



Legal Aid
Agency



Ministry
of Justice

Ad hoc Statistical Release

Barrister fee income from public sources 2012/13

Ministry of Justice
Statistics Release

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Introduction

This ad hoc statistical release releases further figures that were not previously published or not published at this level of detail in the latest Legal Aid Statistics bulletin. The annual statistics report was published on the 25 June 2013 and can be found on the Ministry of Justice website at

www.justice.gov.uk/publications/corporate-reports/legal-services-commission

These data are released to address the public interest in the area and provides improvements to previous published figures that will add to the additional information in the upcoming consultation response. The figures extend previously published figures on barrister income by including new sources of data covering the Crown Prosecution Service, Civil Representation, Magistrates' court and payments made for non-panel advocates to solicitor firms in respect of very high cost cases in the Crown Court.

The contents of this statistics release will be of interest to government policy makers in the development of policy and their subsequent monitoring and evaluation. Others will be interested in the way different categories of law are dealt with and their usage within the system.

Further information on the terminology used within the statistics release can be found in 'Annex A – Glossary of key terms'

Guidance on the symbols and conventions used in the statistics release is provided in 'Annex B – Explanatory notes' section.

Scope

The Legal Aid Agency administers the legal aid system for England and Wales only. Scotland and Northern Ireland have their own legal aid systems, administered by the Scottish Legal Aid Board and Northern Ireland Legal Services Commission respectively.

The Crown Prosecution Service prosecute criminal cases investigated by the police in England and Wales

If you have any feedback, questions or requests for further information about this statistical statistics release, please direct them to the appropriate contact given at the end of this report.

Analysis

Table 1 shows the overall payment and the amount paid from CPS and the LAA, including high cost cases, Crown Court, Magistrates' court and civil representation. Barristers are only included in the analysis if they have received at least some public money from criminal advocacy in 2012/13.

Table 1: Distribution of criminal barrister total fee income from public sources, 2012-2013

Payment Band	Number barristers	Spend (£'s)				
		Total	CPS	LAA Crime	LAA High Cost Cases	LAA Civil
0-10k	761	2,910,207	1,074,562	1,367,232	74,992	393,421
10-20k	421	6,234,807	2,093,041	3,041,928	210,996	888,842
20-30k	362	9,038,696	2,906,983	4,956,045	85,850	1,089,818
30-40k	366	12,760,838	4,449,243	6,244,353	334,540	1,732,703
40-50k	345	15,523,287	5,772,182	7,673,866	276,485	1,800,754
50-60k	354	19,418,570	6,830,293	9,699,828	245,098	2,643,350
60-70k	333	21,596,716	7,551,874	10,841,440	736,671	2,466,730
70-80k	276	20,739,624	7,214,087	11,914,138	598,047	1,013,352
80-90k	225	19,085,355	7,026,900	10,409,726	864,660	784,069
90-100k	213	20,214,064	6,845,394	11,334,936	679,856	1,353,879
100-110k	190	20,002,747	6,839,131	11,554,394	728,892	880,330
110-120k	168	19,305,755	6,710,690	11,490,608	681,631	422,826
120-130k	141	17,550,572	5,524,157	10,089,539	1,242,260	694,616
130-140k	120	16,138,499	4,640,817	9,956,444	1,148,275	392,964
140-150k	105	15,203,619	4,427,625	10,016,403	627,476	132,115
150-160k	75	11,632,802	3,994,265	6,237,442	1,363,781	37,314
160-170k	63	10,436,816	3,048,670	5,889,092	1,490,255	8,799
170-180k	70	12,249,882	2,423,737	8,523,153	1,252,673	50,319
180-190k	54	9,999,488	3,526,839	5,402,848	913,791	156,010
190-200k	39	7,603,101	1,679,103	4,540,458	1,193,514	190,026
200-250k	135	29,702,424	8,467,935	15,828,183	5,170,059	236,247
250-300k	59	15,980,516	4,114,993	8,150,009	3,677,447	38,066
300-400k	36	12,266,738	4,669,766	5,543,795	1,914,233	138,944
400-500k	14	6,186,444	2,364,024	1,358,959	2,097,908	365,554
500-600k	4	2,033,036	639,249	681,527	712,260	0
600-700k	2	1,275,918	0	559,677	716,242	0
Total	4,931	355,090,520	114,835,558	193,306,024	29,037,890	17,911,048

The mean fee income for the 4,931 barristers is £72,000, and the median is £56,000.

