

Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Scotland) Regulations 2015 [draft]

SCOTTISH GOVERNMENT CORRESPONDENCE

Letter from the Law Society of Scotland to the Minister for Community Safety and Legal Affairs

Thank you for meeting with us yesterday to discuss a range of issues involving the profession, including the regulations governing payment for work at the new Sheriff Appeal Court. We appreciate that you have given the challenges around these regulations thought, and have offered a post-implementation review.

You outlined yesterday your aspiration that work at the Sheriff Appeal Court should be conducted by solicitors and solicitor advocates, though we believe that the system that will be introduced by these regulations deters their participation. The overarching aim of the new court structures and judicial roles is to ensure that cases are heard at the most appropriate level and dealt with by the most appropriate people.

We anticipated, in the Sheriff Appeal Court, solicitors would be able to provide advocacy in a large number of cases. We believe that the fee structure provided by these regulations makes that economically unviable. We believed that, in the Sheriff Appeal Court, solicitor advocates or advocates should be sanctioned for more complex or novel cases. The proposed legal aid framework will arbitrarily restrict solicitor advocates from acting as counsel in such appeals.

For solicitors to provide advocacy at the Sheriff Appeal Court, the payment structures for preparation and conduct of an appeal under these regulations are wholly inadequate. The rates set by the regulations are significantly lower than those currently available for criminal appeals at the High Court. For instance, for a one hour hearing for an appeal against conviction, the current advocacy fee at the High Court would be £292.20 and under the new regulations, £54.80. For a half-hour hearing for an appeal against sentence, the current advocacy fee at the High Court would be £171.10 and under the new regulations, £27.40.

We have seen the *Sheriff Appeal Court information* issued by SLAB today, which offers allowance to solicitors new to this area around preparation fees and suggests a fee of £400500 for a standard conviction appeal. We appreciate that assurance around preparation fees. However, we find it inconceivable at the rates provided in the regulations that the fee to the solicitor would amount to that suggested by SLAB. The majority of appeal hearings would be for no longer than an hour. As familiarity with the new court increases, the allowance available around preparation fees will inevitably decrease.

As the Sheriff Appeal Court will customarily sit in Edinburgh, there will be additional challenges for rural practitioners, as in addition to economically unviable rates for appeal advocacy, there are equally challenging rates for travel. We anticipate that these rates, alongside the prohibition on the sanction of solicitor advocates as counsel at the Sheriff Appeal Court, will deter firms from undertaking this advocacy

work. Because of the impact of travel fees on firms, we believe that it may be even more challenging for people to secure representation in areas outside Edinburgh or the central belt.

You discussed the flexibility that SLAB will have in sanctioning counsel to ensure provision for the new court. The *Sheriff Appeal Court information* issued by SLAB today states, “most applications for sanction for an appeal against conviction during the transitional period will be granted, where the solicitor has no experience of conducting criminal appeals.” Sanction can only be granted where there is complexity or novelty, and again, as familiarity grows with the Sheriff Appeal Court, it will be more difficult to justify sanction. This flexible approach, simply, masks the fact that rates set out by the regulations for solicitors to conduct this work are economically unviable.

Moving appeals from the High Court to the Sheriff Appeal Court offered significant savings, with less use of counsel and more use of solicitors. A flexible use of sanctioning counsel risks replicating arrangements at the High Court, and would reduce the savings available from this transition, which SLAB estimated at around £208,000 in the Financial Memorandum to Courts Reform (Scotland) Act 2014 (paragraph 133).

We suggested, in discussions around these regulations, a number of feeing options for solicitors to conduct advocacy that would have provided viable rates and also ensured savings of up to £260,000.

Ultimately, the economically unviable fees provided by these regulations will deter firms from conducting this work. With the tight timescales within which to lodge an appeal, we believe that the number of unrepresented appellants could increase, presenting significant challenges to access to justice and human rights in our criminal justice system.

The effect of these regulations, moreover, is to restrict competition artificially between solicitor advocates and advocates. Appellants to the High Court currently have a choice of representative, whether solicitor advocate or advocate. Appellants to the Sheriff Appeal Court will no longer have that choice. It seems entirely anomalous that a solicitor advocate could be instructed if an appeal before the Sheriff Appeal Court was referred on to the High Court, but that same solicitor advocate cannot be instructed for representation otherwise. The purpose of sanctioning counsel, as mentioned above, is to provide additional expertise to conduct more complex or novel cases. It is clear that solicitor advocates, already representing appellants at the High Court, have that capability. The effect of these regulations is to exclude that experience, distorting competition for no clear reason and diminishing the parity between solicitor advocates and advocates that has existed for the last 20 years.

