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Criminal Legal Aid: Changes to Fees Schedules – Review Responses and Final Decisions

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Foreword

Thank you to all of you who engaged with the review of criminal legal aid fee schedules (the criminal fees review) either through the preliminary consultation process or in response to the request for written feedback, including those of you who contributed through the surveys and submissions of the New Zealand Law Society and the Criminal Bar Association.

Your contributions to this review have enabled us to assess how the criminal fee schedules are working in practice, and where they need revision. As the Legal Services Commissioner (the Commissioner), I want to make the criminal fee schedules work for providers, while maintaining the integrity of the system as established.

The setting of fees is an independent statutory function of the Commissioner. However, as Commissioner, I have an obligation to ensure changes are consistent with policy settings and within the fiscal parameters set by the Government.

I can confirm criminal fee schedules are lawful. The Court of Appeal judgment found that the wrong person had made decisions about the fees, previously the Deputy-Secretary of the Ministry of Justice rather than the Legal Services Commissioner. In response, the Deputy-Secretary withdrew the fees and the Commissioner released an interim set of fee schedules.

The Government has approved an increase in funding for legal aid to enable me to revise the criminal legal aid fee schedules, to address gaps and issues identified by the review. The increase in funding will be staged over three years from 2016 to 2018.

There will be a new set of criminal fee schedules each year for the next three financial years as the fees are progressively implemented. The first fee schedule will apply from Monday, 4 July 2016 for all new grants of legal aid. Existing grants under the 1 July 2013 fee schedules can move to the 4 July 2016 schedules if and when an amendment to grant is approved for any activity.

I have also made some operational changes as a result of your feedback, which are covered in this report.

Thank you for your continued commitment to legally aided people.

Sarah Turner
Legal Services Commissioner

Introduction

Fee schedules for criminal legal aid were originally introduced in March 2012, following decisions made by the Government to change the approach on how legal aid is managed.

As part of the implementation of the Criminal Procedure Act 2011 (CPA), the criminal legal aid fee schedules were reviewed, with some new fees for new activities introduced in mid-2013 to reflect the reforms.

As the current criminal fee schedules have been in operation for over two years now, we (Legal Aid Services) have reviewed them to understand how they are working in practice and to identify if any gaps and issues need to be addressed.

Following workshops and interviews across the country with criminal legal aid providers, in November 2014 the Legal Services Commissioner wrote to you and nearly 1,000 of your criminal legal aid colleagues, asking for your views about the fee schedules. Feedback was also sought from legal aid staff, court staff, the Public Defence Service (PDS), the Police Prosecution Service.

In addition, the New Zealand Law Society (NZLS), the Criminal Bar Association (CBA), the Auckland District Law Society (ADLS) and the New Zealand Bar Association (NZBA) were engaged with the reviews. The NZLS undertook its own survey of members, so that their submission to the review was fully informed by member views. The CBA also canvassed the views of its members in drafting their submission.

This document sets out your comments and our responses. It addresses issues with the criminal legal aid fee schedules, amendments to grant, disbursements, operational policy and a number of other matters.

Should you have any questions, you may contact the Operations Support and Improvement team on (04) 913 9163. Further contact information is available at the end of this document.

Summary of feedback from you, and our responses

Your comments

The key messages from you in response to the review of criminal legal aid fee schedules were that:

1. the fee schedules could be improved by:
 - a. following the flow of work required in a criminal proceeding
 - b. recognising all the activities that are required to be carried out
 - c. being consistent with the requirements of the CPA, and with the approach taken to fixed fees in the family and civil jurisdictions
 - d. recompensing for the work required including when activities need to be repeated
 - e. reflecting the different levels of work that can arise in relation to the same activity in different cases, eg written vs oral reports
 - f. removing the current financial incentive to elect a trial by jury
 - g. separating hearing time from preparation for a hearing
 - h. treating similar activities in the same way, eg treating on-time filing of a case management memorandum (CMM) the same as on-time filing of other documents.
2. improving the fee schedules would reduce the need to apply for an amendment to grant, which would be welcomed as amendments are considered to be inefficient and administratively expensive
3. a range of operational matters could be streamlined
4. changes to the rotational assignment policy could be made, and partnering between private providers and the PDS could be introduced, to help support the sustainability of the private criminal bar.

You queried whether the criminal fee schedules are legal, in light of the findings of the judicial review taken by the CBA. You also said that the 'overs and unders' approach used by the fee schedules is unfair to some clients and advantages others.

Our responses

Having considered your comments, we agree that there are opportunities to improve the criminal fee schedules. As a result, staged across three years we have:

- raised some of the fees
- made many fees repeatable
- revised the way the CMM is treated by legal aid
- separated hearing time from preparation for a hearing
- addressed many of the gaps identified in the schedules.

The changes should reduce the need to apply for an amendment to grant. The revised criminal fee schedules are attached.

Some operational matters have been addressed to help reduce your and our administration.

Changes to some aspects of the rotational assignment policy have been made in response to issues raised by the private criminal bar.

The criminal fee schedules are lawful. In *Criminal Bar Association v A-G* [2013] NZCA 176, the Court of Appeal found that:

- the original criminal fee schedules were unlawful because they were issued by the Deputy Secretary for Justice (under delegation from the Secretary) and unlawfully fettered the Commissioner’s discretion in exercising his or her independent function to set the maximum grant. In response, the Deputy-Secretary withdrew the fee schedules and the Commissioner released an interim set pending a further review.
- the original criminal fee schedules were too rigid and unlawfully constrained the discretion of the Commissioner. In response, the amendment to grant policy was revised to facilitate more discretionary decision-making.

We understand your point about ‘overs and unders’ advantaging some clients over others. Our review of the fee schedules aims to more closely align the fees with the actual work undertaken.

Issues and gaps

Your comments	Our responses
Schedules A to F would be improved if they followed the flow of work required in a criminal proceeding.	Schedules A to F have been redesigned to follow the flow of work required in a criminal proceeding, with key changes being introduced in the 2016 schedule and further adjustments following in 2017.
The fees for three activities in schedules A to C are differentiated in a way that is not aligned to the seriousness of the charges or the work required.	We have removed the differentiation of fees for activities in schedules A to C. From 2016, schedules A to C will, for all but one activity, be the same. The one exception is the fee for Sentencing preparation (when remanded off for sentencing). In 2017, this exception is removed; however, a new fee is introduced for CMM/case review preparation which will have a different fee for CAT 3 cases (schedule C).
Fees in schedules A to C should be differentiated by provider experience to encourage provider approval level (PAL) 2 providers to take on these cases.	Differentiation of fees in schedules A to C by provider experience - we have not pursued this option as it would undermine the intent of the fee schedules.
There are gaps in the criminal fee schedules, including: <ul style="list-style-type: none"> a. sentencing indications (schedules A to F) b. disputed facts (schedules A to F) c. fitness to plead/stand trial (schedules A to F) d. re-preparation for an adjourned hearing (schedules A to F) e. preparing for, and attending, an Alcohol and Other Drug Treatment (AODT) court 	Gaps in the criminal fee schedules will be addressed over the next three years as follows: from 4 July 2016 a fee will be introduced for: <ul style="list-style-type: none"> a. sentencing indications (schedules A to F) b. disputed facts (schedules A to F) c. fitness to plead/stand trial (schedules A to F) d. re-preparation for an adjourned hearing

Your comments	Our responses
<p>appearance</p> <p>f. when new charges are added to a grant (schedules A to F)</p> <p>g. when a case begins with a shared appearance for a number of charges and then those charges separate with respect to their substance, how they are treated, and their timeframes (schedules A to F)</p> <p>h. some reports, applications, variations and interlocutories (schedules A to F)</p> <p>i. pre-trial conferences (schedules G to I)</p> <p>j. leave to appeal to the Court of Appeal (schedule G)</p> <p>k. s21 parole hearings (schedule J)</p> <p>l. considering the implications of a judgment, and communicating that to the client (all schedules).</p>	<p>(schedules A to F)</p> <p>from 3 July 2017 a fee will be introduced for:</p> <p>e. preparing for, and attending, an Alcohol and Other Drug Treatment (AODT) court appearance (schedules A to F)</p> <p>f. when new charges are added to a grant (schedules A to F)</p> <p>g. when a case begins with a shared appearance for a number of matters and then those matters separate with respect to their substance, how they are treated, and their timeframes (schedules A to F)</p> <p>from 2 July 2018 a fee will be introduced for:</p> <p>h. certain reports, applications, variations and interlocutories (schedules A to F)</p> <p>i. pre-trial conferences (schedules G to I)</p> <p>j. leave to appeal to the Court of Appeal (schedule G)</p> <p>k. s21 parole hearings (schedule J)</p> <p>We have not added a fee for considering the implications of a judgment, and communicating that to the client as we had to prioritise which gaps we could address with the increase in funding.</p>
<p>The fee schedules do not currently recognise that activities often need to be repeated a number of times, including:</p> <p>a. variations and applications</p> <p>b. appearances (including those required by the December 2014 legislative changes to restorative justice)</p> <p>c. trial callovers.</p>	<p>Repeatable activities - this issue is being addressed in the 2017 schedule, with relevant activities repeatable.</p>
<p>The sophistication of schedules A to F could be improved if they reflected the different levels of work that can arise in relation to the same activity for different cases, including:</p> <p>a. written vs oral reports</p> <p>b. sentencing that occurs on the same day as a plea is entered vs sentencing when remanded off for sentencing</p> <p>c. differences in requirements when a</p>	<p>Sophistication of schedules - the ability of activities in schedules A to F to respond to the diversity of situations has been improved in the new schedules for 2016 to 2018.</p>

Your comments	Our responses
<p>sentencing indication is accepted compared to when it is not accepted</p> <p>d. preparing for a jury trial when the case resolves before trial vs preparing for a jury trial that proceeds.</p>	
<p>There is currently a financial incentive to elect a jury trial creating additional work for the courts.</p>	<p>Incentive to elect a jury trial – to neutralise the financial incentive to elect a jury trial we have, for CAT 3 cases:</p> <ul style="list-style-type: none"> in the 2016 fee schedules, introduced a reduced fee for preparation for a jury trial where the trial does not proceed, which aligns with the Judge-alone trial fee in the 2017 schedules, aligned the fee for the CMM/case review preparation activity across Police Prosecutions and Crown Prosecutions.
<p>Hearing time and preparation for a hearing are treated as one activity in schedules A to F, although these are very different situations and types of activity. Treatment of these activities in the criminal jurisdiction is different to their treatment in the family and civil jurisdictions.</p>	<p>Treatment of hearing time and preparation for a hearing – in the 2016 fee schedules hearing time is paid on an actual half hourly, hourly or two hourly basis, depending on the schedule, and is a separate activity from fees for preparation for a hearing.</p>
<p>On-time filing of CMM is treated differently in schedules A to F than on-time filing of other documents such as the trial callover memorandum and pre-trial orders (admissibility of evidence).</p>	<p>CMM – in the 2017 fee schedules the fee for on-time filing of CMM is removed. Instead, a fee for preparation and completion of the CMM is introduced.</p> <p>Any concerns about providers who consistently fail to file their CMMs on time or at all can be addressed by lodging a complaint and emailing legalaidcomplaints@justice.govt.nz as described here http://www.justice.govt.nz/services/legal-help/legal-aid/your-lawyer/complaints</p>
<p>Waiting time is problematic when scheduled appearances are more than an hour late, when judges ‘stand down’ cases, when a jury is deliberating and when clients fail to attend an appearance. Counsel on parole cases also pointed out that you are currently unrecompensed from the time you arrive at a prison until the beginning of a parole hearing.</p>	<p>Waiting time – we understand the concerns raised, but have had to be selective about what we use the additional funding for. In the 2016 fee schedule we have made changes so that:</p> <ul style="list-style-type: none"> in situations when a client does not attend a hearing, you can claim reasonable and actual waiting time for up to one hour when attending a parole hearing, ‘time’ begins from when you, as the parole provider, need to be at the prison car park to be on time for a scheduled parole hearing, and ends when you return to your car following the hearing, including if a hearing is cancelled or deferred after you have

Your comments	Our responses
	arrived at the prison.
<p>The fees are too low across the schedules but, in particular:</p> <ol style="list-style-type: none"> there are problems with the schedules for Police Prosecutions, appeals and parole the fees in appeal cases should either be removed from fee schedules altogether, or be aligned with the time allocations and expected costs by time allocated (when costs are awarded) which are contained in the Court of Appeal (Civil) Rules 2005 and High Court Rules 2008 the half-hourly rates for hearings and meeting time are too low. 	<p>Rates of fees – we have had to make difficult decisions about which rates to increase and which year to apply any increases from:</p> <ul style="list-style-type: none"> based on your feedback, we have focused on increases to Police Prosecutions, appeals and parole, but have also made some improvements where possible to some of the rates in schedules D to F increases to Police and Crown Prosecutions fees are included in the 2016 and 2017 fee schedules, while increases for appeals and parole are included in the 2018 schedules in our review of appellate fees we have, as far as we are able taken into consideration the time allocations /costs contained in the Court of Appeal (Civil) Rules 2005 and the High Court Rules 2008. These changes are included in the 2018 fee schedules we have not been able to increase the half hourly rates for hearings and meeting time, except for parole, Court of Appeal and Supreme Court, which will be included in the 2018 fee schedules.
<p>Other matters:</p> <ol style="list-style-type: none"> fees available when cases are reassigned – you requested that both providers be able to claim all the fees in a schedule fees for co-counsel – you requested that counsel and co-counsel be able to claim all the same fees in a schedule, particularly in cases where there are co-accused remuneration for junior counsel – indicated that it is unreasonable to expect junior lawyers to work for free, or for senior lawyers to pay them out of what is already inadequate remuneration, and that lack of remuneration makes it difficult for inexperienced lawyers to be trained additional fees for separate pre-trial issues in Police Prosecutions – you requested additional pre-trial fees for activities such as complex third party disclosure issues an additional fee in appellate cases to consider prospects of success – you 	<p>Other matters:</p> <ol style="list-style-type: none"> fees available when cases are reassigned - if a provider picks up a reassigned case and fees for activities have been claimed, the new provider is eligible for a fee for those activities if they need to do any of the tasks in those activities. The full schedule, assuming the work needs to be done, is available to the new provider fees for co-counsel - <ul style="list-style-type: none"> if two lawyers are required for one case, this will generally trigger the criteria for either an amendment to grant or for high cost case management, which would remove the case from the fees schedule if there is more than one accused in a case, each client is able to apply for their own legal aid grant; this situation would be described as co-accused rather than co-counsel

Your comments	Our responses
<p>requested an additional fee for PAL 4 lawyers (not trial counsel) so that preliminary advice can be developed on the prospects of success of an appeal</p> <p>f. you requested that 'client care' be formalised in the tasks for each activity in the fee schedules</p> <p>g. statutory land charge notices – you requested that Legal Aid Services liaise directly with the client to obtain the client's signature on this document and that providers should not be involved.</p>	<p>c. remuneration of junior counsel -</p> <ul style="list-style-type: none"> • junior providers who are being supervised by a lead provider are able to undertake tasks in accordance with the “delegation of work” policy • if this work relates to a matter in a fees schedule, the lead provider can manage the tasks, and remuneration of those who assist with the tasks, as they consider appropriate • if the work relates to a High Cost case, the hourly rate and hours claimed can relate to the provider doing the work • your suggestion that the training of junior counsel could be improved if the PDS were to partner with the private criminal bar for 'junioring' purposes has been passed on to the PDS for consideration <p>d. additional fees for separate pre-trial issues in Police Prosecutions -</p> <p>an amendment to grant is considered the best way to remunerate for costs such as complex third party disclosure</p> <p>e. an additional fee in appellate cases to consider prospects of success -</p> <p>the interim grants at the beginning of each of the appellate fee schedules can include consideration of prospects of success</p> <p>f. 'client care' -</p> <p>activities relating to client care are covered in each activity by the tasks relating to 'attending the client'</p> <p>g. statutory land charge notice -</p> <p>it is appropriate for you to obtain your client's signature on a statutory land charge notice (where these are relevant), as these notices relate to the conditions of the legal aid grant under which you can claim payment.</p>

Amendments to grant

You told us that you often struggle with the amendment to grant policy and procedure. Key issues raised were:

Your comments	Our responses
<p>There are difficulties with restrictive triggers for eligibility and associated difficulties with filling out the amendment to grant application form.</p>	<p>The changes we have made to the criminal fee schedules should reduce the number of times that an amendment is required.</p>
<p>There is uncertainty about when to apply under the ‘special circumstances’ criteria, including whether:</p> <ol style="list-style-type: none"> a. access under this criteria is limited to the examples provided b. you are able to claim under this criteria where one or more appearances are initially shared in a case but matters subsequently separate. 	<p>Current operational policy allows you to make a case for an amendment to grant under the ‘special circumstances’ criteria, which can be found in section 6.1.4 of the Criminal Fixed Fee and Complex Cases Guidelines . In addition, we have:</p> <ol style="list-style-type: none"> a. developed more examples of when to apply for an amendment to grant using the special circumstances criteria, which will be in place by 4 July 2016 b. reminded grants officers that applications for an amendment to grant under the special circumstances criteria need to be considered on a case by case and flexible basis, and that the examples provided are <i>not</i> the only examples of what would be acceptable for an amendment to be granted <ul style="list-style-type: none"> • as an interim measure, you are able to apply for an amendment to grant under the ‘special circumstances’ criteria where matters in a case share one or more appearances and then those matters separate with respect to their substance, how they are treated and their timeframes • from 3 July 2017, you will be able to claim for repeatable fees activities undertaken in a case where matters share one or more appearances and then matters separate with respect to their substance and how they are treated by the court; this will apply whether or not the fees on the schedules are identified as ‘repeatable’ • a new grant will be made where new charges are unrelated to the first matter and the court will not hear them

Your comments	Our responses
	together or if, for some charges, the applicant has a co-accused or is charged as a party or the charges are at different stages within the court system and will be treated separately by the court.
There is lack of understanding about why a case is described in our system as 'complex' once an amendment to grant has been approved, when the case is not legally or factually complex.	From 4 July 2016, if an amendment to grant is approved the case will, for system purposes, be called a Fixed Fees Plus case, consistent with other jurisdictions, rather than a 'complex case'.
There is uncertainty about whether applying for an amendment to grant means that the entire case remains on hours from that point on or whether the amendment only relates to specific activities.	An amendment only relates to a specific activity. You can seek an amendment to grant for more than one activity in a case, either as a consolidated application or through more than one application.
The different invoicing timeframes depending on whether the claim relates to a fee schedule or to an amendment to grant.	Invoicing timeframes are set in legislation and are outside the scope of the review. Reducing the need for an amendment will help to reduce the number of times you will need to invoice in different ways on the same case.