A number of barristers only undertake a small amount of work and are unlikely to be spending full time on publicly funded criminal advocacy. More than 15% of barristers within the list earn less than £10,000 and this rises to 24% of those paid under £20,000. Of those earning more than £100,000 this equates to more than 25% of the total number of barristers.

About the data

To reach these figures data had to be matched from a variety of sources. The description below highlights the nature of the process and associated caveats. For further information about the matching exercise, sources of data and data quality can be found in **Annex B**.

CPS Fee Scheme

The data provided by the CPS contained amount paid and an associated unique identifier the Bar ID. This allowed us to match approximately 65% of the data automatically where LAA records also contained data for the barristers Bar ID. The remaining cases were matched using data linking to the LAA list of barristers. Of the 3,645 records supplied by the CPS only 43 were not matched to an existing LAA identifier. From the total £115.5m paid by the CPS in 2012/13 £114.8m was assigned to a barrister in the published dataset.

LAA: Advocate Graduated Fee Scheme (Crown Court) and Crime Lower (Magistrates' court)

Obtained from the LAA crime billing data, which has a unique identifier for each barrister. There were 4,213 barristers who had been paid in this period with a total value of £193m and of these 149 had been paid from work in the magistrates' court with a value of £600k.

LAA: Very High Cost Case (VHCC) panel

Obtained from the VHCC billing data, which has a unique identifier for each barrister. These 296 directly paid VHCC barristers had payments amounting to £13.5m

LAA: VHCC non-panel

Payments to barristers on this basis are through the solicitor firm working on the VHCC. The work attributed to an advocate appears in the VHCC billing data as a disbursement, where the name of the advocate is listed in the disbursement. A matching process has been to assign these payments to individual barristers, by name. This is because there is no unique identifier. Whilst the data has been quality assured, with a process such as this, there is scope for error. Of the 342 barristers identified who were paid using this method they had payments totalling £15.5m. This is compared to the total billed to non-panel advocates of £15.9m with only £400k unattributed to a specific barrister.

LAA: Civil Legal Aid

Obtained from LAA civil billing data, which has a unique identifier for each barrister. There were 1,166 barristers who undertook civil work alongside criminal work using public funds and they received payment of £18m.

Important notes to the data

- The figures must be interpreted carefully and do not represent the personal earnings of the individuals listed in any one year.
- The list of all barristers included in this analysis are those that performed some publicly funded work, or have done some criminal work within the 2012/13 financial year. However, barristers had to be matched across 4 databases across LAA and CPS system either automatically or manually; thus, it is possible that some barristers have been excluded from the final dataset.
- The amounts paid may represent payments for work covering many years and for a variety of cases. The amount an individual receives in any year fluctuates widely, and is due to the variety of payment processes and schemes used. Prior to the introduction of the very high cost case (VHCC) contracts cases were paid using the system of individual case assessment where payments are made once the case has finished.
- The amount attributed to a barrister may include payments subsequently made to other barristers as remuneration for work carried out on behalf of the named barrister. The figures exclude payment to the named barrister when they have carried out work on behalf of a colleague. This Instructed Advocate scheme is designed to allow the lead barrister being paid control of the case and fee. There are scenarios where the Instructed Advocate may have no control of the case and fee, for example when the legal team is changed, and although they ultimately make the claim the proportion of the fee received can be minimal.
- All figures are listed inclusive of VAT as paid, and disbursements incurred (for example travelling), individuals must pay that VAT to HM Revenue and Customs.
- Barristers pay a percentage of their fees towards professional overheads and face the same expenses as all self employed including income tax and national insurance contributions.
- Barristers who were not members of the VHCC panel were paid through the solicitor firm leading the case. Where the barrister can be identified from the disbursements paid to the solicitor firm the payment has been included.
- Payments are made only after the claims are scrutinised and possibly adjusted leading to payments in a different financial year subsequently and payments to an individual may include recoupments against previous payments leading to an overall negative payment in the period.
- While these figures represent gross payments made to the barrister during the year some of these may have been repaid to the Community Legal Service fund by other parties. This can occur in cases where the legally aided party wins the case and recovers costs from the opponent.

Once these costs are recovered the legally aided party's solicitor refunds some or all of the money to the fund. As a consequence the figures may not reflect the actual cost of the barristers' fees to the fund. In some cases where the costs are recovered from the losing party the actual cost to the fund may be small or even nothing.

- Barristers are only included in the analysis if they have received at least some public money from criminal advocacy in 2012/13.
- More than one barrister has relations or closely matched names with another criminal barrister, making matching the manual payments by name more difficult. Previous publications have had issues in this area and it should be noted that to be absolutely sure for each individual barrister, we would need their confirmation of payments received.

