

CRIMINAL FIXED FEE SCHEDULES 2 JULY 2018

Contents

SCHEDULES A, B & C: POLICE PROSECUTIONS	2
GRANTING NOTES – SCHEDULE A, B & C.....	6
SCHEDULES D, E & F: CROWN PROSECUTIONS.....	8
GRANTING NOTES – SCHEDULES D, E & F	14
SCHEDULE G: FEE SCHEDULE FOR APPEALS TO THE HIGH COURT	17
SCHEDULE H: FEE SCHEDULE FOR APPEALS TO THE COURT OF APPEAL.....	19
SCHEDULE I: FEE SCHEDULE FOR APPEALS TO THE SUPREME COURT.....	19
GRANTING NOTES FOR SCHEDULES G, H & I.....	21
SCHEDULE J: FEE SCHEDULE FOR PAROLE (CRIMINAL MATTERS)	22
GRANTING NOTES FOR SCHEDULE J.....	23

Schedules A, B & C: Police Prosecutions ¹

Police Prosecutions				
Administration/Case Review				
	A	B	C	Tasks covered by fixed fee
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/DVDs) • liaising with prosecutor/court • identifying the need for applications, interlocutory 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 • engaging in charge discussions and/or resolution, including diversion or charges withdrawn.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/DVDs) • 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.

Other matters		
	A-C	Tasks covered by fixed fee
Sentencing Indications – - preparation @ ¹	\$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 submission(s)# 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
	\$60	<ul style="list-style-type: none"> • liaising with other agencies and family/whānau as necessary receiving decision any agent fees • reporting to client. •
Applications and variations (unopposed) – - preparation of submission(s)# ²	\$60	
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	\$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.
- written sentencing submissions @ ²		

Fitness to Plead/ Stand Trial – - preparation - hearing time *	\$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.
	\$48 per half hour	For: <ul style="list-style-type: none"> • attending Fitness to Plead/Stand Trial Hearing • any agent fees.

Other matters (continued)

	A-C	Tasks covered by fixed fee
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.

Trial and sentencing (continued)		
	A-C	Tasks covered by fixed fee
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		

<p>Interlocutory appeal hearings –</p> <p>- preparation *</p>	<p>\$450</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 • liaising with prison • receiving decision • any agent fees • reporting to client.
<p>- hearing time *</p>	<p>\$48 per half hour</p>	<p>For:</p> <ul style="list-style-type: none"> • attending Interlocutory Hearing(s) • any agent fees.

GRANTING NOTES – SCHEDULE A, B & C

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, if there is a significant change in circumstances; or if a judge schedules a call-over conference and requires submission of a call-over memorandum.
- @¹ **Sentencing indications** - this preparation fee is available only if there is a written sentencing indication 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 (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 s18, 23, and 25 applications.

- #² **Unopposed applications and variations (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, or where a second or subsequent appearance occurs following restorative justice investigations.

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 23D*) [[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 & F: Crown Prosecutions ²

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 *	\$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. Note: Evidence of having filed the CMM is not required.
Appearances - - hearing time*	\$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 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.

Other matters				
	D	E	F	Tasks covered by fixed fee
Sentencing Indications - - preparation @	\$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

				<ul style="list-style-type: none"> 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.
Applications and variations (opposed)-	\$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.
- preparation of submissions # ¹				
Applications and variations (unopposed) -	\$200	\$250	\$300	
- preparation of submissions #2				
Applications and variations -	\$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.
- hearing time *1				
Written sentencing 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.
- written expert witness /reports &				
- section 38 – forensic report *^				
- restorative justice reports				
- alcohol and drug reports				
- other court-ordered reports				
Fitness to Plead/ Stand Trial –	\$250			For: <ul style="list-style-type: none"> taking instructions, attending the client preparation and delivery of application any agent fees reporting to client.
- preparation				
- 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.
Referral to Alcohol and Other Drug Treatment (AODT) court -	\$250			For: <ul style="list-style-type: none"> taking instructions, attending the client preparation of application/ submissions any agent fees reporting to client.
- preparation				
- hearing Time *	\$59 Per half hour	\$67 per half hour	\$76 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				
	D	E	F	Tasks covered by fixed fee

