



# Justice Committee

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The Rt Hon David Gauke MP  
Secretary of State for Justice  
Ministry of Justice  
102 Petty France  
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## **Criminal legal aid**

We are dismayed by reports that the Criminal Bar Association (CBA) and the criminal Bar have felt compelled to take direct action in response to the perceived crisis in the Criminal Justice System. We understand that 91 out of 350 chambers have now declared their support, declining new publicly funded criminal law cases. This has led, for example, to at least one defendant facing a murder charge being unrepresented at a preliminary hearing of his case because no barrister was available to appear for him.

Whilst we take no view as to the appropriateness of the Bar's decision to take direct action, evidence suggests that its perception of a crisis within the Criminal Justice System is fully justified. As well as having a negative impact on the functioning of the courts, successive reductions to the Ministry of Justice budget have been followed by decreased fees for criminal legal aid work; we understand that over the past decade there has been a 40% fall in fees in real terms. A recent Bar Council survey has revealed worryingly low levels of morale among criminal barristers, who believe that their role is undervalued. More than a third are now considering alternative areas of practice or leaving the Bar altogether.

The revised Advocates' Graduated Fee Scheme (AGFS) – a “cost neutral” model, according to the Impact Assessment – appears to have been a catalyst for the direct action by barristers. The new scheme introduces separate fees for different elements of a case, and reduces reliance on Pages of Prosecution Evidence as a means of calculating the work done by an advocate. We understand that the Bar has serious reservations about the AGFS fee rates, and calculates that the changes amount to a significant cut in expenditure rather than being cost neutral. Criminal barristers consider that the AGFS will not remunerate them fairly for reviewing volume



prosecution material.

We are also aware that the revised Litigators' Graduated Fee Scheme for solicitors, which reduces the cap on claimable pages of prosecution evidence from 10,000 to 6,000, has prompted similar criticisms, leading to an application for judicial review by the Law Society. In addition, we have seen Law Society survey evidence indicating a shortage of duty solicitors in parts of England and Wales, with solicitors in this field an increasingly ageing profession.

As you are aware, we are conducting an inquiry into disclosure of evidence in criminal cases. An emerging pattern within the memoranda submitted to us is that the current criminal legal aid fee scheme for both advocates and litigators, by making no provision for reviewing unused prosecution material, is working against the ability of the defence properly to fulfil its role, to the potential detriment of the accused. Essentially, undertaking this work – which may involve reviewing thousands of pages of electronic evidence – depends on the commitment and professionalism of the legal representative involved. We fear that this may exacerbate the danger of miscarriages of justice.

I am sure I do not need to remind you of the urgency of the situation that has arisen and potential risks to defendants and to the reputation of our justice system. I look forward to hearing what action your department intends to take in response to these issues.

A handwritten signature in blue ink, appearing to read 'Bob Neill'.

**Bob Neill MP**  
Chairman  
Justice Committee