Disbursements

Your comments	Our responses
<p>Photocopying/ printing –</p> <ul style="list-style-type: none"> you expressed frustration with not being able to claim on a pre-approved basis for the printing/photocopying of either disclosure or parole board files you also asked why the rate for photocopying/printing of Court of Appeal casebooks (at \$0.10 per page) is lower than the rate for court bundles in the family jurisdiction (at \$0.12 per page) when casebooks and bundles both need to be collated, bound and incorporate dividers and an index. 	<p>Photocopying/ printing – from 2 July 2018 for criminal cases on a fee schedule you will be able to claim on a pre-approved basis for printing or photocopying of:</p> <ul style="list-style-type: none"> disclosure at the rate of \$0.10 per page up to a specified threshold of \$20 (200 pages) parole board files at the rate of \$0.12 per page up to a specified threshold of \$24 (200 pages). <p>You will also be able to apply for any costs <i>in excess</i> of the pre-approved amount through the usual amendment to grant process.</p> <p>From 2 July 2018, the rate for Court of Appeal casebooks will increase from \$0.10 to \$0.12 per page.</p>
<p>Cell phones and toll calls – you asked for clarification about the triggers for seeking prior approval for reimbursement of these costs.</p>	<p>Cell phones and toll calls – the triggers for seeking prior approval for reimbursement of these costs were publicised in June 2014 and are copied below. The triggers apply in situations</p>

Your comments	Our responses
	<p>where:</p> <ul style="list-style-type: none"> • the client does not have a landline and calls must be made to clients on their mobile phones • numerous calls from mobile phones to clients are necessary because the provider is not near their office and the timing of the call works for the client. <p>For the purpose of seeking prior approval for calling from or to a mobile phone, you need to explain the situation rather than provide proof.</p> <p>For the purpose of subsequently claiming the case-related costs of actual calls (either from a mobile to a legally-aided client or to the mobile of a legally-aided client), you should retain evidence of your costs in the event of an audit or examination, but that evidence does not need to be submitted with your invoice. This applies to all mobile phones, including pre-paid, so long as records are retained.</p>
<p>Other disbursements – you requested that the current disbursement policy for travel (time and parking) be reviewed, as you considered it to be inadequate. You also requested that a pre-approved office disbursement of \$100 per case be introduced.</p>	<p>Other disbursements – Fiscal constraints, including the precedent effect for other fee schedules, mean that we are not able to address your concerns about additional disbursements for office expenses or travel at this time. Other changes we are introducing may mitigate some of your concerns.</p>

Operational matters

You made a number of observations about the operation of the criminal fee schedules.

Your comments

1. **Assignment of 'urgent (same day)' cases** - the result of current practice in assigning 'urgent (same day)' cases is that a disproportionate proportion of these cases are assigned to the PDS in courts where the PDS operates.
2. **Exceptions from rotational assignment** – there are circumstances which should be considered as exceptions from rotational assignment, such as where:
 - a. a provider has formed a long-standing relationship of mutual trust with a client
 - b. an offender is on parole and charged with another offence and it may be beneficial to the offender if their parole provider could defend them on the new charge
 - c. the provider has advised an offender through the Police Detention Legal Assistance (PDLA) scheme within usual working hours
 - d. the provider was the defendant's youth advocate
 - e. the provider is the defendant's lawyer on overlapping family issues (eg in respect of a protection order in the family court where the defendant is facing a 'male assaults female' charge)
 - f. the lawyer has a recognised speciality (such as search and seizure)
 - g. an assignment would be more efficient.
3. **Duty lawyers** - too many cases are being referred to legal aid when the duty lawyer could address them on the day.
4. **Letters and forms** - you raised the following issues with the material contained in letters you receive from grants officers and with legal aid forms:
 - a. specific letters that you query are those that provide:
 - advice to clients that they can ask Legal Aid Services to examine their lawyer's claim for payment . While this content is required under the legislation, you questioned the way it was expressed
 - approval for an interim grant in an appellate case. The letter was considered confusing as it states that the provider has been assigned as the lead provider, which could be taken as meaning they are the lead provider for the entire case
 - b. the letter assigning a case to you includes the date, but not the time, of the next court appearance
 - c. the time involved in completing the high cost case management case plan in addition to the amendment to grant application form
 - d. the application form for criminal legal aid does not adequately take into account the needs of parole, including the need for the 'interests of justice' to be considered, and that various sections in the form are not relevant to parole matters.
5. **Retrospective approval vs prior approval for amendments to grant** – you identified that you can have trouble receiving approval when you apply for an amendment to grant *after* you have completed an activity instead of *before*. Concerns have also been raised about the

potential for invoices to be out-of-time and therefore refused, if retrospective amendments to grant are sought.

6. **Civil (Proceeds of Crime) matters** – you mentioned that, unless you also have a civil approval, you are unable to act for clients in civil proceeds of crime matters progressed in tandem with criminal proceedings.
7. **Timeframes when legal aid is applied for in appeal cases:**
 - a. you said that you were frustrated by delays when applications for legal aid are referred to national specialist advisors for an opinion or recommendation
 - b. you asked whether it would be possible to lodge the application for ‘leave to appeal’ with the court and if successful, retrospectively apply for the legal aid fee - rather than waiting for the legal aid to be approved prior to doing the work and lodging the application for ‘leave to appeal’, as this creates delays.

Our responses

A number of the issues you identified have already been addressed, as publicised on 5 December 2014.

1. Assignment of ‘urgent (same day)’ cases

To help the proportion of ‘urgent (same day)’ cases to be allocated more evenly between private providers and the PDS, we implemented a new approach on 8 December 2014:

Where a private provider is next on the rotational assignment list (in a court where the PDS operates):

- three (3) private providers are called in succession (both on their landlines and mobiles) before making a call to the PDS
- the one exception to this is if it is near the end of the day and the grants officer is running out of time to find counsel, in which case they have the discretion to call the PDS after one (1) unsuccessful call to a private provider.

Where the PDS is next on the rotational assignment list (in a court where the PDS operates):

- no change.

In courts where the PDS does not operate:

- both landlines and mobiles of three (3) private providers are called before a Duty Lawyer is assigned.

These changes only apply to cases where the court requires counsel on the same day – ie ‘urgent (same day) cases’ – and do not apply to other cases described by Legal Aid Services as urgent applications.

2. Exceptions to rotational assignment

The current policy allows for exceptions from rotational assignment. These exceptions can be found on page 8 of the [Granting Manual](#). On 8 December 2014, we revised our ‘exceptions’ policy to include:

- a. where you have formed a long-standing relationship of mutual trust with a client who has a range of mental health, addiction, family dysfunction, comprehension and/or anger issues - and it would be beneficial to the client if the same provider was assigned when there is a new charge

- the range of issues contained in (a) above is consistent with those utilised in the family fee schedules for the purposes of claiming a fee for ‘additional factors’ and will be considered by grants officers in the same way
 - the situation in (a) above may include cases where the lawyer has advised on the PDLA scheme within usual working hours, or was the defendant’s youth advocate, or is the defendant’s lawyer on overlapping family issues.
- b. where an offender is on parole and charged with another offence and it may be beneficial for the offender if you, as their parole provider defended them on the new charge – so long as you either operate in the same area or are willing to take on the case without requesting travel disbursements.

Grants officers have discretion to approve these exceptions to rotational assignment based on case-by-case requests from you or from clients. As with other exceptions to the rotational assignment process, any assignments allocated according to the two exceptions above will be included as part of your rotational assignment count.

No other exceptions from rotational assignment are being considered at this time.

3. **Duty Lawyers**

An updated [Duty Lawyer Service Operational Policy](#) was uploaded to our website in June 2015.

4. **Letters and forms**

a. Specific letters:

- we have revised the wording of the letters advising clients that they can ask Legal Aid Services to examine their lawyers claim for payment
- we have considered the wording in our letter to providers in appellate cases when an interim grant is approved. We have determined that it is appropriate to refer to you in these cases as a ‘lead provider’; if we did not do so, Legal Aid Services would not be able to pay you.

b. The letter assigning a case to a provider:

- both the date and time of court appearances can be changed by the registrar. We receive numerous calls from clients because the date of the hearing has been changed from that on the initial letter. The time of the appearance is even more likely to change than the date
- it is best that you continue to liaise with courts directly to obtain up-to-date information about the time of the appearance and for you to convey that information to your clients.

c. High Cost Case Management Case Plan – we have initiated a review of this and a revised approach will be in place by 4 July 2016

d. The application form for parole matters – we have made the necessary changes and a revised form is already in place.

5. **Retrospective amendments to grant and associated invoicing**

We have clarified that:

- the Legal Services Act 2011 provides for amendments to grant to be filed at any time, including retrospectively, up until the disposition of a case
- if a retrospective amendment to grant is filed (prior to disposition of a case) it would be good practice to invoice for the matters on that amendment at the same time – this will reduce the risk that invoices will be ‘out-of-time’

- where invoices are ‘out-of-time’, there is discretion for their approval under the special circumstances criteria for late invoices outlined on pages 33 and 34 of the [Granting Manual](#)
- if an ‘out-of-time’ invoice is refused, providers can seek a reconsideration by a team leader or a regional manager. If the reconsideration decision is upheld, a case can be taken to the Legal Aid Tribunal.

These clarifications apply to all cases under the criminal, family and civil fee schedules. We have reminded grants officers of these matters.

6. Civil legal aid provider approvals for Proceeds of Crime matters

We have started a project to consider whether a streamlined approvals process for a limited civil (proceeds of crime) approval would be warranted for this type of legal aid work. We will notify criminal PAL3 and PAL4 providers who do not have a civil listing that they can apply for a full civil approval and/or a civil approval limited to proceeds of crime now the amendments to the Legal Services (Quality Assurance) Regulations have come into force.

7. Timeframes when legal aid is applied for in appeals cases

- The timeframes for national specialist advisor recommendations have significantly improved in recent years, as outlined in Table 1 below:

Table 1: Proportion of referrals to NSAs resolved, by number of days

% of referrals resolved -	within 25 days	within 20 days	within 10 days
November 2015	96.5%	95.8%	68.8%
2015/16 yr to date	97.1%	95.7%	74.1%
2014/15 full yr	97.4%	96.3%	76.0%

We encourage you to work with us so that you receive a response in a timely fashion. The earlier you can alert us to your application, the more likely it is that we will be able to respond before your deadline.

- You may lodge an application for ‘leave to appeal’ with the court and subsequently apply for legal aid for the interim grant fixed fee for that work.
 - the benefit of this approach is that you can move at your own pace to lodge an application for ‘leave to apply’.
 - the danger of this approach is that, if you are not successful, the case will have been disposed of and there will no opportunity to seek legal aid or claim a fee. You will then need to absorb the costs of your time in this matter.

Other legal aid matters

You raised a range of other issues. These are acknowledged but not addressed; many are outside the mandate of this review.

Policy issues that would require legislative amendment or fundamental changes to policy:

- invoicing suggestions (which would require amendment to secondary legislation) are to:
 - align the timeframes for invoices for fixed fees and for claims under an amendment to grant
 - allow invoices to be lodged up to 12 months after the disposal of a case.

- b. rotational assignment suggestions (requiring a fundamental policy shift which is outside the mandate of this review), include:
- modifying the rotational assignment policy to introduce more sophistication and targeting of cases to providers, eg CAT 2 cases to PAL 2 providers and above
 - in courts where the PDS operates, reducing the PDS's proportion of cases from 50 percent to 33 percent, or assignment to the PDS of 50 percent of cases up to a maximum number of cases, to ensure that the private criminal bar is sustainable
 - replacement of the rotational assignment policy with a 'counsel of choice' policy.

You said that you believed that the PDS is receiving more than 50% of cases in courts where there is a PDS presence. The data in Table 2 shows that the PDS is receiving below 50% of the cases available through rotation and preferred assignment (CAT 3 and 4 cases).

Table 2: Criminal cases allocated to the PDS where there is a PDS presence, as at 17 November 2015, for the period 1 October 2014 to 30 September 2015¹

Court	PDS	Private Bar	All cases	Percentage
Auckland - Parole	32	210	242	13%
Auckland District Court	1,541	1,849	3,390	45%
Auckland High Court	31	74	105	30%
Manukau District Court	1,753	2,420	4,173	42%
Manukau District Court - NON CMM	5	5	10	50%
North Shore District Court	484	536	1,020	47%
Papakura District Court	359	402	761	47%
Pukekohe District Court	188	229	417	45%
Waitakere District Court	939	1,066	2,005	47%
Christchurch - Parole	25	131	156	16%
Christchurch District Court	1,487	2,421	3,908	38%
Christchurch High Court	18	48	66	27%
Dunedin - Parole	12	34	46	26%
Dunedin District Court	613	650	1,263	49%
Dunedin High Court	3	17	20	15%
Hamilton - Parole	10	127	137	7%
Hamilton District Court	890	1,075	1,965	45%
Hamilton High Court	4	14	18	22%
Hastings District Court	497	598	1,095	45%
Napier / Hastings - Parole		50	50	0%
Napier District Court	333	432	765	44%
Napier High Court	2	20	22	9%
Tauranga District Court - NON CMM	2	1	3	67%
Tauranga District Court	748	923	1,671	45%
Tauranga High Court	2	16	18	11%
Hutt Valley District Court	615	698	1,313	47%
Porirua District Court	458	523	981	47%
Wellington - Parole	9	245	254	4%
Wellington District Court	527	617	1,144	46%
Wellington High Court	9	24	33	27%
Total	11,596	15,455	27,051	43%

The allocation of cases is recorded for the latest lead provider assigned to the case. High court cases include appeals filed in that court.

Policy issues that are outside the mandate of Legal Aid Services:

- you have stated that unopposed bail variations were straight forward, but could be time-consuming, and that one option would be to take this function out of counsel's hands and to have a trained person in every court. This is an issue for the courts and has been forwarded to them for their consideration.
- you have asked for a redesign of the CMM, which you have found to be too long and not useful. An updated version of the CMM was published by courts in May 2015.
- you have requested that the PDS partner with the private criminal bar for 'junioring' purposes. This is an issue for PDS to consider and has been forwarded to them for their consideration.

- f. you have raised issues around the PDLA scheme. A review of PDLA scheme is outside the mandate of the review of criminal fee schedules. No review of the PDLA scheme is currently planned.

Issues that would require business cases and approval for capital investment:

- g. you asked for online forms with a single template for all applications, and another for all invoices, with drop-down boxes. This is a useful suggestion and we are considering it as part of a review of our operations and process.
- h. parole providers requested that all parole cases be managed centrally. This change was implemented on 1 June 2015 with all parole cases now being managed by the Wellington Legal Aid office.
- i. you said that only a very small proportion of providers are audited and that the focus of these audits seems to be file hygiene. You would prefer that audits consider outcomes for the client and the reasonableness of the time spent on the case by the provider. You also said that robust auditing would be welcomed to help increase confidence in the majority of providers who provide a quality service. We are considering a review of our audit policy.

Implementation dates and transitional arrangements

The first set of revised fee schedules [Revised Criminal Legal Aid Fee Schedules 2016](#) will apply from Monday **4 July 2016** for new cases granted between 4 July 2016 and 2 July 2017.

Existing grants under the 1 July 2013 fee schedules can move to the 4 July 2016 schedules if and when an amendment to grant is approved for any activity.

The second set of revised fee schedules [Revised Criminal Legal Aid Fee Schedules 2017](#) will apply from Monday **3 July 2017** for new cases granted between 3 July 2017 and 1 July 2018.

The third and final revised set fee schedules [Revised Criminal Legal Aid Fee Schedules 2018](#) will apply from Monday **2 July 2018** for new cases granted on or after 2 July 2018.

The revised criminal disbursements policy applies from **2 July 2018**.

Revised Documents

By **4 July 2016**, revised documents will be uploaded to the legal aid website for your use, including:

- Criminal Legal Aid Fee Schedules: Guidelines
- Criminal Legal Aid Fee Schedules 2016, 2017 and 2018 (the schedules are also attached to this document).

You will be able to find these documents here: [Information-for-legal-aid-providers](#)

Revised Criminal Legal Aid Fee Schedules 2016

Implementation – 4 July 2016

This fee schedule is available for new cases granted between **4 July 2016** and **2 July 2017**. Existing grants under the 1 July 2013 fee schedules can move to the 4 July 2016 schedules if and when an amendment to grant is approved for any activity.