You committed to consider the role of solicitor advocates at yesterday’s meeting, and though this is welcome, we cannot support regulations that arbitrarily exclude these experienced and capable practitioners from this new court.

We do appreciate your commitment to a review following the commencement of the new court. However, given that the regulations are economically unviable for solicitors, exclude solicitor advocates, risk the efficient operation of this new court and challenge access to justice for people across Scotland, we ask you to reconsider these regulations as a matter of urgency.

Christine McLintock
President
4 September 2015

Letter from the Minister for Community Safety and Legal Affairs to the Convener

During my evidence on the Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Scotland) Regulations 2015 on 8 September, I committed to providing further detail and context to the provisions in writing. I am therefore writing to address a number of points raised by the Committee.

In particular, this letter seeks to:

- place the fee arrangements for the new Sheriff Appeal Court within the context of our commitment to maintain wide access to legal aid;
- clarify the distinction between the previous block fee arrangements and the detailed fee payments for individual items which will apply for the new Court;
- attach illustrative fee calculations prepared by the Scottish Legal Aid Board, including with reference to ensuring appropriate provision for travel costs;
- confirm our commitment to consider the position of Solicitor Advocates and also to review the fee arrangements for the new Court once these have operated for a number of months and the Scottish Legal Aid Board have received sufficient accounts to remodel the fees.

Legal Aid Funding

The Scottish Government supports a demand-led legal aid system that allows all who are eligible to receive legal aid. Despite the impact of UK Government imposed budget cuts, the Scottish Government is proud to have maintained wide access to legal aid for both criminal and civil cases. This contrasts with England and Wales where people can no longer access legal aid to help with certain types of family, medical, housing and welfare benefits problems. The **Legal Aid Fund budget in Scotland totals over £136 million** in the current year, an increase of £4 million on the previous year. Of the annual budget 60% is spent on criminal legal assistance.

Average case costs total around £606 for summary legal aid work and £476 for assistance by way of representation, also known as ABWOR, for representation in summary criminal proceedings. As the Committee and Parliament would expect, fee levels aim to ensure both fair remuneration for the work undertaken and the efficient and effective use of public funds.

To say that legal aid rates for summary criminal cases have not been updated or uprated since 1992 does not provide a complete picture. Statutory provisions and

rates across legal aid have been subject to multiple revisions. This includes the basis of the current fixed payments regime for summary criminal work, the broad structure of which was put in place in 1999 and has subsequently been amended.

Taking one example, **in 2008 the prevailing rate for guilty pleas under ABWOR was increased very substantially from £70 in the sheriff court and is currently £485**, the same as for a not guilty plea.

Negotiations with the profession over the years have prioritised the core summary and ABWOR fixed fees, while other less central areas of remuneration such as certain detailed fees will not have been revisited. It is also important to consider the total remuneration provided for legal work ‘in the round’, rather than focus solely on the perceived profitability of individual elements of the overall fee calculation.

Sheriff Appeal Court – Legal Aid Arrangements

With reference to the legal aid arrangements for the new Sheriff Appeal Court, the proposed regulations allow detailed fees to be paid to solicitors for summary appeals against conviction and/or sentence. Detailed fees are often made available when making a transition to a new forum or procedure, which allow a data set to be collected that can inform the creation of a block fee if that is deemed an appropriate step in due course.

Under the proposed regulations, rather than providing a single block fee for all work done taking the case to a certain stage, a **solicitor will charge individually for each item of work** – for example a fee equivalent to £54.80 per hour for appearance in court. This means that there can be no direct comparison between counsel fees for summary appeals, which are paid in a block, and the detailed fees that would be payable under the proposed regulations. Some of the concerns raised may well have inadvertently been fuelled by attempts to compare two entirely separate types of fee arrangement.

Under existing arrangements, counsel are not paid separately for travel, waiting or preparation (the latter can be paid in very exceptional circumstances), as that is all deemed to be covered by the block fee. **Solicitors will be able to charge separately for each of these** elements of work, with the total payment depending on the amount of work required and actually done.

