

The background of the entire page is a photograph of a legal review. In the foreground, a wooden gavel rests on a wooden surface. In the middle ground, two hands are visible, one holding a gold pen and the other a blue pen, both pointing at a document on a clipboard. The document has the word 'CONTRACT' visible. In the background, a pair of scales of justice is visible, slightly out of focus. The lighting is warm and golden, suggesting an indoor setting with natural light.

INDEPENDENT REVIEW OF THE HOURLY RATE IN NORTHERN IRELAND

Report Compiled
by BDO NI on behalf
of the Law Society of
Northern Ireland

11th November 2024

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GLOSSARY OF ABBREVIATIONS AND DEFINITIONS

Term	Definition
LSNI	The Law Society of Northern Ireland
GVA	Gross Value Added
NI/The region	Northern Ireland
RoI	Republic of Ireland
UK	United Kingdom
GB	Great Britain
ONS	Office for National Statistics
PwC	PricewaterhouseCoopers Chartered Accountants
THR/The Hourly Rate	The Solicitor's Hourly Rate
RSC (NI)	Rules of the Supreme Court (NI)
CJC	Civil Justice Council, England and Wales
GHR	Guideline Hourly Rate
CAFC	Cost and Funding Committee, Scotland
RPI	Retail Price Index
CPI	Consumer Price Index
CPIH	Consumer Price Index, including cost of owning a home
SPPI	Services Producer Price Index
CSO	Central Statistics Office

Law Society of Northern Ireland
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11 November 2024

Dear Ann,

Independent Review of The Hourly Rate

We are pleased to present to the Law Society our Independent Review of The Hourly Rate in Northern Ireland. We would like to take the opportunity to thank you for this instruction and to also acknowledge the work of the Law Society Committee and the wider Working Group in supporting our research for the Report.

We would also like to thank the 131 law firms who took time to provide detailed responses to our survey and to the individual solicitors who agreed to take part in the further follow up interview process.

If there are any matters upon which you require clarification or further information, please do not hesitate to contact either David Warnock or myself.

Yours sincerely,



Brian Murphy,
Managing Partner
For and on Behalf of BDO Northern Ireland

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FOREWORD

At BDO NI, we work closely with the legal profession in Northern Ireland, and our clients within it, to help support and promote the industry's continued success. It is an area in which we have developed considerable experience, through involvement with our local client base and also through our engagement with key stakeholders across the sector over the last 30 years and more.

As expert witnesses in Forensics cases and in our role as Insolvency Practitioners, we have developed a breadth of knowledge across the legal profession, working alongside many local solicitors and attending regularly at court, on a variety of legal cases.

Noting this expertise and knowledge, we are well placed to act in this advisory role on behalf of the Law Society and we have set out within this independent Report our detailed findings regarding our review and assessment of the Solicitors' Hourly Rate in Northern Ireland.

THE LEGAL MARKETPLACE IN NORTHERN IRELAND

Over the last decade, the Legal Market in Northern Ireland has grown significantly with c450 solicitor firms, generating c£460m in GVA¹.

The Legal Market in Northern Ireland has historically been dominated by Private Practice law firms, with the majority of firms (38%) based in Belfast. In recent years, an influx of international firms have set up in Belfast due to the quality of talent and the cost efficiencies offered within the region.

Operating costs for legal services are significantly lower compared to other major cities across UK and Europe.¹

The UKs Legal 500 directory includes 15 Belfast based law firms, working across a variety of practice areas². Invest NI recently described the NI Legal system as robust, mature and internationally focused, with over 6,500 people employed in the industry.³ The region hosts various legal operations including legal and shared services centres, legal processing outsourcing centres and general counsel.

As part of our own research conducted, we found that 50% of the firms who participated in the Law Society Northern Ireland survey were Limited Companies, and only 23.38% described their business structure as a Partnership. 70.13% of firms considered themselves "A general practice solicitor's firm carrying out a variety of different legal work".

Whilst the investment into NI has been positive for the economy as a whole, local firms, have faced significant challenges in retaining staff, due to the high salaries being offered by the large international firms. This movement in labour has accelerated further following the Covid-19 Pandemic and is the primary issue facing the majority of the respondent firms within our Report. Other key issues highlighted include the increase in technology, regulation and compliance costs.

THE SOLICITOR'S HOURLY RATE REVIEW

The Solicitor's Hourly Rate is a function of Order 62 of the Rules of the Supreme Court (NI) 1980. For the purpose of a taxation of costs on a standard basis under these rules, the Taxing Master in Northern Ireland should apply a single or composite rate for all solicitors when assessing the costs referable to any work which was reasonably done.

In 2024, the Lady Chief Justice directed a review of the Solicitor's Hourly Rate and asked Mr Justice McAlinden to Chair a Working Group to consider: (1) the current Hourly Rate; and (2) Establish a mechanism and policy for future reviews of the Hourly Rate.

ROLE OF THE LAW SOCIETY OF NORTHERN IRELAND

The Law Society of Northern Ireland is the professional body for the solicitor profession in Northern Ireland. It represents and supports its members, including solicitors working in public, private and third sector organisations. As a voice for the profession, it acts in the profession's interest, engaging with government and other stakeholders, working to promote the rule of law and promote access to justice.⁴

BACKGROUND TO OUR ROLE

The current Hourly Rate in place in Northern Ireland was reviewed and determined in 2014. Since then, inflationary pressures and the cost of living crisis' have impacted all sectors and organisations with increases applying to salaries, utility bills and service rates. However, there has been no revision to the Legal Hourly rate to account for these rising cost pressures.

The Law Society of Northern Ireland appointed BDO NI in March 2024 as independent specialists, to review and assess the current Hourly Rate.

KEY OBJECTIVES AND SCOPE

This Report has been prepared to provide an independent, commercial assessment of the current Hourly Rate used in Northern Ireland. It details our key findings and recommendations with regard to a fair and reasonable Hourly Rate, which will assist the Committee and its Chair to formulate an overall recommendation to the Lady Chief Justice.

In line with your Terms of Reference, this assignment has been structured across 4 phases:

1. Review and Assessment of the historical Hourly Rate

An assessment of the solicitors' Hourly Rate and its application across the industry within the taxation process in Northern Ireland.

2. Legal Market Overview

A brief overview of the legal professional marketplace in Northern Ireland.

3. Detailed Research across the Profession

Collation of information on current firm performance and the overall costs of running a solicitors' practice in Northern Ireland.

4. Independent Recommendations

Proposed options and recommendations in relation to an update to the Solicitors' Hourly Rate.

Our findings were evidence-based, with a detailed survey of the legal profession carried out as part of our research. The primary purpose of the survey was to determine the staffing composition and the average overhead of a law practice in NI to facilitate the calculation of the average cost of production for a professional fee earner.

In line with our instructions, no consideration has been given with this Report to the 'care and conduct' rate for proceedings, which is the discretionary % uplift provided by the Taxing Master in litigation cases.

1. EXECUTIVE SUMMARY

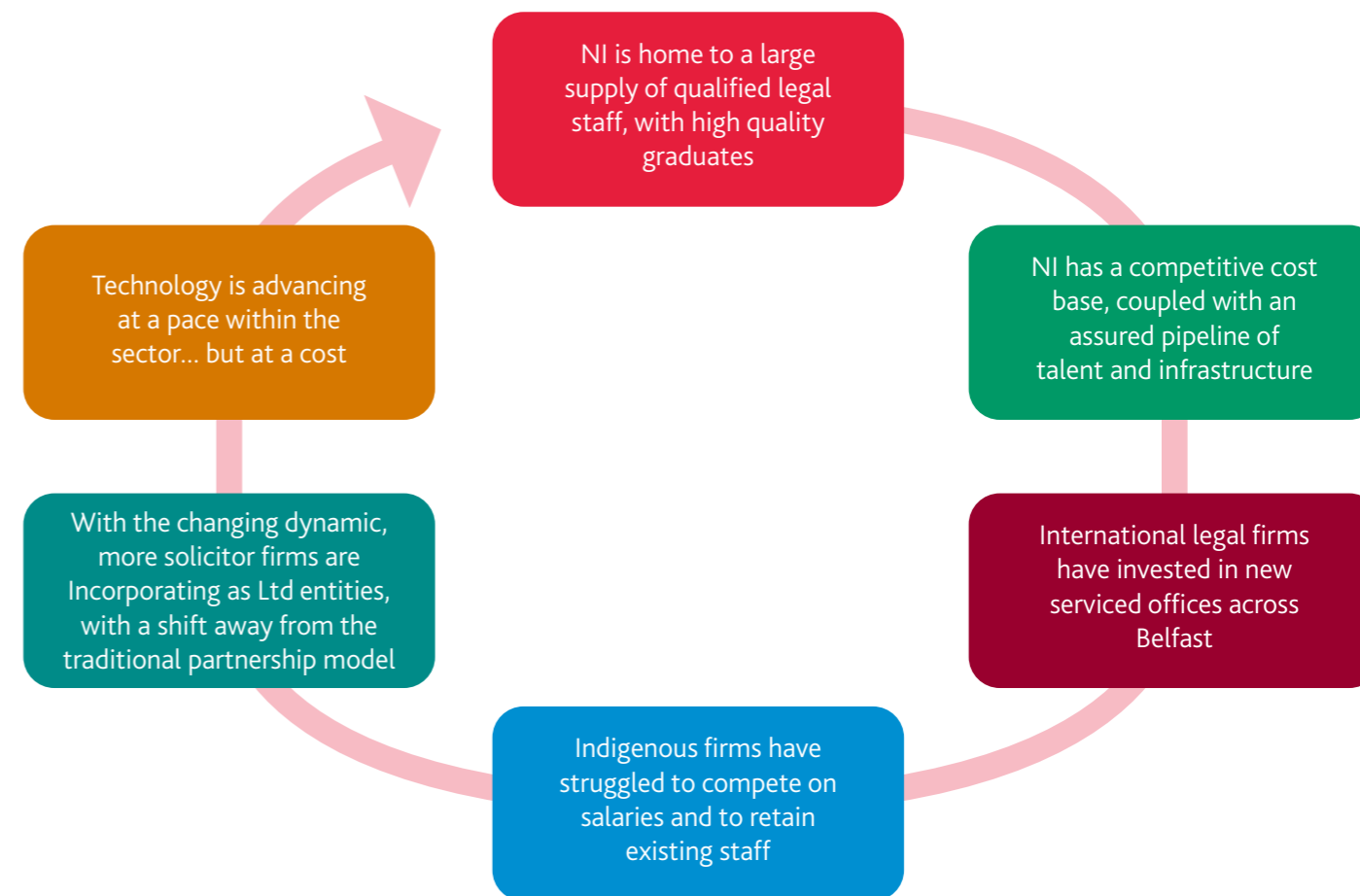
I. The Solicitor's Hourly Rate

- 1.1 The Solicitor's Hourly Rate is based on the cost of production of an average fee earner and is viewed by many in the profession as being the foundation rate on which solicitor fees are measured and negotiated from. The Hourly Rate is currently set at £102 per hour; and has been in place at this level since 1st April 2014.
- 1.2 Prior to this date, the previous Hourly Rate as per case law from June 1997 within Donaldson v Eastern Health and Social Services Board (See Appendix 1) indicated an "Hourly Rate of £57.50 in 1994/95", which represents a cumulative uplift of 77.4% to the 2014 rate over a 20-year period.
- 1.3 The current rate of £102 was agreed by the Taxation Master and the Court following a survey of the profession carried out by PwC in 2009 (Appendix 3). Their Report considered 4 different methods of calculation, with the average being at £110.73 per hour.
- 1.4 The PwC Report was subsequently challenged by legal costs consultant, Mr Paul Kerr, who raised a number of issues, including the survey response rate of only 18% was not sufficient to provide a valid conclusion on the data received.
- 1.5 In developing our approach for our independent Report, we have considered the comments by Mr Paul Kerr within our methodology to mitigate any potential challenge and ensure that a robust evidence-based approach has been applied in reaching our conclusions and recommendations.

II. Legal Market Overview

- 1.6 Based on recent research conducted by Hook Tangaza⁵ the activity of solicitors in Northern Ireland contributes c£460m to the economy, with the region becoming one of the fastest growing legal sectors across the UK since 2013.
- 1.7 The region boasts c450 law firms, with Northern Ireland accounting for 2.5% of all UK employment in the legal sector⁶.
- 1.8 Managing costs is vital in today's economic climate and, with its competitive cost base, coupled with an assured pipeline of high-quality graduates from its 2 renowned universities, Northern Ireland continues to be very attractive for inward investment. As a result, over the past decade there have been c13 mergers between NI law firms and Top 100 English practices, with Belfast currently hosting more international UK legal headquarters than any other UK city outside of London⁷.
- 1.9 Whilst the influx in investment from international law firms has been welcomed from an NI economy standpoint, it has had a largely negative impact on indigenous firms who have struggled to compete on salary levels, resulting in staff retention issues.

1.10 The diagram below summarises the key attributes of the legal profession and how it has evolved in Northern Ireland:



- 1.11 Whilst the legal sector in general has achieved successes, it has not come without challenges, Economic pressures, shifting conveyancing demand, enhanced regulation, changing cultures and the need to continually attract talent and drive new business have been the core issues impacting the profession as a whole across the UK.⁸
- 1.12 Looking locally to NI, the arrival of the large international firms has created a significant divide in the type of services that are provided. This has led to increased competition for staff, with indigenous firms unable to compete with salary expectations and the flexible working options that are being offered by the larger corporates.⁹
- 1.13 As a result of these factors, it is likely that the regional imbalance will continue to grow and that there will be further consolidation of firms as cost pressures continue to increase and impact profitability and viability.

1.14 A summary of the specific challenges being faced by the legal profession in NI is summarised below:



III. Detailed Research Across The Profession

1.15 As part of our Independent Report, we have carried out in-depth research across a range of sources:

- 1) Survey issued to all 448 LSNI members;
- 2) 15 follow up interviews with a range of firms of varying size and location across the region; and
- 3) Review and verification of the annual accounts provided by the interviewee firms.
- 4) Discussions with the Legal Services Agency Northern Ireland;
- 5) Meetings and Discussions with the Law Society;
- 6) Review of existing Reports conducted by LSNI;
- 7) Review of independent feedback from LSNI members;
- 8) Meetings with the Hourly Rate Working Group Committee; and
- 9) Online research.

1.16 Our research and interviews with local legal firms has allowed us to better understand the market issues and to obtain a variety of views with regard to the Hourly Rate.

1.17 Our primary source of data has been our evidence-based research through our Survey and the follow up interview process with 15 firms.

1.18 The Survey was issued to all LSNI members in June 2024. Members were provided with a period of 2 and a half months to complete the survey, which included an extension period of a month and a half being allowed over the summer.

1.19 A total of 131 completed responses were received, equating to an overall response rate of 29.2%, with this level increasing to 33.6% if the population is adjusted for the estimated number of firms (c13%) not impacted at all by the Hourly Rate.

1.20 15 firms also agreed to take part in a further follow up Interview Process. The objective of these interviews was to provide further qualitative and quantitative evidence to verify the overhead costs of each firm and cross check these to the survey data. As part of this interview process, to delve into the trends that firms were seeing regarding the Hourly Rate and its application to legal services generally.

1.21 The primary purpose of the Survey was to determine the staffing composition and the average overhead cost of a law practice in NI, to facilitate the calculation of the average cost of production for a Professional Fee Earner.

1.22 As part of our Independent Report, we carried out a detailed analysis of the cost of production based on 3 separate calculations/data results, along with 2 additional calculations taking on board Market Indices and additional research regarding the level of chargeable hours currently worked by Partners. Please refer to Appendix 6 for our detailed workings. A summary of the 5 calculations is as follows:

- **Calculation 1 – Core Survey** – Based on the overhead data received from the 131 law firms responding to the survey, calculating the average overhead cost applicable to an Equity Partner, Salaried Partner and Solicitor.
- **Calculation 2 – Fee Earner** - Based on the overhead data received from the 131 law firms and applying this to the average number of fee earners as indicated by respondents.
- **Calculation 3 – Verified Accounts** – Based on the overhead data received from the 15 interviewees' actual financial accounts and calculating the average overhead cost applicable to an Equity Partner, Salaried Partner and Solicitor in line with Calculation 1.
- **Calculation 4 - Market Indices** - A range of market indices models were assessed and applied to the 2014 Hourly Rate level to consider the cumulative impact that inflation/cost increases would have had on the Hourly Rate over the last 10 years. We have also reviewed the hourly rates currently being applied across the UK and Rol as further evidence-based comparisons to support our calculations.
- **Calculation 5 - Revised Chargeable Hours** – Comments from interviewees and issues raised previously by Paul Kerr regarding the use of one sole rate for all grades of staff were assessed. From research across the profession, working habits have changed in the last decade and as such, chargeable hours for both Equity and Salaried Partners have decreased based on surveys conducted across the UK. The main rationale for this is the increased time spent by Partners dealing with other firm matters, including enhanced regulation, AML Reporting, recruitment and business development.

1.23 Noting the large number of responses, all data was obtained from Survey Monkey and each question result analysed in an individual excel sheet. The data was formatted and reviewed for any anomalies and incorrect inputs, such as random sequential numbers and letters that on some instances had been entered incorrectly into the overhead categories.

1.24 In order to present a fair representation of legal firms across NI, a mean average of the survey data has been calculated for the results. Per Laerd Statistics, "The mean is essentially a model of the data set. It is the value that is most common and one of its important properties is that it minimises error in the prediction of any one value in your data set. That is, it is the value that produces the lowest amount of error from all other values in the data set."¹⁰.

1.25 We note that the previous calculation carried out by PwC used a median basis for calculating the average overhead, which is an appropriate method for a smaller population of skewed data. Generally, a median average is used for data that contains a high level of exceptional outliers and anomalies. Our data set was reviewed, with any anomalies or errors removed. As such, the use of a Median calculation was deemed to be inappropriate for our data set.

1.26 We concluded that the mean figures were more accurate and reflective of the overheads of NI law firms when compared to the 15 actual law firm accounts that we reviewed as part of our interview process. Through this additional verification and interview process, we adopted a more robust approach to our calculations which also took on board the comments and challenges raised previously in respect of the PwC Report.

IV. Independent Recommendations

Summary of BDONI's Calculations of the Hourly Rate

1.27 The following table is a summary of the various methods that we have used to establish a robust and verifiable figure for the current Hourly Rate. Our detailed workings are included at Appendix 6.

