**LEGAL AID AGENCY WEBINAR**

TRANSCRIPT

**Criminal Legal Aid Reform – Advocate Graduated Fee Scheme**

**PART 3: Unused material fixed fee**

Hello and welcome back to our ‘help us say yes’ webinar. This is the third section which is centred around the unused material fixed fee.

This is a third of the accelerated measures which affect the Advocate graduated fee scheme. The unused material fixed fee was introduced on the 17th of September 2020. Unused material is classed as evidence that the prosecution do not rely on and provide to the defence, as it may assist with the defence case or undermine the prosecution case.

The fixed fee that has been introduced is designed to cover the first three hours that you may spend viewing unused material. Therefore, it doesn't matter if you've spent one second looking at this material or if you've spent two hours 59 minutes 59 seconds looking at this material. It's the…, you’re still entitled to the three hours fixed fee.

It's claimable on all cases on indictment that progress past the guilty plea stage. So just to break that down a little bit, by all cases on indictment we mean cases that are sent to the Crown Court for trial and have an indictment.

Therefore things such as appeals against sentence, appeals against conviction, committals for sentence, contempt cases, breaches ge.. and breaches against Crown Court orders are not classed as cases on indictment, and therefore the unused material fixed fee is not payable in those cases.

In addition to this, as the elected cases with which do not proceed to trial are payable by way of a fixed fee, those cases are also excluded from this criteria. So therefore, if you have an elected case which is just an elected case fixed fee, erm, you cannot claim the unused material fixed fee in addition to this, it's just the um… erm elected case fixed fee that you can claim.

By the phrase ‘progressed past the guilty plea stage’, what we mean by that is the case that has progressed past the plea in case management hearing and has been listed for trial. So, if you have a case that's been listed for trial and has gone past that plea in case management hearing or pre-trial, and pre-trial and preparation hearing, it's, erm going to be either a crac... it's going to progress as a cracked trial or a trial, so the case erm that meet that criteria you can claim the unused material fixed fee.

The unused material fixed fee itself erm, is claimable on the Crown Court system under the ‘miscellaneous fixed fee’ section. I’m going to demonstrate how you can claim the ‘unused material’ fixed fee in just a moment.

But first off I just wanted to refer you to slides 9 and 10 which actually erm, have the erm unused material fixed fee on there and as you will see its dependent on the advocate type.

So if you’re a QC erm, and the record was granted between 17th September 2020 and 18th February 2021 you have a fixed fee of £112.11p. If you’re a ‘leading Junior’ it’s £84.84; and, if you’re a ‘Junior alone’ or a ‘led-Junior’ it’s £59.01p. All of these fixed fees are exclusive of VAT, so if you are VAT registered you would claim the VAT in addition to the fixed fee amount.

From the 18th February onwards erm, there has been a slight amendment to the ‘Junior alone’ or ‘led-Junior’ it’s actually £59.09p instead of £59.01p, so that is just something to bear in mind. As I mentioned before, this fixed fee is for up to three hours, so it’s er, just a global fixed fee amount so it doesn’t matter if you’ve spent three hours or one hour, it’s still going to be £59.09 if you’re a junior alone, etc.

I will now move on and hopefully with the magic of technology I’ll be able to share my screen with you to sh… demonstrate how you claim the unused material fixed fee on the Crown Court defence system.

What I would say is part of the reason we’re doing these webinars is to encourage you to claim erm, payments you are entitled to.

With the unused material fixed fee, we’ve have noticed that only about 45% of eligible cases have had the fixed fee claimed. So, we would urge you to claim this fixed fee where you are entitled to it. When I demonstrate the system, you’ll notice there are a series of flags in place erm, to also alert you to the fact that you can claim the fee on eligible cases.

So, I will just hopefully share my screen with you. And it will pop up correctly.

So, fingers crossed you can all see this screen. And it some, it should be a screen that many of you will be familiar with. This is the Crown Court defence system, and this is the system that you use to make all your advocate fee claims. So, in order to claim the unused material fixed fee, you will have to submit it as part of your advocate graduated fee claim.

If you do have any cases where you have submitted, erm, an advocate graduated fee claim and you’re going back historically, and you’ve noticed that you should have claimed the fixed fee and have not. In order to rectify this, you can submit a redetermination on that claim and just pop a note on the messaging system to say that you forgot to claim the unused material fixed fee. That redetermination will then get allocated to one of our caseworkers who will be able to add it on for you.