The Scottish Legal Aid Board estimates that **a solicitor would be paid £400 to £600 depending on the time spent preparing, travelling, waiting and conducting the appeal** in a relatively straightforward appeal against conviction or conviction and sentence. More would be payable where there is a larger volume of work. If representing a client **from the original defence of the case through to appeal at the Sheriff Appeal Court, a solicitor could be paid more than £900** per client. We consider this to provide fair remuneration for the work to be undertaken that is consistent with the package of support provided under existing regulation.

In writing to the committee, the Law Society referred to discussion of alternative fee arrangements for solicitors that could have led to savings of £260,000. It is unclear how such savings would be achieved from the options proposed by the Law Society.

It is also important to emphasise that work on criminal appeals sent to the new Sheriff Appeal Court will account for a relatively small proportion of overall Legal Aid funded work for most individual solicitors and firms, and represents **less than 1% of legal aid expenditure on criminal work**. This work accounted for some **885 summary criminal appeals compared to 86,191 grants of summary legal aid and ABWOR** for summary criminal work in 2013/14.

Illustrative Fee Calculations and Provision for Travel

During my evidence to the Committee, I referred to work undertaken by the Scottish Legal Aid Board and sent to the Law Society of Scotland, to help illustrate the proposed fee structure and estimate the overall level of remuneration for a sample appeal to the Sheriff Appeal Court. This illustrative example and two others are attached in the Annex to this letter – which specifically includes examples based on a solicitor in Inverness (one travelling, one using an agent), to address Mr Finnie's concerns. These accounts have been framed using a real recent case as the basis of the entries.

The Committee asked about the issue of travel to the new Appeal Court. Lord Gill's Report of the *Scottish Civil Courts Review* (2009) recommended that the Sheriff Appeal Court, when hearing criminal appeals, should sit in Edinburgh, continuing the current arrangements for summary appeals which are of very long standing, as the Committee will appreciate.

Therefore, solicitors based at a distance from Edinburgh already have to consider whether to travel to the High Court or instruct local agents. **Fees for travel under the proposed regulations reflect existing rates** and are payable **in addition to the cost of travel tickets, mileage, etc.**, which are recoverable separately as outlays. Where a solicitor is travelling a greater distance, for example from the Highlands, the total fees and outlays they could charge would increase accordingly as shown in the comparison between travel fees for 4 November on pages 4 and 10 of the Annex. I can reassure the Committee, therefore, that solicitors travelling from outside of Edinburgh to the new Court would not be disadvantaged financially with reference to travel costs, when compared with the current arrangements.

Implications if Fees Regulations are Not Progressed

If the proposed regulations were not progressed, solicitors would be eligible for detailed fees for this work under the existing regulations so long as they applied to the Scottish Legal Aid Board to be paid in this way. They would do this because there is no block fee for Sheriff Appeal Court work.

Consequently, this would have the **unintended effect of leaving many solicitors worse off for representing the client in the original defence of the case** where proceeding to summary appeal, since the first instance work (usually paid in a block) as well as the appeal would have to be assessed on a detailed fee basis. This is particularly likely to be the case for appeals against sentence following an early guilty plea, given that the aforementioned ABWOR block fee may often pay more for this work than when charged on a time spent basis.

Solicitor Advocates

As the Committee will be aware, the position of **solicitor advocates' access to legal aid counsel fees is an existing and long-standing issue**. Specifically, these fees are only available where solicitor advocates are using their extended rights of audience, for example in the High Court. In the Sheriff Appeal Court, extended rights of audience are not required and solicitor advocates will be able to represent clients by virtue of being solicitors. At present, where counsel is sanctioned for a solemn trial in the sheriff court, a solicitor advocate only has access to the detailed solicitor fee rates. Without legislative change, a similar situation applies for fees in the Sheriff Appeal Court.

As such, this is an issue which has much wider reaching significance than the Sheriff Appeal Court. It is also one in which the Faculty of Advocates has an interest. Officials have already begun discussion with the Law Society, the Faculty and the Society of Solicitor Advocates that encompass a range of factors in this area, not just fees. Resolving this issue will follow discussion with all interested parties and should be a solution which goes beyond the Sheriff Appeal Court.