Guidance on tables and supplementary information.

In addition to the supplementary excel tables, and in line with the MoJ commitment to provide information in a reusable format there are accompanying CSV files published containing detailed data for further manipulation by users. All these workbooks and CSV files can be accessed at:

www.justice.gov.uk/

Annex A - Glossary of key terms

Terms used in the report and tables are explained below.

Advocates' Graduated Fee Scheme (AGFS): The fee scheme which governs fees paid to advocates (barristers or solicitor advocates) who represent clients in criminal proceedings in the Crown Court, other than in cases which have been classified as very high cost (Criminal) cases. Payment is determined by proxy measures, the seniority of the advocate, offence type, pages of prosecution evidence, prosecution witnesses and days that the advocate spends at court at trial.

Barristers: Barristers and Solicitors are the two main categories of lawyer in England and Wales. Barristers have traditionally had the role of handling cases for representation in court, both defence and prosecution by providing specialist legal advice and represent their clients in court and through written legal advice. Barristers' work varies considerably depending on the area of law in which they practise and their level of expertise such as advising clients on the law and the strength of their legal case, holding conferences with clients to discuss the client's situation and problems and representing clients in court. About 80% of barristers are self-employed. The rest are employed in industry, commerce or central/local government. Self-employed barristers work in offices called 'chambers', which they may share with other barristers. On completion of their training, barristers apply for a permanent position known as 'tenancy' in a set of chambers. Both the CPS and LAA make direct payments to barristers for the vast majority of billing except for a small number of payments made to solicitor firms on their behalf.

Civil: The area of law that concerns the rights and relations of private citizens – for example, disputes relating to unpaid debts or the enforcement/breach of contracts. Covers civil and family law but excludes criminal matters.

Civil Representation: Representation by solicitors and barristers for civil cases, which could go to court (also see Licensed work).

Court of Appeal and Supreme Court (Crime Higher): The appeal and higher courts deal with smaller volumes of caseload but are generally more complex with points of law and other unusual case work.

Crown Prosecution Service (CPS): The CPS is an independent authority setup to prosecute criminal cases investigated by the police in England and Wales. In undertaking this role the CPS advises the police during early stages of investigations, determines appropriate charges in serious or complex cases, keeps cases under continuous review and decides which cases should be prosecuted, prepares cases for prosecution and prosecutes cases using in-house advocates, self-employed advocates or agents to present cases in court.

Cracked Trial: A case in which proceedings are stopped due to the defendant(s) pleading guilty or the prosecution offering no evidence after the accused is indicted but before the trial begins.

Criminal Defence Service(CDS): The CDS ensures access for individuals involved in criminal investigations or proceedings to such advice, assistance and representation as the interests of justice require.

Criminal Higher: Legal representation in the Crown Court and above.

Crown Court (Crime Higher): typically solicitor prepares case for trial and barrister or solicitor advocate provides representation.

Very High Cost Cases (Crime Higher): extensive evidence reviewed and case prepared by solicitor. Senior counsel (QC) often presents.

Court of Appeal and Supreme Court (Crime Higher): The appeal and higher courts deal with smaller volumes of caseload but are generally more complex with points of law and other unusual case work.

Criminal Lower: Work carried out by legal aid providers at police stations and in magistrates' courts in relation to people accused of or charged with criminal offences. Prison law is also included within this category.

Magistrates' Court (Crime Lower): solicitor preparation for appearance or trial. Representation within the magistrates' court, often by a solicitor advocate or junior barrister.

Police Station (Crime Lower): advice on rights and options pre-charge, in the station, in person by solicitor or outside the police station relating to pre-charge; or applications to extend detention.

Prison Law (Crime Lower): advice for prisoners relating to their treatment or discipline in prison (e.g. parole hearings) and their progression through the prison system.

Disbursements: Costs incurred by the provider that relate to expenses such as the cost of a travel, paying fees. For example, the payment of court fees, or paying other parties to undertake a service using experts' opinions.

Either way offence: An offence which can be tried either before the magistrates' court or the Crown Court. The appropriate venue is determined at a Mode of Trial hearing at the magistrates' court. If the magistrates determine that the matter is too serious or complex for summary trial, they can commit it to the Crown Court. If the magistrates determine that the case is suitable for summary trial, the defendant can elect for trial by jury.

Indictable offence: A criminal offence that can only be tried in the Crown Court.

Legal Aid Agency (LAA): The LAA administers the legal aid schemes in England and Wales covering areas including pre-charge, the early court

system and prison assistance, the Crown Court, Higher Courts and high cost cases.

