



Summary criminal legal assistance reform: the changes and forms

Your details

TO: All criminal legal assistance solicitors

Mailing 2: 9 June 2008

Your practitioner number

Your firm and branch code

REFORM OF SUMMARY CRIMINAL LEGAL ASSISTANCE: FORMS

This mailing gives you more information on the reforms to summary criminal legal assistance, which will be implemented on 30 June 2008. The attached letter gives more details on the reforms to the summary criminal legal assistance system.

As part of the changes, we will be issuing new criminal advice and assistance/ABWOR and criminal legal aid forms in late June. The attached letter explains more about the new forms and how these will be issued. You can read below the number of forms we intend to automatically supply to you in a starter pack. If you wish to request a change to your starter pack, please complete and return this form to us by **Wednesday 18 June**.

Your starter pack

We will automatically issue starter packs containing the new criminal forms to all registered criminal practitioners. The starter pack size is based on the number of applications you made in 2007-2008 and takes into account expected changes in which forms will be completed.

If you use Legal Aid Online, the advice and assistance/ABWOR service will be updated, and a new client mandate form issued. We plan to issue you a small number of the printed forms, so that you can use these with new clients. Criminal legal aid services will be available on Legal Aid Online later this year.

Revising your starter pack size

You do NOT need to return this form if you are content with the starter pack we will send to you. Whilst further supplies of individual forms will be available as normal from our printers, we request that for your initial supply of forms if you wish to receive more, you should revise the starter pack size.

(A customised letter has been sent to solicitors with the exact numbers, shown as xx below)

	Criminal advice and assistance/ ABWOR		Summary criminal legal aid
2007-2008 applications	Paper: xx	Online: xx	xx
We will automatically issue you a starter pack with:	xx forms		xx forms
Starter pack size you now wish to request: (for other your request should be a multiple of 50 or 100)	<input type="checkbox"/> no forms		<input type="checkbox"/> no forms
	<input type="checkbox"/> 50 forms		<input type="checkbox"/> 50 forms
	<input type="checkbox"/> 100 forms		<input type="checkbox"/> 100 forms
	<input type="checkbox"/> 200 forms		<input type="checkbox"/> 200 forms
	<input type="checkbox"/> Other - how many?		<input type="checkbox"/> Other - how many?

Legal Aid Online

Our firm does not currently use Legal Aid Online and now wishes to get started - please contact me

Please now fax back to: 0131 220 4878

or email your request which should include your practitioner number to: general@slab.org.uk
or post to: Communications, Scottish Legal Aid Board, 44 Drumsheugh Gardens, Edinburgh EH3 7SW.



Summary criminal legal assistance reform

Mailing 2: 9 June 2008

Reform of summary criminal legal assistance - information on the changes

The changes to summary criminal legal assistance will come into effect on Monday 30 June 2008.

These changes have been developed from the original reform proposals following consideration of all the issues raised from last year's consultation process, including those arising from the series of roadshows which formed part of that process, and from the discussions held subsequently with the legal profession's representatives.

The final proposals were then approved and announced by the Cabinet Secretary on 8 April this year.

The changes to the system of summary criminal legal assistance underpin the wider summary criminal justice reforms, essentially by front-loading the system. They have been specifically designed to support the main features of these reforms including the greater use of alternatives to prosecution, early effective preparation, early resolution of cases, where appropriate, and the intention to bring cases to court more quickly.

The extended consultation period which resulted in the announcement in April has meant that these reforms have had to be introduced within a very short timescale. Additionally, because no opportunity exists to consider primary legislative change the reforms of necessity have been restricted to the changes that can be effected through regulations

The basic fee structure and the main features of the summary criminal legal assistance reforms are:

	Sheriff/stipendiary magistrate's court		J P court legal aid	J P court ABWOR
	Legal aid case disposal fee/core fixed payment	ABWOR case disposal fee		
Fixed payments	£515	£515	£315	£150

Advice and assistance

- Criminal advice and assistance fee rates increased by 10%
- Where advice and assistance is granted, this will be subsumed within any subsequent grant of ABWOR or summary criminal legal aid except the cost of an exceptional police station visit
- Two levels of initial authorised expenditure, one for general advice, pre-complaint, at £35; the other for standard advice in connection with a complaint or advice relating to a direct measure which is to be challenged, at £90
- Abolition of the £25 minimum fee.