Thirty solicitor advocates received payment last year for summary appeals. **Only six solicitor advocates earned significant sums for summary criminal appeals work last year** (i.e. fees +VAT in excess of £5000).

Margaret Mitchell MSP referred to the section of the Courts Reform (Scotland) Act 2014 that sets out the circumstances in which a sheriff or the Sheriff Appeal Court can sanction the employment of counsel, including solicitor advocates. This section, section 108, applied only in relation to civil proceedings, where the court is deciding, for the purposes of any relevant expenses rule, whether to sanction the employment of counsel by a party for the purposes of the proceedings. It does not apply to criminal courts and is concerned with the fees which may be recovered from the unsuccessful party in a civil case.

Conclusion

I acknowledge the complexity of the legal aid system, which must deal with many different types of court proceedings. Fees in different parts of the system have sometimes developed independently of each other. That is why we have already **committed to looking at fees more widely** with a view to achieving a system that is more streamlined, creates the right incentives, makes best use of public funds, and provides appropriate remuneration for solicitors, solicitor advocates and counsel in the round. We want a legal aid system that continues to reflect the needs of a modern Scotland within the financial constraints that apply across the public sector.

Alongside that wider consideration of legal aid fees, as set out in my evidence to the Committee, we have **also committed to review the specific fees for the new Sheriff Appeal Court** after these have been in operation for a number of months. I expect this review to take place, in dialogue with the Law Society, in early 2016.

The establishment of the new national Sheriff Appeal Court is a very important element of the overall court reforms programme, which the Justice Committee has helped to scrutinise and progress. It will help to ensure our courts are used in a more efficient manner, optimising the use of court capacity.

I hope the information I have set out in the above and the Annex will reassure the Committee of our commitment to ensuring the effective operation of the new Court, including appropriate access to representation and proportionate remuneration through the Legal Aid Fund. I also hope, therefore, that the information is of assistance to the Committee in its consideration of the Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Scotland) Regulations 2015.

Paul Wheelhouse
Minister for Community Safety and Legal Affairs
10 September 2015

Appendix

ACCOUNT OF EXPENSES

(SCENARIO 1: Glasgow solicitor; acting for own client and travelling to Appeal Court)

incurred by

X.Y.

to

THE SCOTTISH LEGAL AID BOARD

in the case

A.B., PROCURATOR FISCAL, GLASGOW

against

X.Y.

LARN: 12345678

JUL	14	Attendance with client discussing outcome in detail advising on prospects of success and taking instructions to appeal against conviction and sentence and procedures to follow - engaged 30 minutes - 13:00-13:30	21.10
		Framing application for stated case Form	24.00

19.2A - 4 pages

Letter to Procurator Fiscal enclosing copy of Application for Stated Case	2.40
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Letter to Glasgow Sheriff court enclosing copy of Application for Stated Case	2.40
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Letter to client enclosing copy of Application for Stated Case and confirming we await the sheriffs report for your appeal	6.00
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0.00	55.90
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0.00	55.90
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AUG	4	Attendance perusing the Sheriff's Stated Case Form 19.2B. Noting and considering possible adjustments to Stated Case. Noting last day for adjustments is the 20th August 2014 - 5 pages. Engaged 24 minutes qualified - 11:00-11:24	21.10
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Attendance on telephone with client arranging an appointment - no charge	0.00
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5	Attendance on client going over terms of application and draft stated case and discussing adjustments - engaged 20 minutes - 10.30-10.50	21.10
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Framing Note of Proposed Adjustment to Stated Case - 97 words	6.00
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Letter to Glasgow Sheriff Court advising of basis of possible requirement for adjustment and enclosing Note of Proposed Adjustments	6.00
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		Letter to Procurator Fiscal enclosing copy of letter to Glasgow Sheriff Court and copy Note of Proposed Adjustments	2.40
	12	Perusing letter from Glasgow Sheriff Court noting that a hearing on adjustments to the Draft Stated Case has been assigned for 19th August 2014 at 10.00	0.00
		Attendance on telephone with client advising as to the hearing on adjustments and confirming that he need not attend at court - 10.40-10.45	6.00
	19	Attendance at hearing on adjustments of stated case where sheriff allows adjustments 1 and 2 but not 3	
		waiting 2.00-2.30	21.10
		conduct 2.30-2.48	27.40
			0.00 167.00
			0.00 167.00
AUG	19	Writing client reporting on outcome of court attendance and explaining relative thereto	6.00
	22	Attendance perusing final version of the Sheriff's Stated Case - 5 sheets. Engaged 20 minutes	21.10
		Letter to Sheriff Appeal Court lodging Stated Case	2.40
SEPT	20	Perusing correspondence from Sheriff Appeal Court noting sift decision. Noting that the appeal has got through the first sift and comments of Appeal Sheriff - engaged 10 minutes	10.55