Legal Help: A form of civil legal services which includes advice and assistance about a legal problem, but does not include representation or advocacy in proceedings (also see Controlled work).

Litigators' Graduated Fee Scheme (LGFS): The fee scheme which governs fees paid to solicitors who represent clients in criminal proceedings in the Crown Court, other than in cases which have been classified as Very High Cost (Criminal) Cases. Payment is determined by proxy measures, the type of offence, pages of prosecution evidence, and number of days of trial.

Very High Cost Cases (VHCC): extensive evidence reviewed and case prepared by solicitor. Senior counsel (QC) often presents.

Annex B - Explanatory notes

The statistics in this statistics release relate to work by the LAA and CPS in England and Wales during 2012/13.

This section outlines the different data sources used to compile the statistics presented in the statistics release with discussion on data quality where relevant. The main sources of the statistics are compiled from administrative systems designed for the accurate management of the criminal justice system.

Data Sources in LAA and Data Quality

There are many administrative systems used to create the statistics covering each of the main areas of legal aid:

Within Crime Higher figures are drawn from two systems, one for LGFS (Crown Court Legal Fund – CCLF) and another for AGFS (Crown Court Remuneration – CCR) they respectively provide the spend and work provided information for much of the Crime Higher data. High cost case information is drawn from the Complex Crime Unit (CCU) administrative system.

For Crime Lower data is taken from the Contracted Work and Admin system

For Civil Representation the figures are obtained from the Corporate Information Store (CIS) and its associated supporting systems.

For Legal Help, information is provided by the CWA system and its management information.

While the majority of information is held within source administrative systems some information is provided from other non-database sources.

Data Matching Process

Example Non-Panel Advocate Detail line

Disbursement Payment for Contract: CHCC/0A123U/1, Disbursement: NPA – Mark Jones QC - STG 2.

Method to process line of data

Extraction of 'NAME' variable (can be single word or it can be multiple with other identifiers e.g. QC)

Linking of Name variables to LAA barrister list

Linking of Name variable and contract code to list of known barristers on case

Final additional manual checks

Case file investigation into large amounts still outstanding and unverified

Data Sources in CPS and Data Quality

The CPS uses two fees schemes for the payment of self-employed advocates' fees. The majority of cases in the Crown Court handled by external advocates are paid under the graduated fee scheme (GFS). GFS is a formulaic scheme using a range of measures to determine the fee, and measures include offence category, pages of evidence, numbers of witnesses, outcome type, etc. In March 2012 a new, simplified scheme (Scheme C) was launched that is simpler to administer and which introduced revised rates.

Data Matching Process

Example CPS Data line

Barrister	Amount Paid
Jones Alwyn Fring Mark 12345B	123456.78

Method to process line of data

Lookup against LAA barrister ID (65% matched on Bar Code)

Name Linking to LAA barrister list - Firstname & Surname

Combining name link and lookup

Name using wildcard against LAA barrister list

Combination of name link, lookup and name link using wildcard

Final additional manual checks

Revisions

In accordance with Principle 2 of the Code of Practice for Office Statistics, the MoJ is required to publish transparent guidance on its policy for revisions. A copy of this statement can be found at:

www.justice.gov.uk/downloads/statistics/mojstats/statistics-revisions-policy.pdf

The three reasons specified for statistics needing to be revised are changes in sources of administrative systems or methodology changes, receipt of subsequent information, and errors in statistical systems and processes. Each of these points, and its specific relevance to the legal aid statistics publication, are addressed below:

Changes in source of administrative systems or methodology changes

The data within this publication comes from a variety of administrative systems. The document will present where there have been revisions to data accountable to switches in methodology or administrative systems with statistics affected within the publication appropriately footnoted.

Receipt of subsequent information

The nature of any administrative system is that data may be received late. For the purpose of this criminal justice statistics publication, the late data will be reviewed on a quarterly basis but, unless it is deemed to make significant changes to the statistics released, revisions will only be made as part of the final release containing the year's statistics. Should the review show that the late data has had a major impact on the statistics then revisions will be released as part of the subsequent publication.

Errors in statistical systems and processes

Occasionally errors can occur in statistical processes; procedures are constantly reviewed to minimise this risk. Should a significant error be found the publication on the website will be updated and an errata slip published documenting the revision.

Symbols and conventions

The following symbols have been used throughout the tables in this statistics release:

0 = Nil

- = Not applicable

.. = Not available

(R) = Revised data

Contact points for further information

Press enquiries on the contents of this statistics release should be directed to the Ministry of Justice press office:

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