



Department of
Justice

An Roinn Dlí agus Cirt
Máinnystrie O tha Laa

The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) (Amendment) Rules (Northern Ireland) 2021

Summary of Consultation Responses

22 September 2021

1. INTRODUCTION

- 1.1 This paper provides a summary of the responses received by the Department of Justice to the targeted consultation on the Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) (Amendment) Rules (Northern Ireland) 2021, which was launched on 21 July 2021 and closed on 1 September 2021.
- 1.2 The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009 ("the 2009 Rules") prescribe the remuneration payable to solicitors and counsel for criminal legal aid in Magistrates' Courts cases and County Court appeals.
- 1.3 There is a statutory requirement under Rule 16 of the 2009 Rules to carry out a review of the Rules at least every three years and to ensure that the Rules are consistent with the requirements of Article 37 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 19981 as follows:
- the time and skill which work of the description to which the rules relate requires;
 - the number and general competence of persons undertaking work of that description;
 - the cost to public funds of any provision made by the rules; and
 - the need to secure value for money.
- 1.4 The purpose of the targeted consultation was to seek views on the Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) (Amendment) Rules (Northern Ireland) 2021, which give effect to proposals arising from the second statutory review of the 2009 Rules.
- 1.5 A list of those notified of the targeted consultation is at Annex A.

2 RESPONSES TO THE TARGETED CONSULTATION

- 2.1 The Department received substantive responses to the consultation from the Bar Council and Law Society. The Public Prosecution Service, the Office of the Lord Chief Justice, the Rules Committees and the Attorney General acknowledged the consultation but made no comment on the policy proposals.
- 2.2 The Bar welcomed the Department's intention to increase the fee available to counsel for appeals against sentence to £230 commenting that this represents a fairer reflection of the time and skill required of counsel to provide legal representation in such cases.
- 2.3 The Bar remarked that they agreed with the proposal to add the hearing of applications for witnesses or the accused to be examined through a registered intermediary to the special measures listed at paragraph 14 of Schedule 1 that are remunerated by way of a £75 fixed fee.
- 2.4 The Bar also welcomed the proposal to amend paragraph 18B of Schedule 1 to the 2009 Rules to provide an uplift of seventy-five per cent payable on the standard Guilty Plea Fee provided for in Part 2 of the Rules.
- 2.5 In addition, the Bar noted that paragraph 5 of Rule 16 of the 2009 Rules will be amended to stipulate that the next statutory review period will start from the commencement date of the amending legislation.
- 2.6 The Law Society sought clarification as to the commencement date of the Third Statutory Review. The Department has confirmed in correspondence to the Law Society that the next statutory review period of three years will commence on the date the amending legislation comes into operation.
- 2.7 The Law Society expressed concern that any necessary changes to ICOS to facilitate payment of the new fee for the hearing of registered intermediary applications be put in place to coincide with the commencement of the amending legislation. The Department has confirmed in correspondence to the Law Society that it will work with Court Service to seek any necessary changes

to ICOS in order to facilitate payment of the new fee in respect of registered intermediary applications.

3 NEXT STEPS

- 3.1 The Department of Justice is grateful to consultees for their comments. The Justice Committee is due to consider the SL1 and draft Rules on 23 September 2021. These Rules are subject to negative resolution and the necessary arrangements will be put in place to have the draft amending Rules laid in the Assembly as soon as possible.

Annex A – List of Consultees

The targeted consultation document was sent to the following organisations:

Attorney General

County Court Rules Committee

General Council of the Bar of Northern Ireland

Magistrates' Courts Rules Committee

Office of the Lord Chief Justice of Northern Ireland

The Law Society of Northern Ireland

The Public Prosecution Service for Northern Ireland