		Letter to client advising re the progress of the appeal and asking him to arrange an appointment	6.00
	27	Attendance uplifting papers for printing. Noting no date for appeal yet fixed.	2.40
OCT	1	Letter to PF enclosing 3 prints of Stated Case	2.40
		Letter to Sheriff Appeal Court enclosing 4 prints of Stated Case	2.40
		Photocopying 520 sheets in preparation of the prints of the Stated Case - no charge for first 20 sheets	25.00
	10	Attendance with client discussing the appeal and the process it will take. Explaining to him that there is no requirement for him to attend the hearing as it is an appeal against conviction and as he did not received a custodial sentence he does not require to attend. Indicating that if he wishes to attend he is entitled to do so. Discussing matters further. engaged 50 minutes	42.20
			0.00 287.45
			0.00 287.45
NOV	3	Preparing for Appeal Hearing, including revising notes of evidence, preparing note of argument and submissions, collating authorities - Engaged 18.30-21.30	126.60
	4	Attendance at Sheriff Appeal Court conducting appeal hearing, where appeal	

refused

Travel (Glasgow to Edinburgh) - 1 hour 10 mins 08.30 - 09.40	26.40
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Solicitor Waiting Time - 1 hour 10 mins 10.00 - 11.10	52.75
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Solicitor Advocacy - 55 mins 11.10 - 12.05	54.80
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Travel (to Glasgow) - 1 hour 10 mins 12.10 - 13.20	21.12
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Paid: Scotrail Standard Return	17.10
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5 Attendance with client after appeal hearing discussing the outcome, and confirming that he should continue paying his fine. Indicating that the appeal decision would be issued in due court, and noting the client would wish a copy. Engaged 20 minutes 12.10-12.30	21.10
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16 Attendance perusing appeal decision - 1 sheet	10.55
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Letter to client enclosing copy of appeal decision and confirming in terms of previous instructions that we are now closing our file	6.00
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Total Fees and Outlays	£17.10	£606.77
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* Where time is spent on a prescribed activity at various stages throughout the day, the individual blocks of time spent on that activity should be totalled up and then rounded up to the nearest unit of time specified, before the prescribed fee rate is applied. This is why the specimen account shows different charges for the Appeal hearing travel charges on 4 November.

In circumstances where there are multiple work activities the aggregated time will always be calculated and assessed on the following basis (which ensures that solicitors are always paid on the basis of highest fee first):

- Time engaged conducting a hearing will be calculated first;
- Non advocacy time will then be considered for any time spent in addition to the time conducting the hearing;
- Travel time will be payable for the balance.

For illustration purposes, the following shows how the fees regulations are applied in the 4 November specimen account entry.

Narrative	Fee	Application
Travel (Glasgow to Edinburgh) - 1 hour 10 mins 08.30 - 09.40	£26.40	<p>3. Travel is paid last as it is the lowest value fee.</p> <p>We have already paid the equivalent of 2 hours 15 minutes of time (advocacy and waiting in 1 and 2 below) which leaves a balance of 2 hours 15 minutes of travel still to be paid. This will take the total time payable to the 4 hours 30 minutes the solicitor is entitled to.</p> <p>The first 1 hour 15 minutes is applied to this travel fee as it is the first charge.</p>
Solicitor Waiting Time - 1 hour 10 mins 10.00 - 11.10	£52.75	<p>2. This fee is paid second. Rounding up to the next quarter hour means the solicitor is being paid for 1 hour 15 minutes of time. This brings the total now paid (including advocacy in 1 below) to 2 hours 15 minutes.</p>