Calculation	Premise of Calculation	Calculated Rate
Calculation 1- Core Survey	<ul style="list-style-type: none"> Survey results utilised to calculate the average salary and number of Equity Partners, Salaried Partners and Solicitors in an NI legal practice Survey results utilised to compile the average overhead cost to run an NI legal practice. Notional % of overheads calculated across Partner & Solicitor levels The average professional salary is then added to this to get a cost of production for each fee earner level This figure is then divided by the number of chargeable hours (being 1,100 hours per the Donaldson Report), to calculate a specific rate for Equity Partner, Partner and solicitor level An average of these 3 rates is then taken 	£151.17
Calculation 2- Fee Earner	<ul style="list-style-type: none"> Survey results utilised to compile the average overhead cost to run an NI legal practice, including all salaries Survey results utilised to compile the average number of fee earners in an NI legal practice The average overhead cost is then divided by the average number of fee earners in each firm to calculate the cost of production for an average fee earner This is then divided by 1,100 Chargeable hours 	£157.40
Calculation 3- Verified Accounts	<ul style="list-style-type: none"> Utilising the same method as Calculation 1, however, the overheads figure has been amended to use the actual verified figures taken from the 15 interviewee's latest set of financial accounts Using the data from the 15 accounts received from the interviewees we extracted the total average overheads, excluding any reference to salaries. This totalled to £469,865.18. We noted that the majority of interviewees were partnerships and the breakdown of overheads provided did not separate professional from non-professional salaries. As a result we took the overhead figures from the interviewee data, and added to this the nonprofessional salaries figure (£437,643.93) obtained from the survey data. Together this resulted in a total overhead figure (excl. Professional salaries) of £907,509.11 and the subsequent revised Hourly Rate was calculated thereof. 	£151.54

Calculation 4- Market indices	<ul style="list-style-type: none"> This calculation uses the cumulative increase in the market inflation indices (across CPI, RPI and SPPI over the last 10 years, along with the % cumulative average increase in court fees in the last 7 years) An average is taken across all 4 relevant indices 	
		CPI £172.39
		RPI £155.21
		SPPI £150.37
		Court Fees £143.17
	AVERAGE	£155.28
Calculation 5- Revised Chargeable Hours	<ul style="list-style-type: none"> Utilising the same method as Calculation 1, however the Chargeable hours for both Equity and Salaried partners have been revised to 1,067 hours and 793 hours An average of each of these permutations is then taken 	£174.68

Source: BDO Research & Analysis

1.28 The calculations above provide a mix of evidence led data, supported by comparable market research, which when combined help substantiate a fair and reasonable Hourly Rate level.

1.29 We would highlight that in assessing the core overheads of a typical legal firm, we have not taken into consideration the cost of any working capital, the cost of obtaining debt funding, and any capital expenditure requirements, all of which would have a bearing on the financial performance and cash outlays of a typical practice.

1.30 Overall, the Rates calculated vary from £151.17 per our core survey method, up to £174.68 per the Revised Chargeable Hours calculation, with averages depending on the information used ranging from £153.37 up to £158.01. These revised levels align more closely with the UK rates, albeit they are still c15%-30% lower on average. However, per livingcost.org, Northern Ireland is ranked 10th out of 11 UK regions for having the lowest cost of living rates. In fact, NI is c31% cheaper than the rest of the UK, which again would support the levels analysed below when compared with the UK rates.

Method	1. SURVEY	2. FEE EARNERS	3 VERIFIED ACCOUNTS	4 MARKET INDICES	5 REVISED CHARGEABLE HOURS
Hourly Rate Calculated	£151.17	£157.40	£151.54	£155.28	£174.68
Average of Survey Data Calculations	£153.37				
Average of all 5 Calculations	£158.01				

Source: BDO Analysis

1.31 Based on the above table, we would recommend an Hourly Rate of between £150-£160. We are mindful that this represents a 50%-60% uplift on the current Hourly Rate, however noting the factors outlined above and the time since the last review was undertaken, we believe that this represents a fair rate, that is corroborated through market factors and also verified to actual accounts data.

Future Proofing The Hourly Rate

- 1.32 The Hourly Rate is viewed by many in the profession as being the foundation on which solicitor fees are measured and negotiated from. The lack of uplift over the last 10 years has therefore had a significant impact on the profession.
- 1.33 As part of the interview process, the feedback from all 15 respondent firms was that the Hourly Rate should be reviewed regularly going forward and that the profession should not find itself in a similar position where the Rate has not been reviewed in over a decade. This will ensure that the Rate remains of practical and commercial use.
- 1.34 The majority of the firms interviewed believe that the Rate going forward should be index linked and move in line with inflation. This would ensure that a fair level is maintained and aligns with the processes already established across the UK.
- 1.35 Taking on board the responses received, and the research carried out in respect of other UK jurisdictions, we would recommend that index linking is considered every year to allow any new Hourly Rate to be regularly assessed and applied effectively. This is consistent with the recommendations from the Civil Justice Council Costs report in the UK from May 2023.
- 1.36 The SPPI index would appear to be the most appropriate rate to use going forward, noting its relevance to legal services and the precedent set most recently by the Master of Rolls as part of the Civil Justice Council Costs Committee for England and Wales.
- 1.37 Consideration should also be given by the Committee to evidence-based fees reviews to be undertaken at suitable intervals in the future should the circumstances across the profession/market dictate that a review would be just and appropriate.



2. REVIEW AND ASSESSMENT OF THE HISTORICAL HOURLY RATE

Within this section we have undertaken an assessment of the Solicitors' Hourly Rate, its history and its application across the profession. We have also carried out a review of the comparative rates in different jurisdictions across the UK and Ireland.

- 2.1 The Solicitors Hourly rate is a function of Order 62 of the Rules of the Supreme Court (NI) 1980.¹¹ The Hourly Rate is currently set at £102 per hour and this fee level has been in place since 1st April 2014.
- 2.2 Prior to this date, case law from June 1997 within *Donaldson v Eastern Health and Social Services Board* (Appendix 1) refers to the Rate as being 'a notional hourly rate...calculated by taking a fee-earner's actual or in the case of a principal or partner, a notional salary and adding the appropriate share of the overheads and dividing by 1,100...representing the number of chargeable hours in the working year.'

THE GENERAL PRINCIPLES OF THE HOURLY RATE

- 2.3 Order 62 RSC (NI)⁵ provides that the amount of costs which any party should be entitled to recover is the amount allowed after taxation on the standard basis where an order is made for the payment of costs out of any fund.
- 2.4 The amount of costs is at discretion of the Taxing Master, but will have regard to all the relevant circumstances, but in particular to:
- The complexity of the cause or matter;
 - The skill, specialised knowledge and responsibility required of, and the time and labour expended by the solicitor, or counsel;
 - The number and importance of the documents (however brief) prepared or perused;
 - The place and circumstances in which the business involved is transacted;
 - The importance of the case or matter to the client;
 - Where money or property is involved, its amount or value; and
 - Any other fees and allowances payable to the solicitor or counsel in the matter.

CONSIDERATION OF OPTIONS WHEN ASSESSING THE HOURLY RATE

- 2.5 In order to arrive at an Hourly Rate that is reasonable, a number of matters have to be resolved, as the rules require. The *Donaldson* case assessed these in turn as follows:
- i. How many rates should there be?**
Consideration should be given as to whether a composite rate for all solicitors should be applied or, alternatively, a number of different rates depending on the experience of the solicitor carrying out the work?
- ii. At what level of experience should the single notional hourly rate be fixed?**
In the passage from the judgment of Carswell J in *Thompson v Dept of the Environment* there is reference to a solicitor of approximately 5 years' experience.

iii. What is the standard number of chargeable hours for a solicitor in a full year

Reference is made to 1,100 hours through surveys conducted by the Law Societies in NI, England and Wales, however the London Solicitors Litigation associate questionnaire indicated a figure of 1,200 hours as being more realistic.

iv. Are travelling expenses by car included in the hourly rate?

To avoid the risk of double charging the notional hourly rate excludes the costs of all but basic motoring costs.

v. The actual charges presently and those allowed in England and Wales

Consideration was given within the *Donaldson* case to the rates charged in England and Wales at the time. These have been considered at Section 2.8 below, along with the rates in Scotland and RoI and the procedures adopted for any increases.

- 2.6 As part of our recommendations, we have taken into consideration all of the above factors and included further commentary on their application to the current Hourly Rate calculation as at Section 5 below.

PROCEDURES FOR INCREASING THE HOURLY RATES IN ENGLAND, WALES, SCOTLAND AND THE REPUBLIC OF IRELAND

- 2.7 A detailed summary of the different jurisdictions across the UK and Ireland and how they operate the Hourly Rate has been prepared by the Policy and Engagement Department at LSNI and attached at Appendix 2.
- 2.8 The salient points to note that are relevant to this review are as follows:

ENGLAND AND WALES

- In England and Wales, from 2009 to 2010 hourly rates increased in line with inflation, however this stopped in 2010.
- In 2021 the Civil Justice Council (CJC) Hourly Rates Working Group conducted a proprietary review of solicitors' hourly rates. This led to the new Guideline Hourly Rate scheme being established and in use from 1st October 2021.
- Across 20 bands, the hourly rate increased on average by 17.71%. The greatest increase was 26.78% for Grade A solicitors in National 2 and the smallest was 6.8% for Grade D solicitors in National 13.
- The calculation for the new Hourly Rate was based on: assessing salaries, billed hours and overheads, all in relation to grade of fee-earner and geographical location of the firm. The 'costs of time' is assessed and then a judgment on a reasonable profit margin is made resulting in the Committee's recommendations for the GHR.
- More recently, on 17 November 2023, the Master of the Rolls announced that the 2021 GHR would "be uplifted for inflation from 1 January 2024 in accordance with the Services Producer Price Index".
- The most recent GHR figures, as well as the previous rates (in red) and the percentage uplift (in green), are outlined in the table overleaf:

Grade	London 1	London 2	London 3	National 1	National 2
A	£546 £512 +6.64%	£398 £373 +6.70%	£301 £282 +6.74%	£278 £261 +6.51%	£272 £255 +6.67%
B	£371 £348 +6.61%	£308 £289 +6.57%	£247 £232 +6.47%	£233 £218 +6.88%	£233 £218 +6.88%
C	£288 £270 +6.67%	£260 £244 +6.56%	£197 £185 +6.78%	£190 £178 +6.74%	£189 £177 +6.49%
D	£198 £186 +6.45%	£148 £139 +6.47%	£138 £129 +6.98%	£134 £126 +6.35%	£134 £126 +6.35%
Total Average Hourly Rate	£350.75	£278.50	£220.75	£208.75	£207.00

Source: Solicitors Guideline Hourly Rates GOV.uk

For reference, the Fee Earner Grades are:

- A. Solicitors and legal executives with over 8 years' experience
- B. Solicitors and legal executives with over 4 years' experience
- C. Other solicitors or legal executives and fee earners of equivalent experience
- D. Trainee solicitors, paralegals and other fee earners

7) In May 2023, the final report of the Civil Justice Council¹³ Costs Review recommended that (para 2.26) "index linking should be on an annual basis (conducted on the 1 January each year) as this removes the need to carry out any form of detailed (and thus time consuming) review on a more regular basis whilst at the same time ensuring that GHRs continue to reflect (in so far as possible) the position in the market".

SCOTLAND

8) The Scottish Civil Justice Council is the organisation responsible for preparing and submitting draft fee rules, however rules for solicitor's fees are delegated to the Cost and Funding Committee (CAFC).

9) The functional equivalent of hourly rates in Scotland is the unit-based Time Charge set out in the Act of Sederunt Rules 2019.

10) In 2023 the rate was increased to £180 per hour which saw an increase of 9.75% from the original rate of £164 set in April 2019. The increase was in line with inflation and precipitated by representations from the Law Society of Scotland.

11) The CAFC recommended that reviews going forward should not be based solely on CPI/CPIH calculations. In order to maintain an agile approach to the prevailing circumstances at any point in time evidence-based fees reviews should be undertaken at suitable junctures and where circumstances suggest that review is appropriate.

REPUBLIC OF IRELAND

12) In the Republic of Ireland, upon taxation or costs adjudication, legal practitioners are required to present their bill of costs in a specified form. The hourly rate that solicitor's charge features in this form, though no amount is precisely prescribed.

PREVIOUS REPORT COMPILED BY PWC

- 2.9 PwC were instructed by LSNI to carry out a report and related survey in 2009 (Appendix 3). Their report considered a number of salary benchmarks and applied these to the average overhead cost of running a legal practice in NI. This total assumed overhead cost was then divided by the assumed chargeable hours worked by fee earners (1,100 hours) in order to calculate a fair hourly rate.
- 2.10 The first calculation was carried out based on original comparators, using the average salaries from Solicitors and Partners/ Principals obtained from the survey of legal firms in NI conducted by PwC (Average Rate of £102.74 per hour calculated).
- 2.11 The second calculation was based on Northern Ireland benchmark salaries only and took into consideration the Salary of an average NI Legal Partner, NI Accountancy Partner, Assistant Solicitor working in the Civil Service and a Managing Director salary. An average was then taken of these various salaries to calculate the average rate (Average Rate of £109.71 per hour calculated).
- 2.12 The third calculation was based on both NI and GB Comparators, with an average salary taken of an NI salaried Legal Partner, an NI Accountancy Partner, an Assistant Solicitor working in the Civil Service, a Managing Director, Equity Partner, and a Notional Salary in Scotland (Average Rate of £112.08 per hour calculated).
- 2.13 The fourth calculation was carried out based on original comparators, using the average salaries from Solicitors and Partners/ Principals obtained from the survey of legal firms in NI conducted by PwC but applied to a lower level of chargeable hours for an Equity Partner of 1,000 hours and a higher level of chargeable hours for a salaried solicitor at 1,200 hours (Average Rate of £118.39 per hour calculated).
- 2.14 Overall, averaging all 4 calculations gave an average rate of £110.73 per hour per PwC's report, however a rate of £102 was subsequently agreed by the Taxation Master and the Court.

MR PAUL KERR REVIEW OF PWC REPORT

- 2.15 A review of the PwC report was carried out by Legal Costs consultant Paul Kerr on 28th April 2010 (See Appendix 4). Mr Kerr raised a number of issues pertaining to the PwC report which we have outlined below:
- 1) He questioned the validity of PwC's conclusion, noting the low survey response rate of only 18% of the profession.
 - 2) The calculation of the Notional Salary for an equity partner and the inclusion of solicitor salaries with over 5 years' experience only.
 - 3) He also questioned whether there should be one singular rate or a number of bands as is the case in England and Wales.
- 2.16 As part of our calculation findings, we have taken into consideration the issues noted above and these are outlined below at Section 5.

3. LEGAL MARKET OVERVIEW

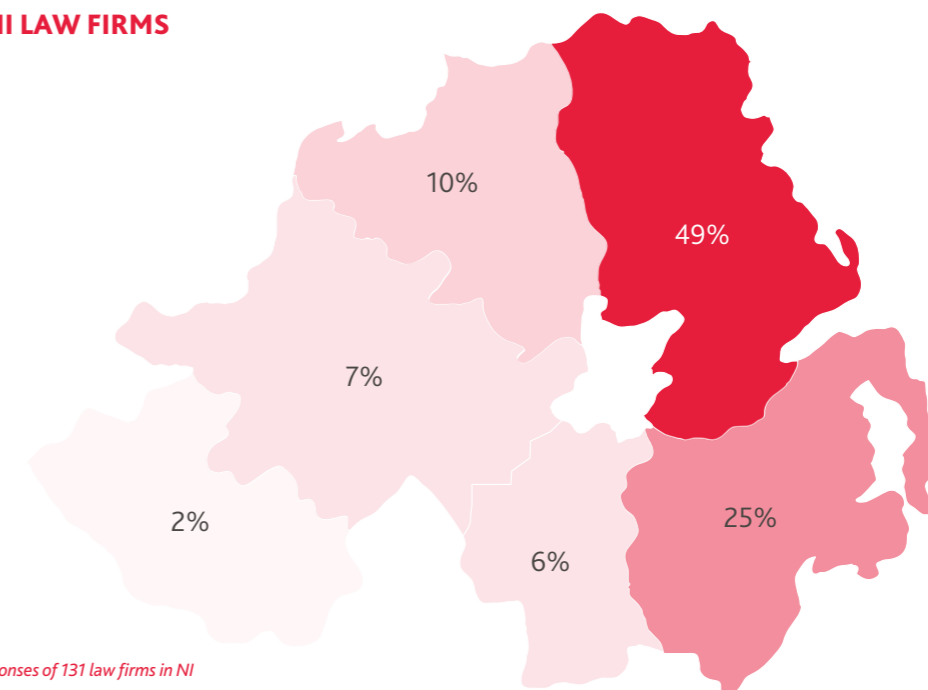
THE LEGAL MARKET IN NORTHERN IRELAND

- 3.1 The Law Society in Northern Ireland was established back in 1922, and works to support c6,000 members, regulating 3,000 practicing solicitors across the country, and working in the interest of the public to uphold the rule of law and promote access to justice.¹⁴
- 3.2 The activity of solicitors in NI contributes c£460m to Northern Ireland's economy, with NI becoming one of the fastest growing legal and accounting sectors of any UK region since 2013.

THE DEMOGRAPHIC OF LAW FIRMS IN NI

- 3.3 The Solicitor profession in NI is relatively young. 38% of those admitted to practice qualified post 2010, with most being under 35 years old. The Legal Profession both globally and in NI is also becoming increasingly female. Since 2000, 60% of all newly admitted solicitors have been women.¹⁵
- 3.4 While the general trend in NI shows most solicitor firms have small staff numbers, the amount of firms with more than 50 employees has doubled in the last 10 years. Such larger firms would tend to serve business and public sector clients in NI.
- 3.5 Northern Ireland boasts c450 Legal firms, and in 2022 Northern Ireland accounted for 2.5% of all UK employment in the legal sector. This has continued to rise in recent years and given the congruence between English, Welsh and NI law, a number of English based commercial firms have established office spaces and practices in NI to take advantage of the legal talent NI has to offer. The region has recently welcomed many globally accredited law firms including Allen & Overy, Baker McKenzie and Herbert Smith Freehills.¹⁶
- 3.6 As part of our own research conducted, we found that 50% of the firms who participated in our survey were Limited Companies, and only 23.38% described their business structure as a Partnership. 70.13% of firms considered themselves "A general practice solicitor's firm carrying out a variety of different legal work". Only 3.57% considered their firm to be a "specialist legal aid firm".
- 3.7 Based on our survey findings as part of this report, the majority of firms (49%) are based in County Antrim, with 10% in County Derry/Londonderry, 6% based in Armagh, 7% based in Tyrone, 25% based in Down and 2% based in Fermanagh as highlighted in the below map. Overall, per LSNI statistics, the majority of law firms in NI are based in Belfast (38%).¹⁵

LOCATION OF NI LAW FIRMS



Source: Based on survey responses of 131 law firms in NI

- 3.8 Whilst the Hourly Rate has a significant bearing across the legal profession as a whole, there are a number of specific practice areas, that fall under the Hourly Rate. These include, but are not limited to, matrimonial and family related cases, clinical and professional negligence related cases, personal injury related cases and loss of profits.
- 3.9 According to our survey results from solicitor firms in NI, 87.12% confirmed that their firm offered Legal services that are linked to The Hourly Rate and of the firms that participated, the average percentage of work that firms had that was linked to the Hourly Rate was 39%.
- 3.10 As part of the process, once the Rate has been applied to the work conducted, firms may apply for taxation in order to obtain an uplift in the rate depending on the 'care and conduct' of work carried out. From our research carried out, respondents indicated that going down the taxation route was a lengthy process. Interviewees explained how the time taken to compile all documents and supporting evidence required to apply for the taxation process was often not worthwhile, with solicitors choosing not to go down this route as a result.