Criminal legal aid fee schedules – 4 July 2016

Schedules A, B & C: Police Prosecutions

Police Prosecutions				
Administration/Case Review				
	A	B	C	Tasks covered by fixed fee
Preliminary work - new legal aid grant	\$155			For: <ul style="list-style-type: none"> • taking instructions, attending client • receiving, reviewing and/or preparing disclosure • identifying legal and factual issues • undertaking research • reviewing evidence (including videos/DVD's) • liaising with prosecutor/court • identifying the need for applications, interlocutories etc. • attending to unopposed bail, name suppression, variation, interlocutories etc. • initial CMM discussions with prosecution • preparation for CMM list event • preparation • entering plea • any agent fees • reporting to client.
Charge discussions	\$120			<ul style="list-style-type: none"> • engaging in charge discussions and/or resolution, including diversion or charges withdrawn
Appearances - hearing time*	\$48 per half hour			For: <ul style="list-style-type: none"> • attending the Registrar's/ Judge's list Court • when sentencing occurs on the same day as plea is entered • attending the Case Review Hearing • any agent fees.
Case Management Memorandum (CMM)	\$75	\$75	\$75	<ul style="list-style-type: none"> • completion and on-time filing of the CMM document.

Other matters		
	A-C	Tasks covered by fixed fee
Sentencing Indications – - preparation @ ¹ - hearing time*	\$250	For: <ul style="list-style-type: none"> taking instructions, attending client preparing for Sentencing Indications Hearing preparing and completing written submissions any agents fees reporting to client.
	\$48 Per half hour	For: <ul style="list-style-type: none"> attending the Sentencing Indications Hearing any agents fees.
Fitness to Plead/Stand Trial - preparation - hearing time*	\$225	For: <ul style="list-style-type: none"> taking instructions, attending client preparation of Fitness to Plead/Stand trial application any agents fees reporting to client.
	\$48 Per half hour	For: <ul style="list-style-type: none"> attending Fitness to Plead/Stand Trial Hearing any agent fees.

Trial and Sentencing				
	A	B	C	Tasks covered by fixed fee
Disputed Facts - preparation - hearing time*	\$225			For: <ul style="list-style-type: none"> taking instructions, attending the client preparation for Disputed Facts Hearing any agent fees reporting to client.
	\$48 Per half hour			For: <ul style="list-style-type: none"> attending Disputed Facts Hearing any agents fee.

Trial and Sentencing (continued)				
	A	B	C	Tasks covered by fixed fee
Trial - preparation (part) – if case resolves prior to Trial but a significant amount of work has been carried out OR - preparation (full) – if case goes to a hearing - hearing time*	\$250			For: <ul style="list-style-type: none"> • taking instructions, attending the client • indentifying legal and factual issues • reviewing evidence (including videos/DVDs) • undertaking research • any agent fees • obtaining pre-sentence reports • preparing for trial – cross examination, briefing witness, submissions • receiving verdict • any agents fees • reporting to client.
	\$500			
	\$48 per half hour			For: <ul style="list-style-type: none"> • attending the trial hearing • any agents fees.
Sentencing (when remanded off for sentencing) - - preparation - hearing time*	\$100	\$120	\$140	For: <ul style="list-style-type: none"> • preparing for the sentencing hearing • any agent fees • reporting to client.
	\$48 per half hour			For: <ul style="list-style-type: none"> • attending the Sentencing Hearing • any agent fees.
Re-preparation **	\$120			<ul style="list-style-type: none"> • re-preparation prior to an adjourned or subsequent Trial/Sentencing hearing.

Pre trial admissibility hearing				
Activity	A	B	C	Tasks covered by fixed fee
Pre-trial admissibility - - preparation	\$225			For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • preparing application • liaising with other agencies • receiving decision • any agent fees • reporting to client.
	\$48 per half hour			For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.
Applications for Bail, Name Suppression, Media Coverage, Electronic Bail Monitoring				
Opposed application(s) for Bail, Name Suppression Second opposed bail, application or variation Electronic bail Monitoring Opposed application(s) for Media Coverage - hearing time*	\$225			For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • preparing application • liaising with other agencies and family, whanau – for bail applications • receiving decision • any agent fees • reporting to client.
	\$225			
	\$225			
	\$225			
	\$48 per half hour			For: <ul style="list-style-type: none"> • attending hearing(s) for applications or variations • any agent fees.

Sentencing Reports/Submissions				
Activity	A	B	C	Tasks covered by fixed fee
Expert witness/reports		\$150		For: <ul style="list-style-type: none"> • locating expert witness • liaising with expert witness • obtaining reports eg psychiatric reports • reviewing reports • any agent fees • reporting to client.
Section 38 – Forensic Report		\$150		For: <ul style="list-style-type: none"> • liaising, obtaining and reviewing section 38 Forensic Report • any agent fees • reporting to client.
Restorative Justice Report		\$150		For: <ul style="list-style-type: none"> • obtaining Restorative Justice Report in preparation for sentencing • any agent fees • reporting to client.
Written sentencing submissions @²		\$250		For: <ul style="list-style-type: none"> • limited to preparing sentencing submissions under the Sentencing Practice Note, where requested by the Judge, or providing written submissions in support of an application made. For example: discharge without conviction under the Sentencing Act; special reason or substitution of community based sentences under the Land Transport Act • any agent fees • reporting to client.
(Interlocutory) Appeals to the High Court				
Appeal against disclosure decision (s33(3)(b) Criminal Disclosure Act 2008)		\$350		For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • preparing and filing notice of appeal

Bail or Media Coverage	\$350	<ul style="list-style-type: none"> • preparing affidavits • undertaking research • liaising with Crown, prosecution • considering Crown, prosecution submissions • preparing submissions for hearing • interviewing/cross examining witnesses
Name Suppression	\$450	<ul style="list-style-type: none"> • liaising with the High Court • receiving decision • any agent fees • reporting to client • liaising with prison.
Interlocutory Appeal - hearing time*	\$48 per half hour	For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.

GRANTING NOTES – SCHEDULES A-C

Note that many of the tasks listed in the fixed fee schedules are generic and relate to tasks that may need to be undertaken for progression of the case. Not all tasks will need to be repeated at each stage of the case.

Legend

@¹ **Sentencing indications** - this preparation fee is available only if there is a written sentencing indications' submission.

@² **Written sentencing submission** - if the client accepts the Sentencing Indication, a Written Sentencing Submission is not required and the fee for a written sentencing submission cannot be claimed.

If the client does not accept the Sentencing Indication, then the fee for Written Sentencing Submissions can be claimed if the work is carried out. This applies whether or not the Submission is Judge-ordered.

*# **Re-preparation fee** – where the hearing has been adjourned for a month or more

Preliminary work – disclosure by defendant

Receiving, reviewing and/or preparing disclosure may include preparing the disclosure package ie disclosure by defendant.

Hearing time including waiting time

'Time' is payable in half hour blocks, rounded up to the nearest half hour.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a Judge. Waiting time begins when the provider is required to be in the courtroom. This -

- **includes** waiting time for the jury to deliver a verdict
- **excludes** waiting time where the Judge has excused counsel.

If more than one hour's waiting time is claimed per activity (eg waiting time for trial or waiting time for sentencing) the following information is required:

- a summary of both the waiting time and hearing time on the day of appearance – date and times
- an explanation of the circumstances is also required. This must include:

- confirmation that the provider was unable to undertake any other work while waiting
- confirmation that the provider made enquiries to the court about the delay
- reasons for the delay.

Where a client fails to attend a scheduled appearance, the provider can claim reasonable and actual time for waiting for the client, up to one hour. No evidence is required. Waiting time in addition to one hour in situations where a client fails to attend a hearing can be claimed via an amendment to grant.

Disclosure by prosecutor

Disclosure by the prosecutor can occur at many points in proceedings. Where the schedules refer to 'receiving and reviewing disclosure', this includes any or all of the following tasks, unless a separate fixed fee is otherwise specified:

- requests for further initial disclosure from prosecution (after commencement of proceedings)
- receiving and reviewing further initial disclosure
- receiving and reviewing full disclosure (after not guilty plea, election, or first appearance)
- requesting additional disclosure
- interlocutory applications:
 - address of witness or informant
 - disclosure of information – s30
 - order setting conditions for viewing exhibit – s31
 - timetabling order – s32.

Access to fees when a case is reassigned

If a provider picks up a reassigned case and fees for activities have been claimed, the new provider is eligible for a fee for those activities if they need to do any of the tasks in those activities. The full schedule, assuming the work needs to be done, is available to the new provider.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Audits

Providers are expected to accurately reflect their activities in their invoices. Any suspicion of inaccurate claims can be followed up and providers audited.

Documentation requirements

Application for Criminal Legal Aid – Police prosecution (*LA form 1a*) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedule A (*LA form 23*) [[s97 Legal Services Act 2011](#)]

Amendments to Grant

Cases in which an amendment to grant is approved are referred to as fixed fees plus cases.

Schedule D, E & F: Crown Prosecutions

Crown Prosecutions				
Administration/Case Review				
	D	E	F	Tasks covered by fixed fee
Preliminary work - new legal aid grant	\$430	\$645	\$875	For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • initial CMM discussions with client and prosecutions • preparation for CMM list event and/or judicial intervention hearing as applicable • discussing charges/case/plea with Crown • undertaking research • reviewing/perusing evidence (including videos/DVDs) • liaising with Crown/Court/Police • entering plea • any agent fees • reporting to client.
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> • attending the Registrar's/ Judge's list Court • any agents fees.
Case Review - preparation	\$600	\$1100	\$2000	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues • undertaking research • reviewing/perusing evidence (including videos/DVD's) • liaising with Crown/Court/Police • entering pleas • preparing submissions • discussing charges/case/with Crown/Police • reporting to client • attending Hearings (including Case Review) • any agent fees.
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> • attending the Case Review Hearing • any agents fees.
- hearing time*				

Case Management Memorandum				
	D	E	F	Tasks covered by fixed fee
Case Management Memorandum (CMM)	\$120	\$135	\$155	For: <ul style="list-style-type: none"> • completion and on-time filing of the CMM document
Other matters				
Sentencing Indications – - preparation @ - hearing time*	\$300	\$500	\$700	For: <ul style="list-style-type: none"> • taking instructions, attending client • preparing for Sentencing Indications Hearing • preparing and completing written submissions • any agents fees • reporting to client.
	\$59 Per half hour	\$67 Per half hour	\$76 Per half hour	For: <ul style="list-style-type: none"> • attending the Sentencing Indications Hearing • any agent fees.
Fitness to Plead/Stand Trial - preparation - hearing time*	\$250			For: <ul style="list-style-type: none"> • taking instructions, attending client • preparation of Fitness to Plead/Stand trial application • any agents fees • reporting to client.
	\$59 Per half hour	\$67 Per half hour	\$76 Per half hour	For: <ul style="list-style-type: none"> • attending Fitness to Plead/Stand Trial Hearing • any agent fees.

Trial and sentencing				
	D	E	F	Tasks covered by fixed fee
Preparation Trial Callover Memorandum (TCM)	\$200	\$220	\$240	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues undertaking research reviewing evidence (including videos/DVDs) corresponding with Crown liaising with experts
Preparation (memorandum – all subsequent callovers)	\$140	\$150	\$200	<ul style="list-style-type: none"> receiving Crown memorandum preparing Defence memorandum identifying pre-trial issues liaising with Crown/Court liaising with witnesses any agent fees reporting to client. <p>Note, one fee to be claimed for all subsequent callovers</p>
Pre-Trial conferences and callovers - hearing time*	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> actual hearing time any agent fees.
Pre-Trial applications including responding to Crown Application– - preparation	\$700	\$1100	\$1940	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues perusing file undertaking research corresponding with Crown liaising with Crown/Court discussing charges/case/with Crown reviewing Crown submissions briefing witnesses preparing cross examination preparing submissions any agent fees reporting to client. <p>Note, one fee to be claimed for all applications</p>

Trial and sentencing (continued)				
Activity	D	E	F	Tasks covered by fixed fee
Pre-Trial applications - hearing time*	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.
Disputed facts - preparation	\$250			For: <ul style="list-style-type: none"> • taking instructions, attending the client • preparation of Disputed Facts Hearing • any agent fees • reporting to client
- hearing time*	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> • attending disputed facts hearing • any agent fees.
Trial - preparation (part) when election for trial by jury is reversed OR client pleads guilty OR - preparation (full) if case goes to a full hearing	\$500	\$800	Estimate required by Amendment	For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • perusing evidence • scene visits • undertaking research • corresponding with Police/Crown • liaising with Crown/Court • discussing charges/case/with Crown • reviewing videos/DVDs (for edits) • serving summons to appear • briefing witnesses • preparing cross examination • preparing submissions • preparing opening/closing addresses • any agent fees • reporting to client.
	\$1400	\$2650		
- hearing time*	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> • attending trial hearing • any agent fees.

Trial and sentencing (continued)				
Activity	D	E	F	Tasks covered by fixed fee
Sentencing - preparation - hearing time	\$600	\$1000	\$1400	For: - taking instructions, attending the client - receiving and reviewing disclosure - identifying legal and factual issues - undertaking research - obtaining testimonials/references - corresponding with Police/Crown - liaising with Crown/Court - reviewing Crown submissions - reviewing probation or other reports and annexures - preparing submissions - any agent fees - reporting to client.
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: • actual hearing time • any agent fees.
Re-preparation **	\$400			• re-preparation prior to an adjourned or subsequent trial/sentencing hearing.
Applications for Bail, Name Suppression, Media Coverage, Electronic Bail Monitoring				
Activity	D	E	F	Tasks covered by fixed fee
Opposed application(s) for Bail, Name Suppression	\$300	\$350	\$400	For: - taking instructions, attending the client - receiving and reviewing disclosure - identifying legal and factual issues - preparing application for, or opposition to, order(s) - liaising with other agencies and family, whanau - receiving decision - any agent fees - reporting to client.
Second opposed bail, whether application or variation	\$300	\$350	\$400	
Electronic bail Monitoring	\$250	\$300	\$350	
Opposed application(s) for Media Coverage	\$150	\$160	\$260	
Unopposed application(s) for Bail, Name Suppression	\$130	\$170	\$220	
Opposed variation(s)	\$170	\$210	\$250	
Unopposed variation(s)	\$100	\$120	\$170	
Bail, Name Suppression, Media Coverage, Electronic Monitoring - hearing time*	\$59 per half hour	\$67 per half hour	\$76 per half hour	

Disclosure – Criminal Disclosure Act 2008				
Activity	D	E	F	Tasks covered by fixed fee
Disclosure by defendant	\$200	\$220	\$290	For: <ul style="list-style-type: none"> • for preparation of disclosure package, including: <ul style="list-style-type: none"> • notice of alibi (s22); • evidence of expert witness (s23); • service on prosecutor; and • associated correspondence • any agent fees • reporting to client.
Application for disclosure of information (s30)	\$200	\$230	\$280	For: <ul style="list-style-type: none"> • preparation of an application for disclosure of information under s30 • preparation for hearing (including written submissions) • any agent fees • reporting to client.
Other applications for disclosure	\$220	\$240	\$290	For: <ul style="list-style-type: none"> • preparation for any or all of: Application for address of witness or informant (s17); Application for order setting conditions for viewing exhibit (s31); Application for timetabling order (s32); Preparation for hearings • any agent fees • reporting to client.
Non-party disclosure	\$270	\$380	\$570	For: <ul style="list-style-type: none"> • preparation of an application for non-party disclosure hearing (s24) • preparation for hearing (including written submissions) • any agent fees • reporting to client.
Disclosure - hearing time*	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> • attending disclosure hearing(s) • any agents fees

Expert/Sentencing Reports				
Expert witness/reports	\$220	\$380	\$570	For: <ul style="list-style-type: none"> • locating expert witness • liaising with expert witness • obtaining psychiatric reports • reviewing reports • any agent fees • reporting to client.
Section 38 – Forensic Report	\$250	\$270	\$320	For: <ul style="list-style-type: none"> • liaising, obtaining and reviewing section 38 Forensic Report • any agent fees • reporting to client.
Restorative Justice Report	\$150	\$170	\$200	For: <ul style="list-style-type: none"> • obtaining Restorative Justice Report in preparation for sentencing • any agent fees • reporting to client.

(Interlocutory) Appeals to the High Court – Schedules D, E, F			
Activity	Interim/Completion	Full	Tasks covered by fixed fee
Appeal against disclosure decision (s33(3)(b) Criminal Disclosure Act 2008)	\$300 Interim = To be claimed pre-disposal	\$500 To be claimed at disposal	For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • preparing and filing notice of appeal • preparing affidavits • undertaking research • liaising with Crown, prosecution • considering Crown, prosecution submissions • preparing submissions for hearing • interviewing/cross examining witnesses • liaising with the High Court • receiving decision • reporting to client • liaising with prison • any agent fees
	\$200 Completion = To be claimed at disposal		
Bail or Media Coverage	\$300 Interim = To be claimed pre-disposal	\$500 To be claimed at disposal	
	\$200 Completion = To be claimed at disposal		

Name Suppression	\$330 Interim = To be claimed pre-disposal		\$550 To be claimed at disposal	Note: Interim Fee can only be claimed via an interim invoice when the case has been substantially progressed. Completion Fee can only be claimed via a final invoice after disposal and where an interim fee has previously been claimed. Full fee can only be claimed after disposal via a final invoice and cannot be paid if an interim fee has previously been claimed and approved.
	\$220 Completion = To be claimed at disposal			
Activity	D	E	F	Tasks covered by fixed fee
Interlocutory appeals to the High Court - hearing time*	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.