Assistance by Way of Representation (ABWOR)

- The grant of ABWOR may be transferred as with summary criminal legal aid
- ABWOR will be available for a client's own appointed solicitor in custody and undertaking cases
- ABWOR will be available for continuations without plea
- Consolidation of the existing merits criteria for ABWOR
- Introduction of templated increases in authorised expenditure
- Increased fixed payments.

Sheriff and Stipendiary Magistrate's court cases

- Introduction of a new "case disposal fee" for cases for which ABWOR or summary criminal legal aid has been granted in the Sheriff and Stipendiary Magistrate's court at £515, covering:
 - all work carried out under advice and assistance except a police station visit which can be shown to be exceptional, in which case a separate payment will be made on a detailed fee basis
 - all continuations without plea
 - all work up to and including the first 30 minutes of the trial, (where a trial commenced) and
 - a first or second deferred sentence
- The case disposal fee does *not* include the following for which additional payments will be made to cover:
 - third and subsequent deferred sentences at £50 each
 - additional payment for hearings where a social enquiry report is considered by the court during one of the first two deferred sentences, at £25 (payable once per case)
 - an exceptional police custody visit, on a detailed fee basis, where the travel to and time spent including waiting and attendance at the station exceeds two hours and that it can be shown that there was a need for the work to be done by the nominated solicitor as opposed to a correspondent local to the station.

- Where the case proceeds to the first day of trial, the current “core fixed payment” will remain, but paid at £515. The core fixed payment will now subsume work done under advice and assistance (excluding an exceptional police station visit) and also ABWOR. All non-core “add on” payments (trial days, notional diets, victim statement proofs etc), together with enhanced fees (under-21 in custody, rural court supplements) will continue to be paid as at present (at current blocks of £50, £100, £200 and £400).
- ABWOR will continue to be granted by the solicitor. However, where a solicitor has incorrectly or inappropriately applied either the ABWOR means test or merits test, we may not pay the account from the Fund.

JP court cases

- The split fee arrangements between ABWOR and summary criminal legal aid for JP courts will be maintained, with the fees set for ABWOR at £150 and summary criminal legal aid at £315
- The ABWOR payment of £150 will cover the work done up to and including the diet at which the plea of guilty is tendered. It will therefore include any preliminary plea, plea in bar of trial and continuations without plea and, in addition, will include a first or second deferred sentence.

It will *not* include the following, each of which will be payable separately as an “add on”:

- bail appeal (£50)
- conducting a proof in mitigation beyond the first 30 minutes (£50)
- third and subsequent deferred sentences (£25); and
- additional payment for hearing where a social enquiry report is considered by the court during one of the first two deferred sentences (£25).
- an appeal under Section 174(1) of the 1995 Act, which will be chargeable on a detailed basis in addition to the fixed payment for the summary proceedings.
- The summary criminal legal aid “core” fixed payment of £315 will continue to include all work done up to and including the first 30 minutes of trial but will now subsume work done under advice and assistance (excluding an exceptional police custody visit) and ABWOR (now possible with the extension of the availability ABWOR to CWP procedure). It will also include up to two deferred sentences.

- It will *not* include the following, each of which will be payable separately as an “add on”:
 - bail appeal (£50)
 - conducting a trial for the first day after 30 minutes
 - second and subsequent trial days
 - third and subsequent deferred sentences (£25); and
 - additional payment for hearings where a social enquiry report is considered by the court during one of the first two deferred sentences, at £25 (payable once per case).