THE EVOLUTION OF THE LEGAL PROFESSION IN NI

- 3.11 Northern Ireland is home to a **large supply of qualified legal staff** and the region continues to produce high quality graduates from 2 of its historically renowned Universities; Queens University Belfast and Ulster University. Ulster University offers a Legal Innovation Centre which is a collaboration between the School of Law and the School of Computing & Intelligent systems.
- 3.12 Managing costs is vital in today's economic climate and NI remains very competitive, offering firms the ability to set up back office legal service centres, with operating costs typically c50% less than London and 40% less than New York⁶. The region's competitive cost base, coupled with an assured pipeline of world class talent and sound infrastructure gives **NI international recognition as a global tech hub in the legal industry**.¹⁷ Over the past decade, there has been **13 mergers between existing NI firms with Top 100 English firms**, with Belfast currently hosting more international UK headquarters than any other UK city outside of London.

- 3.13 Whilst the influx in investment from international law firms has been welcomed from an NI economy standpoint, it has had a knock-on **impact on indigenous firms** who have struggled to compete on salary levels, resulting in staff retention issues. Noting the age profile of partners in regional law firms, there is a real concern regarding the sustainability of the high street practice.
- 3.14 The dynamic within solicitor firms in recent years has moved in line with the changing economic environment in which they are operating. Many of the firms are attempting to grow to increase their resilience with c25% of firms considering a merger. There has been a shift in recent years in the traditional partnership model of Solicitor firms, with a marked move toward incorporation. **Incorporation is now the most popular business model for solicitor firms, with a shift away from the traditional partnership model in firms.** This is due to the increasing risks and commercial pressures that are associated with legal practices.
- 3.15 When it comes to **technology**, the legal industry is undergoing a significant shift. In the past few years, more and more firms have been turning to legal tech to support their businesses, especially since the pandemic. Whilst this has had a positive impact in terms of efficiencies in certain processes and improved customer experience, there has been a knock-on cost impact with investment required in new systems, along with ongoing maintenance/ servicing costs.

CHALLENGES FACING THE LEGAL SECTOR – MACRO FACTORS

- 3.16 With the great success achieved within the sector, the Legal profession throughout the UK has faced a number of challenges including but not withstanding; economic pressures; shifting conveyancing market demand; enhanced regulation; integrating legal software; building a positive remote culture; and driving new business.¹⁸
- 3.17 The ability to drive new business is an age-old challenge for law firms. Clients show sensitivity to price changes, and cutting prices is not always the most sustainable or appropriate methods of maintaining competitiveness for legal firms.
- 3.18 Economic pressures have also had a considerable impact on the legal sector, with increased interest rates and the cost of living crisis impacting practices, with clients becoming even more price conscious and in some cases leading to a race to the bottom on fees.
- 3.19 Like many industries, the legal sector often faces difficulty with talent attraction and retention, particularly with the Flexible Working Act changes in April 2024. There are difficulties in retaining staff with candidates commonly seeking professions with higher salaries and more flexible working opportunities to allow for better work life balance.¹⁹

CHALLENGES FACING THE LEGAL SECTOR – MICRO FACTORS

- 3.20 Whilst the factors discussed above impact NI along with the rest of the UK, there are also a number of issues that are pertinent to NI practices.

UNDERFUNDING

- 3.21 The justice system in NI has been impacted 3 fold: by persistent underfunding; the impact of COVID-19 on the courts; and the volatility in inflation. This ultimately has resulted in a reduction in access to justice for NI citizens. LSNI has proposed a strategy within the detailed Justice Agenda, where they call for a renewed focus on reform so that the justice infrastructure can continue to develop as NI moves forward.
- 3.22 Discussions and feedback from local law firms highlighted that professional practices are facing increasing financial burden when it comes to financing their working capital in protracted complex legal cases. Medical experts and consultants' fees continue to rise and they also increasingly seek payment up front. This is coupled with the expected higher remuneration from assistant solicitors and support staff, which, in most cases, results in the legal practice waiting several years to receive its payment for the case.

LEGAL AID DESERTS

- 3.23 An immediate concern is the access to the legal aid system. Legal aid provision is necessary for deprived communities and today in NI, the access to this is deteriorating. A large proportion of Solicitor firms in the Local Council areas with highest dependence on legal aid services are owned and ran by Practitioners where one is over the age of 60. Furthermore, the willingness of individuals to remain in practice is no longer assured if legal aid rates continue to stay frozen and in many instances, cases take years to settle with solicitor's incurring significant work in progress, with no guarantee of payment.²⁰
- 3.24 As part of the research conducted in our interview process, we found that many of the individuals interviewed were carrying out less and less legal aid related work, or simply not taking on any more cases due the service being commercially unviable
- 3.25 There is a real risk of shortages in both the provision of legal aid and the ability for legal practices to grow. NI must continue to offer University places for law students, if it is to reap the opportunities and meet the challenges that lie ahead.

STAFF RETENTION

- 3.26 Our research also highlighted the issue of staff retention in recent years. Many practitioners interviewed attributed the loss in staff to the competition with public sector jobs and also the rise in international law firms that have established offices in NI in recent years.
- 3.27 Local firms who have incurred the cost of training graduate staff have increasingly found that the public sector/ international entrants to the market are offering greater flexibility, higher salaries and better benefits to graduates, which has created a different legal market in NI.

SUCCESSION ISSUES AND CONSOLIDATION

- 3.28 This changing dynamic is already impacting the growth and succession of smaller firms in NI, particularly in rural areas with practices either consolidating or simply closing due to the work types/age profile of the practice, which is leading to access to justice being severely curtailed or completely non-existent in many local towns.²¹

4. DETAILED RESEARCH ACROSS THE PROFESSION

RESEARCH STRATEGY

- 4.1 As part of our report, we have carried out in-depth research across a mix of sources/methods including:
- 1) Survey issued to all 448 LSNI members;
 - 2) 15 follow up interviews with a range of firms of varying size and location across the region; and
 - 3) Review and verification of the annual accounts provided by the interviewee firms.
 - 4) Discussions with the Legal Services Agency Northern Ireland;
 - 5) Meetings and Discussions with the Law Society;
 - 6) Review of existing Reports conducted by LSNI;
 - 7) Review of independent feedback from LSNI members
 - 8) Meetings with the Hourly Rate Working Group Committee; and
 - 9) Online research.
- 4.2 Our research and interviews/feedback from firms has helped us to better understand the issues at hand and to obtain a variety of views with regard to the Hourly Rate.

EVIDENCE- BASED RESEARCH - SURVEY

- 4.3 In order to understand the dynamic across the NI legal profession, it was agreed that a survey questionnaire would be prepared and issued to all legal firms registered with LSNI per their database of solicitors as at June 2024.
- 4.4 The survey was designed to establish a picture of the legal marketplace in NI at present and to gather relevant and pertinent information to allow an informed, evidence-based view to be presented in relation to the Hourly Rate.
- 4.5 The primary purpose of the survey was to determine the staffing composition and the average overhead cost of a law practice in NI, to facilitate the calculation of the average cost of production for a professional fee earner. Our findings were corroborated through evidence-based results to assist us in our calculation of The Hourly Rate and help provide us with informed views on its application across all legal areas subject to the taxation process. The survey results have been detailed further at Section 5 below.
- 4.6 A key element of the Survey was to understand how overheads have changed across the legal profession in the last 10 years, so the questionnaire aimed to ascertain how inflationary and other pressures have impacted the legal sector in this time.
- 4.7 A total of 448 firms were contacted to take part in the Survey, which was a user-friendly secure questionnaire conducted via 'Survey Monkey'. As some of the information requested within the survey was commercially sensitive, firms were not asked to include their name. All of the data/information collected by BDO NI has been treated with the strictest of confidence and no specific information pertaining to any individual firm has been disclosed.

SURVEY TIMINGS AND RESPONSE RATE

- 4.8 The Law Society issued the Survey via email on 5th June 2024, with BDO NI collating the responses via Survey Monkey and providing weekly updates and status reports to LSNI, outlining the number of survey entries that had been completed.
- 4.9 Unfortunately, due to the timing of the Survey in the run up to the summer recess, initial participation was slow. As such, the Law Society issued further reminders to all members to encourage participation in order to maximise the response rate and to ensure an adequate sample size was obtained. The first response deadline was 21st June 2024, with the subsequent extension to Friday 16th August 2024 to give firms additional time to respond noting the holiday period.
- 4.10 A total of 131 firms completed the survey in full, which provided a response rate of 29.2%. According to Australian marketing agency, Genroe, a "good survey" response rate is one that is above average, which based on industry data would be anything above 25%.²²
- 4.11 We would highlight that the previous PwC report obtained a survey response rate of 18% (98 firms' responses out of a total of 539 firms), which was challenged as to its overall validity noting the very low response rate.
- 4.12 Whilst there are c450 solicitor firms in Northern Ireland, we would highlight that not all of these firms offer services linked to the Hourly Rate, and indeed, a number of larger firms had indicated directly to us that they felt there was no need to complete the Survey due to the matters irrelevance to them.
- 4.13 From the individuals who actually completed the survey, 12.88% indicated that they did not offer Legal Services linked to the Hourly Rate, therefore on this basis if we were to reduce the overall population of firms impacted (and willing to respond), this would increase the relevant response rate to 33.6% (over a third of the population).


	Actual LSNI Data of Law Firms in NI	Estimated no. of Law Firms impacted by the Hourly Rate
Total Responses	131	131
Total Population	448	390
Response Rate	29.2%	33.6%

SURVEY FINDINGS

4.14 Some of the key findings from the Survey have been noted below:

 **87.84%** OF FIRMS INDICATED THAT THE COST OF DOING BUSINESS HAD INCREASED OVER THE PAST 10 YEARS.

35.65% OF SURVEY RESPONDENTS INDICATED THAT THE PROVISION OF SERVICES RELATING TO THE HOURLY RATE HAD REMAINED THE SAME OVER THE LAST 10 YEARS HOWEVER, THIS WAS IN CONTRAST TO THE DISCUSSIONS IN THE INTERVIEWS WITH INDIVIDUALS, WHICH FOUND FIRMS SPENDING LESS TIME OFFERING THESE SERVICES OVER THE LAST 10 YEARS BECAUSE OF THE LOW LEVEL OF FEES RELATED TO THESE.

 **69.72%** STATED THAT THE COST OF TRAINING ACTED AS A BARRIER THAT PREVENTED FIRMS FROM EMPLOYING TRAINEES TO UNDERTAKE LEGAL SERVICES SUBJECT TO THE HOURLY RATE, WHILST **68.81%** INDICATED THAT IT WOULD BE THE LOW LEVEL OF LEGAL FEES THAT WOULD RESTRICT EMPLOYMENT IN THIS AREA.

INTERVIEWS AND FEEDBACK FROM THE PROFESSION

4.15 In addition to the completion of the Survey, a further 15 firms volunteered to take part in individual interviews with us between 15th July and 30th August. The interviews took place face to face, or via Microsoft Teams.

4.16 The objective of these interviews was to provide further qualitative and quantitative evidence to verify the overhead costs of each firm and cross check these to the Survey data. As part of this interview process a number of follow up questions were agreed (via the Committee) to delve more deeply into the trends that firms were seeing regarding the Hourly Rate and its application to legal work generally.

4.17 Interviewees were requested to provide a copy of their most recent accounts that they had used to complete the Survey which allowed us to corroborate the data used in the Hourly Rate calculation.


4.18 The interview was split into 2 sections; the first being a Review of Overheads and Chargeable Hourly Rates, and the second, being a discussion on The Hourly Rate, its application and trends.

WAGES AND SALARIES WERE FOUND TO BE THE COST CATEGORY THAT HAD INCREASED THE MOST. ON AVERAGE, SURVEY PARTICIPANTS FOUND THAT WAGES AND SALARIES HAD INCREASED BY

20%+ over the last 10 years.

 **87.12%** CONFIRMED THAT THEIR FIRM OFFERED LEGAL SERVICES THAT ARE LINKED TO THE HOURLY RATE

THE AVERAGE % OF WORK THAT FIRMS HAD THAT WAS LINKED TO THE HOURLY RATE WAS 39%

 **83.78%** OF SURVEY PARTICIPANTS FELT THAT IF THE APPLICATION OF THE HOURLY RATE CONTINUED TO OPERATE IN ITS CURRENT STATE OVER THE NEXT 5 YEARS, THEY WOULD SEE A DECREASE IN TERMS OF THE PROVISION OF THESE SERVICES WITHIN THEIR BUSINESS.

4.19 Some of the key talking points have been highlighted in the graphics below, however one discussion point that did arise from the interviews was regarding the average level of Chargeable Hours worked by Fee Earners. As detailed within our calculation and discussed at Section 5, the Donaldson v Eastern Health and Social Services Board case, has set the legal precedent with regard to utilising an average of 1,100 chargeable hours as the basis of calculating the cost of production. However, during our interviews, Solicitor's did advise that more and more time was being spent by Fee Earners on the likes of

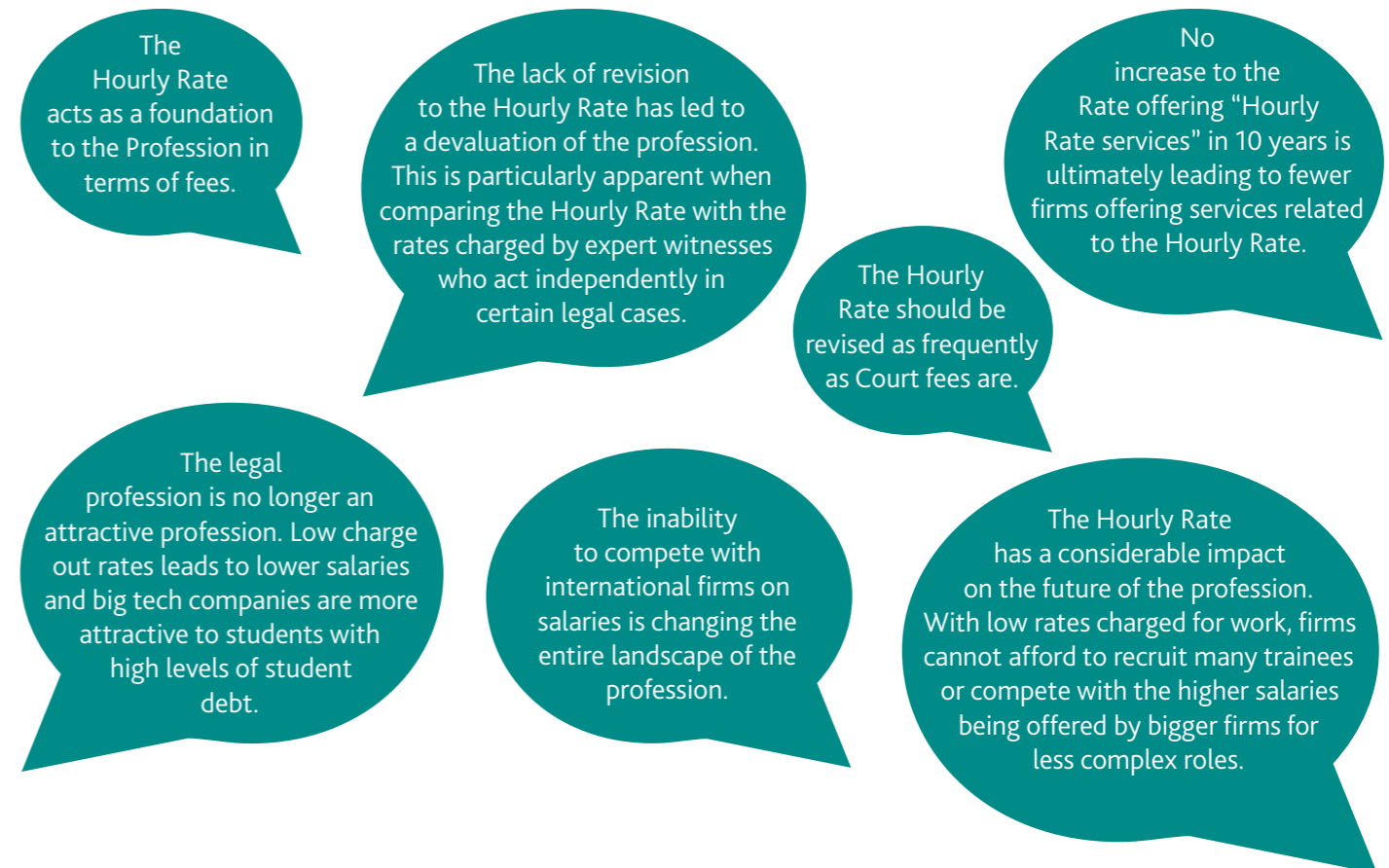
- i. Compliance
- ii. Regulation and completion of Anti-Money Laundering requirements;
- iii. Security and IT risk based training
- iv. Business Development and Marketing
- v. In-house operations

4.20 All of which has led to a decrease in chargeable hours over the last 10 years. Whilst most firms interviewed do not monitor hours of work, individuals did advise how the nature of the work they spend their time doing now, compared with a decade ago has changed significantly.

4.21 This would also affirm with the findings from the "Bold steps to sustainable transformation"- PwC Law Firm Survey Report 2023²³, the Royal Bank of Scotland Legal Benchmarking report²⁴ and the Hazelwood's LLP March 2024 report on Chargeable Hours²⁵.

4.22 Whilst our core calculation detailed in Section 5 below utilises 1,100 Chargeable Hours, as per the Donaldson case, an alternative calculation using a blended hourly rate has been carried out as detailed at Paragraph 5.43 below.

A variety of repeated soundbites from each of the interviews have been compiled below:



The Hourly Rate acts as a foundation to the Profession in terms of fees.

The lack of revision to the Hourly Rate has led to a devaluation of the profession. This is particularly apparent when comparing the Hourly Rate with the rates charged by expert witnesses who act independently in certain legal cases.

No increase to the Rate offering "Hourly Rate services" in 10 years is ultimately leading to fewer firms offering services related to the Hourly Rate.

The Hourly Rate should be revised as frequently as Court fees are.

The legal profession is no longer an attractive profession. Low charge out rates leads to lower salaries and big tech companies are more attractive to students with high levels of student debt.

The inability to compete with international firms on salaries is changing the entire landscape of the profession.

The Hourly Rate has a considerable impact on the future of the profession. With low rates charged for work, firms cannot afford to recruit many trainees or compete with the higher salaries being offered by bigger firms for less complex roles.