GRANTING NOTES – SCHEDULES D-F

Legend

@ **Sentencing indications** - this preparation fee is only available if there is a written sentencing indications' submission.

*# **Re-preparation fee** – where the hearing has been adjourned for a month or more

Preliminary work – disclosure by defendant

Receiving, reviewing and/or preparing disclosure may include preparing the disclosure package ie disclosure by defendant.

Hearing time including waiting time

'Time' is payable in half hour blocks, rounded up to the nearest half hour.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a Judge. Waiting time begins when the provider is required to be in the courtroom. This:

- **includes** waiting time for the jury to deliver a verdict
- **excludes** waiting time where the Judge has excused counsel.

If more than one hour's waiting time is claimed per activity (eg waiting time for trial or waiting time for sentencing) the following information is required:

- a summary of both the waiting time and hearing time on the day of appearance – date and times
- an explanation of the circumstances is also required. This must include:
 - confirmation that the provider was unable to undertake any other work while waiting
 - confirmation that the provider made enquiries to the court about the delay
 - reasons for the delay.

Where a client fails to attend a scheduled appearance, the provider can claim reasonable and actual time for waiting for the client, up to one hour. No evidence is required. Waiting time in addition to one hour in situations where a client fails to attend a hearing can be claimed via an amendment to grant.

Disclosure by prosecutor

Disclosure by the prosecutor can occur at many points in proceedings. Where the schedules refer to 'receiving and reviewing disclosure', this includes any or all of the following tasks, unless a separate fixed fee is otherwise specified:

- requests for further initial disclosure from prosecution (after commencement of proceedings)
- receiving and reviewing further initial disclosure
- receiving and reviewing full disclosure (after not guilty plea, election, or first appearance)
- requesting additional disclosure
- interlocutory applications:
 - address of witness or informant
 - disclosure of information – s30
 - order setting conditions for viewing exhibit – s31
 - timetabling order – s32.

Access to fees when a case is reassigned

If a provider picks up a reassigned case and fees for activities have been claimed, the new provider is eligible for a fee for those activities if they need to do any of the tasks in those activities. The full schedule, assuming the work needs to be done, is available to the new provider.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Audits

Providers are expected to accurately reflect their activities in their invoices. Any suspicion of inaccurate claims can be followed up and providers audited.

Documentation requirements

Application for Criminal Legal Aid – (*LA form 1*) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedules D–F (*LA form 24*) [[s97 Legal Services Act 2011](#)]

Amendments to Grant

Cases in which an Amendment to Grant is approved are referred to as Fixed Fees Plus cases.

Schedule G: Fees schedule for Appeals to the High Court

Appeals to the High Court					
Grounds of Appeal					
Activity	Fixed fee				Tasks covered by fixed fee
Grounds of Appeal (Interim Grants only)	\$200				For: <ul style="list-style-type: none"> all preparation related to determining the grounds of appeal
Preparation of Appeals					
Appeal against Sentence	\$330 Interim = To be claimed pre-disposal		\$550 To be claimed at disposal		For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues preparing and filing notice of appeal preparing affidavits undertaking research liaising with Crown considering Crown submissions preparing submissions for hearing interviewing/cross examining witnesses liaising with the High Court receiving decision reporting to client liaising with prison any agent fees.
	\$220 Completion = To be claimed at disposal				
Appeal against Conviction	\$440 Interim = To be claimed pre-disposal		\$730 To be claimed at disposal		<p>Note: Interim Fee can only be claimed via an interim invoice when the case has been substantially progressed.</p> <p>Completion Fee can only be claimed via a final invoice after disposal and where an interim fee has previously been claimed.</p> <p>Full fee can only be claimed after disposal via a final invoice and cannot be paid if an interim fee has previously been claimed and approved.</p>
	\$290 Completion = To be claimed at disposal				
Appeal against Conviction and Sentence	\$440 Interim = To be claimed pre-disposal		\$730 To be claimed at disposal		<p>Note: Interim Fee can only be claimed via an interim invoice when the case has been substantially progressed.</p> <p>Completion Fee can only be claimed via a final invoice after disposal and where an interim fee has previously been claimed.</p> <p>Full fee can only be claimed after disposal via a final invoice and cannot be paid if an interim fee has previously been claimed and approved.</p>
	\$290 Completion = To be claimed at disposal				
Schedule (substantive matter)	A-C	D	E	F	Tasks covered by fixed fee
Appeal Hearing - hearing time*	\$48 per half hour	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> actual hearing time any agent fees.

Additional fixed fees		
Reassignment		
Activity	Fixed fee	Tasks covered by fixed fee
Termination of Assignment fee	\$330 For Appeal against Sentence	For: <ul style="list-style-type: none"> • work undertaken prior to termination of assignment that has substantially progressed case.
	\$440 For Appeal against Conviction; Appeal against Conviction and Sentence	Note, the Termination of Assignment fee cannot be paid if an interim fee or base fee for that activity has previously been paid to that provider.

Schedule H: Fees schedule for Appeals to the Court of Appeal

Appeals to the Court of Appeal		
Preparation of summary of issues to be raised on appeal		
Activity	Fixed fee	Tasks covered by fixed fee
Preparation of issues (by trial counsel)	\$270	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues • preparing application for legal aid • reporting to client • any agent fees
Preparation of issues (by new counsel)	\$660	
Preparation of appeals		
Activity	Fixed fee	Tasks covered by fixed fee
Appeal against interlocutory decision (e.g. disclosure, pre-trial rulings, admissibility of evidence, name suppression, media coverage, etc.)	\$1400	For: <ul style="list-style-type: none"> - taking instructions, attending the client - identifying legal and factual issues - preparing and filing notice of appeal - preparing affidavits - undertaking research - liaising with Crown - considering Crown submissions - preparing submissions for hearing - interviewing/cross examining witnesses - liaising with the Court of Appeal - receiving decision - reporting to client - liaising with prison - any agent fees.
Appeal against Sentence	\$1000	
Appeal against Conviction	\$1700	
Appeal against Conviction and Sentence	\$2400	
Appeal	\$76	
- hearing time*	per half hour	For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.

Schedule I: Fees schedule for Appeals to the Supreme Court

Appeals to the Supreme Court		
Preparation of application for Leave to Appeal		
Activity	Fixed fee	Tasks covered by fixed fee
Preparation of application (by trial or prior appeal counsel)	\$860	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues
Preparation of application (by new counsel)	\$1400	<ul style="list-style-type: none"> • preparing and filing notice of application for leave • preparing application for legal aid • undertaking research • preparing affidavits (if relevant) • preparing written submissions on leave application • liaising with Crown • considering Crown submissions • preparing for any hearing (if relevant) • liaising with the Supreme Court • receiving decision • reporting to client • liaising with prison (if relevant) • any agent fees
Leave to Appeal - hearing time*	\$76 per half hour	For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.
Preparation of response to application for Leave to Appeal		
Activity	Fixed fee	Tasks covered by fixed fee
Preparation of response (by trial or prior appeal counsel)	\$860	For: <ul style="list-style-type: none"> • receiving notice of application for leave • taking instructions, attending the client • preparing application for legal aid • considering Crown submissions • identifying legal and factual issues • undertaking research
Preparation of response (by new counsel)	\$1400	<ul style="list-style-type: none"> • preparing affidavits (if relevant) • preparing written submissions on leave application • liaising with Crown • preparing for any hearing (if relevant) • liaising with the Supreme Court • receiving decision • reporting to client • liaising with prison (if relevant) - any agent fees.

Response to Leave to Appeal hearing time	\$76 per half hour	For: <ul style="list-style-type: none"> • Actual hearing time • Any agent fees.
Substantive Appeal (following the granting of leave)		
Activity	Fixed fee	Tasks covered by fixed fee
Preparation for appeal hearing	Estimate required by Amendment	For: <ul style="list-style-type: none"> - taking instructions, attending the client - identifying legal and factual issues - receiving and reviewing disclosure - engaging in charge discussions/resolution/negotiation with the Officer in Charge Prosecution - entering plea - reporting to client - any agent fees.
Appeal - hearing time*	\$76 per half hour	For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.

GRANTING NOTES FOR SCHEDULES G-I

Hearing time including waiting time

'Time' is payable in half hourly blocks, rounded up to the nearest half hour, or hourly blocks, rounded up to the nearest hour, or two hourly blocks, rounded up to the nearest two hour block, depending on the activity.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a judge. Waiting time begins when the provider is required to be in the courtroom. This excludes waiting time where the judge has excused counsel.

If more than one hour's waiting time is claimed per activity (eg waiting time for trial or waiting time for sentencing) the following information is required:

- a summary of both the waiting time and hearing time on the day of appearance – date and times
- an explanation of the circumstances is also required. This must include:
 - confirmation that the provider was unable to undertake any other work while waiting
 - confirmation that the provider made enquiries to the court about the delay
 - reasons for the delay.

Where a client fails to attend a scheduled appearance, the provider can claim reasonable and actual time for waiting for the client, up to one hour. No evidence is required. Waiting time in addition to one hour in situations where a client fails to attend a hearing can be claimed via an amendment to grant.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Documentation requirements

Application for Criminal Legal Aid (LA form 1) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedule G (LA form 25) [[s97 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedules H–I (LA form 26) [[s97 Legal Services Act 2011](#)]

Schedule J: Fees schedule for Parole (Criminal Matters)

Parole (Criminal Matters)			
Proceedings before NZ Parole Board			
Activity	Interim/ Completion	Full	Tasks covered by fixed fee
Preparation for hearing – Postponement order (s27)	\$270 Interim = To be claimed pre- disposal	\$450 To be claimed at disposal	For: <ul style="list-style-type: none"> taking instructions, attending the client identifying legal and factual issues reviewing file perusing Parole Board material undertaking research instructing experts receiving specialist reports preparing application for order(s) preparing submissions for hearing(s) liaising with the Parole Board, High Court receiving decision reporting to client any agent fees
	\$180 Completion = To be claimed at disposal		
Preparation for hearing – Recall (ss59-66A – breach of parole)	\$270 Interim = To be claimed pre- disposal	\$450 To be claimed at disposal	
	\$180 Completion = To be claimed at disposal		
Preparation for hearing – Non-release orders (s107)	\$360 Interim = To be claimed pre- disposal	\$600 To be claimed at disposal	Note: Interim Fee can only be claimed via an interim invoice when the case has been substantially progressed. Completion Fee can only be claimed via a final invoice after disposal and where an interim fee has previously been claimed. Full fee can only be claimed after disposal via a final invoice and cannot be paid if an interim fee has previously been claimed and approved.
	\$240 Completion = To be claimed at disposal		
Preparation for hearing – Extended supervision orders (ss 107F-107I, 107M)	\$520 Interim = To be claimed pre- disposal	\$860 To be claimed at disposal	
	\$340 Completion = To be claimed at disposal		

Other parole matters	n/a	\$372 To be claimed at disposal	
Activity	Fixed fee	Tasks covered by fixed fee	
Parole - hearing time*	\$59 per half hour	For: <ul style="list-style-type: none"> • actual hearing time • any agent fees. 	
Parole Appeals – Grounds for Appeal			
Activity	Fixed fee	Tasks covered by fixed fee	
Grounds of Appeal (Interim Grants only)	\$220	For: <ul style="list-style-type: none"> • all preparation related to determining the grounds of appeal. 	
Parole Appeals – Substantive Appeal			
Activity	Fixed fee	Tasks covered by fixed fee	
Appeals to High Court from certain decisions of the Parole Board (s68-70) – postponements, extended supervision orders, recalls	Estimate required by Amendment	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues • reviewing file • perusing Parole Board material • undertaking research • instructing experts • receiving specialist reports • preparing application for order(s) • preparing submissions for hearing(s) • liaising with the Parole Board, High Court • receiving decision • reporting to client • any agent fees. 	
Appeals to Court of Appeal from sentencing Court (s107R extended supervision)	Estimate required by Amendment		
Parole Appeal - hearing time*	\$59 per half hour	For: <ul style="list-style-type: none"> • actual hearing time • any agent fees. 	

Additional fixed fees		
Reassignment		
Activity	Fixed fee	Tasks covered by fixed fee
Termination of Assignment fee	<p>\$270</p> <p>For Postponement Order; Recall</p>	<p>For:</p> <ul style="list-style-type: none"> work undertaken prior to termination of assignment that has substantially progressed case. <p>Note, the Termination of Assignment fee cannot be paid if an interim fee has previously been paid to that provider.</p>

GRANTING NOTES FOR SCHEDULE J

Fee for 'Other Matters'

This is a one-off fee to compensate for time taken to attend reintegration hui and/or liaise with family members and other parties.

Hearing time including waiting time

Time begins from when the parole provider needs to be at the car park of the prison in order to be on time for a scheduled parole hearing and ends when the provider returns to their car following the hearing.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a Parole Board. If the parole provider is required to wait more than one hour for the hearing time to begin, an explanation of the delay is required, but evidence is not.

Hearing time is payable in half hour blocks, rounded up to the nearest half hour.

If a Parole Board hearing is cancelled after the provider has arrived at the prison, the provider can still claim for time from arriving at the car park to returning to the car park.

Disclosure by prosecutor

Disclosure by the prosecutor can occur at many points in proceedings. Where the schedules refer to 'Receiving and reviewing disclosure', this includes any or all of the following tasks, unless a separate fixed fee is otherwise specified:

- request further initial disclosure from prosecution (after commencement of proceedings)
- receiving and reviewing further initial disclosure
- receiving and reviewing full disclosure (after not guilty plea, election, or first appearance)
- requesting additional disclosure
- interlocutory applications:
 - Application for address of witness or informant
 - Application for disclosure of information – s30
 - Application for order setting conditions for viewing exhibit – s31
 - Application for timetabling order – s32.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Documentation requirements

Application for Criminal Legal Aid (*LA form 1*) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedule J (*LA form 27*) [[s97 Legal Services Act 2011](#)]

Revised Criminal Legal Aid Fee Schedules 2017

Implementation – 3 July 2017

This fee schedule is available for new cases granted between **3 July 2017** and **1 July 2018**.

Criminal legal aid fee schedules – 3 July 2017

Schedules A, B & C: Police Prosecutions

Police Prosecutions				
Administration/Case Review				
	A	B	C	Tasks covered by fixed fee
Preliminary work - new legal aid grant	\$155			For: <ul style="list-style-type: none"> • taking instructions, attending client • receiving, reviewing and/or preparing disclosure • identifying legal and factual issues • undertaking research • reviewing evidence (including videos/DVD's) • liaising with prosecutor/court • identifying the need for applications, interlocutories etc. • attending to unopposed bail, name suppression, variation, interlocutories etc. • preparation • entering plea • any agent fees • reporting to client.
	\$90			
Charge discussions	\$120			<ul style="list-style-type: none"> • engaging in charge discussions and/or resolution, including diversion or charges withdrawn
Case Management Memorandum (CMM) / Case Review Hearing – - preparation ^	\$200	\$200	\$720	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues • undertaking research • reviewing/perusing evidence (including videos/DVD's) • liaising with prosecutor/court • CMM and charges/case discussions with client and prosecutions • preparing and completing the CMM • preparing for CMM list event and/or judicial intervention

			hearing as applicable <ul style="list-style-type: none"> entering pleas preparing submissions any agent fees reporting to client. Note: Evidence of having filed the CMM is not required
Appearances <ul style="list-style-type: none"> hearing time* 		\$48 per half hour	For: <ul style="list-style-type: none"> attending the Registrar's/ Judge's list Court when sentencing occurs on the same day as plea is entered attending the Case Review Hearing any agent fees.

Other matters		
	A-C	Tasks covered by fixed fee
Sentencing Indications – <ul style="list-style-type: none"> preparation @¹ 	\$250	For: <ul style="list-style-type: none"> taking instructions, attending client preparing for Sentencing Indications Hearing preparing and completing written submissions any agents fees reporting to client.
<ul style="list-style-type: none"> hearing time* 	\$48 Per half hour	For: <ul style="list-style-type: none"> attending the Sentencing Indications Hearing any agents fees.
Fitness to Plead/Stand Trial <ul style="list-style-type: none"> preparation 	\$225	For: <ul style="list-style-type: none"> taking instructions, attending client preparation of Fitness to Plead/Stand trial application any agents fees reporting to client.
<ul style="list-style-type: none"> hearing time* 	\$48 Per half hour	For: <ul style="list-style-type: none"> attending Fitness to Plead/Stand Trial Hearing any agent fees.

Trial and Sentencing				
	A	B	C	Tasks covered by fixed fee
Disputed Facts - preparation		\$225		For: <ul style="list-style-type: none"> taking instructions, attending the client preparation for Disputed Facts Hearing any agent fees reporting to client.
	- hearing time*		\$48 Per half hour	For: <ul style="list-style-type: none"> attending Disputed Facts Hearing any agents fee.
Trial - preparation (part) – if case resolves prior to Trial but a significant amount of work has been carried out OR - preparation (full) – if case goes to a hearing - hearing time*		\$250		For: <ul style="list-style-type: none"> taking instructions, attending the client identifying legal and factual issues reviewing evidence (including videos/DVDs) undertaking research any agent fees obtaining pre-sentence reports preparing for trial – cross examination, briefing witness, submissions receiving verdict any agents fees reporting to client.
		\$500		
			\$48 per half hour	For: <ul style="list-style-type: none"> attending the trial hearing any agents fees.
Sentencing (when remanded off for sentencing) - - preparation		\$200		For: <ul style="list-style-type: none"> preparing for the sentencing hearing any agent fees reporting to client.
	- hearing time*		\$48 per half hour	For: <ul style="list-style-type: none"> attending the Sentencing Hearing any agent fees.
Re-preparation **		\$120		<ul style="list-style-type: none"> re-preparation prior to an adjourned or subsequent Trial/Sentencing hearing.