Payments for an accused person appearing from custody or on an undertaking to appear in the sheriff/stipendiary magistrate and JP courts

Duty solicitor

- Duty solicitors appearing in either the sheriff/stipendiary magistrate’s or JP courts will be paid £70 for work done on the day for each accused appearing from custody or on an undertaking for which a plea of guilty is tendered. Further work will be paid for up to the limit of the “follow-up” cap, to be increased to £150 (which includes the £70). Work in connection with a CWP as well as a guilty plea will now be covered by the follow-up arrangements. The Board will have discretion to lift that cap in appropriate cases.
- Duty solicitors will be paid for work undertaken for an accused appearing from custody or on an undertaking where a plea of not guilty is tendered, or the case continued without plea, under the current system of an initial appearance fee followed by subsequent *per capita* appearance fees. The rates, for these will be increased to £63 and £9 respectively. Thereafter, the cap for each session will rise to £140 and £93.

Appointed solicitor

- An “appointed solicitor” (solicitor of choice) will be able to represent a client appearing from custody under ABWOR. ABWOR will only be available from the appointed solicitor in custody cases where the solicitor with whom the person appearing in answer to the Complaint has (or has had) a solicitor and client relationship that is demonstrable by reference to circumstances apart from those relating to the appearance. The solicitor, having taken instructions, must also be able to act immediately, in person or through the services of another solicitor (other than the duty solicitor), at the pleading diet.

In the sheriff or stipendiary magistrate's courts, the appointed solicitor will be paid the case disposal fee of £515 and in the JP court at a fee of £150 on the same basis as described above.

Other provisions for summary criminal legal aid

- The "14 day rule", prescribing the timescale from the pleading diet when an application for legal aid needs to be submitted, will be retained. The Board will still have the discretion to accept a late application.
- The Board will ask for details, where appropriate, of any plea the Crown is prepared to accept when considering an application for criminal legal aid.
- The Board will not be insisting on the submission of the disclosable summary of evidence with applications as a matter of course, but reserves the right to continue for sight of this, where the information accompanying the application is insufficient.
- Rationalisation of advice and assistance and summary criminal capital limits (2008/09 level set at £1,561), the latter being subject to the undue hardship test.

Reform of summary criminal legal assistance - new forms from 30 June

As part of the reforms being implemented on 30 June 2008, the following new application forms are being introduced:

Advice and assistance/ABWOR

- AA/APP/CRIM - Application for criminal advice and assistance / ABWOR
- AA/INC/CRIM - Application for a grant of criminal ABWOR or increase in authorised expenditure for criminal advice and assistance/ABWOR

Criminal legal aid

- CRIM/SUM/APP - Application for criminal legal aid in summary proceedings
- CRIM/SANCTION - Criminal application for sanction
- CRIM/TRANSFER - Criminal request for transfer of agency
- CRIM/CEASE - Criminal notification of solicitor ceasing to act
- CRIM/EXCEPTIONAL - Summary criminal exceptional payments application

Accounts

- There will also be new accounts forms.

These application forms will replace all currently used forms. The sanction, cease and transfer forms will also be used for solemn and appeal cases.

The forms are in an easier to use format, and are based on the style of the current criminal advice and assistance/ABWOR application form. The forms are in a format that enable us to scan them, and then to process them on our paperless computer system.

In our next mailing, we will be issuing you with drafts of the new forms and guidance, to you prepare for the changes on 30 June.

Legal Aid Online

Our Legal Aid Online service for advice and assistance is being used for a substantial number of criminal applications, increases and accounts. The service will be updated for the criminal reforms, offering an easier way to make advice and assistance/ABWOR applications than using the printed forms.

Currently using Legal Aid Online?

The changes to criminal advice and assistance/ABWOR will be reflected in our Legal Aid Online service from 30 June.

For current users, we will be providing you with a new criminal advice and assistance/ABWOR client mandate form. You can continue to use the mandate form to collect information from repeat clients or from new clients with straightforward financial situations, and to get the applicant's signature. For other situations, you may wish to use the new printed application form to ensure that you collect all relevant information to make your online application.