INDEPENDENT FEEDBACK FROM LAW SOCIETY MEMBERS

- 4.23 The Committee also provided us with independent feedback from a Law Society member practice as detailed at Appendix 5. This review identified 3 core elements that the member firm believes needs to be considered in order to contribute to the fair remuneration of the Legal profession going forward:
- 1) The cost of the increased burden of regulation by the Law Society and implementing policies and procedures for Anti Money Laundering, Data Protection, cyber risk etc;
 - 2) The importance of the issue to the client and the value provided by the legal service provider; and
 - 3) The need to 'earn back' the compound underpayment of fees in the last twenty years.
- 4.24 The review highlighted that Solicitor firms were running their businesses facing increasing costs, without increased revenue and this has been alongside substantial inflationary pressures.
- 4.25 The lack of increase to professional fees has led to investment into smaller Northern Irish solicitor practices being restricted in several areas:
- Technology (both existing and in the future) to address software changes, cyber risk, automation and AI;
 - Well located and equipped office premises;
 - Having less billable hours to undertake more operational business matters;
 - Resourcing staff and remunerating staff adequately to avoid staff turnover and loss of business intelligence; and
 - Competition for professional staff with external/ global practices who have the advantage of higher profitability.
- 4.26 The report also highlighted that as a result of the 10-year delay in the revision to the Hourly Rate, this has led to a "vicious circle of chronic underinvestment in NI legal firms". This delay has also had a knock-on impact on "the profitability of the profession, leading to fewer practices and fewer practitioners, which ultimately results in consequences for access to justice".

5. CALCULATION OF THE HOURLY RATE

- 5.1 As part of our Independent Report, we have carried out a detailed analysis of the cost of production based on 3 separate calculations/data results. Please refer to Appendix 6 for our detailed workings/analysis. A summary of the 3 calculations are outlined below.
- **Calculation 1 – Core Survey** – Based on the overhead data received from the 131 legal firms responding to the Survey and calculating the average overhead cost applicable to an Equity Partner, Salaried Partner and Solicitor.
 - **Calculation 2 – Fee Earner** - Based on the overhead data received from the 131 legal firms and applying this to the average number of fee earners as indicated by respondents.
 - **Calculation 3 – Verified Accounts** – Based on the overhead data received from the 15 interviewees' actual set of accounts and calculating the average overhead cost applicable to an Equity Partner, Salaried Partner and Solicitor in line with Calculation 1.
- 5.2 Noting the large number of responses, all data was obtained from Survey Monkey and each question result analysed in an individual excel sheet. The data was formatted and reviewed for any anomalies and incorrect inputs, such as random sequential numbers and letters that on some instances had been entered into the overhead categories.
- 5.3 In order to present a fair representation of legal firms across NI, a mean average of the survey data has been calculated for the results. Per Laerd Statistics, "The mean is essentially a model of the data set. It is the value that is most common and one of its important properties is that it minimises error in the prediction of any one value in your data set. That is, it is the value that produces the lowest amount of error from all other values in the data set."¹⁰.
- 5.4 We note that the previous calculation carried out by PwC used a median basis for calculating the average overhead, which is an appropriate method for a smaller population of skewed data. Generally, a median average is used for data that contains a high level of exceptional outliers and anomalies. Our data set was reviewed, with any anomalies or errors removed. As such, the use of a Median calculation was deemed to be inappropriate for our data set.
- 5.5 We concluded that the mean figures were more accurate and reflective of the overheads of NI law firms when compared to the 15 actual law firm accounts that we reviewed as part of our interview process. Through this additional verification and interview process, we adopted a more robust approach to our calculations which also took on board the comments and challenges raised previously in respect of the PwC Report.
- 5.6 As a further means to verify the Hourly Rate calculation, **Calculation 4** assessed a range of market index models and applied these indices to the 2014 Hourly Rate level to consider the cumulative impact that inflation/cost increases would have had on the Hourly Rate over the last 10 years. We have also reviewed the hourly rates currently being applied across the UK and ROI as further evidence-based comparisons to support our calculations.
- 5.7 **Calculation 5** took on board comments from interviewees and issues raised previously by Paul Kerr regarding the use of one sole rate for all grades of staff. From research across the profession, we applied a revised set of reduced chargeable hours for both Equity and Salaried Partners, accounting for increases in time spent in other firm matters including enhanced regulation, AML reporting, recruitment and business development.

5.8 In terms of the cost of production, the responses to the following 3 questions from the Survey was reviewed. Our key findings to each question has been detailed further below:

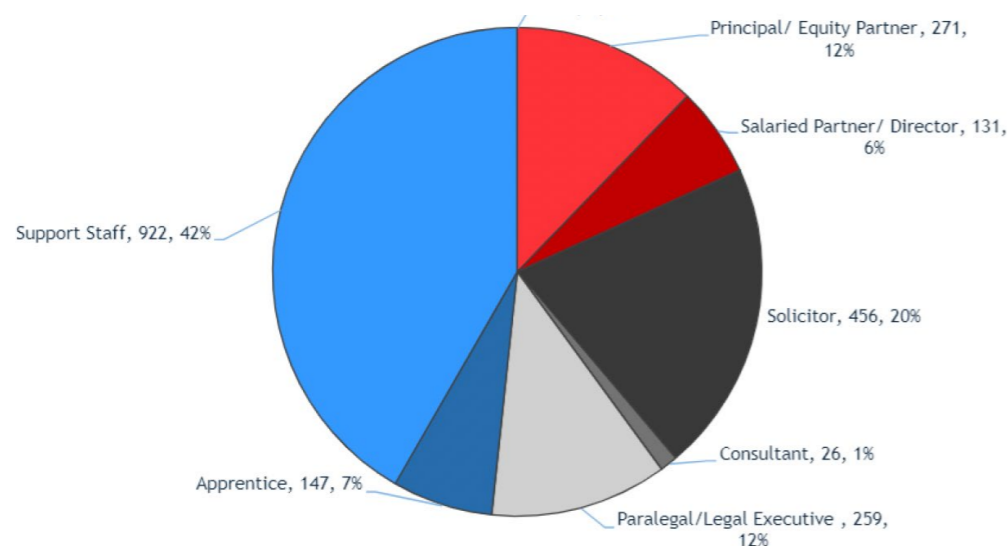
- i. Q4 - What is your firm's total size by different types of partners and employees?
- ii. Q5 - What is your firm's total number of fee earners vs non fee earners?
- iii. Q7. In the last financial year, what are the costs of running your law firm?

Q4 - What is your firm's total size by different types of partners and employees?

5.9 The overall number of staff employed by the respondent firms totalled 2,285 employees, which represents over 36% of the estimated 6,286 jobs in the 'solicitor economy' per Hook Tangaza's recent report.²⁷

5.10 The apportionment across each category is shown in the graph below, with support staff the largest category (over 41% of the total employment within the Survey) and solicitors the 2nd largest category representing c20% of the Survey population.

Breakdown of Legal Employees in NI



Source: BDONI Survey Data/Calculations

5.11 The data from the Survey was analysed to produce the average salaries and overheads for the categories of employees identified above. The total of each salary levels expense was taken from the Survey answers and divided by the number of staff at that level from each participants Survey response. This then gave an average salary per employee at that level.

5.12 To conduct our calculations we requested firms to provide us with the numbers of staff across the following staffing categories, with the averages shown in brackets: Equity Partners/Principals (2.58), Salaried Partners and Directors (2.70) and Salaried Solicitors (4.74) For the purposes of our calculation, these 3 categories of staff were assumed to be "professional salaries" (average total per firm of 10.02), while the remaining staff levels, including consultants, apprentices, legal executives, paralegals and secretarial staff categories were deemed to be "non-professional" staff.

5.13 From our interviews with legal firms, we understood that the "professional salary" levels would tend to be "fee earners", with the majority of their hours attributed to chargeable work. "Non-professional" staff would typically be administrative roles, with minimal billable hours. By focusing on the fee earning staff categories, we have been able to determine the cost of production for a fee earner (The Hourly Rate) rather than what would be a standard overhead cost of running a firm if all levels of staff were incorporated.

ii. What is your firm's total number of fee earners vs non fee earners?

5.14 In order to verify the above assumptions that we have made around fee earners and the categorisation of "professional salaries", we asked all firms to confirm the number of staff that they deemed to be fee earners and non-fee earners within their organisations. Per the Survey, the average solicitor firm in NI has a total of 9.61 fee earners.

5.15 This number differs slightly from the 10.02 figure used in our Core Survey Calculation, due in part, to our previous assumption that all solicitors, directors/salaried partners and equity partners are fee earners. Based on the Survey results for this specific question, this does not appear to be exactly the case, with certain levels of solicitor perhaps not considered to be full fee earners.

5.16 Taking the total average overheads and the total average number of fee earners, we were able to calculate the 'Fee Earner' hourly rate.

iii. In the last financial year, what are the costs of running your law firm?

5.17 In order to determine what overhead categories should be included within our Survey, we reviewed a number of solicitor firms profit and loss accounts to understand the most common and generic categories of overheads presented. We wanted to ensure the overhead categories within the Survey were consistent with how the majority of firms present their overheads to allow for ease of completion by participants of the Survey.

5.18 As part of our review we did not factor in any working capital requirement or any capital spend, including any mortgage/loan repayments which increases the cash flow burden on firms even further.

5.19 The mean average overheads per the Survey data has been summarised below:

CALCULATION OF AVERAGE PROFESSIONAL SALARIES

5.20 Based on our Survey results, the following Average Salaries were calculated. These figures have been used in our overall calculation workings as detailed at Appendix 6.

Professional Staff Category	Average Salary £
Principal/ Equity Partner	87,068
Salaried Partner/ Director	72,291
Solicitor	54,666

Source: BDONI Survey Data/Calculations

5.21 The average professional salary has increased significantly over the 10-year period since the PwC review by c£77k, equating to c56%. The largest increase being within the solicitor category with average salaries increasing by 72% which links to our earlier findings regarding the market competition for talent within the sector.

Calculation of Average Non-Professional Salaries

5.22 Non-professionals salaries have also increased in the last decade by c45%, however the uplift is not as significant as the Professional staff categories. We also note the PwC survey did not include Consultants as a staff category option.

Non-Professional Staff Category	Average Salary £
Consultant	61,427
Paralegal/ Legal Executive	25,671
Support Staff/ Other	22,694
Apprentice	20,914

Source: BDONI Survey Data/Calculations

Staff Average Salary



Source: BDONI Survey Data/Calculations

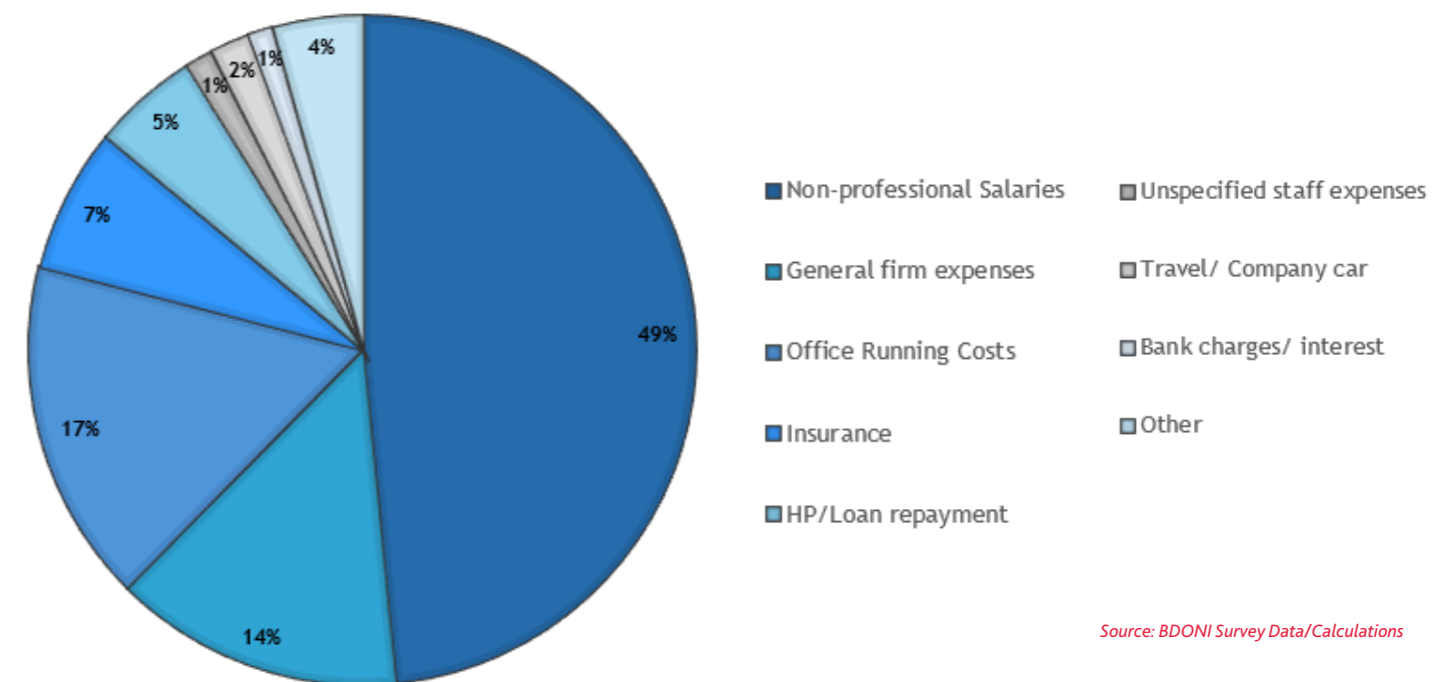
Average Expenditure (Excluding Professional Salaries)

5.23 Based on our Survey results, the following Average overheads were calculated. These figures have been used in our overall calculation workings as detailed at Appendix 6.

Overhead Category	Cost £
Non- Professional Staff Costs (incl. NIC & pension)	437,644
Rent	48,324
Rates	21,574
Service charges	15,124
Cleaning costs	6,931
Accountant/ Bookkeeper fees	12,747
Subscriptions to publications/ online services	8,224
Unspecified staff expenses	11,939
Postage/ Courier costs	12,155
Travel/ Company car	17,777
Client/staff entertainment	7,740
Training costs	6,990
Office equipment & stationery	16,196
Depreciation	24,586
IT, Technology & Software	31,075
HP/ Loan Repayments	46,894
Law society/ membership/ practising fees	13,322
Security charges	2,878
Utilities	14,651
Insurance (PI, Public liability & other)	63,207
Advertising	15,350
Repairs & Maintenance	10,152
Other regulatory and compliance	7,992
Bank charges / interest	10,734
Other	39,391
AVERAGE OVERHEAD COSTS (EXCL. PROFESSIONAL SALARIES)	903,597

Source: BDONI Survey Data/Calculations

Average Expenditure (Excluding Professional Salaries)



Source: BDONI Survey Data/Calculations

5.24 Non-professional salaries make up nearly half of a law firms average overhead cost (49%). The next largest cost category would be the overheads associated with running the office, which make up c17% of all costs. This includes the likes of rent, rates, utilities, service charges & depreciation. The third largest cost category is that of general firm expenses which includes postage/courier costs, office equipment, IT related costs & relevant membership costs and when you include insurance this would make up c21% of all overheads.

ALTERNATIVE CALCULATION MODELS

5.25 In order to ensure a comprehensive and robust analysis of our Hourly Rate calculation, we considered a number of alternative methods of calculation to compare the impact on the Rate over the decade. We also reviewed and applied the challenge points that were identified by legal costs consultant, Paul Kerr, following review of the PwC report in 2010.

- Inflation Indices;
- Increases in Court Fees;
- The NI rate compared with UK rates;
- Revised Chargeable Hours; and
- Paul Kerr’s review of PwC’s calculation.

We have considered these factors and their impact on the Hourly Rate one by one, as follows:

INFLATION INDICES

5.26 One key aspect to consider with the revision to the Hourly Rate is how inflation has changed over the last 10 years. Inflation is measured by the Office of National Statistics (ONS), who consider about 180,000 prices of 743 items that make up its shopping basket of goods. These items change as our spending habits change.²⁸

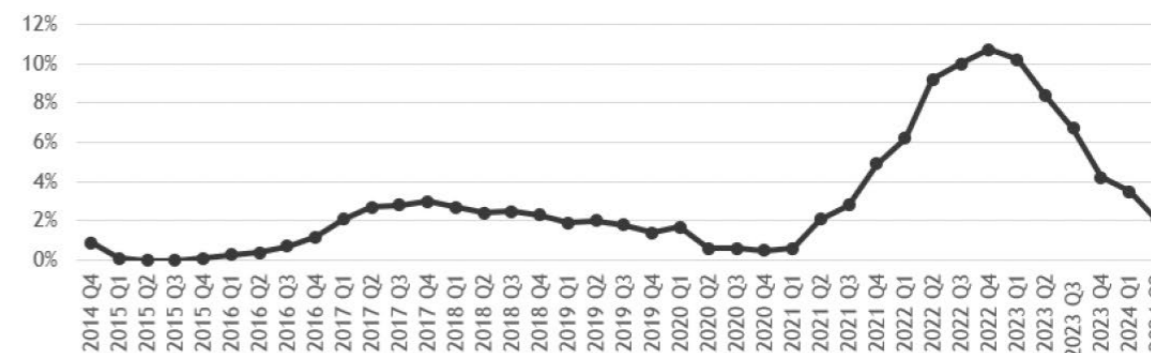
5.27 The UK commonly uses three different methods of measuring inflation:

- CPI: Consumer Price Index which takes no account of housing costs;
- CPIH: Consumer Price Index plus owner-occupiers’ housing costs which uses an approach called “rental equivalence” which is not mortgage payments but how much rent the householder would pay for an equivalent property; and
- RPI: Retail Price Index which includes mortgage interest payments, thus making it heavily influenced by interest rates.