Pre trial admissibility hearing				
Activity	A	B	C	Tasks covered by fixed fee
Pre-trial admissibility - - preparation	\$225			For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • preparing application • liaising with other agencies • receiving decision • any agent fees • reporting to client.
	\$48 per half hour			For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.
Applications and variations				
Applications and variations (opposed) - - Preparation of written submission(s)# ¹ Applications and variations (unopposed) - - Preparation of written submission(s)# ² - hearing time* ¹	\$225			For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • preparing application • liaising with other agencies and family, whanau – for bail applications • receiving decision • any agent fees • reporting to client.
	\$60			For: <ul style="list-style-type: none"> • attending hearing(s) for applications or variations • any agent fees.
	\$48 per half hour			
Sentencing Reports/Submissions				
Activity	A	B	C	Tasks covered by fixed fee
Expert witness/reports &	\$150			For: <ul style="list-style-type: none"> • locating expert witness • liaising with expert witness • obtaining reports eg psychiatric reports • reviewing reports • any agent fees • reporting to client.

Sentencing Reports/Submissions (continued)				
	A	B	C	Tasks covered by fixed fee
Section 38 – Forensic Report ^{*^}		\$150		For: <ul style="list-style-type: none"> • liaising, obtaining and reviewing section 38 Forensic Report • any agent fees • reporting to client.
Restorative Justice Report		\$150		For: <ul style="list-style-type: none"> • obtaining Restorative Justice Report in preparation for sentencing • any agent fees • reporting to client.
Written sentencing submissions @²		\$250		For: <ul style="list-style-type: none"> • limited to preparing sentencing submissions under the Sentencing Practice Note, where requested by the Judge, or providing written submissions in support of an application made. For example: discharge without conviction under the Sentencing Act; special reason or substitution of community based sentences under the Land Transport Act • any agent fees • reporting to client.

(Interlocutory) Appeals to the High Court		
Interlocutory appeal hearings - preparation *	\$450	For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • preparing and filing notice of appeal • preparing affidavits • undertaking research • liaising with Crown, prosecution • considering Crown, prosecution submissions • preparing submissions for hearing • interviewing/cross examining witnesses • liaising with the High Court • receiving decision • any agent fees • reporting to client • liaising with prison.
- hearing time*	\$48 per half hour	For: <ul style="list-style-type: none"> • attending interlocutory hearing(s) • any agent fees.

GRANTING NOTES – SCHEDULES A-C

Note that many of the tasks listed in the fixed fee schedules are generic and relate to tasks that may need to be undertaken for progression of the case. Not all tasks will need to be repeated at each stage of the case.

Legend

[^] **Case management memorandum (CMM)** - this is a repeatable activity if the CMM requires revisions in preparation for a second or subsequent case review hearing for reasons of, for example, other charges being added or if there is a significant change in circumstances.

^{@1} **Sentencing indications** - this preparation fee is available only if there is a written sentencing indications' submission.

^{@2} **Written sentencing submission** - if the client accepts the Sentencing Indication, a Written Sentencing Submission is not required and the fee for a written sentencing submission cannot be claimed.

If the client does not accept the Sentencing Indication, then the fee for Written Sentencing Submissions can be claimed if the work is carried out. This applies whether or not the Submission is Judge-ordered.

^{#1} **Opposed applications and variations (written preparation)** relate to - bail; bail breaches; name suppression; electronic bail monitoring; media coverage; and vacating a plea. These are repeatable activities and can be claimed per occurrence, up to four times per 'type' (eg Bail). After four times, an Amendment to Grant is required.

Other applications that can be claimed once (if pre-trial, and not encompassed within a hearing) are s14, 18, 23, and 25 applications.

- #² **Unopposed applications and variations (written preparation)** – as above, but repeatable only twice per type. After two claims, an Amendment to Grant is required.
- *¹ **Applications and variations (hearing time)** – this fee is available where there are either written or verbal applications/variations.
- & **Written expert witness / reports** - not including non-expert reports (eg probation reports) or oral reports.
- *[^] **Section 38 Forensic reports** – two s38 reports are required by legislation. A fee for each of those reports can be claimed. An Amendment to Grant is required for claims for any subsequent s38 reports.
- *# **Re-preparation fee** – repeatable where the hearing has been adjourned for a month or more

Preliminary work – disclosure by defendant

Receiving, reviewing and/or preparing disclosure may include preparing the disclosure package ie disclosure by defendant.

When new charges are added to a grant

Each time a new charge is added to a grant, a reduced ‘preliminary work’ fee can be claimed. If all the charges are treated together from that point, then no additional fees are required.

When there is more than one charge in a grant, and they differ in substance

If there are multiple charges in a grant (either from the outset of the grant or if new charges are added to the grant) that share one or more appearances BUT and then separate with respect to their substance and how they are treated by the court, then repeatable fees can be claimed for each relevant activity, where work for those activities is undertaken.

This applies whether or not the fees in the schedule are shown as repeatable.

Hearing time including waiting time

‘Time’ is payable in half hour blocks, rounded up to the nearest half hour.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a Judge. Waiting time begins when the provider is required to be in the courtroom. This -

- **includes** waiting time for the jury to deliver a verdict
- **excludes** waiting time where the Judge has excused counsel.

If more than one hour’s waiting time is claimed per activity (eg waiting time for trial or waiting time for sentencing) the following information is required:

- a summary of both the waiting time and hearing time on the day of appearance – date and times
- an explanation of the circumstances is also required. This must include:
 - confirmation that the provider was unable to undertake any other work while waiting
 - confirmation that the provider made enquiries to the court about the delay
 - reasons for the delay.

Where a client fails to attend a scheduled appearance, the provider can claim reasonable and actual time for waiting for the client, up to one hour. No evidence is required. Waiting time in addition to one hour in situations where a client fails to attend a hearing can be claimed via an amendment to grant.

Interlocutories

The fee for interlocutories does not include interlocutories relating to disclosure by prosecutor.

Examples of interlocutories that can be claimed relate to appeal against pre-trial decisions relating to, for example (s215):

- admissibility of evidence
- permission to cross-examine a complainant
- witness identity/anonymity
- disclosure decision (s33(3)(b) Criminal Disclosure Act 2008)
- bail or media coverage
- name suppression.

Disclosure by prosecutor

Disclosure by the prosecutor can occur at many points in proceedings. Where the schedules refer to 'receiving and reviewing disclosure', this includes any or all of the following tasks, unless a separate fixed fee is otherwise specified:

- requests for further initial disclosure from prosecution (after commencement of proceedings)
- receiving and reviewing further initial disclosure
- receiving and reviewing full disclosure (after not guilty plea, election, or first appearance)
- requesting additional disclosure
- interlocutory applications:
 - address of witness or informant
 - disclosure of information – s30
 - order setting conditions for viewing exhibit – s31
 - timetabling order – s32.

Access to fees when a case is reassigned

If a provider picks up a reassigned case and fees for activities have been claimed, the new provider is eligible for a fee for those activities if they need to do any of the tasks in those activities. The full schedule, assuming the work needs to be done, is available to the new provider.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Audits

Providers are expected to accurately reflect their activities in their invoices. Any suspicion of inaccurate claims can be followed up and providers audited.

Documentation requirements

Application for Criminal Legal Aid – Police prosecution (*LA form 1a*) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedule A (*LA form 23*) [[s97 Legal Services Act 2011](#)]

Amendments to Grant

Cases in which an amendment to grant is approved are referred to as fixed fees plus cases.

Schedule D, E & F: Crown Prosecutions

Crown Prosecutions				
Administration/Case Review				
	D	E	F	Tasks covered by fixed fee
Preliminary work - new legal aid grant - when additional charges are added to the legal aid grant * - hearing time*	\$430	\$645	\$875	For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • initial CMM discussions with client and prosecutions • preparation for CMM list event and/or judicial intervention hearing as applicable • discussing charges/case/plea with Crown • undertaking research • reviewing/perusing evidence (including videos/DVDs) • liaising with Crown/Court/Police • entering plea • any agent fees • reporting to client.
	\$215	\$320	\$435	
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> • attending the Registrar's/ Judge's list Court • any agents fees.
Case Management Memorandum / Case Review Hearing - - preparation ^	\$720	\$1,235	\$2,155	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues • undertaking research • reviewing/perusing evidence (including videos/DVD's) • liaising with Crown • CMM and charges/case discussions with client and Crown • preparing and completing the CMM • preparing for CMM list event and/or judicial intervention hearing as applicable • entering pleas • preparing submissions • any agent fees • reporting to client. • Note: Evidence of having filed the CMM is not required..

- hearing time*	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> • attending the Case Review Hearing • any agents fees.
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Other matters				
Sentencing Indications – - preparation @	\$300	\$500	\$700	For: <ul style="list-style-type: none"> • taking instructions, attending client • preparing for Sentencing Indications Hearing • preparing and completing written submissions • any agents fees • reporting to client.
- hearing time*	\$59 Per half hour	\$67 Per half hour	\$76 Per half hour	For: <ul style="list-style-type: none"> • attending the Sentencing Indications Hearing • any agent fees.
Fitness to Plead/Stand Trial - preparation	\$250			For: <ul style="list-style-type: none"> • taking instructions, attending client • preparation of Fitness to Plead/Stand trial application • any agents fees • reporting to client.
- hearing time*	\$59 Per half hour	\$67 Per half hour	\$76 Per half hour	For: <ul style="list-style-type: none"> • attending Fitness to Plead/Stand Trial Hearing • any agent fees.

Trial and sentencing				
	D	E	F	Tasks covered by fixed fee
Preparation Trial Callover Memorandum (TCM)	\$200	\$220	\$240	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues undertaking research reviewing evidence (including videos/DVDs) corresponding with Crown liaising with experts receiving Crown memorandum preparing Defence memorandum identifying pre-trial issues liaising with Crown/Court liaising with witnesses any agent fees reporting to client.
Preparation (memorandum – all subsequent callovers) #3	\$140	\$150	\$200	
Pre-Trial conferences and callovers - hearing time	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> actual hearing time any agent fees.
Pre-Trial applications including responding to Crown Applications - preparation	\$700	\$1100	\$1940	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues perusing file undertaking research corresponding with Crown liaising with Crown/Court discussing charges/case/with Crown reviewing Crown submissions briefing witnesses preparing cross examination preparing submissions any agent fees reporting to client. <p>Note, one fee to be claimed for all applications</p>

Trial and sentencing (continued)				
Activity	D	E	F	Tasks covered by fixed fee
Pre-Trial applications - – hearing time*	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> actual hearing time any agent fees.

Disputed facts - preparation	\$250			For: <ul style="list-style-type: none"> taking instructions, attending the client preparation of Disputed Facts Hearing any agent fees reporting to client
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending disputed facts hearing any agent fees.
Trial - preparation (part) when election for trial by jury is reversed OR client pleads guilty OR - preparation (full) if case goes to a full hearing	\$500	\$800	Estimate required by Amendment	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues perusing evidence scene visits undertaking research corresponding with Police/Crown liaising with Crown/Court discussing charges/case/with Crown reviewing videos/DVDs (for edits) serving summons to appear briefing witnesses preparing cross examination preparing submissions preparing opening/closing addresses any agent fees reporting to client.
	\$1400	\$2650		
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending trial hearing any agent fees.
- hearing time*	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending trial hearing any agent fees.

Trial and sentencing (continued)				
Activity	D	E	F	Tasks covered by fixed fee
Sentencing - preparation - hearing time*	\$600	\$1000	\$1400	For: - taking instructions, attending the client - receiving and reviewing disclosure - identifying legal and factual issues - undertaking research - obtaining testimonials/references - corresponding with Police/Crown - liaising with Crown/Court - reviewing Crown submissions - reviewing probation or other reports and annexures - preparing submissions - any agent fees - reporting to client.
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: • actual hearing time • any agent fees.
Re-preparation *#	\$400			• re-preparation prior to an adjourned or subsequent trial/sentencing hearing.
Applications and variations				
Activity	D	E	F	Tasks covered by fixed fee
Applications and variations (opposed) - - Preparation of written submission(s)# ¹ Applications and variations (unopposed) - - Preparation of written submission(s)# ² - hearing time*	\$300	\$350	\$400	For: - taking instructions, attending the client - receiving and reviewing disclosure - identifying legal and factual issues - preparing application or variations - liaising with other agencies and family, whanau - receiving decision - any agent fees - reporting to client.
	\$200	\$250	\$300	
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: • attending hearing(s) for applications or variations • any agent fees.

Disclosure – Criminal Disclosure Act 2008				
Activity	D	E	F	Tasks covered by fixed fee
Disclosure by defendant	\$200	\$220	\$290	For: <ul style="list-style-type: none"> • for preparation of disclosure package, including: <ul style="list-style-type: none"> • notice of alibi (s22); • evidence of expert witness (s23); • service on prosecutor; and • associated correspondence • any agent fees • reporting to client.
Application for disclosure of information (s30)	\$200	\$230	\$280	For: <ul style="list-style-type: none"> • preparation of an application for disclosure of information under s30 • preparation for hearing (including written submissions) • any agent fees • reporting to client.
Other applications for disclosure	\$220	\$240	\$290	For: <ul style="list-style-type: none"> • preparation for any or all of: Application for address of witness or informant (s17); Application for order setting conditions for viewing exhibit (s31); Application for timetabling order (s32); Preparation for hearings • any agent fees • reporting to client.
Non-party disclosure	\$270	\$380	\$570	For: <ul style="list-style-type: none"> • preparation of an application for non-party disclosure hearing (s24) • preparation for hearing (including written submissions) • any agent fees • reporting to client.
Disclosure - hearing time*	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> • attending disclosure hearing(s) • any agents fees

Expert/Sentencing Reports				
Expert witness/reports &	\$220	\$380	\$570	For: <ul style="list-style-type: none"> • locating expert witness • liaising with expert witness • obtaining psychiatric reports • reviewing reports • any agent fees • reporting to client.
Section 38 – Forensic Report *^	\$250	\$270	\$320	For: <ul style="list-style-type: none"> • liaising, obtaining and reviewing section 38 Forensic Report • any agent fees • reporting to client.
Restorative Justice Report	\$150	\$170	\$200	For: <ul style="list-style-type: none"> • obtaining Restorative Justice Report in preparation for sentencing • any agent fees • reporting to client.

(Interlocutory) Appeals to the High Court – Schedules D, E, F				
Activity	D	E	F	Tasks covered by fixed fee
<p>Interlocutory appeal hearings</p> <p>- preparation *</p>	<p>Interim fee \$330 – to be claimed pre-disposal</p> <p>Completion fee \$220 – to be claimed at disposal</p> <p style="text-align: center;">OR</p> <p>Full fee \$550 – to be claimed at disposal</p>			<p>For:</p> <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • preparing and filing notice of appeal • preparing affidavits • undertaking research • liaising with Crown, prosecution • considering Crown, prosecution submissions • preparing submissions for hearing • interviewing/cross examining witnesses • liaising with the High Court • receiving decision • reporting to client • liaising with prison • any agent fees.

- hearing time *	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> • attending interlocutory hearing(s) • any agent fees.
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GRANTING NOTES – SCHEDULES D-F

Legend

- [^] **Case Management Memorandum (CMM)** - this is a repeatable activity if the CMM requires revisions in preparation for a second or subsequent case review hearing for reasons of, for example, other charges being added or if there is a significant change in circumstances.
- @ **Sentencing indications** - this preparation fee is only available if there is a written sentencing indications' submission.
- #¹ **Opposed applications and variations (written preparation)** relate to - bail; bail breaches; name suppression; electronic bail monitoring; media coverage; and vacating a plea. These are repeatable activities and can be claimed per occurrence, up to four times per 'type' (eg bail). After four times, an amendment to grant is required.
- Other applications that can be claimed once (if they are pre-trial and not encompassed within a hearing) are s14, 18, 23, and 25 applications.
- #² **Unopposed applications and variations (written preparation)** – as above, but repeatable only twice per type. After two claims, an amendment to grant is required.
- #³ **Preparation for subsequent callover memoranda** - This is repeatable and can be claimed per occurrence, up to four times. After four times, an amendment to grant is required.
- *¹ **Applications and variations (hearing time)** – this fee is available where there are either written or verbal applications/variations.
- & **Expert witness / reports** - not including non-expert reports (eg probation reports) or oral reports.
- *[^] **Section 38 Forensic reports** – two s38 reports are required by legislation. A fee for each of those reports can be claimed. An amendment to grant is required for claims for any subsequent s38 reports.
- *# **Re-preparation fee** – repeatable where the hearing has been adjourned for a month or more

Preliminary work – disclosure by defendant

Receiving, reviewing and/or preparing disclosure may include preparing the disclosure package ie disclosure by defendant.

When new charges are added to a grant

Each time a new charge is added to a grant, a reduced 'preliminary work' fee can be claimed. If all the charges are treated together from that point, then no additional fees are required.

When there is more than one charge in a grant, and they differ in substance

If there are multiple charges in a grant (either from the outset of the grant or if new charges are added to the grant) that share one or more appearances BUT and then separate with respect to their substance and how they are treated by the court, then repeatable fees can be claimed for each relevant activity, where work for those activities is undertaken.