Solicitor Advocacy - 55 mins 11.10 - 12.05	£54.80	1. This fee is paid first. Rounding up to the next quarter hour means the solicitor is being paid for 60 minutes of time.
Travel (to Glasgow) - 1 hour 10 mins 12.10 - 13.20	£21.12	4. The balance still to be paid taking into account 1-3 above is 60 minutes and this reflects the fee charged in the account.
<i>Total Time engaged is 4 hours 25 minutes but you always must round the time up to the next quarter hour unit. So the solicitor is entitled to be paid for the equivalent of 4 hours 30 minutes of time.</i>		

ACCOUNT OF EXPENSES

(SCENARIO 2: Inverness solicitor travelling to Edinburgh to present Appeal)

incurred by

X.Y.

to

THE SCOTTISH LEGAL AID BOARD

in the case

A.B., PROCURATOR FISCAL,
INVERNESS

against

X.Y.

LARN: 12345678

JUL	14	Attendance with client discussing outcome in detail advising on prospects of success and taking instructions to appeal against conviction and sentence and procedures to follow - engaged 30 minutes - 13:00-13:30	21.10
		Framing application for stated case Form	24.00

19.2A - 4 pages

Letter to Procurator Fiscal enclosing copy of Application for Stated Case	2.40
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Letter to Inverness Sheriff court enclosing copy of Application for Stated Case	2.40
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Letter to client enclosing copy of Application for Stated Case and confirming we await the sheriffs report for your appeal	6.00
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0.00	55.90
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0.00	55.90
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AUG	4	Attendance perusing the Sheriff's Stated Case Form 19.2B. Noting and considering possible adjustments to Stated Case. Noting last day for adjustments is the 20th August 2014 - 5 pages. Engaged 24 minutes qualified - 11:00-11:24	21.10
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Attendance on telephone with client arranging an appointment - no charge	0.00
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5	Attendance on client going over terms of application and draft stated case and discussing adjustments - engaged 20 minutes - 10.30-10.50	21.10
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Framing Note of Proposed Adjustment to Stated Case - 97 words	6.00
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Letter to Inverness Sheriff Court advising of basis of possible requirement for adjustment and enclosing Note of Proposed Adjustments	6.00
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		Letter to Procurator Fiscal enclosing copy of letter to Inverness Sheriff Court and copy Note of Proposed Adjustments	2.40
	12	Perusing letter from Inverness Sheriff Court noting that a hearing on adjustments to the Draft Stated Case has been assigned for 19th August 2014 at 10.00	0.00
		Attendance on telephone with client advising as to the hearing on adjustments and confirming that he need not attend at court - 10.40-10.45	6.00
	19	Attendance at hearing on adjustments of stated case where sheriff allows adjustments 1 and 2 but not 3	
		waiting 2.00-2.30	21.10
		conduct 2.30-2.48	27.40
			0.00 167.00
			0.00 167.00
AUG	19	Writing client reporting on outcome of court attendance and explaining relative thereto	6.00
	22	Attendance perusing final version of the Sheriff's Stated Case - 5 sheets. Engaged 20 minutes	21.10
		Letter to Sheriff Appeal Court lodging Stated Case	2.40
SEPT	20	Perusing correspondence from Sheriff Appeal Court noting sift decision. Noting that the appeal has got through the first sift and comments of Appeal Sheriff - engaged 10 minutes	10.55

		Letter to client advising re the progress of the appeal and asking him to arrange an appointment	6.00
	27	Attendance uplifting papers for printing. Noting no date for appeal yet fixed.	2.40
OCT	1	Letter to PF enclosing 3 prints of Stated Case	2.40
		Letter to Sheriff Appeal Court enclosing 4 prints of Stated Case	2.40
		Photocopying 520 sheets in preparation of the prints of the Stated Case - no charge for first 20 sheets	25.00
	10	Attendance with client discussing the appeal and the process it will take. Explaining to him that there is no requirement for him to attend the hearing as it is an appeal against conviction and as he did not received a custodial sentence he does not require to attend. Indicating that if he wishes to attend he is entitled to do so. Discussing matters further. engaged 50 minutes	42.20
			0.00 287.45
			0.00 287.45
NOV	3	Preparing for Appeal Hearing, including revising notes of evidence, preparing note of argument and submissions, collating authorities - Engaged 18.30-21.30	126.60
	4	Attendance at Sheriff Appeal Court conducting appeal hearing, where appeal refused	
		Travel (Inverness to Edinburgh) - 3 hour 15 mins 06:30 - 09:45	68.64