<p>Trial callover memorandum (TCM) – - preparation</p>	\$250	\$300	\$350	<p>For:</p> <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.
<p>Subsequent callover memoranda – - preparation #3</p>	\$140	\$150	\$200	<p>For:</p> <ul style="list-style-type: none"> • taking instructions, attending the client • preparing any subsequent callover memoranda • any agent fees • reporting to client.
<p>Pre-trial conferences and callovers – - hearing time *</p>	\$59 per half hour	\$67 per half hour	\$76 per half hour	<p>For:</p> <ul style="list-style-type: none"> • attending Pre-Trial Conferences and callovers • any agent fees.
<p>Disclosure (Criminal Disclosure Act 2008) –</p> <p>- preparation *</p> <ul style="list-style-type: none"> • disclosure by defendant • application for disclosure of information • other applications for disclosure 	\$220	\$240	\$290	<p>For:</p> <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. <p>Or</p> <ul style="list-style-type: none"> • preparation of an application for disclosure of information under s30 • preparation for hearing (including written submissions). <p>Or</p> <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. <p>And</p> <ul style="list-style-type: none"> • any agent fees • reporting to client.
<p>- preparation</p> <ul style="list-style-type: none"> • non-party 	\$600			<p>For:</p> <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	\$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.
- hearing time *				

Pre-trial activities (continued)				
	D	E	F	Tasks covered by fixed fee
Pre-trial applications including responding to Crown Applications				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.
- preparation	\$700	\$1,100	\$1,940	
- 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 acts – f	\$250			For: <ul style="list-style-type: none"> taking instructions, attending the client preparation for Disputed Facts Hearing any agent fees reporting to client.
- preparation				
- 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 –	\$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
- preparation – (part when election for trial by jury is reversed OR client pleads guilty)				

- preparation – (full) if case goes to a full hearing OR hearing time * - -	\$1,400	\$2,650		<ul style="list-style-type: none"> 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.
	\$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)				
	D	E	F	Tasks covered by fixed fee
Sentencing – - preparation - 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 *	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: • 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.
	- hearing time *	\$59 per half hour	\$67 per half hour	\$76 per half hour

GRANTING NOTES – SCHEDULES D, E & 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, if there is a significant change in circumstances; or if a judge schedules a call-over conference and requires submission of a call-over memorandum.
- @ **Sentencing indications** - this preparation fee is only available if there is a written sentencing indication submission.
- #¹ **Opposed applications and variations (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 s18, 23, and 25 applications.
- #² **Unopposed applications and variations (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, or where a second or subsequent appearance occurs following restorative justice investigations.

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 24D) [[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: Fee schedule for Appeals to the High Court

Appeals to the High Court					
	Schedule (substantive matter)				Tasks covered by fixed fee
	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. 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.
	\$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. Notes:
	\$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	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.
	\$800 Completion = To be claimed at disposal		

Preparation of appeals (continued)					
	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: • attending Appeal Hearing(s) • any agent fees.
Application for admitting fresh evidence *	\$250				For: • 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: • 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: • attending hearing(s) about leave to appeal to the Court of Appeal • any agent fees.

Schedule H: Fee 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) (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: Fee 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

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	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.
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	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 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)		

Activity	Fixed fee	Tasks covered by fixed fee
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, H & 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 or form 12*) [[s14 Legal Services Act 2011](#)]

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

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

Schedule J: Fee schedule for Parole (Criminal Matters)

Parole (Criminal Matters)			
Proceedings before the NZ Parole Board			
Activity	Fixed fee		Tasks covered by fixed fee
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	\$700 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 • 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	\$860 To be claimed at 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 of 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.

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, non-release 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 –	\$440 For Postponement order; Recall; Non-release orders; other proceedings entitled to counsel	For: <ul style="list-style-type: none"> work undertaken prior to termination of assignment that has substantially progressed the case. The termination of assignment fee cannot be paid if an interim fee has previously been paid to that provider.
	\$520 For Extended supervision orders	

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 27A*) [[s97 Legal Services Act 2011](#)]