This applies whether or not the fees in the schedule are shown as repeatable.

Hearing time including waiting time

'Time' is payable in half hour blocks, rounded up to the nearest half hour.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a Judge. Waiting time begins when the provider is required to be in the courtroom. This:

- **includes** waiting time for the jury to deliver a verdict
- **excludes** waiting time where the Judge has excused counsel.

If more than one hour's waiting time is claimed per activity (eg waiting time for trial or waiting time for sentencing) the following information is required:

- a summary of both the waiting time and hearing time on the day of appearance – date and times
- an explanation of the circumstances is also required. This must include:
 - confirmation that the provider was unable to undertake any other work while waiting
 - confirmation that the provider made enquiries to the court about the delay
 - reasons for the delay.

Where a client fails to attend a scheduled appearance, the provider can claim reasonable and actual time for waiting for the client, up to one hour. No evidence is required. Waiting time in addition to one hour in situations where a client fails to attend a hearing can be claimed via an amendment to grant.

Disclosure by prosecutor

Disclosure by the prosecutor can occur at many points in proceedings. Where the schedules refer to 'receiving and reviewing disclosure', this includes any or all of the following tasks, unless a separate fixed fee is otherwise specified:

- requests for further initial disclosure from prosecution (after commencement of proceedings)
- receiving and reviewing further initial disclosure
- receiving and reviewing full disclosure (after not guilty plea, election, or first appearance)
- requesting additional disclosure
- interlocutory applications:
 - address of witness or informant
 - disclosure of information – s30
 - order setting conditions for viewing exhibit – s31
 - timetabling order – s32.

Interlocutories

The fee for interlocutories does not include interlocutories relating to disclosure by prosecutor.

Examples of interlocutories that can be claimed relate to appeal against pre-trial decisions relating to, for example (s215):

- admissibility of evidence
- permission to cross-examine a complainant
- witness identity/anonymity
- disclosure decision (s33(3)(b) Criminal Disclosure Act 2008)
- bail or media coverage
- name suppression.

Interim fees can only be claimed via an interim invoice when the case has been substantially progressed.

Completion fees can only be claimed via a final invoice after disposal and where an interim fee has previously been claimed.

Full fees can only be claimed after disposal via a final invoice and cannot be paid if an interim fee has previously been claimed and approved.

Access to fees when a case is reassigned

If a provider picks up a reassigned case and fees for activities have been claimed, the new provider is eligible for a fee for those activities if they need to do any of the tasks in those activities. The full schedule, assuming the work needs to be done, is available to the new provider.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Audits

Providers are expected to accurately reflect their activities in their invoices. Any suspicion of inaccurate claims can be followed up and providers audited.

Documentation requirements

Application for Criminal Legal Aid – (*LA form 1*) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedules D–F (*LA form 24*) [[s97 Legal Services Act 2011](#)]

Amendments to Grant

Cases in which an Amendment to Grant is approved are referred to as Fixed Fees Plus cases.

Schedule G: Fees schedule for Appeals to the High Court

Appeals to the High Court					
Grounds of Appeal					
Activity	Fixed fee			Tasks covered by fixed fee	
Grounds of Appeal (Interim Grants only)	\$200			For: <ul style="list-style-type: none"> all preparation related to determining the grounds of appeal 	
Preparation of Appeals					
Appeal against Sentence	\$330 Interim = To be claimed pre-disposal		\$550 To be claimed at disposal	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues preparing and filing notice of appeal preparing affidavits undertaking research liaising with Crown considering Crown submissions preparing submissions for hearing interviewing/cross examining witnesses liaising with the High Court receiving decision reporting to client liaising with prison any agent fees. 	
	\$220 Completion = To be claimed at disposal				
Appeal against Conviction	\$440 Interim = To be claimed pre-disposal		\$730 To be claimed at disposal	<p>Note: Interim Fee can only be claimed via an interim invoice when the case has been substantially progressed.</p> <p>Completion Fee can only be claimed via a final invoice after disposal and where an interim fee has previously been claimed.</p> <p>Full fee can only be claimed after disposal via a final invoice and cannot be paid if an interim fee has previously been claimed and approved.</p>	
	\$290 Completion = To be claimed at disposal				
Appeal against Conviction and Sentence	\$440 Interim = To be claimed pre-disposal		\$730 To be claimed at disposal	<p>Note: Interim Fee can only be claimed via an interim invoice when the case has been substantially progressed.</p> <p>Completion Fee can only be claimed via a final invoice after disposal and where an interim fee has previously been claimed.</p> <p>Full fee can only be claimed after disposal via a final invoice and cannot be paid if an interim fee has previously been claimed and approved.</p>	
	\$290 Completion = To be claimed at disposal				
Schedule (substantive matter)	A-C	D	E	F	Tasks covered by fixed fee
Appeal Hearing - hearing time*	\$48 per half hour	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> actual hearing time any agent fees.

Additional fixed fees

Reassignment

Activity	Fixed fee	Tasks covered by fixed fee
Termination of Assignment fee	\$330 For Appeal against Sentence	For: <ul style="list-style-type: none"> • work undertaken prior to termination of assignment that has substantially progressed case. Note, the Termination of Assignment fee cannot be paid if an interim fee or base fee for that activity has previously been paid to that provider.
	\$440 For Appeal against Conviction; Appeal against Conviction and Sentence	

Schedule H: Fees schedule for Appeals to the Court of Appeal

Appeals to the Court of Appeal		
Preparation of summary of issues to be raised on appeal		
Activity	Fixed fee	Tasks covered by fixed fee
Preparation of issues (by trial counsel)	\$270	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues • preparing application for legal aid • reporting to client • any agent fees
Preparation of issues (by new counsel)	\$660	
Preparation of appeals		
Activity	Fixed fee	Tasks covered by fixed fee
Appeal against interlocutory decision (e.g. disclosure, pre-trial rulings, admissibility of evidence, name suppression, media coverage, etc.)	\$1400	For: <ul style="list-style-type: none"> - taking instructions, attending the client - identifying legal and factual issues - preparing and filing notice of appeal - preparing affidavits - undertaking research - liaising with Crown - considering Crown submissions - preparing submissions for hearing - interviewing/cross examining witnesses - liaising with the Court of Appeal - receiving decision - reporting to client - liaising with prison - any agent fees.
Appeal against Sentence	\$1000	
Appeal against Conviction	\$1700	
Appeal against Conviction and Sentence	\$2400	
Appeal	\$76	
- hearing time*	per half hour	For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.

Schedule I: Fees schedule for Appeals to the Supreme Court

Appeals to the Supreme Court		
Preparation of application for Leave to Appeal		
Activity	Fixed fee	Tasks covered by fixed fee
Preparation of application (by trial or prior appeal counsel)	\$860	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues
Preparation of application (by new counsel)	\$1400	<ul style="list-style-type: none"> • preparing and filing notice of application for leave • preparing application for legal aid • undertaking research • preparing affidavits (if relevant) • preparing written submissions on leave application • liaising with Crown • considering Crown submissions • preparing for any hearing (if relevant) • liaising with the Supreme Court • receiving decision • reporting to client • liaising with prison (if relevant) • any agent fees
Leave to Appeal - hearing time*	\$76 per half hour	For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.
Preparation of response to application for Leave to Appeal		
Activity	Fixed fee	Tasks covered by fixed fee
Preparation of response (by trial or prior appeal counsel)	\$860	For: <ul style="list-style-type: none"> • receiving notice of application for leave • taking instructions, attending the client • preparing application for legal aid • considering Crown submissions • identifying legal and factual issues • undertaking research • preparing affidavits (if relevant)
Preparation of response (by new counsel)	\$1400	<ul style="list-style-type: none"> • preparing written submissions on leave application • liaising with Crown • preparing for any hearing (if relevant) • liaising with the Supreme Court • receiving decision • reporting to client • liaising with prison (if relevant) - any agent fees.

Response to Leave to Appeal - hearing time*	\$76 per half hour	For: • Actual hearing time • Any agent fees.
Substantive Appeal (following the granting of leave)		
Activity	Fixed fee	Tasks covered by fixed fee
Preparation for appeal hearing	Estimate required by Amendment	For: - taking instructions, attending the client - identifying legal and factual issues - receiving and reviewing disclosure - engaging in charge discussions/resolution/negotiation with the Officer in Charge Prosecution - entering plea - reporting to client - any agent fees.
Appeal - hearing time*	\$76 per half hour	For: • actual hearing time • any agent fees.

GRANTING NOTES FOR SCHEDULES G-I

Hearing time including waiting time

'Time' is payable in half hourly blocks, rounded up to the nearest half hour, or hourly blocks, rounded up to the nearest hour, or two hourly blocks, rounded up to the nearest two hour block, depending on the activity.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a judge. Waiting time begins when the provider is required to be in the courtroom. This excludes waiting time where the judge has excused counsel.

If more than one hour's waiting time is claimed per activity (eg waiting time for trial or waiting time for sentencing) the following information is required:

- a summary of both the waiting time and hearing time on the day of appearance – date and times
- an explanation of the circumstances is also required. This must include:
 - confirmation that the provider was unable to undertake any other work while waiting
 - confirmation that the provider made enquiries to the court about the delay
 - reasons for the delay.

Where a client fails to attend a scheduled appearance, the provider can claim reasonable and actual time for waiting for the client, up to one hour. No evidence is required. Waiting time in addition to one hour in situations where a client fails to attend a hearing can be claimed via an amendment to grant.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Documentation requirements

Application for Criminal Legal Aid (LA form 1) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedule G (LA form 25) [[s97 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedules H–I (LA form 26) [[s97 Legal Services Act 2011](#)]

Schedule J: Fees schedule for Parole (Criminal Matters)

Parole (Criminal Matters)			
Proceedings before NZ Parole Board			
Activity	Interim/ Completion	Full	Tasks covered by fixed fee
Preparation for hearing – Postponement order (s27)	\$270 Interim = To be claimed pre- disposal	\$450 To be claimed at disposal	For: <ul style="list-style-type: none"> taking instructions, attending the client identifying legal and factual issues reviewing file perusing Parole Board material undertaking research instructing experts receiving specialist reports preparing application for order(s) preparing submissions for hearing(s) liaising with the Parole Board, High Court receiving decision reporting to client any agent fees
	\$180 Completion = To be claimed at disposal		
Preparation for hearing – Recall (ss59-66A – breach of parole)	\$270 Interim = To be claimed pre- disposal	\$450 To be claimed at disposal	
	\$180 Completion = To be claimed at disposal		
Preparation for hearing – Non-release orders (s107)	\$360 Interim = To be claimed pre- disposal	\$600 To be claimed at disposal	Note: Interim Fee can only be claimed via an interim invoice when the case has been substantially progressed. Completion Fee can only be claimed via a final invoice after disposal and where an interim fee has previously been claimed. Full fee can only be claimed after disposal via a final invoice and cannot be paid if an interim fee has previously been claimed and approved.
	\$240 Completion = To be claimed at disposal		
Preparation for hearing – Extended supervision orders (ss 107F-107I, 107M)	\$520 Interim = To be claimed pre- disposal	\$860 To be claimed at disposal	
	\$340 Completion = To be claimed at disposal		

Other parole matters	n/a	\$372 To be claimed at disposal	
Activity	Fixed fee		Tasks covered by fixed fee
Parole - hearing time*	\$59 per half hour		For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.
Parole Appeals – Grounds for Appeal			
Activity	Fixed fee		Tasks covered by fixed fee
Grounds of Appeal (Interim Grants only)	\$220		For: <ul style="list-style-type: none"> • all preparation related to determining the grounds of appeal.
Parole Appeals – Substantive Appeal			
Activity	Fixed fee		Tasks covered by fixed fee
Appeals to High Court from certain decisions of the Parole Board (s68-70) – postponements, extended supervision orders, recalls	Estimate required by Amendment		For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues • reviewing file • perusing Parole Board material • undertaking research • instructing experts • receiving specialist reports • preparing application for order(s) • preparing submissions for hearing(s) • liaising with the Parole Board, High Court • receiving decision • reporting to client • any agent fees.
Appeals to Court of Appeal from sentencing Court (s107R extended supervision)	Estimate required by Amendment		
Parole Appeal - hearing time*	\$59 per half hour		For: <ul style="list-style-type: none"> • actual hearing time • any agent fees.

Additional fixed fees		
Reassignment		
Activity	Fixed fee	Tasks covered by fixed fee
Termination of Assignment fee	<p>\$270</p> <p>For Postponement Order; Recall</p>	<p>For:</p> <ul style="list-style-type: none"> work undertaken prior to termination of assignment that has substantially progressed case. <p>Note, the Termination of Assignment fee cannot be paid if an interim fee has previously been paid to that provider.</p>

GRANTING NOTES FOR SCHEDULE J

Fee for 'Other Matters'

This is a one-off fee to compensate for time taken to attend reintegration hui and/or liaise with family members and other parties.

Hearing time including waiting time

Time begins from when the parole provider needs to be at the car park of the prison in order to be on time for a scheduled parole hearing and ends when the provider returns to their car following the hearing.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a Parole Board. If the parole provider is required to wait more than one hour for the hearing time to begin, an explanation of the delay is required, but evidence is not.

Hearing time is payable in half hour blocks, rounded up to the nearest half hour.

If a Parole Board hearing is cancelled after the provider has arrived at the prison, the provider can still claim for time from arriving at the car park to returning to the car park.

Disclosure by prosecutor

Disclosure by the prosecutor can occur at many points in proceedings. Where the schedules refer to 'Receiving and reviewing disclosure', this includes any or all of the following tasks, unless a separate fixed fee is otherwise specified:

- request further initial disclosure from prosecution (after commencement of proceedings)
- receiving and reviewing further initial disclosure
- receiving and reviewing full disclosure (after not guilty plea, election, or first appearance)
- requesting additional disclosure
- interlocutory applications:
 - Application for address of witness or informant
 - Application for disclosure of information – s30
 - Application for order setting conditions for viewing exhibit – s31
 - Application for timetabling order – s32.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Documentation requirements

Application for Criminal Legal Aid (*LA form 1*) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedule J (*LA form 27*) [[s97 Legal Services Act 2011](#)]

Revised Criminal Legal Aid Fee Schedules 2018

Implementation – 2 July 2018

This fee schedule is available for new cases granted on or after 2 July 2018.

Criminal legal aid fee schedule – 2 July 2018

Proceedings under the Criminal Procedure Act 2011

Schedule A: Police Prosecutions¹ - Judge-alone

- non-imprisonment [CAT 1]
- <2 years imprisonment [CAT 2]
- 2-10 years imprisonment [CAT 3]

Activity	A	B	C	Tasks covered by fixed fee
Admin/Review				
Preliminary work – - new legal aid grant - when additional charges are added to the legal aid grant *	\$155			For: <ul style="list-style-type: none"> • taking instructions, attending client • receiving, reviewing and/or preparing disclosure • identifying legal and factual issues • undertaking research • reviewing evidence (including videos/DVD's) • liaising with prosecutor/court • identifying the need for applications, interlocutories etc. • entering plea • any agent fees • reporting to client.
	\$90			
Charge discussions	\$120			<ul style="list-style-type: none"> • engaging in charge discussions and/or resolution, including diversion or charges withdrawn.
Case Management Memorandum (CMM) / Case Review Hearing – - preparation ^	\$200	\$200	\$720	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues • undertaking research • reviewing/perusing evidence (including videos/DVD's) • liaising with prosecutor/court • CMM and charges/case discussions with client and prosecutions • preparing and completing the CMM • preparing for CMM list event and/or judicial intervention hearing as applicable • entering pleas • preparing submissions • any agent fees • reporting to client. <p>Note: Evidence of having filed the CMM is not required</p>
Appearances - - hearing time*	\$48 per half hour			For: <ul style="list-style-type: none"> • attending the Registrar's/ Judge's List Court when sentencing occurs on the same day as a plea is entered • attending the Case Review Hearing • any agent fees.

1 **Police Prosecutions** include proceedings conducted by a prosecutor except those specified as Crown prosecutions under regulation 4 of the Crown Prosecution Regulations 2013.

Activity	A-C	Tasks covered by Fixed Fee
Other matters		
Sentencing Indications – - preparation @ ¹ - hearing time *	\$250	For: <ul style="list-style-type: none"> • taking instructions, attending the client • preparing for Sentencing Indications Hearing • preparing and completing written submissions • any agent fees • reporting to client.
	\$48 per half hour	For: <ul style="list-style-type: none"> • attending the Sentencing Indications Hearing • any agent fees.
Applications and variations (opposed) – - preparation of written submission(s)# ¹ Applications and variations (unopposed) – - preparation of written submission(s)# ²	\$225	For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving and reviewing disclosure • identifying legal and factual issues • preparing application • liaising with other agencies and family/whānau as necessary • receiving decision • any agent fees • reporting to client.
Applications and variations - - hearing time * ¹	\$48 per half hour	For: <ul style="list-style-type: none"> • attending hearing(s) for applications or variations • any agent fees.
Written sentencing reports/ submissions - & - written expert witness/reports - section 38 – Forensic Report * ^Λ - restorative Justice Report - alcohol and Drug reports - any other court-ordered reports - written sentencing submissions @ ²	\$150	For: <ul style="list-style-type: none"> • taking instructions, attending the client • liaising with and briefing (verbal or written) specialists or experts • obtaining and reviewing any reports • any agent fees • reporting to client.
	\$250	For: <ul style="list-style-type: none"> • taking instructions, attending the client • preparing sentencing submissions and affidavits – <ul style="list-style-type: none"> - under Sentencing Practice Note 2003 - in support of an application made under, for example, sections 81 or 94 of the Land Transport Act 1998, or under section 106 of the Sentencing Act 2002 • any agent fees • reporting to client.
Fitness to Plead/ Stand Trial – - preparation	\$225	For: <ul style="list-style-type: none"> • taking instructions, attending the client • preparation of Fitness to Plead/ Stand Trial application • any agent fees • reporting to client.
- hearing time *	\$48 per half hour	For: <ul style="list-style-type: none"> • attending Fitness to Plead/Stand Trial Hearing • any agent fees.