	Solicitor Waiting Time - 1 hour 15 mins 10.00 - 11.15	52.75
	Solicitor Advocacy - 1 hour 11.15 - 12.15	54.80
	Travel (to Inverness) - 3 hour 15 mins 12.20 - 15.35	68.64
	Paid: Mileage Return 310 miles @ 40p per mile	124.00
5	Attendance with client after appeal hearing discussing the outcome, and confirming that he should continue paying his fine. Indicating that the appeal decision would be issued in due court, and noting the client would wish a copy. Engaged 20 minutes 12.10-12.30	21.10
16	Attendance perusing appeal decision - 1 sheet	10.55
	Letter to client enclosing copy of appeal decision and confirming in terms of previous instructions that we are now closing our file	6.00
Total Fees and Outlays		<hr/> £124.00 £696.53

Inverness Account

In circumstances where there are multiple work activities the aggregated time will always be calculated and assessed on the following basis (which ensures that solicitors are always paid on the basis of highest fee first):-

- Time engaged conducting a hearing will be calculated first;
- Non advocacy time will then be considered for any time spent in addition to the time conducting the hearing;
- Travel time will be payable for the balance.

Narrative	Fee	Application
Travel (Inverness to Edinburgh) - 3 hour 15 mins 06:30 - 09:45	£68.64	3. Travel is the lowest value fee. The time engaged in travel is 3 hours 15 minutes. The fee payable per quarter hour is at half the rate (rounded up to next penny) which is payable to a solicitor in respect of “non advocacy” time (2 below). This includes time spent waiting at court, meeting with a client, considering papers, etc.
Solicitor Waiting Time - 1 hour 15 mins 10.00 - 11.15	£52.75	2. This fee is paid second. Combined with the time chargeable in respect of advocacy (1 below) this equates to a total time of 2 hours 15 minutes.
Solicitor Advocacy - 1 hour 11.15 - 12.15	£54.80	1. This fee is paid first. The solicitor is paid for 60 minutes of time conducting (advocacy) the appeal.
Travel (to Inverness) - 3 hour 15 mins 12.20 - 15.35	£68.64	4. The time engaged in travel is 3 hours 15 minutes. The fee payable per quarter hour is at half the rate (rounded up to next penny) which is payable to a solicitor in respect of “non advocacy” time (2 above). This includes time spent waiting at court, meeting with a client, considering papers, etc.

Total Time engaged is 8 hours 15 minutes.

ACCOUNT OF EXPENSES

(SCENARIO 3: Inverness solicitor instructing
Edinburgh solicitor to appear at Appeal
hearing)

incurred by

X.Y.

to

THE SCOTTISH LEGAL AID BOARD

in the case

A.B., PROCURATOR FISCAL,
INVERNESS

against

X.Y.

LARN: 12345678

JUL 14 Attendance with client discussing outcome
in detail advising on prospects of success
and taking instructions to appeal against
conviction and sentence and procedures to
follow - engaged 30 minutes - 13:00-13:30

21.10

Framing application for stated case Form 19.2A - 4 pages	24.00
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Letter to Procurator Fiscal enclosing copy of Application for Stated Case	2.40
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Letter to Inverness Sheriff court enclosing copy of Application for Stated Case	2.40
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Letter to client enclosing copy of Application for Stated Case and confirming we await the sheriffs report for your appeal	6.00
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0.00	55.90
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0.00	55.90
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AUG	4	Attendance perusing the Sheriff's Stated Case Form 19.2B. Noting and considering possible adjustments to Stated Case. Noting last day for adjustments is the 20th August 2014 - 5 pages. Engaged 24 minutes qualified - 11:00-11:24	21.10
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Attendance on telephone with client arranging an appointment - no charge	0.00
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5	Attendance on client going over terms of application and draft stated case and discussing adjustments - engaged 20 minutes - 10.30-10.50	21.10
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Framing Note of Proposed Adjustment to Stated Case - 97 words	6.00
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Letter to Inverness Sheriff Court advising of basis of possible requirement for adjustment and enclosing Note of Proposed Adjustments	6.00
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		Letter to Procurator Fiscal enclosing copy of letter to Inverness Sheriff Court and copy Note of Proposed Adjustments	2.40
	12	Perusing letter from Inverness Sheriff Court noting that a hearing on adjustments to the Draft Stated Case has been assigned for 19th August 2014 at 10.00	0.00
		Attendance on telephone with client advising as to the hearing on adjustments and confirming that he need not attend at court - 10.40-10.45	6.00
	19	Attendance at hearing on adjustments of stated case where sheriff allows adjustments 1 and 2 but not 3	
		waiting 2.00-2.30	21.10
		conduct 2.30-2.48	27.40
			0.00 167.00
			0.00 167.00
AUG	19	Writing client reporting on outcome of court attendance and explaining relative thereto	6.00
	22	Attendance perusing final version of the Sheriff's Stated Case - 5 sheets. Engaged 20 minutes	21.10
		Letter to Sheriff Appeal Court lodging Stated Case	2.40
SEPT	20	Perusing correspondence from Sheriff Appeal Court noting sift decision. Noting that the appeal has got through the first sift and comments of Appeal Sheriff - engaged 10 minutes	10.55