5.28 Inflationary pressures have impacted businesses negatively across the UK economy over the last 10 years and more recently spiked at a 10 year high in 2022 following the Ukraine war and the resulting rise in gas and energy prices, which culminated in a cost of living crisis.²⁹

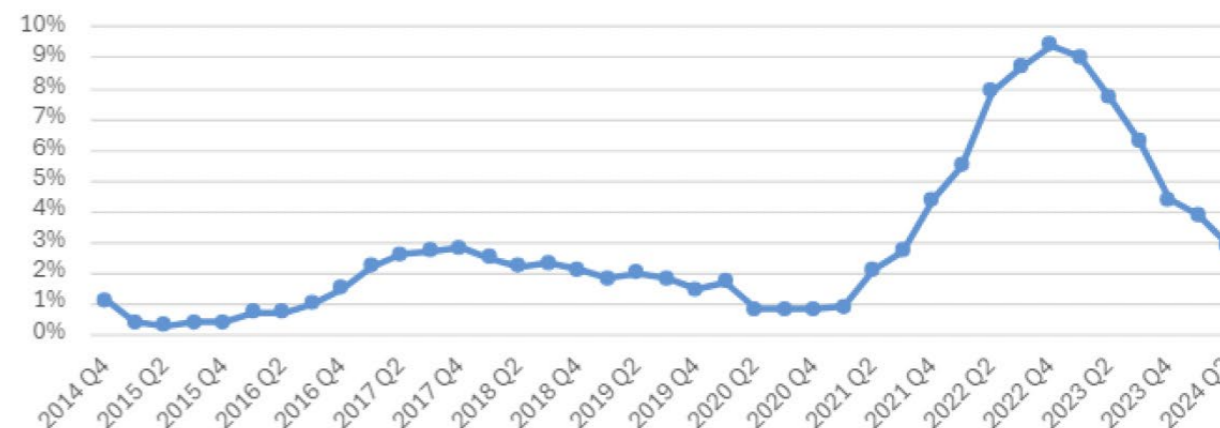
5.29 This has had a negative effect on businesses with rising utility costs and demands in salary increases to meet inflation. The yearly movement across the 3 main indices over the last 10 years has been detailed in the below graphs:

CPI % Inflation rates Q4 2014- Q2 2024



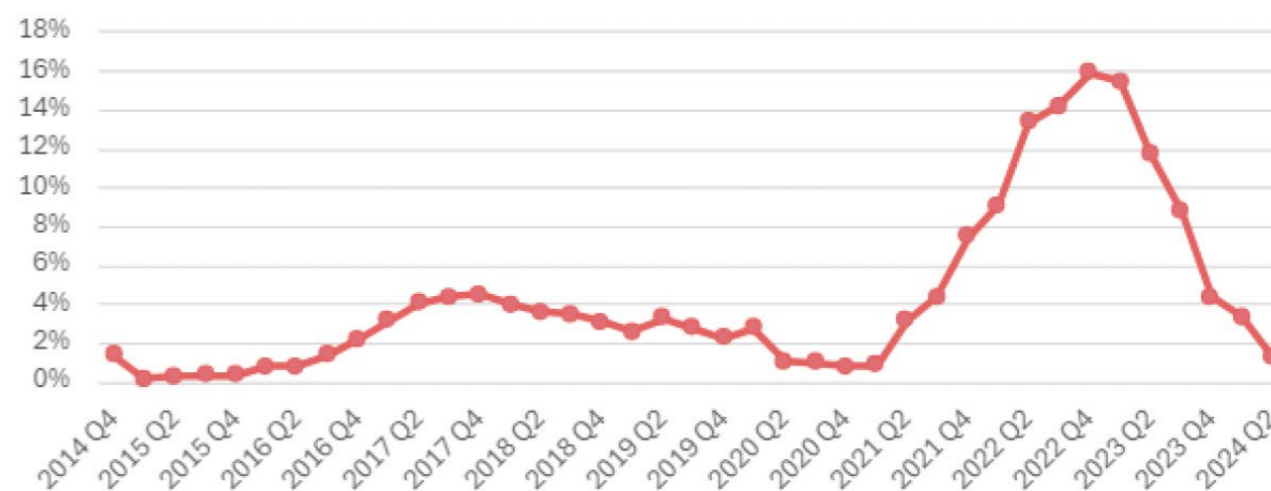
Source: ONS

CPIH % Inflation rates Q4 2014- Q2 2024



Source: ONS

RPI % Inflation rates Q4 2014- Q2 2024

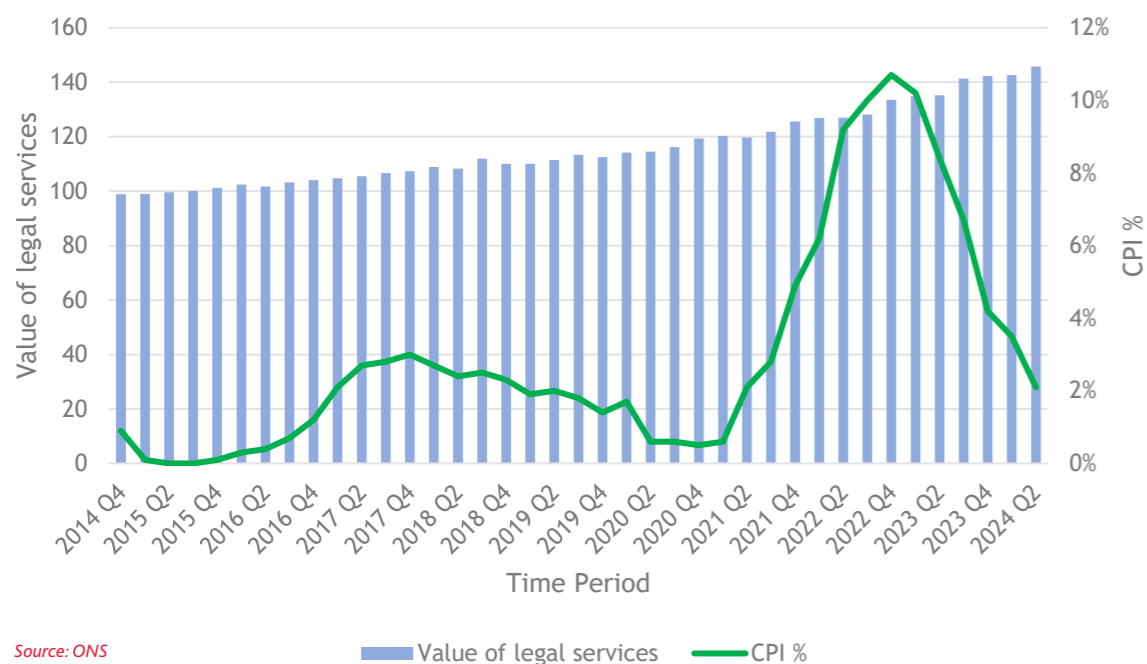


Source: ONS

5.30 Whilst the above charts show different rates of inflation, a similar trend is shown, with all measures reflecting a cumulative rise in pricing over the last 10 years.

5.31 Another measure the ONS calculates is that of the Services Producer Price Index (SPPI) which is perhaps more relevant to the Hourly Rate Calculation. This Index provides information on the development of prices that companies provide for most market services, including that of legal services. This measure is also considered in the establishing of the Legal rates in England and Wales, which we have considered further in this report.

SPPI Legal Services Inflation vs CPI Inflation



Source: ONS
 ■ Value of legal services — CPI %

5.32 The above chart illustrates the movement in price for legal services compared with the CPI inflationary % movement over the last 10 years. The data accumulated from the ONS shows that from Q4 in 2014, (when the value for legal services was 98.9), to Q2 in 2024, (when the value for legal services was 145.80) Legal Services inflation cumulatively increased by c47%.

5.33 By analysing how inflation has moved over the last 10 years, we have applied this to the £102 Hourly Rate figure in 2014 and this has been detailed in the table below at section 5.36.

INCREASES IN COURT FEES

5.34 Another comparator which was raised during the interview process was the increases in Court fees that law firms have had to incur in recent years. We have detailed below the categories and changes of comparable Court fees since 2017, which is based on available information that we were able to research.

Nature of Court Fee	Cumulative % Increase (2017-2024)	Compound % Increase per annum
Court of Judicature	40.84%	5.01%
Magistrates' Court	41.15%	5.05%
County Court	41.67%	5.10%
Family Proceedings	37.77%	4.68%
Total Average increase in 7 years	40.36%	4.96%

Source: Fee schedules for Court of Judicature, Magistrates, County Court and Family Proceedings/BDO Analysis

5.35 As noted from the table above, Court Fees have risen considerably over the last 7 years. From our interviews, legal firms were of the opinion that if Court Fees can have frequent amendments and increases to meet rising costs, there should be no reason why the Hourly Rate shouldn't also move accordingly.

5.36 As a result, taking into the various inflationary movements and the rise in court fees, we have considered how the Hourly Rate from 2014 (£102) would compare if the same cumulative % increases were applied to it.

	CPI	CPIH	RPI	SPPI	Court Fees
% market indices (over the last 7-10 years)	69%	138%	52.17%	47.42%	40.36%
Application to 2014 Hourly Rate (£102)	£172.39	£242.76	£155.21	£150.37	£143.17
Average of 5 indices					£172.78
Average (excl CPIH)					£155.28

Source: BDO Research & Analysis

5.37 As detailed above, the cumulative inflationary rates range from 40.36% up to 138%, which when applied to the 2014 Rate provides an average index linked rate of £172.78. However, if we were to remove the CPIH outlier (as it is linked to house prices and may not be as relevant), a revised average calculates at £155.28, which would represent an overall uplift to the current rate of 52.2%.

DISPARITY IN THE NI RATE COMPARED TO UK RATES

5.38 As part of our interview process, we questioned firms on their views regarding the hourly rates in mainland UK and Ireland. Some firms also had visibility to the rates being charged by fellow law firms in Ireland and were able to advise that these are considerably higher than the Hourly Rate in Northern Ireland. Few were aware of the exact rates in the UK, but all individuals interviewed had the opinion that the UK rates were on a much higher level to that set in Northern Ireland.

5.39 As outlined previously at Section 2.8 above, per GOV.UK, Solicitors guideline hourly rates for carrying out a summary assessment of court costs, listed by pay band and grade for different parts of the country are noted in the table below.³⁰ The previous rates and % uplifts are also outlined.

Grade	Fee Earner	London 1	London 2	London 3	National 1	National 2
A	Solicitors and legal executives with over 8 years' experience	£546 £512 +6.64%	£398 £373 +6.70%	£301 £282 +6.74%	£278 £261 +6.51%	£272 £255 +6.67%
B	Solicitors and legal executives with over 4 years' experience	£371 £348 +6.61%	£308 £289 +6.57%	£247 £232 +6.47%	£233 £218 +6.88%	£233 £218 +6.88%
C	Other solicitors or legal executives and fee earners of equivalent experience	£288 £270 +6.67%	£260 £244 +6.56%	£197 £185 +6.78%	£190 £178 +6.74%	£189 £177 +6.49%
D	Trainee solicitors, paralegals and other fee earners	£198 £186 +6.45%	£148 £139 +6.47%	£138 £129 +6.98%	£134 £126 +6.35%	£134 £126 +6.35%
	Total Blended Hourly Rate Comparable to NI					£207

Source: Solicitors' guideline hourly rates – gov.uk. (Previous rates in red and % uplift in green)

5.40 The above guideline rates were put into effect from 1 January 2024 and they all exceed the Northern Ireland Rate, with the average rate for National 2 of £207 being more than double the NI Rate. The bands are split in England and Wales per category of staff and if we take the lowest rate available for Trainee Solicitors in the National 2 area, it has a 31.3% higher rate than the current Hourly Rate in Northern Ireland.

5.41 The rates in England and Wales had previously been revised in 2021 (a 3-year time frame, vs the 10-year time frame in NI), with the Rates uplifted for inflation in accordance with the Services Producer Price Index.³¹ The report also found that “there is no real justification for treating Counsel fees any differently from solicitor fees”.

5.42 The Rate in Scotland, like the rest of the UK is also considerably higher (77%) than that currently established in NI. Every 6 minutes of a solicitor's time corresponds to one unit which equates to an hourly rate in Scotland of £180. This was agreed in June 2023 with the prior rate being £164 set in April 2019. The increase was in line with inflation, representing a 9.75% uplift.³²

5.43 Our research highlights that Northern Ireland is well behind its counterparts across the UK and Ireland, both in terms of rate and also the consideration and timing for regular revision.

MR PAUL KERR'S REVIEW

5.44 In compiling this Independent Review, BDONI considered the previous findings from Paul Kerr's review of the 2009 PwC Report. We have summarised Mr Kerr's comments below and detailed how we have addressed those issues within our analysis of the Hourly Rate.

Paul Kerr PwC Comment	How BDONI addressed this
Response in the survey from the profession of only 18% - Population not representative - how would a larger response have impacted the figures?	<ul style="list-style-type: none"> We extended the deadline of the Survey close date to ensure the maximum number of participants as possible. This resulted in an overall response rate of 29%, which, when we exclude the firms who do not offer services linked to the Hourly Rate, resulted in a related response rate of 32.5%. This higher response rate allows us to place more reliance on the data gathered from the Survey than the PwC report
Comparison of the Rate with England and Wales	<ul style="list-style-type: none"> We have carried out extensive research into the comparable rates across the rest of the UK and have used these rates as a basis for our conclusions. During the interview stage of the process, we asked firms for their thoughts on having a different regional rate across Northern Ireland. Firms advised that they believed such a process would not be suitable in Northern Ireland given the size of the region. They also believed that a different rate depending on the area could create an even larger divide between regional and city firms.
We should consider abandoning a single rate for e.g. Partner and salaried solicitor and have different rates for different fee earners as is the practice in England and Wales. There should be 3 bands: 1) Equity Partner 2) 6+ post qualification experience including salaried partner 3) 0-6 years post qualification experience	<ul style="list-style-type: none"> We considered this suggestion but feel that this adds further complication to a rate that is already outdated. During the interview stage of the process, we asked firms for their thoughts on whether multiple rates should be in place and all confirmed that one rate was appropriate in Northern Ireland. Within our calculation, we have accounted for the 3 categories of staff level, to include: <ol style="list-style-type: none"> Equity Partner Salaried Partner/Director Solicitor Our Core Calculation takes into consideration the relative cost of each category of professional staff and applies it to the average overheads of an NI law firm to calculate the blended cost of production. We found that, if we were to consider the 3 levels of staff separately, we would also have to account for a different set of chargeable hours, which varies significantly depending on grade of staff and the type of practice. As a means to assess the differences in grade, we carried out further research and applied this to a further 'Revised Chargeable Hours' calculation as detailed below.
Solicitors with less than 3 years and up to 5 years post qualification experience should be excluded from the calculation of the appropriate notional salary	<ul style="list-style-type: none"> We did not agree with the suggestion to exclude Solicitors with less than 3 years' experience from the calculation of the appropriate notional salary. From the research conducted we found that this cost is part of the work conducted in generating fees. As a result, we have included all levels of Qualified Solicitor within our calculations, regardless of the number of years' experience they have. We also carried out a “Fee Earner” calculation using data provided from the Survey and the average numbers of fee earners across NI law firms.

Source: BDO Research & Analysis

REVISED CHARGEABLE HOURS

- 5.45 We have been guided by Mr Justice McAlinden to utilise 1,100 hours in our calculation when considering the number of chargeable hours applicable to a fee earner. This is supported by the precedent legal findings set out in the *Donaldson v Eastern Health and Social Services Board* case, which we outlined previously.
- 5.46 Through our research, various surveys, including the Royal Bank of Scotland's Legal Benchmarking report²², PwC's Annual Law Firm's survey in 2023²³ and a report conducted by Hazelwood LLP in 2024 all concluded that in recent years, the number of Chargeable Hours worked by legal fee earners has declined.
- 5.47 The Royal Bank of Scotland Legal Benchmarking report, concluded that there is a decline in billable hours, with fee earners spending more time on business development, training and time away from the office.³³
- 5.48 The PwC report compiled in 2023 found that, across the top 100 law firms in the UK, based on the average of full equity partners and fixed share equity partners the level of chargeable hours equated to 934 hours. When factoring in 9+ years Post Qualified Experience (PQE) on top of both equity and fixed share equity partners, this equated to an average of 1,017 hours. Similarly, when factoring in 6-8 years PQE (on top of 9+years PQE, fixed share equity and equity partners) this equated to an average of 1,067 hours.³⁴
- 5.49 The Hazelwood's LLP survey in March 2024 highlighted that chargeable hours have continued to fall, with commentary that the level recorded by fee earners had dropped to c793 hours in 2024.³⁵
- 5.50 This was also corroborated in the feedback that we received during the interview process, where firms indicated that more and more time was being spent by Partners/Fee earners in operational business matters such as Anti-Money Laundering/client take-on procedures and regular training, which resulted in billable hours reducing.
- 5.51 As a result of this research we considered how our calculation of a revised Hourly Rate would look if we applied 1,067 & 793 chargeable hours for both Equity and Salaried Partners, whilst maintaining all other solicitors at 1,100 chargeable hours. Our workings are included at Appendix 6, however using 1,067 hours, the average rate calculated at £154.64 and using 793 hours, the average rate increased significantly to £194.72. If we were to average the 2, a rate of £174.68 is calculated.

SUMMARY OF BDONI'S CALCULATIONS OF THE HOURLY RATE

- 5.52 The following table is a summary of the various methods that we have used to establish a robust and verifiable figure for the current Hourly Rate. Our detailed workings are included at Appendix 6.

Calculation	Premise of Calculation	Calculated Rate	
Calculation 1 - Core Survey	<ul style="list-style-type: none"> • Survey results utilised to calculate the average salary and number of Equity Partners, Salaried Partners and Solicitors in an NI legal practice • Survey results utilised to compile the average overhead cost to run an NI legal practice • Notional % of overheads calculated across Partner & Solicitor levels • The average professional salary is then added to this to get a cost of production for each fee earner level • This figure is then divided by the number of chargeable hours (being 1,100 hours per the Donaldson Report), to calculate a specific rate for Equity Partner, Partner and solicitor level • An average of these 3 rates is then calculated 	£151.17	
Calculation 2 - Fee Earner	<ul style="list-style-type: none"> • Survey results utilised to compile the average overhead cost to run an NI legal practice, including all salaries • Survey results utilised to compile the average number of fee earners in an NI legal practice • The average overhead cost is then divided by the average number of fee earners in each firm to calculate the cost of production for an average fee earner • This is then divided by 1,100 Chargeable hours 	£157.40	
Calculation 3- Verified Accounts	<ul style="list-style-type: none"> • Utilising the same method as Calculation 1, however, the overheads figure has been amended to use the actual verified figures taken from the 15 interviewees latest set of financial accounts • Using the data from the 15 accounts received from the interviewees we extracted the total average overheads, excluding any reference to salaries in the account. This totalled to £469,865.18. • We noted that the majority of interviewees were partnerships and the breakdown of overheads provided did not separate professional from non-professional salaries • As a result we took the overhead figures from the interviewee data, and added to this the non-professional salaries figure (£437,643.93) obtained from the Survey data. Together this resulted in a total overhead figure (excl. Professional salaries) of £907,509.11 and the subsequent revised Hourly Rate was calculated thereof 	£151.54	
Calculation 4- Market Indices	<ul style="list-style-type: none"> • This calculation uses the cumulative increase in the market inflation indices (across CPI, RPI and SPPI over the last 10 years, along with the % cumulative average increase in court fees in the last 7 years) • An average is taken across all 4 relevant indices 		
		CPI	£172.39
		RPI	£155.21
		SPPI	£150.37
		Court Fees	£143.17
	AVERAGE	£155.28	
Calculation 5- Revised Chargeable Hours	<ul style="list-style-type: none"> • Utilising the same method as Calculation 1, however the Chargeable hours for both Equity and Salaried partners have been revised to 1,067 hours and 793 hours • An average of each of these permutations is then taken 	£174.68	

Source: BDO Research & Analysis

- 5.53 The calculations above provide a mix of evidence led data, supported by comparable market research, which when combined helps substantiate a fair and reasonable Hourly Rate level.
- 5.54 We would highlight that in assessing the core overheads of a typical legal firm, we have not taken into consideration the cost of any working capital, the cost of obtaining debt funding, and any capital expenditure requirements, all of which would have a bearing on the financial performance and cash outlays of a typical legal practice.
- 5.55 Overall, the Rates calculated vary from £151.17 per our core survey method, up to £174.68 per the Revised Chargeable Hours calculation, with averages depending on the information used ranging from £153.37 up to £158.01. These revised levels align more closely with the UK rates, albeit they are still c15%-30% lower on average. However, per livingcost.org, Northern Ireland is ranked 10th out of 11 UK regions for having the lowest cost of living rates. In fact, NI is c31% cheaper than the rest of the UK, which again would support the levels analysed below when compared with the UK rates.