Activity	A-C	Tasks covered by fixed fee
Other matters (continued)		
Preparation for referral to the Alcohol and Other Drug Treatment (AODT) court - - preparation - hearing time *	\$225	For: <ul style="list-style-type: none"> taking instructions, attending the client preparation of application/ submissions any agent fees reporting to client.
	\$48 per half hour	For: <ul style="list-style-type: none"> attending court appearances for referring matters to the AODT court any agent fees.
Pre-trial activities		
Pre-trial admissibility – - preparation - hearing time *	\$225	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues preparing application liaising with other agencies receiving decision any agent fees reporting to client.
	\$48 per half hour	For: <ul style="list-style-type: none"> attending pre-trial admissibility hearing any agent fees.
Trial and sentencing		
Disputed Facts – - preparation - hearing time *	\$225	For: <ul style="list-style-type: none"> taking instructions, attending the client preparation for Disputed Facts Hearing any agent fees reporting to client.
	\$48 Per half hour	For: <ul style="list-style-type: none"> attending Disputed Facts Hearing any agent fees.
Trial – - preparation (part) - if case resolves prior to Trial but a significant amount of work has been carried out OR - preparation (full) – if case goes to a hearing - hearing time *	\$250	<ul style="list-style-type: none"> taking instructions, attending the client identifying legal and factual issues reviewing evidence (including videos/DVDs) undertaking research any agent fees obtaining pre-sentence reports preparing for trial– cross examination, briefing witnesses, submissions receiving verdict any agent fees reporting to client.
	\$500	
	\$48 per half hour	For: <ul style="list-style-type: none"> attending the trial hearing any agent fees.

Activity	A-C	Tasks covered by fixed fee
Trial and sentencing (continued)		
Sentencing (when remanded off for sentencing) – - preparation - hearing time *	\$200	For: <ul style="list-style-type: none"> preparing for the sentencing hearing any agent fees reporting to client.
	\$48 per half hour	For: <ul style="list-style-type: none"> attending the Sentencing Hearing any agent fees.
Re-preparation *#	\$120	<ul style="list-style-type: none"> re-preparation prior to an adjourned or subsequent Trial/Sentencing hearing.
(Interlocutory) Appeals to the High Court		
Interlocutory appeal hearings – - preparation *	\$450	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues preparing and filing notice of appeal preparing affidavits undertaking research liaising with Crown, prosecution considering Crown, prosecution submissions preparing submissions for hearing interviewing/cross examining witnesses liaising with the High Court liaising with prison receiving decision any agent fees reporting to client.
	\$48 per half hour	For: <ul style="list-style-type: none"> attending Interlocutory Hearing(s) any agent fees.

GRANTING NOTES – SCHEDULE A

Legend

- * **Repeatables** - this is a repeatable activity and can be claimed per occurrence of this activity. This includes for all hearings/appearances that are stood down or adjourned, or which need to be rescheduled because the client fails to appear. The fee that can be claimed relates to the hearing time from the time the provider is required to be in the courtroom.
- ^ **Case management memorandum (CMM)** - this is a repeatable activity if the CMM requires revisions in preparation for a second or subsequent case review hearing for reasons of, for example, other charges being added or if there is a significant change in circumstances.
- @¹ **Sentencing indications** - this preparation fee is available only if there is a written sentencing indications' submission.
- @² **Written sentencing submission** - if the client accepts the Sentencing Indication, a Written Sentencing Submission is not required and the fee for a written sentencing submission cannot be claimed.

If the client does not accept the Sentencing Indication, then the fee for Written Sentencing Submissions can be claimed if the work is carried out. This applies whether or not the Submission is Judge-ordered.

#¹ **Opposed applications and variations (written preparation)** relate to - bail; bail breaches; name suppression; electronic bail monitoring; media coverage; and vacating a plea. These are repeatable activities and can be claimed per occurrence, up to four times per 'type' (eg Bail). After four times, an Amendment to Grant is required.

Other applications that can be claimed once (if pre-trial, and not encompassed within a hearing) are s14, 18, 23, and 25 applications.

#² **Unopposed applications and variations (written preparation)** – as above, but repeatable only twice per type. After two claims, an Amendment to Grant is required.

*¹ **Applications and variations (hearing time)** – this fee is available where there are either written or verbal applications/variations.

& **Written expert witness / reports** - not including non-expert reports (eg probation reports) or oral reports.

*[^] **Section 38 Forensic reports** – two s38 reports are required by legislation. A fee for each of those reports can be claimed. An Amendment to Grant is required for claims for any subsequent s38 reports.

*# **Re-preparation fee** – repeatable where the hearing has been adjourned for a month or more.

Preliminary work – disclosure by defendant

Receiving, reviewing and/or preparing disclosure may include preparing the disclosure package ie disclosure by defendant.

When new charges are added to a grant

Each time a new charge is added to a grant, a reduced 'preliminary work' fee can be claimed. If all the charges are treated together from that point, then no additional fees are required.

When there is more than one charge in a grant, and they differ in substance

If there are multiple charges in a grant (either from the outset of the grant or if new charges are added to the grant) that share one or more appearances BUT and then separate with respect to their substance and how they are treated by the court, then repeatable fees can be claimed for each relevant activity, where work for those activities is undertaken.

This applies whether or not the fees in the schedule are shown as repeatable.

Hearing time including waiting time

'Time' is payable in half hour blocks, rounded up to the nearest half hour.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a Judge. Waiting time begins when the provider is required to be in the courtroom. This -

- **includes** waiting time for the jury to deliver a verdict
- **excludes** waiting time where the Judge has excused counsel.

If more than one hour's waiting time is claimed per activity (eg waiting time for trial or waiting time for sentencing) the following information is required:

- a summary of both the waiting time and hearing time on the day of appearance – date and times
- an explanation of the circumstances is also required. This must include:
 - confirmation that the provider was unable to undertake any other work while waiting
 - confirmation that the provider made enquiries to the court about the delay
 - reasons for the delay.

Where a client fails to attend a scheduled appearance, the provider can claim reasonable and actual time for waiting for the client, up to one hour. No evidence is required. Waiting time in addition to one hour in situations where a client fails to attend a hearing can be claimed via an amendment to grant.

Disclosure by prosecutor

Disclosure by the prosecutor can occur at many points in proceedings. Where the schedules refer to 'receiving and reviewing disclosure', this includes any or all of the following tasks, unless a separate fixed fee is otherwise specified:

- requests for further initial disclosure from prosecution (after commencement of proceedings)
- receiving and reviewing further initial disclosure
- receiving and reviewing full disclosure (after not guilty plea, election, or first appearance)
- requesting additional disclosure
- interlocutory applications:
 - address of witness or informant
 - disclosure of information – s30
 - order setting conditions for viewing exhibit – s31
 - timetabling order – s32.

Interlocutories

The fee for interlocutories does not include interlocutories relating to disclosure by prosecutor.

Examples of interlocutories that can be claimed relate to appeal against pre-trial decisions relating to, for example (s215):

- admissibility of evidence
- permission to cross-examine a complainant
- witness identity/anonymity
- disclosure decision (s33(3)(b) Criminal Disclosure Act 2008)
- bail or media coverage
- name suppression.

Access to fees when a case is reassigned

If a provider picks up a reassigned case and fees for activities have been claimed, the new provider is eligible for a fee for those activities if they need to do any of the tasks in those activities. The full schedule, assuming the work needs to be done, is available to the new provider.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Audits

Providers are expected to accurately reflect their activities in their invoices. Any suspicion of inaccurate claims can be followed up and providers audited.

Documentation requirements

Application for Criminal Legal Aid – Police prosecution (*LA form 1a*) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedule A (*LA form 23*) [[s97 Legal Services Act 2011](#)]

Amendments to Grant

Cases in which an amendment to grant is approved are referred to as fixed fees plus cases.

Schedules D, E and F: Crown Prosecutions ² - Judge-alone or Jury Trial

- 2-10 years imprisonment [Cat 3]
- 10+ years imprisonment except CPA schedule F offences [CAT 3]
- Other [CAT 4]

Activity	D	E	F	Tasks covered by Fixed Fee
Admin/Review				
Preliminary work – - new legal aid grant - when additional charges are added to the Legal Aid Grant *	\$430	\$645	\$875	For: <ul style="list-style-type: none"> • taking instructions, attending the client • receiving, reviewing, and/or preparing disclosure • identifying legal and factual issues • discussing charges/case/plea with prosecutor • undertaking research • reviewing/perusing evidence (including videos/DVDs) • liaising with prosecutor • identifying the need for applications, interlocutories etc • entering plea • any agent fees • reporting to client.
	\$215	\$320	\$435	
Case Management Memorandum / Case Review Hearing – - preparation ^	\$720	\$1,235	\$2,155	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues • undertaking research • reviewing/perusing evidence (including videos/DVD's) • liaising with Crown • CMM and charges/case discussions with client and Crown • preparing and completing the CMM • preparing for CMM list event and/or judicial intervention hearing as applicable • entering pleas • preparing submissions • any agent fees • reporting to client. <p>Note: Evidence of having filed the CMM is not required.</p>
	\$59 per half hour	\$67 per half hour	\$76 per half hour	
- hearing time *				For: <ul style="list-style-type: none"> • attending the Registrar's/ Judge's List Court • attending the Case Review Hearing • any agent fees.

² **Crown Prosecutions** are proceedings specified as Crown prosecutions under regulation 4 of the Crown Prosecution Regulations 2013.

Activity	D	E	F	Tasks covered by Fixed Fee
Other matters				
Sentencing Indications : - preparation @ - hearing time *	\$300	\$500	\$700	For: <ul style="list-style-type: none"> taking instructions, attending the client preparation for Sentencing Indications Hearing preparing and completing written submissions any agent fees reporting to client.
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending the Sentencing Indications Hearing any agent fees.
Applications and variations (opposed)- - preparation of written submissions # ¹ Applications and variations (unopposed) - - preparation of written submissions #2	\$300	\$350	\$400	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues preparing application or variations liaising with other agencies and family/whānau receiving decision any agent fees reporting to client.
	\$200	\$250	\$300	
Applications and variations - - hearing time *1	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending hearing(s) for applications or variations any agent fees.
Written sentencing reports/ submissions - - written expert witness /reports & - section 38 – Forensic Report *^ - restorative Justice Reports - alcohol and Drug reports - other court-ordered reports	\$250	\$380	\$570	For: <ul style="list-style-type: none"> locating expert witness liaising with specialists or experts obtaining and reviewing reports any agent fees reporting to client.
Fitness to Plead/ Stand Trial – - preparation - hearing time *	\$250			For: <ul style="list-style-type: none"> taking instructions, attending the client preparation and delivery of application any agent fees reporting to client.
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending Fitness to Plead/Stand Trial Hearing any agent fees.
Alcohol and Other Drug Treatment (AODT) court - - preparation - hearing Time *	\$250			For: <ul style="list-style-type: none"> taking instructions, attending the client preparation of application/ submissions any agent fees reporting to client.
	\$59 Per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending AODT court appearances any agent fees.

Activity	D	E	F	Tasks covered by fixed fee
Pre-Trial activities				
Trial callover memorandum (TCM) – - preparation	\$250	\$300	\$350	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues undertaking research reviewing evidence (including videos/DVDs) corresponding with Crown liaising with experts receiving Crown memorandum preparing Defence memorandum identifying pre-trial issues liaising with Crown/Court liaising with witnesses any agent fees reporting to client.
Subsequent callover memoranda – - preparation #3	\$140	\$150	\$200	For: <ul style="list-style-type: none"> taking instructions, attending the client preparing any subsequent callover memoranda any agent fees reporting to client.
Pre-trial conferences and callovers – - hearing time *	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending Pre-Trial Conferences and callovers any agent fees.
Disclosure – - preparation * <ul style="list-style-type: none"> disclosure by defendant (Criminal Disclosure Act 2008) application for disclosure of information (s30) other applications for disclosure 	\$220	\$240	\$290	For: <ul style="list-style-type: none"> preparation of disclosure package including: <ul style="list-style-type: none"> notice of alibi (s22) evidence of expert witness (s23) service on prosecutor associated correspondence. Or <ul style="list-style-type: none"> preparation of an application for disclosure of information under s30 preparation for hearing (including written submissions). Or <ul style="list-style-type: none"> for preparation for any or all of: Application for address of witness or informant (s17); Application for order setting conditions for viewing exhibit (s31); Application for timetabling order (s32); Preparation for hearings. And <ul style="list-style-type: none"> any agent fees reporting to client.
- preparation <ul style="list-style-type: none"> non-party disclosure 	\$600			For: <ul style="list-style-type: none"> preparation of an application for non-party disclosure hearing (s24) preparation for hearing (including written submissions) any agent fees reporting to client.
- hearing time *	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending disclosure hearing(s) any agent fees.

Activity	D	E	F	Tasks covered by fixed fee		
Pre-trial activities (continued)						
Pre-trial applications including responding to Crown Applications - preparation	\$700	\$1,100	\$1,940	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues perusing file undertaking research corresponding with Crown liaising with Crown/Court discussing charges/case/with Crown reviewing Crown submissions briefing witnesses preparing cross examination preparing submissions any agent fees reporting to client. Note: one fee to be claimed for all applications.		
- hearing time *	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending pre-trial applications' Hearing any agent fees. 		
Trial and sentencing						
Disputed facts – - preparation	\$250			For: <ul style="list-style-type: none"> taking instructions, attending the client preparation for Disputed Facts Hearing any agent fees reporting to client. 		
- hearing time *	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending disputed facts hearing any agent fees. 		
Trial – - preparation – (part) when election for trial by jury is reversed OR client pleads guilty OR - preparation – (full) if case goes to a full hearing	\$500	\$800	Estimate required by amendment	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues perusing evidence scene visits undertaking research corresponding with Police/Crown liaising with Crown/Court discussing charges/case/with Crown reviewing videos/DVDs (for edits) serving summons to appear briefing witnesses preparing cross examination preparing submissions preparing opening/closing addresses any agent fees reporting to client. 		
- hearing time *	\$1,400	\$2,650		\$59 per half hour	\$67 per half hour	\$76 per half hour

Activity	D	E	F	Tasks covered by fixed fee
Trial and sentencing (continuing)				
Sentencing – - preparation (if sentencing indication not accepted) - hearing time	\$600	\$1,000	\$1,400	For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues undertaking research obtaining testimonials/references corresponding with Police/Crown liaising with Crown/Court reviewing Crown submissions reviewing probation or other reports and annexures preparing submissions any agent fees reporting to client.
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending Sentencing Hearing any agent fees.
Re-preparation *#	\$400			<ul style="list-style-type: none"> re-preparation prior to an adjourned or subsequent trial/sentencing hearing.
Interlocutory Appeals to the High Court				
Interlocutory appeal hearings – - preparation * - hearing time *	Interim fee \$330 - to be claimed pre-disposal Completion fee \$220 – to be claimed at disposal OR Full fee \$550 – to be claimed at disposal			For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues preparing and filing notice of appeal preparing affidavits undertaking research liaising with Crown, prosecution considering Crown, prosecution submissions preparing submissions for hearing interviewing/cross examining witnesses liaising with the High Court liaising with prison receiving decision reporting to client any agent fees.
	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending interlocutory hearing(s) any agent fees.

GRANTING NOTES – SCHEDULES D-F

Legend

- * **Repeatables** - this is a repeatable activity and can be claimed per occurrence of this activity. This includes for all hearings/appearances that are stood down or adjourned, or which need to be rescheduled because the client fails to appear. The fee that can be claimed relates to the hearing time from the time the provider is required to be in the courtroom.
- ^ **Case Management Memorandum (CMM)** - this is a repeatable activity if the CMM requires revisions in preparation for a second or subsequent case review hearing for reasons of, for example, other charges being added or if there is a significant change in circumstances.
- @ **Sentencing indications** - this preparation fee is only available if there is a written sentencing indications' submission.
- #¹ **Opposed applications and variations (written preparation)** relate to - bail; bail breaches; name suppression; electronic bail monitoring; media coverage; and vacating a plea. These are repeatable activities and can be claimed per occurrence, up to four times per 'type' (eg bail). After four times, an amendment to grant is required.

Other applications that can be claimed once (if they are pre-trial and not encompassed within a hearing) are s14, 18, 23, and 25 applications.
- #² **Unopposed applications and variations (written preparation)** – as above, but repeatable only twice per type. After two claims, an amendment to grant is required.
- #³ **Preparation for subsequent callover memoranda** - This is repeatable and can be claimed per occurrence, up to four times. After four times, an amendment to grant is required.
- *¹ **Applications and variations (hearing time)** – this fee is available where there are either written or verbal applications/variations.
- & **Expert witness / reports** - not including non-expert reports (eg probation reports) or oral reports.
- *^ **Section 38 Forensic reports** – two s38 reports are required by legislation. A fee for each of those reports can be claimed. An amendment to grant is required for claims for any subsequent s38 reports.
- *# **Re-preparation fee** – repeatable where the hearing has been adjourned for a month or more.