Later this year, Legal Aid Online will offer services for criminal legal aid, but for the next few months, only paper applications can be made.

Further information for Legal Aid Online users about the changes will be available later this month on our website and in later mailings.

Not using Legal Aid Online yet?

Legal Aid Online is our easy to use service to submit applications and accounts through the internet. We now have hundreds of solicitors firms benefiting from using Legal Aid Online. The introduction of the new criminal advice and assistance/ABWOR forms is an ideal time to consider trying Legal Aid Online.

Our service is free, quick, easy and a secure way to process legal aid. Legal Aid Online allows you to make applications and create accounts using the internet, meaning faster decisions to help your clients and for you to get paid faster. Both solicitors and administration staff can use the system. All you need is access to the internet from your computer.

Legal Aid Online allows makes completing the new criminal advice and assistance/ABWOR forms easier than on paper. As you enter details, our service customises the questions, so you only see the questions that are relevant for your case. The service allows brings other benefits, such as helping to input correct information and calculating eligibility.

You can find our more about Legal Aid Online on our website www.slab.org.uk in the legal profession section.

To start using Legal Aid Online, please register your details with us:

- by completing the question on the attached starter pack form
- online, by going to the legal profession section of our website and following the links to Legal Aid Online
- or contact our Legal Aid Online team on 0131 240 2013 or online@slab.org.uk

Starter packs of the printed forms

We will automatically issue you with starter packs of the new forms in **late June**. The front page of this update tells you the size of the starter packs we will send to you.

You should note that when we supply you with the new forms, **you will receive several packages with the different forms**. It is likely that you will receive these packs on different dates.

For solicitors receiving more than 100 forms, we will issue you with an initial pack and then the further supply will follow shortly afterwards.

The starter pack size is based on the number of criminal advice and assistance/ABWOR applications and summary criminal applications you made in 2007-2008. We have then estimated the number of forms you would typically use over a six month period, which we have then translated to one of our standard size starter packs. We have also taken into account the expected changes in which forms are used as a result of the reforms. For Legal Aid Online users, we plan to send you a small supply of the printed forms.

Although we advise on the front page of this mailing the starter pack size for the number of advice and assistance/ABWOR applications and summary criminal application forms that you will be sent, we will also be issuing you the other new forms in proportion to these packs. For example, if you are to receive:

- 100 advice and assistance/ABWOR application forms, you will be sent a pack of 50 increase forms
- 100 summary criminal application forms, you will receive 50 sanction forms, 20 cease acting, 20 transfers and 20 exceptional payment forms.

Changing the starter pack size

If you are content with the size of starter pack that we have set out on the cover page, you do not need to do anything.

If you wish to change the size of the starter pack that we will send to you, please complete and return the cover page by Wednesday 18 June. We will start sending out the starter packs from that date.

Packs are being sent to solicitors and not offices. You may therefore wish to discuss with other colleagues if they are receiving forms, to help identify if you wish to change the number of forms we will send to you automatically. You may wish to revise the starter pack size to reflect any changes in the type of advice and assistance and summary criminal cases you expect to take on this year and if you will be using Legal Aid Online to send us your applications, increases and accounts.

You will be able to order the new forms for ongoing use in the usual way from our printers, Stewarts. The starter pack will include an updated order form. Please note that if you expect to need more of the new forms at an early stage, it would be more helpful if you revise the size of the starter pack that will be sent to you.

If you have any questions about your order for the starter pack of forms, please contact our Communications Department on tel 0131 240 1985, or email general@slab.org.uk

Form formats

With this change in forms, we will only be able to deal with forms that are in the supplied printed format or are made using Legal Aid Online.

You should note that we will not be providing "interactive" pdf versions of the new forms, which have previously enabled the forms to be completed on computer. We will also no longer accept photocopied forms or forms produced in your own format such as from your own case management system.

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