Method	1. SURVEY	2. FEE EARNERS	3 VERIFIED ACCOUNTS	4 MARKET INDICES	5 REVISED CHARGEABLE HOURS
Hourly Rate Calculated	£151.17	£157.40	£151.54	£155.28	£174.68
Average of Survey Data Calculations	£153.37				
Average of all 5 Calculations	£158.01				

Source: BDO Analysis

- 5.56 **Based on the above table, we would recommend an Hourly Rate of between £150-£160. We are mindful that this represents a 50%-60% uplift on the current Hourly Rate, however noting the factors outlined above and the time since the last review was undertaken, we believe that this represents a fair rate, that is corroborated through market factors and also verified to actual accounts data.**

6. FUTURE PROOFING THE HOURLY RATE

- 6.1 The Hourly Rate is viewed by many in the profession as being the foundation at which solicitor fees are measured and negotiated from. The lack of uplift over the last 10 years has therefore had a significant impact on the profession.
- 6.2 The Independent submission from a Law Society member also corroborated this and further outlined the knock-on impact on the lack of investment that smaller Northern Irish solicitor practices have been able to make as a result of the Rate remaining the same for the last decade.
- 6.3 As part of the interview process, the feedback from all 15 respondent firms was that the Hourly Rate should be reviewed regularly going forward and that the profession should not find itself in a similar position where the Rate has not been reviewed in over a decade and that the Rate remains of practical and commercial use.
- 6.4 The majority of the firms interviewed believe that the Rate going forward should be index linked and move in line with inflation. This would ensure that a fair level is maintained and aligns with the processes already established across the UK.
- 6.5 Views were mixed as to the frequency of the updating exercise, however most respondents suggested a review either annually or bi-annually, in line with inflation, with a detailed exercise/ review conducted every 5 years to ensure that any other external factors such as other market factors, chargeable hours, court fee movements etc are all taken into consideration on a timely basis. Others suggested a simple inflationary increase every 3 years would be sufficient.
- 6.6 In terms of which inflationary measure to use, most respondents did not have a specific measure in mind, simply indicating that the most relevant indices should be used comparable to other jurisdictions.
- 6.7 The Civil Justice Council Costs report in the UK from May 2023 recommended that index linking should be carried out on an annual basis (on 1st January each year) as this would remove a requirement to carry out detailed reviews on a regular basis and also allows the GHR to continue to reflect the circumstances of the market.
- 6.8 The report also suggested that any uplift should have regard to the SPPI as this is a measure of inflation for the UK services sector and it is the index that was to be used by the Ministry of Justice in relation to the implementation of the extension of fixed recoverable costs.³⁶
- 6.9 Concern was raised in the CJC's final report on GHRs in 2021 where Professor Rickman said of the Legal Services SPPI: "[w]hile this may seem to be a natural candidate for uprating GHRs, there is a potential difficulty because it effectively compensates law firms for cost increases that may largely be in their control".³⁷
- 6.10 More recently, on 17 November 2023, Mr Geoffrey Vos, Master of the Rolls, announced at the Civil Justice Council's 12th National Forum that the 2021 GHR would "be uplifted for inflation from 1 January 2024 in accordance with the SPPI"³⁸
- 6.11 In Scotland, the Costs and Funding Committee whose remit is concerned with those matters that can be regulated by the Court of Session approved within the minutes of their meeting of the Scottish Civil Justice Council in October 2022 a fees uplift using a blended rate of CPI and CPIH. Prior to this, the rate in Scotland had not been uplifted since 2018 when an interim 5% increase was approved by the Council following a recommendation from the CAFC.³⁹

- 6.12 The Committee however acknowledged that going forward, noting the volatility of the CPI/CPIH indices, they are likely to be “unreliable measurements after September 2021 and that any future application based solely on CPI/CPIH calculations may not find favour”.
- 6.13 The minutes of the meeting also indicated that “The Committee adhered to the Council’s policy that evidence-based fees reviews are to be undertaken at suitable junctures and where circumstances suggest that review is appropriate. In determining the question of whether fee increases are appropriate, it is preferable to maintain an agile approach to the prevailing circumstances at any point in time. In this respect, annual inflationary fee uplifts are not appropriate.
- 6.14 **Taking on board the responses we have received and the research carried out in respect of other UK jurisdictions, we would recommend that index linking is reviewed every year to allow any new rate to be regularly assessed and applied effectively.**
- 6.15 **The SPPI index would appear to be the most appropriate rate to use going forward, noting its relevance to legal services and the precedent set most recently by the Master of Rolls.**
- 6.16 **Consideration should also be given to evidence-based fees reviews to be undertaken at suitable intervals in the future should the circumstances across the profession/market dictate that a review would be just and appropriate.**

APPENDIX 1

DONALDSON V EASTERN HEALTH AND SOCIAL SERVICES BOARD CASE REPORT

Donaldson v Eastern Health and Social Services Board

QUEEN'S BENCH DIVISION

CAMPBELL J SITTING WITH HIS HONOUR JUDGE RODGERS AS ASSESSOR

12, 13, 14 MAY, 19 JUNE 1997

Costs – Taxation – Solicitor – Contentious business – Hourly rate – Method of assessing hourly rate – General care and conduct of proceedings – Guidelines for determining mark-up of hourly rate – Whether additional percentage or ‘spot figure’ allowable – Whether costs and outlay in review by master allowable – Whether costs drawer’s costs allowable – RSC (NI) 1980, Ord 62, r 12, App 2, Pt II, para 4, Pts A, B.

For the purpose of a taxation of costs on the standard basis under RSC (NI) 1980, Ord 62, r 12, a taxing master in Northern Ireland should apply a single or composite rate for all solicitors when assessing the costs referable to any work which was reasonably done arising out of or incidental to the proceedings pursuant to Pt A of para 4 of Pt II of App 2 to RSC (NI) 1980, Ord 62. A notional hourly rate is calculated by taking a fee-earner’s actual or, in the case of a principal or partner, notional salary and adding the appropriate share of the overheads and dividing by 1,100 as representing the number of chargeable hours in the working year. To avoid the risk of double charging, the notional hourly rate should exclude the cost of all but basic motoring and solicitors should charge motoring expenses to clients as a disbursement at civil service rates. Basic motoring costs are those of short journeys of under ten miles and those expenses incurred in the running of a practice such as taking staff home who have been working late and other non-chargeable journeys. In the light of the available information and the experience of the assessor, the figure of £57.50 per hour for each fee-earner represents the actual cost to an average firm in Northern Ireland in 1994–95, which, as adjusted by the retail prices index, becomes £59 for 1995–96 and £61.50 for 1996–97. *Thompson v Dept of the Environment* [1986] NI 196 considered.

In determining the appropriate uplift of a proper hourly rate for the general care and conduct of the proceedings under Pt B of para 4 of Pt II of App 2 to Ord 62 the normal mark-up should be 50% and where a case has been handled badly no mark-up should be allowed. In general any additional mark-up should be as follows: for child abduction cases 65%; for a complex case at an early stage 75%; for factors approaching the exceptional, which would indeed have to be exceptional, 100%; for the exceptional category, such as a test action, or one which is technical and novel, or involves a large amount of documentation, or uninterrupted personal attention, 125% to 150%; for the early stages of a complex case in which many persons were killed, 140% to 150%. It is only on a rare occasion that an additional percentage for value or ‘spot figure’ will be allowed so as to supplement the uplift percentage where it is considered that the sums assessed require revision upwards. Dicta of Hobhouse J in *Loveday v Renton (No 2)* [1992] 3 All ER

184 at 188; Murray J in *Gallaher Ltd v Charles Brand & Son Ltd* [1987] 2 NIJB 54 at 67, 70; and *Thompson v Dept of the Environment* [1986] NI 196 considered.

Where, on the taxation of a bill of costs, the legal aid committee authorises a solicitor to carry in objections, the solicitor is required to place before the master all matters which are proper to be taken into account. If counsel is to be instructed authority must be obtained from the legal aid committee and if there is no prior authority the costs can only be allowed on a taxation. If the solicitors achieve an increase in their hourly rate but this would not have required the attendance of senior and junior counsel or expert witnesses, the taxing master, in the exercise of his discretion, is entitled to refuse to allow the additional costs to be charged to the legal aid fund.

In general the drawing of a bill of costs is not fee-earner’s work covered by a solicitor’s normal overhead costs and, save in exceptional circumstances, no charge should be sought for such work. However, a fee-earner’s time spent in collating papers and giving instructions to the costs draftsman, in perusing, amending, approving and signing the bill and perusing the file in preparation for attending on taxation is chargeable work for which a suitable allowance may be claimed.

Dictum of Evans J in *Johnson v Reed Corrugated Cases Ltd* [1992] 1 All ER 169 at 188 applied.

Cases referred to in judgment

East Coast Aggregates v Para-Pagan (8 August 1996, unreported), QBD.

Finlay v Glaxo Laboratories Ltd (9 October 1989, unreported), QBD.

Foroughi v Foroughi (30 July 1993, unreported), Fam D.

Gallaher Ltd v Charles Brand & Son Ltd [1987] 2 NIJB 54.

Johnson v Reed Corrugated Cases Ltd [1992] 1 All ER 169.

Kawarindrasingh v White [1997] 1 All ER 714, [1997] 1 WLR 785, CA.

L v L [1996] 2 FCR 193, CA.

Loveday v Renton (No 2) [1992] 3 All ER 184.

R (Costs: Child Abduction), Re [1995] 2 FLR 774.

Thompson v Dept of the Environment [1986] NI 196.

Review of taxation

Clive Donaldson brought an action against the Eastern Health and Social Services Board, claiming that, in the course of treatment in the intensive care unit of the Royal Victoria Hospital, Belfast, for severe staphylococcal pneumonia with septicaemia, he had developed a stenosis of the throat caused by negligence in his treatment. The action came to trial in November 1993 and continued for 12 days. On the thirteenth day, on the advice of his counsel, Mr Donaldson decided not to pursue his action. Mr Donaldson had a full legal aid certificate which had been issued in July 1991 following three limited legal aid certificates. The trial judge ordered that his costs should be taxed under Sch 2 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, SI 1981/228. On 30 September 1994 Mr Donaldson’s solicitors submitted their bill for taxation, and, as it raised a number of important issues the master gave written reasons for his decision on 26 October 1995. The legal aid department of the Law Society gave Mr Donaldson’s solicitors authority, under reg 23(4) of the Legal Aid (General) Regulations (Northern Ireland) 1965, SR 1965/217 to carry in objections to the taxation of the costs

and this came on for hearing before the master on 24 and 25 June 1996 with senior counsel appearing for the solicitors on record for Mr Donaldson and for the Lord Chancellor's Department. On 4 September 1996 the master gave reasons in writing for his decision on the review. On 21 October 1996 the master heard counsel for Mr Donaldson and for the Lord Chancellor's Department on the question of the costs of the review and he gave his decision on 11 December 1996. On 10 January 1997 the legal aid department of the Law Society gave authority under reg 23(5) of the 1965 regulations to have the taxation reviewed by a judge under RSC (NI) 1980, Ord 62, r 35. The summons under RSC (NI) 1980, Ord 62, r 35 sought a review of the decision of the taxing master on a number of grounds, in particular in relation to his calculation of the hourly rate. The facts are set out in the judgment.

P D Smith QC and D P Fee (instructed by *O'Reilly Stewart*) for the solicitors. *R E Weatherup QC and J B McCloskey* (instructed by the *Crown Solicitor's Office*) for the Lord Chancellor.

Cur adv vult

19 June. The following judgment was delivered.

CAMPBELL J. This is an application for an order to review, under RSC (NI) 1980, Ord 62, r 35, the decision of the taxing master on his review of taxation of the bill of costs of the solicitors on record for Clive Donaldson in an action which he brought against the Eastern Health and Social Services Board.

The background

On 5 May 1987 Clive Donaldson was admitted to the intensive care unit of the Royal Victoria Hospital, Belfast, with very severe staphylococcal pneumonia with septicaemia. He was treated in the intensive care unit for more than 50 days and during that time he suffered a cardiac arrest and after many attempts he was resuscitated. In June 1987 he was found to have a stenosis of the throat which had a number of serious consequences for him including the requirement to have a tube placed in the middle of his throat which needed constant cleaning and caused him problems in speaking. He claimed that the stenosis of his throat was caused by negligence in his treatment at the Royal Victoria Hospital.

When his action came to trial in November 1993 it was anticipated that when he finished his degree course in 1994 his position would be reviewed and a further operation would be carried out to try to cut out a damaged portion of his trachea.

There was a large element of future loss in his claim against the Eastern Health and Social Services Board as he intended to be a chemical engineer and as a result of his medical condition it would be difficult, if not impossible, for him to work in places abroad such as Saudi Arabia. His case was presented to the court as having a potential value in the region of £300,000.

The trial continued for 12 days and on the morning of the thirteenth day, on the advice of his counsel, Mr Donaldson decided not to pursue his action.

Mr Donaldson had a full legal aid certificate which had been issued in July 1991 following three limited legal aid certificates. The trial judge ordered that his costs should be taxed under Sch 2 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, SI 1981/228.

Mr Donaldson's solicitors submitted their bill for taxation on 30 September 1994 and, as it raised a number of important issues the master gave written reasons for his decision on 26 October 1995.

The legal aid department of the Law Society gave his solicitors authority, under the Legal Aid (General) Regulations (Northern Ireland) 1965, SR 1965/217 (the 1965 Regulations) to carry in objections to the taxation of the costs and this came on for hearing before the master on 24 and 25 June 1996 with senior counsel appearing for the solicitors on record for Mr Donaldson and for the Lord Chancellor's Department. The master gave reasons in writing for his decision on the review on 4 September 1996. On 21 October 1996 the master heard counsel for Mr Donaldson and for the Lord Chancellor's Department on the question of the costs of the review and he gave his decision on 11 December 1996.

On 10 January 1997 the legal aid department gave authority under reg 23(5) of the 1965 Regulations to have the taxation reviewed by a judge under RSC (NI) 1980, Ord 62, r 35.

The summons under Ord 62, r 35 seeks a review of the decision of the taxing master on the following grounds: (1) that the taxing master erred in his calculation of the hourly rate and in his arithmetical methodology; (2) that the mark-up for care and conduct of 125% was inadequate in the circumstances, having regard to the complexity and difficulty of the case; (3) that the 'spot figure' should not have been disallowed and declared unsustainable; (4) that the solicitors' and counsels' travelling and mileage should be regarded as disbursements in accordance with para 15 of the Taxing Master's Practice Notes 1988 and not as part of the hourly rate; (5) that the taxing master should not have issued a 'Memorandum to the Profession' dated 4 September 1996 without proper consultation and that the 'Memorandum' should be withdrawn; (6) that the taxing master erred in refusing the costs of the review of the taxation when the plaintiff's solicitors had succeeded in altering the taxing master's permitted solicitors' hourly rate; and (7) that the cost drawer's costs should be a separate item of disbursement.

As the review raised a number of issues of general importance to the solicitors' profession I invited His Honour Judge Rodgers to assist the court by sitting as an assessor under s 61 of the Judicature (Northern Ireland) Act 1978. Judge Rodgers has considerable experience of solicitors' costs having been a practising solicitor and, before his elevation to the County Court Bench, as a district judge when he deputised for the taxing master. I am most grateful to him for his very helpful advice.

At a preliminary hearing counsel invited me to draw to the attention of the master an apparent mathematical error in the reasons he gave for his decision of 4 September 1996. The master was already aware of this mathematical error which had been missed at the stage of proof correcting. At page 13 of the master's reasons on review there should be substituted for the figure of £47.50, £54.77 and for the figure of £51.71, £59.74. The master has confirmed that this oversight does not alter his figure of £50 per hour for the solicitors' hourly rate for the year 1994-95. (In this judgment a year is taken as being the financial year beginning and ending in the month of April.) The master's figure for 1995-96 is £51.00.

At the outset of the hearing Mr Smith QC (who appeared with Mr Dermot Fee for Mr Donaldson's solicitors) said that it was accepted by both parties

that this was a test case and that the principal issue was to establish the hourly rate for solicitors in 1995. He stated that on instructions he would not argue for multiple rates but for one rate for all solicitors.

The general principles

RSC (NI) 1980, Ord 62, Pt II, r 3(4)(b) provides that the amount of costs which any party should be entitled to recover is the amount allowed after taxation on the standard basis where an order is made for the payment of costs out of any fund (including the legal aid fund).

The basis for taxation is found in Ord 62, Pt III, r 12(1) which states:

‘(1) On a taxation of costs on the standard basis there shall be allowed a reasonable amount in respect of all costs reasonably incurred and any doubts which the Taxing Master may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party; and in these rules the term “the standard basis” in relation to the taxation of costs shall be construed accordingly.’

In Ord 62, App 2, Pt I, para 1(2) it is provided that the amount of costs is in the discretion of the taxing master and in exercising his discretion he is required to have regard to all the relevant circumstances, and in particular to—

- ‘... (a) the complexity of the item or of the cause or matter in which it arises and the difficulty or novelty of the questions involved;
- (b) the skill, specialised knowledge and responsibility required of, and the time and labour expended by, the solicitor or counsel;
- (c) the number and importance of the documents (however brief) prepared or perused;
- (d) the place and circumstances in which the business involved is transacted;
- (e) the importance of the cause or matter to the client;
- (f) where money or property is involved, its amount or value;
- (g) any other fees and allowances payable to the solicitor or counsel in respect of other items in the same cause or matter, but only where work done in relation to those items has reduced the work which would otherwise have been necessary in relation to the item in question.’

In App 2, Pt II, para 4, Pt A refers to ‘any work which was reasonably done arising out of or incidental to the proceedings’, Pt B to ‘[t]he general care and conduct of the proceedings’ and Pt C to ‘[t]ravelling and waiting time in connection with the above matters’.