With the fixed fee itself there is no verification process in place - you don’t need to provide any additional information in support of the fixed fee claim. Th.., all we will check is that the record is granted on or after 17th September 2020 and that the case has progressed past the ‘guilty plea’ stage they’re the only two things that we will check. And provided erm…, that the case meets that criteria you are entitled to claim the unused material fixed fee.

So, let me just show you how to make a claim so we just click ‘start a claim’. And then if you select ‘advocate final fee’.

Erm, another way you can claim the fixed fee on cases where you might have forgotten to claim it. So, what usually happens is if you've got a claim that has gone past, that has been paid and it's been in the archive for six months or more, it will get automatically deleted. On those cases you won't be able to open a redetermination because the record isn't there anymore. But what you can do is you can select ‘advocate supplementary fee’ and you can claim the fixed fee that way, if you've forgotten it as well.

But, just for this, these purposes, we're going to go through then the way to claim it correctly from now on. So, if you click ‘advocate final fee’ and then click continue. And then we'll just put in the details of your instructed advocate. And if you select ‘cracked trial’, ‘trial’, ‘retrial’, or ‘cracked before retrial’, provided that the Rep order is granted on or after the 17th of September 2020 the option will come up for the fixed fee to be claimed in the ‘miscellaneous fee’ section later on.

If you select any other scenario the option will not come up for you so, so make things nice and simple, we’ll select ‘trial’ and then we'll just make up some court details. Let's make things simple, we’ll say that the matter was not transferred and as the day of trial will put in just a random date. And.., and we’ll just make it as a one day trial for now. And then you just click ‘save’ and continue.

And then we'll just pop in the defendant’s details. So, I'll just put my details in there for now, while we're doing a make-believe claim. And I say, with the ‘Rep order’ it needs to be on or after the 17th of September 2020, otherwise the in the fee won't come up as an option, so we'll make it 17th January 2021.

And then we need a MAAT reference, so that should be found on your representation order and it's 7 digits long. And then we'll do some offence details, so we'll just pop in some random details just while we're doing a, a random claim.

And then we’ll make it a ‘Junior alone’. So, as you will see…, as you'll notice the basic fee for the Advocate is automatically generated, with the details we've put in.

To make things simple, I won't claim any additional fees such as ‘standard appearance’ fees, so we'll just move on to the next stage.

And then it is here the ‘miscellaneous fee’ section, which is important for claiming the unused material fixed fee. So, as you should notice, there is a little flag that pops up on the system and to say that you are, if the case is eligible for the unused material fixed fee.

So, the unused material fixed fee can be found in this box. If we Scroll down, and then you will notice that there are two options as one that says ‘unused materials over 3 hours’ and ‘unused materials up to three hours’. So as the fixed fee is for three hours or less, you would select the ‘unused materials up to three hours’, if you're solely claiming the fixed fee.

If you have spent longer than three hours looking at the unused material, you are entitled to the fixed fee of three hours, but you then also... erm, then entitled to make a supplemental claim, which we're going to go onto in the next section, which is going to be covered by my colleague Nicola.

But if you did have a supplemental claim to make as well, you would select the ‘unused material fixed fee for up to three hours’, and then you would also add on a further unused material fixed fee... here…, for the hours in excess of three hours, which is here.

So, for now, I'll just remove that so it doesn't confuse things, but as you'll see, because I've selected erm ‘Junior alone’, it's automatically come up with the fixed fee rate of £59.09, and that's automatically been added on to the erm, to the gross, to the gross amount as well that you're going to claim. So just click save and continue. And to make things easy, we won't put in any travel expenses and then click save and continue again.

This supporting evidence section as you are going to be claiming the unused material fixed fee with your graduated fee claim, what we’d advise is that you do upload a copy of the indictment because that is required for all advocate graduated fee cases which are not, erm, fixed fees.

So, if you upload a copy of the indictment in this section here with your claim, or otherwise the claim might be rejected. So that's just something to bear in mind. And then if you click save and continue again, and then we can click save and continue once more to complete our declaration. And then ‘certify’ and ‘submit’ this claim and then that is all done.

That is then, then gone through to our side for processing.

So, I hope you found that useful and that you now know how to claim your unused material fixed fee. And as I mentioned before, for the unused material fixed fee itself you don’t need any supporting evidence, you just need to meet the criteria in terms of the representation order and the scenario - so it’s got to have progressed past the guilty plea stage.

So that concludes this section. So, I will pass you over to my colleague Nicola who is going to run through the fourth and final section, which is the ‘unused material claims in excess of three hours’.

Thank you.

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