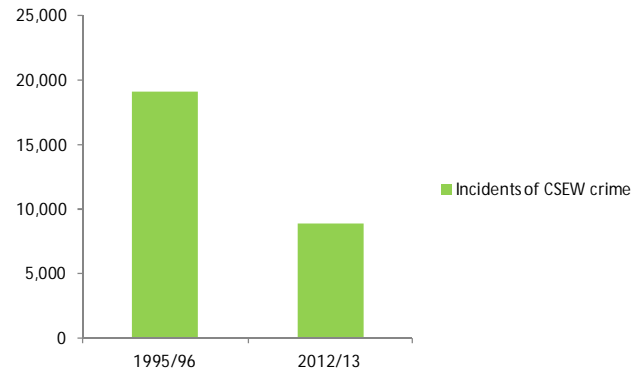
The Chancellor has been clear that further reductions will be needed beyond 2015/16 to continue to reduce the deficit.

### Implications for Legal Aid

The legal aid savings we are making are broadly in line with the overall reductions to the Department's budget.

Spending on legal aid is driven by: capacity in the courts to process crime, case mix, billing by providers, and policy changes.

Since 1995/96, incidents of crime have **decreased** by 50%, whilst criminal legal aid spending has **increased** by around 10% in real terms:



We have looked at all aspects of legal aid expenditure, including administrative savings, changes to scope and eligibility, and remuneration changes:

We are making 34% savings from Legal Aid Agency administration costs;

We have reduced Legal Aid Agency net debt by £58.3million over the last 3 years;

We are speeding up payments; in the 3 years to 2012-13 we have reduced AGFS payment times from 44 days to 20 days.

The bulk of savings we are making as a result of the Legal Aid, Sentencing and Punishment of Offenders Act were made from civil legal aid scope changes. Our current package of proposals, to deliver the further savings we now need to make across the Department's budget, looks at civil and criminal scope and eligibility, and remuneration.

### **Understanding the impact proposals for Crown Court advocacy**

The savings proposals on remuneration in the *Transforming Legal Aid* package focus on three areas:

Very High Cost Cases (VHCCs): 30% reduction, saving £20m;

Litigation services: 17.5% reduction, saving £120m; and

Graduated fees (AGFS): 7% reduction, saving £15m.

In September last year, we consulted on two proposals for a revised advocacy graduated fee scheme:

**Option one**

**Option two**

**Basic Fees:**

- **Trials** left unchanged
- **Cracked Trials and Guilty Pleas:** Harmonised so guilty plea fees increased and cracked trial fees decreased.

**Basic Fees:**

- **Trials** - A set of standard fees (covering 95% of cases) and enhanced fees (covering 5% of cases) based on evidence pages, proposed for each offence type and advocate.
- **Cracked Trials** paid at 80%, and **Guilty Pleas** at 45% of the Trial rate.

**Trial Attendance Fees:**

- Structure changed so fees are tapered after day 3 of the trial. Tapering is stopped at a floor: the current lowest daily fee for each offence type.

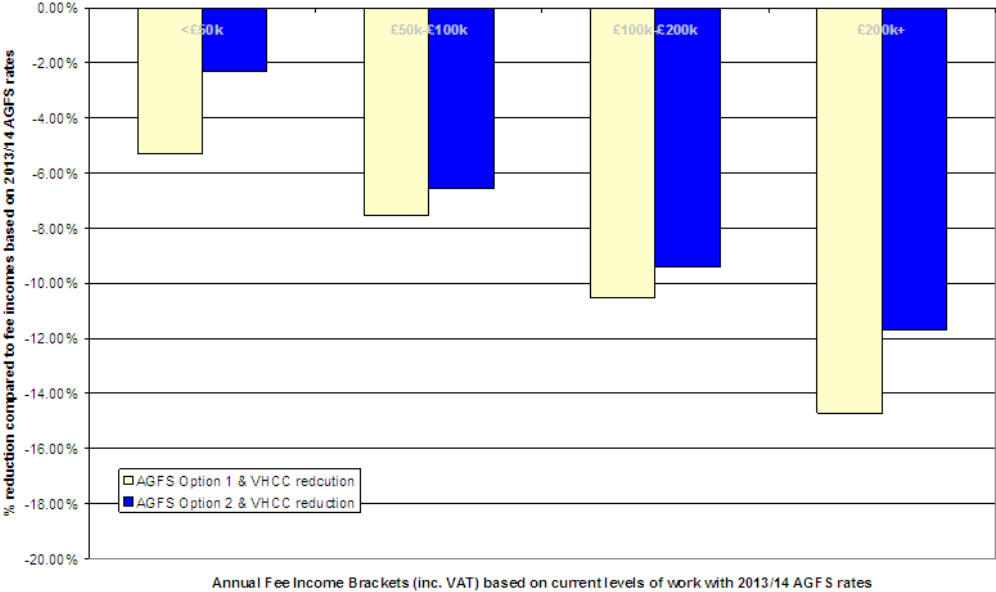
**Trial Attendance Fees:**

- Structure the same as we currently have, but reduced by 21%.

Our proposals for advocacy fees will impact most on highest earners. 99% of cases are paid under the graduated fees scheme where the fee reduction is less than 7%.

Only 11% of barristers work on very high cost cases, which means that 89% of barristers are totally unaffected by the 30% VHCC cut.

The proposed changes to the graduated fees scheme would impact self-employed barristers the most at the higher end of the income scale:



Annual Fee Income Brackets (inc. VAT) based on current levels of work with 2013/14 AGFS rates

## **Next Steps**

We are finalising our proposals in the light of responses to the consultation, and will respond in due course.

We believe legal aid is a vital part of our justice system: that's why we have to find efficiencies to ensure it remains sustainable and available to those most in need of a lawyer. At around £2 billion a year we have one of the most expensive legal aid systems in the world and it would remain generous even after reform.

We do not underestimate the challenge legal aid reform presents for the legal professions but this update sets out the severe financial pressure that makes further reform necessary. We are examining every area of the Department's work to find savings – legal aid has not been singled out, but it must contribute to the reductions required.

We hope that by working together we can achieve a sustainable solution that delivers the necessary savings for the taxpayer, is sustainable for the legal professions, and maintains an accessible justice system for all.