On a review under Ord 62, r 35(4) the judge may exercise all such powers and discretion as are vested in the taxing master in relation to the subject matter of the application. In *Kawarindrasingh v White* [1997] 1 All ER 714 the Court of Appeal took the opportunity to resolve any doubts as to the nature of a judge’s jurisdiction on such an application by confirming that the judge’s discretion is not fettered by the manner in which the taxing master exercised his discretion.

The hourly rate

a The first question in the summons concerns the hourly rate and to arrive at an hourly rate which is reasonable, as the rules require, a number of matters have to be resolved.

i. How many rates should there be?

b Should there be a composite rate for all solicitors or a number of different rates which depend upon the experience of the solicitor in a particular field of law? In *Thompson v Dept of the Environment* [1986] NI 196 at 205 Carswell J said of the hourly rate:

‘The Taxing Master adopts the practice, in my view correctly, of assessing a standard figure for the hourly cost, irrespective of the actual salaries and expenses which the solicitor incurs in his practice (which no doubt vary from place to place and practice to practice). In the present case he has gone on the assumption that it is reasonable to charge the whole of the time spent at a single rate, that of the cost of having the work done by a qualified solicitor of approximately five years’ experience since admission, be he a salaried assistant or a junior partner. This commends itself as a practical approach, and I should not fault it.’

In his work, *Legal Costs in Northern Ireland* (1993), the late Master Anderson said that there were four rates: principal or partner, assistant solicitor, senior or managing clerk and solicitor’s apprentice. Master Napier, giving his reasons on review, decided that there should be two rates, one for solicitors and another for legal executives. I was informed that there are no legal executives in this jurisdiction but my assessor explained that the legal executive hourly rate is intended to be used only in undefended matrimonial cases. As App 2 to Ord 62 does not apply to matrimonial proceedings and this review does not concern costs in matrimonial proceedings I shall proceed on the basis that there is currently one notional hourly rate in this jurisdiction.

There are few specialists in Northern Ireland and most solicitors regard themselves as generalists though they may restrict themselves to non-contentious or contentious business and among those who engage in contentious business to either civil or criminal work. As Master Napier said, when giving his reasons, if there were a number of different rates there would be endless disputes about the degree of experience required to conduct various types of litigation. For a solicitor who is one of the large number of sole-principals the choice would be to charge at the notional hourly rate for a solicitor who ought to have done the work, possibly far below the notional rate which his experience would warrant, or to send his client to another firm with a solicitor of the appropriate grade.

Mr Weatherup QC (who appeared with Mr Bernard McCloskey for the Lord Chancellor) did not ask for more than one rate and I am satisfied that he was correct and that a composite or single hourly rate is more appropriate for this jurisdiction.

ii. At what level of experience should the single notional hourly rate be fixed?

In the passage from the judgment of Carswell J in *Thompson v Dept of the Environment* (at 205) there is a reference to a solicitor of approximately five years’ experience. In the reasons for his decision in the present case the taxing

master took the figure of £15,700 pa as the salary in 1991 for a five-year qualified solicitor and he noted later that, against the data provided by the statistician (Dr Calvert) who reported on the Law Society survey, his figure of £15,700 was not unreasonable.

A reading of the judgment in *Thompson* (at 206) shows that the solicitor in that case had five years' professional experience and it is not surprising that Carswell J did not fault the approach of the master in taking the cost of the work as being done by a solicitor with that level of experience. I do not understand the passage in the judgment to suggest that a composite hourly rate should be based on five years' experience.

In 1995 the Law Society of Northern Ireland published a paper entitled 'The Hourly Rate' in which, on the basis of the result of a survey of assistant solicitors carried out in 1994, it suggested that in September of that year the overall average salary, including employer's national insurance contributions for those qualified for six years or more, was £21,779. Adjusted by the retail prices index (the RPI) for 1995–96 this becomes £22,619. Most solicitors are admitted to partnership and there are few senior assistant solicitors who have, for example, more than 15 years' experience. An average for assistant solicitors with six or more years' experience would be reasonably representative of the salary of a solicitor, whether a partner or an assistant, who might be expected to be conducting litigation in the High Court. The figure in the survey may be low as there are so many solicitors at the six-year end of the group that it may be weighted too much towards the lower end.

On taxation, information in an expense of time survey, such as that carried out by the Law Society in 1994, may be taken into account (see *L v L* [1996] 2 FCR 193). The information in the 1994 survey was properly scrutinised by the master and he drew attention to a number of shortcomings in it. Although in 1994 almost exactly half of the firms in Northern Ireland had sole-principals only 14% appeared in the sample. Of the 105 firms represented in the sample only 27% were from West of the Bann where it would appear that the partner mean hourly rate may be lower.

The information asked for in the survey was open to the further criticism that the English Law Society's recommended figure for the provinces for 1995–96 of £28,400 was to be used unless any of the assistants employed by the firm replying to the survey received higher salaries. The master has pointed out that 97 of the 105 firms that responded used this figure of £28,400. Unlike a survey carried out by the Holborn Law Society, referred to in the report of Mr T R Wisdom, a law costs draftsman, no allowance was made for items which are not basic to the running of a practice that undertakes litigation work which are sometimes referred to as 'luxury items'. Though, as the master has said, this may only account for a minor adjustment. Another issue raised in the reasons given by the master in his review was the standard number of chargeable hours for a full year. In the survey conducted by the Law Society it was said to be 1,100 hours but the master drew attention to the evidence of Mr Wisdom that the number should be 1,200 hours. I note from the Surrey Law Society expense rate questionnaire, which is among those exhibited to Mr Wisdom's report, that the Law Society's suggested reasonable figure is 1,100 hours. The same figure is given in the questionnaires from the Law Societies of Leeds and Birmingham and in the notes to the Holborn, City of London, Westminster

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and London Solicitors Litigation Association questionnaire it is stated that the taxing masters have indicated that they consider the figure of 1,100 hours used by the Law Society as unrealistic and for the moment firms replying to that survey were asked to proceed on the basis of 1,200 hours.

In *Thompson* (at 206), Carswell J found 1,150 chargeable hours to be in line with that accepted in London and he felt that it would require good reason to depart from that figure. I can see no good reason for the number of chargeable hours in a year being any different in Northern Ireland to that generally accepted in England and Wales and, for consistency, I shall adopt the figure of 1,100 hours which is close to that taken by Carswell J in *Thompson*.

Before these imperfections in the Law Society survey in 1995–96 are taken into account the median hourly rate for partners and assistants/consultants with six or more years in practice would be £65.17 and £65 is the figure advanced by the Law Society as forming the basis for a composite hourly rate for that year.

A notional hourly rate is calculated by taking a fee-earner's actual or, in the case of a principal or partner, notional salary and adding the appropriate share of the overheads and dividing by 1,100 as representing the number of chargeable hours in the working year. As there are so many variations in overheads between firms it would be difficult to estimate an average figure for each item. If the Law Society survey figure is adopted to find an overall average it must be adjusted to take account of the imperfections already mentioned but no precise calculation can be made to account for them.

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iii. *Are travelling expenses by car included in the hourly rate?*

Master Anderson has suggested in *Legal Costs in Northern Ireland* that where travelling expenses by car are charged to clients at civil service rates, two-thirds of the overheads applicable to the cars used in the practice should be deducted in calculating the overheads to avoid charging twice, once in the hourly rate and again as a separate disbursement.

I am advised that some firms of solicitors do not charge out travelling expenses by car to clients while others do so.

To avoid the risk of double charging the notional hourly rate should exclude the cost of all but basic motoring and solicitors should charge motoring expenses to clients as a disbursement at civil service rates. By basic motoring costs I refer to short journeys of under ten miles and those expenses incurred in the running of a practice such as leaving staff home who have been working late and other non-chargeable journeys.

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iv. *The actual charges in the present case and those allowed in England and Wales*

The Law Society survey of expense rates allowed at 31 December 1994 (ie for 1994–95) in England and Wales shows that the composite rates allowed (outside London) ranged from £50 in Sunderland to £68 in other places such as Ipswich. The average on the Midland and Oxford court circuit was £59.71, on the Wales and Chester £60.50 and on the Western £63.50.

Another useful indicator is the figure of £61.50 arrived at by Mr Donaldson's solicitors, O'Reilly Stewart, after the trial of the action in 1993 and allowed by the master as a 1993–94 figure. This is a large firm in Belfast and Mr Stewart is a senior partner with considerable experience and expertise

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in litigation and therefore it represents a figure that is above the average. If it is updated, by the RPI, it would give £63.87 for 1994-95 and £65.40 for 1995-96.

Conclusion

Drawing on the information that has been provided, including the Law Society survey and on the experience of my assessor, I arrive at the figure of £57.50 as representing the actual cost to an average firm in Northern Ireland in 1994-95. When this is adjusted by the RPI it becomes £59 for 1995-96 and £61.50 for 1996-97.

The general care and conduct of proceedings

This is known as the 'B' figure in litigation as it is found in Ord 62, App 2, Pt II, para 4, Pt B. It is usually expressed as a percentage mark-up of the broad average direct cost for care and conduct.

In *Loveday v Renton (No 2)* [1992] 3 All ER 184 at 188 Hobhouse J referring to an earlier decision in *Finlay v Glaxo Laboratories Ltd* (9 October 1989, unreported) said:

'The situation which gave rise to the *Finlay* case was a practice which had grown up in the North East of England which had precisely those characteristics: the hourly rates were too low and an excessive uplift was used to mitigate the consequences of those rates. On appeal by way of review to this court, the court had adjusted both the rate (upwards) and the uplift (downwards) so as to approach the matter in a proper fashion and give to the solicitor the appropriate allowance on taxation for his profit costs.'

In *Gallaher Ltd v Charles Brand & Son Ltd* [1987] 2 NIJB 54 at 67 Murray J referred to the evidence of an experienced costs drawer that the 'B' figure in this jurisdiction can range from 50% to 300% for a complex action. This would suggest that a situation similar to that described by Hobhouse J may have existed here.

There is in Hoffman *Civil Costs Cases Taxation Handbook* 1997 p 134 a useful guide to the 'B' figure allowed in England and Wales which is based on a number of recent cases.

General Care and Conduct Item (4)	% Mark up
- "Run of the mill" cases <i>Johnson v Reed Corrugated Cases Ltd</i> [1992] 1 All E.R. 169 at 184	50%
- Child Abduction Cases <i>Re R. (Costs: Child Abduction)</i> [1995] 2 FLR 774	65%
- Complex case at early stage <i>Finlay v Glaxo Laboratories Ltd</i> October 9, 1989, (unreported) QBD	75%

	General Care and Conduct Item (4) (cont)	% Mark up (cont)
a	- Factors approaching the exceptional <i>Johnson v Reed Corrugated Cases Ltd</i> [1992] 1 All E.R. 169 at 184	100%
b	- Would indeed have to be exceptional <i>Foroughi v Foroughi</i> , July 30, 1993 (unreported)	
c	- Exceptional category, test action, technical and novel, large amount of documentation, uninterrupted personal attention. <i>Loveday v Renton and Wellcome Foundation</i> [1992] 3 All E.R. 184	125%
d	- <i>East Coast Aggregates v Marie Isabelle Para-Pagan</i> , August 8, 1996, Q.B.D. (Admiralty Division) (unreported). Early stages of complex boat collision in the River Thames in which 51 people were killed.	140% 150%
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With a proper hourly rate established the normal mark-up should be 50% and where a case has been badly handled no mark up should be allowed. In general any additional mark up should follow the guidelines printed above.

f The spot figure

In *Thompson* (at 212) Carswell J was of the opinion that the sums assessed were out of line but he was unable to say if this was because the hourly rate was too low, or the 'B' factor uplift too small or both. He was satisfied that the sums assessed required revision upwards and he increased them. In *Gallaher Ltd v Charles Brand* (at 70) Murray J reduced the 'B' figure and allowed 1% of the award as a supplement for value. These are both examples of 'spot' figures.

In a memorandum which the taxing master issued, after he gave his decision in the present case, he said: 'Gone too will be the "spot figures", the "additional sums" which have also [been] allowed for some time.'

This appears to be a reference to the practice of allowing an additional percentage for value. I would be reluctant to state that such a figure may never be allowed but it will be only on a rare occasion that it is allowed. For example, if an injunction is obtained at short notice in a matter involving a large sum of money, the 'A' figure of which the 'B' figure is a percentage may be small because the time involved, though intense, was short. In such circumstances it may be appropriate to allow an additional percentage for value.

Costs and outlay in the review by the master

Mr Donaldson's solicitors were given authority under reg 23(4) of the 1965 Regulations to carry in objections to the taxation. The authority dated 10 November 1995 states that 'there is no authority for Junior Counsel in this instance'.

Regulation 15(7) provides that it is necessary to obtain the approval of the legal aid committee for 'unusually large expenditure' and no approval was obtained for counsel. Regulation 15(8) provides that where no such approval has been obtained payment for the act shall be made only if it has been allowed on the taxation or assessment.

The master considered that the Law Society had used this review to address more general issues of interest to the profession at large and having little relevance to the case. Therefore he decided that it should pay the costs rather than the legal aid fund.

It was submitted by Mr Fee that under reg 23(4) the legal aid committee either gives authority or not and that it has no power to prescribe the representation. Regulation 23(4) gives the legal aid committee power to authorise the solicitor to carry in objections and it becomes 'the duty of the solicitor to place before the taxing officer all matters which are proper to be taken into account'. It is envisaged that the solicitor will attend on taxation and if counsel is to be instructed authority must be obtained under reg 15(7) and if there is no prior authority the costs can only be allowed on taxation. Mr Donaldson's solicitors achieved an increase in their hourly rate but this would not have required the attendance of senior and junior counsel or expert witnesses. The taxing master, in the exercise of his discretion, refused to allow the additional costs to be charged to the legal aid fund and I agree with him.

Should the cost drawer's costs be a separate item of disbursement?

The taxing master followed what he described as the consistent practice of his office in not allowing the costs of the costs drawer who prepared the bill of costs for Mr Donaldson's solicitors. This is on the ground that it is not fee-earner's work and cannot be charged as such. As the learned author of *Cook on Costs* (2nd edn, 1995) p 137 explains:

'Each firm, when assessing its overheads preparatory to calculating its fee earner's expense of time, includes either the salary of their in-house costs draftsman or the fees they expect to pay to independent costs draftsmen. In other words, the preparing of a bill is non-fee earner's work covered by a solicitor's normal overhead costs and not therefore recoverable additionally.'

In *Johnson v Reed Corrugated Cases Ltd* [1992] 1 All ER 169 at 187 Evans J referred to the Master's Practice Notes which state: 'In general the drawing of a bill of costs is not fee-earner's work and, save in exceptional circumstances, no charge should be sought for such work.' He went on to say (at 188):

'There is a strong presumption, in my view, against charging the client, or the paying party, for time spent preparing the bill. The circumstances must be exceptional for this to be done.'

No such circumstances have been shown to exist in the present case.

Mr Donaldson's solicitors' bill of costs

Three items are in dispute at this stage.

Item 24—Preparation work—mark-up of 300%

The master on review allowed 125% and I consider that this should be reduced to 100% as the mark-up should be the same as that allowed for care and conduct.

Item 77—Care and Conduct 300%

The master allowed a 100% uplift on Pt A in the taxation. The action may be described as including factors approaching the exceptional and, using the guidelines in *Hoffman* a 'B' figure of 100% is reasonable.

Item 104—Taxation

For the reasons stated earlier the cost of preparing the bill for taxation is not allowed. Fee-earner's time spent in collating papers and giving instructions to the costs draftsman, in perusing, amending, approving and signing the bill and perusing the file in preparation for attending on taxation should be chargeable work for which a suitable allowance may be claimed (see *Cook* p 137). The master allowed £400 which he said represented 5.92 hours at £45 uplifted by 50% or the same hours at £50 uplifted by 35% and in either case he considered it to be fair and reasonable. If six hours are allowed at the hourly rate of £61.50 (the rate allowed by the master) with a mark up of 50% the figure becomes £553.50 which I allow against this item.

Order accordingly.

APPENDIX 2 DOCUMENT SUMMARISING THE PROCEDURES FOR INCREASING THE HOURLY RATES IN ENGLAND, WALES, SCOTLAND AND THE REPUBLIC OF IRELAND - LAW SOCIETY OF NORTHERN IRELAND POLICY AND ENGAGEMENT DEPARTMENT



Policy and Engagement Department

Procedures for Increasing Hourly Rates in England, Wales, Scotland and the Republic of Ireland:

1. England & Wales:

- 1.1 In England and Wales, from 2009 to 2010 hourly rates increased in line with inflation, however this stopped in 2010¹.
- 1.2 A review of hourly rates was undertaken in 2014 by the Civil Justice Council (CJC) Costs Committee² but this did not lead to an increase³.
- 1.3 Then in 2021 the CJC Hourly Rates Working Group⁴ conducted a proprietary review of solicitors' hourly rates which was approved by the Master of the Rolls.
- 1.4 Consequently, the new Guideline Hourly Rate (GHR) scheme was established as a summary assessment guideline for members of the judiciary⁵, in use as of 1 October 2021.
- 1.5 This Working Group's Terms of Reference:

To conduct an evidence-based review of the basis and amount of the Guideline Hourly Rates and to make recommendations accordingly to the Civil Justice Council and Deputy Head of Civil Justice during Trinity term 2021⁶.

¹ Cf. the [Previous Guideline Rates](#) in England and Wales

² [RECOMMENDATIONS ON GUIDELINE HOURLY RATES FOR 2014](#)

³ Cf. [Guideline Hourly Rates Do We Need An Update?](#)

⁴ Composed of Mr Justice Stewart as the Chair, a Deputy Chair, a Senior Costs Judge, a Circuit Judge, a District Judge, a consumer representative, a costs barrister, a 'claimant' solicitor, a 'defendant' solicitor, a commercial solicitor, a costs lawyer; and a Chartered Legal Executive. It was observed by a MOJ representative and was supported by Professors Paul Fenn and Neil Rickman.

