

THE SCOTTISH LEGAL AID BOARD

SUMMARY JUSTICE REFORM – SYSTEM MODEL ASSUMPTIONS AND KEY PERFORMANCE INFORMATION

NEW CRIMINAL LEGAL ASSISTANCE ARRANGEMENTS

1. Summary Criminal Legal Assistance Reform

Changes to the system of summary criminal legal assistance came into effect on Monday 30 June 2008. These changes were developed from our original reform proposals taking into account issues arising from the consultation process last autumn, and further discussions held earlier this year with representatives of the legal profession.

The changes to the system of summary criminal legal assistance were developed alongside the wider summary justice reforms, and were specifically designed to support the main features of these reforms such as 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 main features of the summary criminal legal assistance reforms were:

- Increasing duty payments
- Enabling, with appropriate checks appointed solicitors to represent their clients from custody
- Increasing criminal advice and assistance fee rates, and ABWOR block fees to assist early negotiation and information gathering.
- Extending the scope of ABWOR and consolidating the tests for its grant
- Introducing a new case disposal fee for the Sheriff and Stipendiary Magistrates Courts to pay solicitors more appropriately for work done at the earlier stages of a case.

The timescale for implementation of these reforms was very tight. In addition, the changes were the most far reaching in decades, and they do need time to bed in. It will take many months for the full impact of these changes to become apparent. However, the early indications are that the new system is working well, and is able to support the earlier resolution of cases. For example, between June 08 and July 08 the increase in guilty pleas tendered at first calling was up from 9.8% to 23.9% in Glasgow and from 31.6% to 43.9% in Dundee.

2. Summary Criminal Legal Assistance Model

The costing model of the new system of summary criminal legal assistance was based on the System Model figures produced in January 2008. The key assumptions used in the costing model are shown in the enclosed Scottish Government's paper, along with details of the Scottish Government's review of the System Model assumptions.

For the Board's re-costing exercise, we looked at the actual receipts of advice and assistance, ABWOR and summary criminal applications received in the 5 month period since the changes were implemented, namely July to November. The figures for July to November showed that average grants of criminal advice and assistance have fallen by 64% compared to April to June 2008, while grants of criminal ABWOR have increased by 140%. Average applications for summary criminal legal aid fell by 26% in the same period. The average total applications for ABWOR and Summary Criminal Legal Aid increased by 5% over the two periods.

The following table compares the original Model estimate of the costs of advice and assistance, ABWOR, and Summary Criminal Legal Aid, compared to a revised forecast, based on the first 5 months worth of receipts and grants of the various aid types following the legal aid changes.

Summary Category	Est. Model Figures	Est. Model Cost (£)	Revised Forecast Figures	Revised Forecast Cost (£)	Difference (£)
Est. Total A&A	98,252	5,505,992	37,514	1,786,945	-3,719,047
Est. ABWOR grants Sheriff/Stip/JP Courts.	26,354	13,392,539	34,176	17,101,820	
Est No. of Post Conviction Breach cases	12,000	3,876,048	12,000	3,876,048	
Est. Total ABWOR	38,354	17,268,587	46,176	20,977,868	+3,709,281
Est. No. Summary JP Court	12,991	5,113,886	7,760	3,054,667	
Est No. Summary Sheriff Court	43,754	27,836,653	46,887	30,122,021	
Est. Total Summary	56,745	32,950,539	54,647	33,176,688	+226,149
Est. No. of Duty cases	27,712	2,064,728	27,712	2,064,728	-
Est. Total Cost of Summary Criminal		57,789,846		58,006,229	+216,383