Preliminary work – disclosure by defendant

Receiving, reviewing and/or preparing disclosure may include preparing the disclosure package ie disclosure by defendant.

When new charges are added to a grant

Each time a new charge is added to a grant, a reduced 'preliminary work' fee can be claimed. If all the charges are treated together from that point, then no additional fees are required.

When there is more than one charge in a grant, and they differ in substance

If there are multiple charges in a grant (either from the outset of the grant or if new charges are added to the grant) that share one or more appearances BUT and then separate with respect to their substance and how they are treated by the court, then repeatable fees can be claimed for each relevant activity, where work for those activities is undertaken.

This applies whether or not the fees in the schedule are shown as repeatable.

Hearing time including waiting time

'Time' is payable in half hour blocks, rounded up to the nearest half hour.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a Judge. Waiting time begins when the provider is required to be in the courtroom. This:

- **includes** waiting time for the jury to deliver a verdict
- **excludes** waiting time where the Judge has excused counsel.

If more than one hour's waiting time is claimed per activity (eg waiting time for trial or waiting time for sentencing) the following information is required:

- a summary of both the waiting time and hearing time on the day of appearance – date and times
- an explanation of the circumstances is also required. This must include:
 - confirmation that the provider was unable to undertake any other work while waiting
 - confirmation that the provider made enquiries to the court about the delay
 - reasons for the delay.

Where a client fails to attend a scheduled appearance, the provider can claim reasonable and actual time for waiting for the client, up to one hour. No evidence is required. Waiting time in addition to one hour in situations where a client fails to attend a hearing can be claimed via an amendment to grant.

Disclosure by prosecutor

Disclosure by the prosecutor can occur at many points in proceedings. Where the schedules refer to 'receiving and reviewing disclosure', this includes any or all of the following tasks, unless a separate fixed fee is otherwise specified:

- requests for further initial disclosure from prosecution (after commencement of proceedings)
- receiving and reviewing further initial disclosure
- receiving and reviewing full disclosure (after not guilty plea, election, or first appearance)
- requesting additional disclosure
- interlocutory applications:
 - address of witness or informant
 - disclosure of information – s30
 - order setting conditions for viewing exhibit – s31
 - timetabling order – s32.

Interlocutories

The fee for interlocutories does not include interlocutories relating to disclosure by prosecutor.

Examples of interlocutories that can be claimed relate to appeal against pre-trial decisions relating to, for example (s215):

- admissibility of evidence
- permission to cross-examine a complainant
- witness identity/anonymity
- disclosure decision (s33(3)(b) Criminal Disclosure Act 2008)
- bail or media coverage
- name suppression.

Interim fees can only be claimed via an interim invoice when the case has been substantially progressed.

Completion fees can only be claimed via a final invoice after disposal and where an interim fee has previously been claimed.

Full fees can only be claimed after disposal via a final invoice and cannot be paid if an interim fee has previously been claimed and approved.

Access to fees when a case is reassigned

If a provider picks up a reassigned case and fees for activities have been claimed, the new provider is eligible for a fee for those activities if they need to do any of the tasks in those activities. The full schedule, assuming the work needs to be done, is available to the new provider.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Audits

Providers are expected to accurately reflect their activities in their invoices. Any suspicion of inaccurate claims can be followed up and providers audited.

Documentation requirements

Application for Criminal Legal Aid – (*LA form 1*) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedules D–F (*LA form 24*) [[s97 Legal Services Act 2011](#)]

Amendments to Grant

Cases in which an Amendment to Grant is approved are referred to as Fixed Fees Plus cases.

Schedule G: Fees schedule for Appeals to the High Court

Activity	Fixed fee				Tasks covered by fixed fee
Schedule	A-C	D	E	F	
Pre-proceedings					
Grounds of appeal (Interim Grant)	\$1,000				For: <ul style="list-style-type: none"> all preparation related to determining the grounds of appeal any agent fees.
Termination of assignment fee	\$600 For Appeal against Sentence				For: <ul style="list-style-type: none"> work undertaken prior to termination of assignment that has substantially progressed the case any agent fees. <p>Note - the termination of assignment fee cannot be paid if an interim fee or base fee for that activity has previously been paid to that provider.</p>
	\$1,000 For Appeal against Conviction				
	\$1,200 For Appeal against Conviction and Sentence				
Conferences					
Pre-hearing conference(s) – - hearing time *	\$48 per half hour	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending pre-hearing conference(s) any agent fees.
Preparation of appeals					
Appeal against sentence – - preparation	\$600 Interim = To be claimed pre-disposal		\$1,000 To be claimed at disposal		For: <ul style="list-style-type: none"> taking instructions, attending the client receiving and reviewing disclosure identifying legal and factual issues preparing and filing notice of appeal preparing affidavits undertaking research liaising with Crown considering Crown submissions preparing submissions for hearing interviewing/cross examining witnesses liaising with the High Court receiving decision liaising with prison any agent fees reporting to client. <p>Notes: Interim Fee can only be claimed via an interim invoice when the case has been substantially progressed. Completion fee can only be claimed via a final invoice after disposal and where an interim fee has previously been claimed. Full fee can only be claimed after disposal via a final invoice and cannot be paid if an interim fee has previously been claimed and approved.</p>
	\$400 Completion = To be claimed at disposal				
Appeal against conviction – - preparation	\$1,000 Interim = To be claimed pre-disposal		\$1,500 To be claimed at disposal		
	\$500 Completion = To be claimed at disposal				
Appeal against conviction and sentence – - preparation	\$1,200 Interim = To be claimed pre-disposal		\$2,000 To be claimed at disposal		
	\$800 Completion = To be claimed at disposal				

Activity	Fixed fee				Tasks covered by fixed fee
	A-C	D	E	F	
Preparation of appeals (continued)					
Appeal hearing – - hearing time *	\$48 per half hour	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending Appeal Hearing(s) any agent fees.
Application for admitting fresh evidence *	\$250				For: <ul style="list-style-type: none"> taking instructions; attending the client preparation, completion and lodgement of applications(s) for admitting fresh evidence any agent fees reporting to client.
Leave to appeal to Court of Appeal					
Leave to appeal to Court of Appeal - preparation	\$1,000				For: <ul style="list-style-type: none"> taking instructions; attending the client all preparation related to applying for leave to appeal to the Court of Appeal any agent fees reporting to client.
- hearing time *	\$48 per half hour	\$59 per half hour	\$67 per half hour	\$76 per half hour	For: <ul style="list-style-type: none"> attending hearing(s) about leave to appeal to the Court of Appeal any agent fees.

Schedule H: Fees schedule for Appeals to the Court of Appeal

Activity	Fixed fee	Tasks covered by fixed fee
Preparation of summary of issues to be raised on appeal		
Preparation of issues (by trial counsel) (Interim Grant)	\$1,000	For: <ul style="list-style-type: none"> taking instructions, attending the client identifying legal and factual issues preparing application for legal aid any agent fees reporting to client.
Preparation of issues (by new counsel) (Interim Grant)	\$1,600	
Conferences		
Pre-hearing conference(s) – - hearing time *	\$159 per hour	For: <ul style="list-style-type: none"> attending pre-hearing conference(s) any agent fees.
Preparation of appeals		
Appeal against interlocutory decision (eg disclosure, pre-trial rulings, admissibility of evidence, name suppression, media coverage, etc.) – - preparation	\$1,800	For: <ul style="list-style-type: none"> taking instructions, attending the client identifying legal and factual issues preparing and filing notice of appeal preparing affidavits undertaking research liaising with Crown considering Crown submissions preparing submissions for hearing interviewing/cross examining witnesses liaising with the Court of Appeal receiving decision liaising with prison any agent fees reporting to client.
Appeal against sentence – - preparation	\$2,200	
Appeal against conviction – - preparation	\$3,200	
Appeal against conviction and sentence – - preparation	\$4,000	
Appeal – - hearing time *	\$350 per two hours	

Schedule I: Fees schedule for Appeals to the Supreme Court

Activity	Fixed fee	Tasks covered by fixed fee
Preparation of application for Leave to Appeal		
Application (by trial or prior appeal counsel) (interim grant) – - preparation	\$1,000	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues • preparing and filing notice of application for leave • preparing application for legal aid • undertaking research • preparing affidavits (if relevant) • preparing written submissions on leave application • liaising with Crown • considering Crown submissions • preparing for any hearing (if relevant) • liaising with the Supreme Court • receiving decision • liaising with prison (if relevant) • any agent fees • reporting to client.
Application (by new counsel) (Interim Grant) – - preparation	\$1,800	
Leave to appeal (interim grant) – - hearing time *	\$350 per two hours	For: <ul style="list-style-type: none"> • attending leave to Appeal hearing • any agent fees.
Conferences		
Pre-hearing conference(s) – - hearing time *	\$159 per hour	For: <ul style="list-style-type: none"> • attending pre-hearing conference(s) • any agent fees.
Preparation of response to application for leave to appeal		
Response (by trial or prior appeal counsel)– - preparation	\$1,800	For: <ul style="list-style-type: none"> • receiving notice of application for leave • taking instructions, attending the client • identifying legal and factual issues • preparing application for legal aid • considering Crown submissions • identifying legal and factual issues • undertaking research • preparing affidavits (if relevant) • preparing written submissions on leave application • liaising with Crown • preparing for any hearing (if relevant) • liaising with the Supreme Court • receiving decision • liaising with prison (if relevant) • any agent fees • reporting to client.
Response (by new counsel) – - preparation	\$2,500	
Response to leave to appeal – - hearing time *	\$350 per two hours	For: <ul style="list-style-type: none"> • attending response to leave to appeal hearing(s) • any agent fees.

Substantive appeal (following the granting of leave)		
Appeal hearing – - preparation	Estimate required by Amendment	For: <ul style="list-style-type: none"> taking instructions, attending the client identifying legal and factual issues any agent fees reporting to client.
Appeal – - hearing time *	\$350 per two hours	For: <ul style="list-style-type: none"> attending substantive appeal hearing(s) any agent fees.

GRANTING NOTES FOR SCHEDULES G-I

Legend

* **Repeatables** - this is a repeatable activity and can be claimed per occurrence of this activity.

Hearing time including waiting time

‘Time’ is payable in half hourly blocks, rounded up to the nearest half hour, or hourly blocks, rounded up to the nearest hour, or two hourly blocks, rounded up to the nearest two hour block, depending on the activity.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a judge. Waiting time begins when the provider is required to be in the courtroom. This excludes waiting time where the judge has excused counsel.

If more than one hour’s waiting time is claimed per activity (eg waiting time for trial or waiting time for sentencing) the following information is required:

- a summary of both the waiting time and hearing time on the day of appearance – date and times
- an explanation of the circumstances is also required. This must include:
 - confirmation that the provider was unable to undertake any other work while waiting
 - confirmation that the provider made enquiries to the court about the delay
 - reasons for the delay.

Where a client fails to attend a scheduled appearance, the provider can claim reasonable and actual time for waiting for the client, up to one hour. No evidence is required. Waiting time in addition to one hour in situations where a client fails to attend a hearing can be claimed via an amendment to grant.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Documentation requirements

Application for Criminal Legal Aid (*LA form 1*) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedule G (*LA form 25*) [[s97 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedules H–I (*LA form 26*) [[s97 Legal Services Act 2011](#)]

Schedule J: Fees schedule for Parole (Criminal Matters)

Proceedings under the Parole Act 2002

Activity	Fixed fee	Tasks covered by fixed fee
Proceedings before the NZ Parole Board		
Parole hearing preparation – - postponement order (s27) - recall (ss59-66A – breach of parole) - non-release orders (s107) - other proceedings entitled to counsel under s49(3)(c) eg s21 proceedings	\$440 Interim = To be claimed pre-disposal	For: <ul style="list-style-type: none"> taking instructions, attending the client identifying legal and factual issues reviewing file perusing Parole Board material undertaking research preparing application for order(s) preparing submissions for hearing(s) liaising with the Parole Board, High Court receiving decision any agent fees reporting to client.
	\$260 Completion = To be claimed at disposal	
Parole hearing preparation – - extended supervision orders (107F-107I, 107M)	\$520 Interim = To be claimed pre-disposal	Notes: Interim fee can only be claimed via an interim invoice when the case has been substantially progressed. Completion fee can only be claimed via a final invoice after disposal and where an interim fee has previously been claimed. Full fee can only be claimed after disposal via a final invoice and cannot be paid if an interim fee has previously been claimed and approved.
	\$340 Completion = To be claimed at disposal	
Specialist reports -	\$150	For: <ul style="list-style-type: none"> taking instructions, attending the client liaising with and briefing specialists or experts obtaining and reviewing any report(s) any agent fees reporting to client.
Parole Hearing – - hearing time *	\$60 per half hour	For: <ul style="list-style-type: none"> attending Parole Hearing(s) any agent fees.
Parole Appeals – Grounds for Appeal		
Grounds of Appeal (Interim Grant)	\$600	For: <ul style="list-style-type: none"> taking instructions, attending the client all preparation related to determining the grounds of appeal any agent fees reporting to client.

Activity	Fixed Fee	Tasks covered by Fixed Fee
Parole Appeals – Substantive Appeal		
Appeals to High Court from certain decisions of the Parole Board (s68-70) – postponements, extended supervision orders, recalls - - preparation	Estimate required by Amendment	For: <ul style="list-style-type: none"> • taking instructions, attending the client • identifying legal and factual issues • reviewing file • perusing Parole Board material • undertaking research • instructing experts • receiving specialist reports • preparing application for order(s) • preparing submissions for hearing(s) • liaising with the Parole Board, High Court • receiving decision • any agent fees • reporting to client.
Appeals to Court of Appeal from sentencing Court (s107R extended supervision) – - preparation		
Parole Appeal – - hearing time *	\$60 per half hour	For: <ul style="list-style-type: none"> • attending parole appeal hearing(s) • any agent fees.
Other matters		
Other matters –	\$200	For: <ul style="list-style-type: none"> • taking instructions, attending the client • attending reintegration hui and/or liaising with family members and other relevant parties • any agent fees • reporting to client.
Reassignment		
Termination of assignment fee– - for postponement orders and recall	\$440	For: <ul style="list-style-type: none"> • work undertaken prior to termination of assignment that has substantially progressed the case. <p>The termination of assignment fee cannot be paid if an interim fee has previously been paid to that provider.</p>

GRANTING NOTES FOR SCHEDULE J

Legend

* **Repeatables** - this is a repeatable activity and can be claimed per occurrence of this activity.

Fee for 'Other Matters'

This is a one-off fee to compensate for time taken to attend reintegration hui and/or liaise with family members and other parties.

Hearing time including waiting time

Time begins from when the parole provider needs to be at the car park of the prison in order to be on time for a scheduled parole hearing and ends when the provider returns to their car following the hearing.

Claims for waiting time are accepted as part of claims for actual appearances in hearings before a Parole Board. If the parole provider is required to wait more than one hour for the hearing time to begin, an explanation of the delay is required, but evidence is not.

Hearing time is payable in half hour blocks, rounded up to the nearest half hour.

If a Parole Board hearing is cancelled after the provider has arrived at the prison, the provider can still claim for time from arriving at the car park to returning to the car park.

Disclosure by prosecutor

Disclosure by the prosecutor can occur at many points in proceedings. Where the schedules refer to 'Receiving and reviewing disclosure', this includes any or all of the following tasks, unless a separate fixed fee is otherwise specified:

- request further initial disclosure from prosecution (after commencement of proceedings)
- receiving and reviewing further initial disclosure
- receiving and reviewing full disclosure (after not guilty plea, election, or first appearance)
- requesting additional disclosure
- interlocutory applications:
 - Application for address of witness or informant
 - Application for disclosure of information – s30
 - Application for order setting conditions for viewing exhibit – s31
 - Application for timetabling order – s32.

Invoicing

Reporting to Legal Aid Services and invoicing in line with fees under the applicable schedule are tasks deemed to be included in every fixed fee. Additional payment cannot be claimed for these tasks.

Documentation requirements

Application for Criminal Legal Aid (*LA form 1*) [[s14 Legal Services Act 2011](#)]

Criminal Legal Aid Fixed Fees Tax Invoice — Schedule J (*LA form 27*) [[s97 Legal Services Act 2011](#)]

Useful links

[Fixed fee schedules](#)

[Forms for fixed fee and fixed fee plus cases](#)

[Provider grants manual](#)

[Legal Aid disbursements manual](#)

[Review of criminal legal aid fixed fees – operational policy changes](#)

Legislation

[Section 23](#) of the Legal Services Act 2011 states that a grant may specify a maximum grant and that this may refer to a total dollar amount.

[Section 28](#) of the Legal Services Act 2011 provides that where an application to amend a grant is made, the Commissioner may confirm or amend the grant.

[Section 98](#) of the Legal Services Act 2011 states that the time frame for claiming for payment for legal aid services is the time frame set by regulations.

[Regulation 19\(1\) and \(2\)](#) of the Legal Services Regulations 2011 state:

- 1) A claim for payment for legal aid services must be made for each day that the services are provided, unless the services are subject to a fixed fee arrangement, in which case the claim must be made for services that are completed in accordance with the fixed fee arrangement.
- 2) For the purpose of section 98 of the Act, the time frame within which a claim for payment for legal aid services must be made to the Secretary for Justice is 6 months after the day that the services are provided or, in the case of a fixed fee arrangement, completed.

Questions

If you have any questions about the changes outlined in this document you can contact the Legal Aid Services, Operations Support and Improvement team.

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