		Letter to client advising re the progress of the appeal and asking him to arrange an appointment	6.00	
	27	Attendance uplifting papers for printing. Noting no date for appeal yet fixed.	2.40	
OCT	1	Letter to PF enclosing 3 prints of Stated Case	2.40	
		Letter to Sheriff Appeal Court enclosing 4 prints of Stated Case	2.40	
		Photocopying 520 sheets in preparation of the prints of the Stated Case - no charge for first 20 sheets	25.00	
	10	Attendance with client discussing the appeal and the process it will take. Explaining to him that there is no requirement for him to attend the hearing as it is an appeal against conviction and as he did not received a custodial sentence he does not require to attend. Indicating that if he wishes to attend he is entitled to do so. Discussing matters further. engaged 50 minutes	42.20	
			0.00	287.45
			0.00	287.45
OCT	27	Telephone attendance with Edinburgh solicitor advising as to nature of appeal and noting that they will accept instructions - 15 minutes	10.55	
NOV	1	Preparing for Appeal Hearing, including revising notes of evidence, preparing note of argument and submissions, collating authorities in advance of instructions to the Edinburgh solicitor - Engaged 18.30-21.30	126.60	

1	Detailed letter of instruction to Edinburgh solicitor providing full details of grounds of appeal together with copy of stated case, authorities and supporting papers - 4 pages	24.00
4	Attendance at Sheriff Appeal Court conducting appeal hearing, where appeal refused	
	Solicitor Waiting Time - 1 hour 15 mins 10.00 - 11.15	52.75
	Solicitor Advocacy - 1 hour 11.15 - 12.15	54.80
	Letter from Edinburgh solicitor (sent by email) providing details of appeal hearing and outcome - 2 pages	12.00
5	Attendance with client after appeal hearing discussing the outcome, and confirming that he should continue paying his fine. Indicating that the appeal decision would be issued in due court, and noting the client would wish a copy. Engaged 20 minutes 12.10-12.30	21.10
16	Attendance perusing appeal decision - 1 sheet	10.55
	Letter to client enclosing copy of appeal decision and confirming in terms of previous instructions that we are now closing our file	6.00
Total Fees and Outlays		£0.00 £605.80

Inverness Accounts instructing Edinburgh agent

In circumstances where there are multiple work activities the aggregated time will always be calculated and assessed on the following basis (which ensures that solicitors are always paid on the basis of highest fee first):-

- Time engaged conducting a hearing will be calculated first;
- Non advocacy time will then be considered for any time spent in addition to the time conducting the hearing;
- Travel time will be payable for the balance.

In this example the Inverness solicitor has instructed an Edinburgh solicitor to conduct the appeal on his behalf.

Narrative	Fee	Application
Solicitor Waiting Time - 1 hour 15 mins 10.00 - 11.15	£52.75	2. This fee is paid second. Combined with the time chargeable in respect of advocacy (1 below) this equates to a total time of 2 hours 15 minutes.
Solicitor Advocacy - 1 hour 11.15 - 12.15	£54.80	1.This fee is paid first. The solicitor is paid for 60 minutes of time conducting (advocacy) the appeal.

Total Time engaged is 2 hours 15 minutes.