⁵ Cf. [GUIDE TO THE SUMMARY ASSESSMENT OF COSTS](#)

⁶ [Guideline Hourly Rates 2021](#)

- 1.6 Between September and December 2020 this Review sought evidence on detailed assessments from Regional Costs Judges, Senior Courts Costs Office Judges and authorised court officers and Judges in the Business and Property Courts.
- 1.7 Evidence was also sought from legal professionals if an agreement was reached between parties as to hourly rates, regardless of whether there had been an assessment by a judge.
- 1.8 After this initial stage, the working group prepared an interim report which was open for public consultation from 8 January to 31 March 2021⁷.
- 1.9 Following this was the release of the Final Report in April 2021⁸ which recommended that the guideline hourly rate ought to increase. The Report's proposals were accepted by Geoffrey Vos and implemented on 1 October 2021⁹.
- 1.10 Across 20 bands, the hourly rate increased on average by 17.71%. The greatest increase was 26.78% for Grade A solicitors in National 2 and the smallest was 6.8% for Grade D solicitors in National 1¹⁰.
- 1.11 The calculation for the new Hourly Rate was based on:
- assessing salaries, billed hours and overheads, all in relation to grade of fee-earner and geographical location of the firm, the 'costs of time' will be assessed and then a judgment on a reasonable profit margin will be made resulting in the Committee's recommendations for the GHR(s)¹¹.
- 1.12 More recently, on 17 November 2023, Geoffrey Vos, Master of the Rolls, [announced at the Civil Justice Council's 12th National Forum](#) that the 2021 GHR would "be uplifted for inflation from 1 January 2024 in accordance with the Services Producer Price Index"¹².
- 1.13 The GHR figures as of the new year then, as well as the previous rate and the percentage uplift, are outlined in the table below:

⁷ [GUIDELINE HOURLY RATES WORKING GROUP REPORT FOR CONSULTATION JANUARY 2021](#)

⁸ [GUIDELINE HOURLY RATES FINAL REPORT](#)

⁹ [Master of the Rolls accepts recommended changes to guideline hourly rates](#); Cf. [Solicitors Guideline Hourly Rates to Increase from 1 October 2021](#)

¹⁰ [Solicitors' guideline hourly rates](#); cf. [Guideline Hourly Rates 2021: CJC Recommends Modest Increase](#); [Costs Update: New Guideline Hourly Rates](#)

¹¹ [FAQ: Guideline for Hourly Rates Survey](#)

¹² Cf. Courts and Tribunals Judiciary, ['Responding to recommendations of the Civil Justice Council Costs Review and new Guideline Hourly Rates'](#) (01 December 2023)

Grade	London 1	London 2	London 3	National 1	National 2
A	£546	£398	£301	£278	£272
	£512	£373	£282	£261	£255
	+6.64%	+6.70%	+6.74%	+6.51%	+6.67%
B	£371	£308	£247	£233	£233
	£348	£289	£232	£218	£218
	+6.61%	+6.57%	+6.47%	+6.88%	+6.88%
C	£288	£260	£197	£190	£189
	£270	£244	£185	£178	£177
	+6.67%	+6.56%	+	+	+
D	£198	£148	£138	£134	£134
	£186	£139	£129	£126	£126
	+6.45%	+6.47%	+6.98%	+6.35%	+6.35%

- 1.14 For reference, the Fee Earner Grades are:

- A. Solicitors and legal executives with over 8 years' experience
- B. B Solicitors and legal executives with over 4 years' experience
- C. Other solicitors or legal executives and fee earners of equivalent experience
- D. Trainee solicitors, paralegals and other fee earners

- 1.15 Refer also to the [Final Report of the Civil Justice Council Costs Review](#) from May 2023 which, among other things, recommended that:

2.26 ... index linking should be on an annual basis (conducted on the 1 January each year) as this removes the need to carry out any form of detailed (and thus time consuming) review on a more regular basis whilst at the same time ensuring that GHRs continue to reflect (in so far as possible) the position in the market (as we have said, a critical concern for many respondents to the consultation).

2. Scotland:

- 2.1 The functional equivalent of hourly rates in Scotland is the unit-based Time Charge set out in Schedule 1(1) of the [Act of Sederunt \(Taxation of Judicial Expenses\) Rules 2019](#). It states:

Time engaged by solicitor, except as otherwise specifically provided, in

- preparing for or conducting any hearing;
- attendance at any hearing (including waiting time), consultation with counsel, or meeting; or

- perusing documents,
per 6 minutes (or such other sum as in the opinion of the Auditor is justified).
- 2.2 Every 6 minutes of a solicitor's time corresponds to one unit which currently equates to £18.00; thus, the hourly rate in Scotland is effectively £180.00.
- 2.3 This system came into force in Scotland on 29 April 2019; while the rule itself was made a month earlier on 27 February 2019¹³.
- 2.4 The unit amount is prescribed by [Rule 3.2](#) of the aforesaid Act of Sederunt.
- 2.5 The current rate of £18.00 per unit marks a 9.75% uplift from the original rate of £16.40 set in April 2019¹⁴.
- 2.6 This increase was accomplished in June 2023 through another Act of Sederunt; specifically the [Act of Sederunt \(Fees of Solicitors in the Court of Session, Sheriff Appeal Court and Sheriff Court\) \(Taxation of Judicial Expenses Rules\) \(Amendment\) 2023](#).
- 2.7 The [Scottish Civil Justice Council](#) is the organisation responsible for preparing and submitting draft fee rules. These are defined as rules made in exercise of the power to regulate fees, including solicitor's fees, conferred on the Court of Session by sections [105](#) and [106](#) of the [Courts Reform \(Scotland\) Act 2014](#).
- 2.8 The Council however delegates the exercise of this function to a subsidiary body, the [Cost and Funding Committee](#) (CAFC)¹⁵; whose "remit is concerned with those matters that can be regulated by the Court of Session by rules under – the power to make provision about the expenses that may be awarded in civil proceedings in the Court of Session, the sheriff court and the Sheriff Appeal Court" etc..
- 2.9 With respect to the process for reviewing fees, the CAFC stated that it should "be open and transparent", "involve stakeholder engagement" and "proceed where possible on the basis of evidence or data".

¹³ Alongside the [Act of Sederunt \(Rules of the Court of Session, Sheriff Appeal Court Rules and Ordinary Cause Rules Amendment\) \(Taxation of Judicial Expenses\) 2019](#), these Acts reformed the system of Judicial Taxation of Expenses in Scotland. They followed from recommendations made as part of the Taylor Review of Expenses and Funding.

¹⁴ Cf. Scottish Civil Justice Council, '[Act of Sederunt \(Fees of Solicitors in the Court of Session, Sheriff Appeal Court and Sheriff Court\) \(Taxation of Judicial Expenses Rules\) \(Amendment\) 2023](#)' (01 June 2023)

¹⁵ Established on 23 September 2013, the current Chair is Lord Harrower. The current membership of the CAFC can be viewed [here](#).

2.10 In adhering to those principles, the CAFC recognised "that the output from the Law Society's Financial Benchmarking Tool would be critical in reviewing solicitor fees"¹⁶ and concluded that an open consultation would be the best way to proceed.

2.11 Accordingly, from 21 September 2017 – 17 November 2017 the CAFC conducted a [Consultation on the Review of Fees in the Scottish Civil Courts – Fees of solicitors](#). Through which they "sought views and evidence from stakeholders on the table of fees for solicitors recoverable under awards of expenses made in the Court of Session, Sheriff Appeal Court and sheriff court".

2.12 To that end, the Consultation asked 5 questions:

Q1. Are amendments required to the Tables of Fees to ensure that fees recoverable are proportionate? If yes, please detail the amendments proposed and provide any evidence you may have to support your proposal.

Q2. Are amendments required to the Tables of Fees to ensure that they better reflect the work being undertaken? If yes, please detail the amendments proposed and provide any evidence you may have to support your proposal.

Q3. Are amendments required to the Table of Fees to reflect changes in practice and/or procedure? If yes, please detail the amendments proposed.

Q4. Is there a requirement for a general modification of the level of fees provided for in the Tables of Fees? If yes, please specify the modification proposed and the circumstances justifying the modification and provide any evidence you may have to support your proposal.

Q5. Is it necessary to consider any additional fees that are not currently included in the Table of Fees? If yes, please detail the additions proposed and provide any evidence you may have to support your proposal.

2.13 The [responses](#) were published on 28 November 2017 and an [Analysis of Responses](#) was published in September 2018.

¹⁶ Cf. [30 January 2017 CAFC meeting minutes](#)

2.14 The Analysis of Responses summarised that:

Overall, respondents indicated a desire for general increases to the absolute rates of recoverable fees specified in the relevant tables of fees, such as on an inflationary basis, together with various particular amendments to the calculation of fees in respect of particular procedural aspects.

2.15 For context, in March 2014 the rate of recovery upon award of judicial expenses was set at £156.00 per hour. Over time however a shortfall opened between agent-client costs and the amount that could be recovered on a party-party basis. Many respondents to the above consultation were wont to note that an increase to the hourly rate was required to address this shortfall¹⁷.

2.16 Following on from the Consultation, the CAFC stated that they would “look at the responses in depth and make recommendations to the Scottish Civil Justice Council as to the policy which should be adopted”.

2.17 In early 2018, the CAFC identified the Hourly rate as one of four key areas that would be considered further¹⁸.

2.18 On [19 March 2018](#), the CAFC met with the Law Society of Scotland (LSS) who spoke on their Financial Benchmarking Report and offered evidence and support for an increase to solicitors’ fees. The CAFC agreed:

¹⁷ Cf. for example: [Response of Alex Quin & Partners](#):

“We would therefore submit that an increase in the Party/Party hourly rate (and the knock-on effect to the remaining fees in the Table of Fees) is the only mechanism for lessening the shortfall between the Agent/Client mode of recovery and the Party/Party mode of recovery”.

The [response the Davidson Chalmers](#):

“The recoverable fees are not proportionate. The hourly recoverable rate on an account prepared on a detailed basis does not reflect the fees that solicitors are charging. ... Solicitor’s fees have risen at a greater rate than the judicial recovery rate meaning that the fees recoverable are not proportionate. This leads to difficulties when considered against access to justice. Even if an individual (or company) is completely vindicated in court they are still likely to only recover around 50% of their legal fees. The reality being that this makes litigating unaffordable for many individuals and companies – knowing that even if they are completely correct, they will still be substantially out of pocket for doing so. This is perverse and against natural justice”.

The [response of the Association of Personal Injury Lawyers](#):

“There has been no increase in fees for four years, and at the very least, there should be an inflationary increase to the Table of Fees. We note that the Scottish Government is looking to increase court fees each year for the next 3 years, due to “inflationary pressures in the wider economy”. We see no reason why the fees paid to solicitors should not also have an uplift in line with inflation. Court fees are usually paid upfront by the solicitor. If court fees are increased but the amount paid to solicitors in judicial expenses does not keep pace with these increases, solicitors may not be able to take on cases because they will not be able to afford the risk of not recovering the cost of the court fee from the defender”.

¹⁸ Cf. [14 March 2018 Scottish Civil Justice Council Update](#); and [29 January 2018 CAFC meeting minutes](#)

to recommend an increase to the underlying hourly rate and a draft instrument will be placed before the Committee at the May meeting with a view to being signed off by the Council¹⁹.

2.19 The Scottish Civil Justice Council subsequently approved the draft rules “recommending an increase to the underlying hourly rate to fees of solicitors”²⁰ submitted to them.

2.20 In a [later press release, dated 14 January 2019](#), the CAFC observed that:

there was limited material that would serve to inform its deliberations on setting of an appropriate recoverable hourly rate that underpins the judicial tables of fees. The Committee subscribes to the principle that any fee increases should, where possible, be evidence based. The consultation responses did not however provide clear evidence to demonstrate movements in solicitors’ costs since the last general increase in the level of fees in March 2014.

As an interim measure, the Council approved a recommendation from the Cost and Funding Committee to increase to the underlying hourly rate to fees of solicitors’ by 5%. The [Act of Sederunt \(Fees of Solicitors in the Court of Session, Sheriff Appeal Court and Sheriff Court Amendment\) 2018](#) applied to new fees from 24 September 2018.

2.21 This increase in the hourly rate subsequently formed the basis for the unit established in the Rule 3.2 in the [Act of Sederunt \(Taxation of Judicial Expenses\) Rules 2019](#).

2.22 Later in 2021, the Law Society of Scotland appealed without success to have solicitors’ fees increased again. The [minutes of 13 December 2021 CAFC meeting](#).

2.23 A year later in October 2022, the LSS applied again for an increase this time successfully. The [minutes of the 31 October 2022 CAFC meeting](#) records²¹:

8. Paper 4.1 provided a summary of members’ responses to correspondence received from the Law Society of Scotland (Appendix B) relating to the request for an uplift to the Tables of Fees of Solicitors.

¹⁹ Cf. [5 May 2018 Scottish Civil Justice Council Update](#)

²⁰ Cf. [6 July 2018 Scottish Civil Justice Council Update](#)

²¹ Cf. the [agenda](#) for this meeting.

Paper 4.1A provided a briefing from Stewart Mullan in response to the matters raised in the correspondence from the LSS.

9. The Committee considered and discussed all the papers produced with a view to determining the request for an uplift in solicitors' fees.

10. The Committee acknowledged that cost recovery factors do feed into access to justice questions such as whether or not people choose to litigate and whether cases are raised in this jurisdiction or in others with better costs recovery. If solicitors do not recover sufficient judicial expenses, the shortfall is ordinarily passed onto clients. The Committee noted that as a result of current economic trends, under our system, the cost burden of litigation means that those entitled to awards of judicial expenses are likely to be worse off than they were 2-3 years ago. Having considered all factors, the Committee concluded that an increase to the Tables of Fees of Solicitors is appropriate at this time.

11. The Committee discussed the options for calculating an increase and made the following recommendations for submission to the Scottish Civil Justice Council:

- A fees uplift using a blended rate of CPI and CPIH to a Unit Rate of £18.00 and an hourly rate of £180.00, based on the figures put forward by the LSS is appropriate.
- In arriving at these figures the Committee agreed that given current economic trends it can be anticipated that there will be considerable volatility in consumer based indices over the next few years. In this respect the CPI/CPIH are likely to be unreliable measurements after September 2021 and that any future application based solely on CPI/CPIH calculations may not find favour. It was also noted that legal services are not a reflection of the economy as a whole.
- The Committee adhered to the Council's policy that evidence-based fees reviews are to be undertaken at suitable junctures and where circumstances suggest that review is appropriate. In determining the question of whether fee increases are appropriate, it is preferable to maintain an agile approach to the prevailing circumstances at any point in time. In this respect, annual inflationary fee uplifts are not appropriate.

- The Committee suggested that a consultation on the Tables of Fees of Solicitors may be useful at around the 5 year point to enable these tables to fully bed-in.

2.24 It was in this way that the aforementioned 2023 uplift was brought about. It was increased in line with inflation and precipitated by representations from the Law Society of Scotland.

3. Republic of Ireland:

3.1 In the Republic of Ireland, upon taxation or costs adjudication, legal practitioners are required to present their bill of costs in a specified form – [Form no.3](#) – the hourly rate that solicitor's charge features in this form, though no amount is precisely prescribed.

3.2 Per [section 155\(5\)](#) of the [Legal Services Regulation Act 2015](#), "time taken" is one of three touchstones that the Legal Cost Adjudicator must take into account.

3.3 Per [Schedule 1 of the same Act](#), the Costs Adjudicator when assessing costs is to abide by the following principles: "(a) that the costs have been reasonably incurred, and (b) that the costs are reasonable in amount".

3.4 In the Republic of Ireland, the [Superior Court Rules Committee](#) is responsible for "the fixing and collection of fees".

3.5 [Section 36](#) of the [Courts of Justice Act 1924](#)²² and [Section 68](#) of the [Courts of Justice Act 1936](#)²³ empowers them to that effect.

3.6 Furthermore, [section 143](#) of the Legal Services Regulation Act 2015 states that:

The Superior Courts Rules Committee shall, whenever it considers it appropriate to do so and, in any case, not less than once every 2 years,

²² "The Minister for Home Affairs may ... make rules to be styled "Rules of Court" for carrying Part I. of this Act into effect and may annul or alter the said rules and make new rules. In particular rules may be made for all or any of the following matters: — (viii) the fixing and collection of fees; Such rules of court shall be made or annulled or altered only with the concurrence of a majority of a committee consisting of the judges of the Supreme Court and the High Court, the President of the Incorporated Law Society of Ireland, and two practising barristers, of the senior and junior Bar respectively, to be selected by the Council of the Bar of Ireland."

²³ "68.— (1) ... the power of making, annulling, or altering rules of court and making new rules conferred by section 36 of the Principal Act shall cease to be exercisable by the Minister for Justice, and in lieu thereof it is hereby enacted that... the said power shall be exercisable by the Superior Courts Rules Committee with the concurrence of the Minister for Justice."

review the scales of fees for contentious and non-contentious business set out in Appendix W to the Rules of the Superior Courts.

- 3.7 The rules surrounding the adjudication of costs are set out in Superior Court Rule [Order 99](#) and [Appendix W](#) thereto lays out the relevant tables of fees; considerable discretion is however allowed to the Legal Costs Adjudicator.
- 3.8 Both SCR Order 99 and Appendix W were [written](#) by the Superior Courts Rules Committee, pursuant to the aforesaid powers, in October 2019.
- 3.9 Reform of the costs regime in Ireland has however halted, pending the completion of economic research into the sector.
- 3.10 In March 2017 the Irish Government ordered a review of the Administration of Civil Justice with a view to reform. The Review Group was chaired by Peter Kelly, then the President of the High Court²⁴.
- 3.11 The [Review of the Administration of Civil Justice Report](#) was published on 07 December 2020.
- 3.12 As the Report itself explained:

A majority of the Group (comprising the representatives of the Supreme Court, Court of Appeal, High Court, Circuit Court, District Court, Bar Council and Law Society) recommended the drawing up of guidelines as to costs levels for the assistance of parties and their representatives, by reference to individual items that could be outlined in a table, with minimal legislative intervention, the function being assigned either to the Legal Costs Adjudicators or the Legal Services Regulatory Authority, with input from the former. The guidelines should be non-binding but intended to improve the certainty and transparency of the adjudicative process.

A minority of the Review Group (consisting of the representatives of the Department of An Taoiseach, the Department of Public Expenditure and Reform, the Department of Justice and Equality and the Courts Service), in a Minority Report, recommended that a table of maximum costs levels for practitioner and client and party and party costs be prescribed by a new Litigation Costs Committee subject to an entitlement to contract out of practitioner and client costs levels prescribed, and a judicial power to derogate from the table in exceptional cases.

²⁴ Cf. Gov.ie, [Review of the Administration of Civil Justice: Review Group Report](#) (07 December 2020)

- 3.13 The Terms of Reference for the Review Group constrained it to a certain extent as they were instructed “to examine the current administration of civil justice in the State with a view to: – ...Reducing the cost of litigation including costs to the State”.
- 3.14 To address this and inform its own decision the Department of Justice has commissioned economic research on the options available to it around legal cost controls.
- 3.15 Following the publication of the Report, on 27 May 2022, *An tAire Dlí agus Cirt* Helen McEntee subsequently published the implementation plan for civil law reform²⁵.
- 3.16 Described as “the most significant reform to civil law in the history of the State”, the Department’s plan: [Civil Justice Efficiencies and Reform Measures A Civil Justice System for the 21st Century](#) will be implemented “on a phased basis up to the end of 2024”.
- 3.17 The Law Society of Ireland Gazette [reports](#) that:
- The Department of Justice says that it has commissioned economic research in this area that will feed into proposals that the minister intends to bring to Government next year.
- 3.18 Recommendation 9.1 of the Implementation Plan provides for:
- Following from the analysis in the Review report, commission an economic analysis of cost control models on litigation costs, and seek legal analysis of same.
- Based on the legal and economic research findings, and the considerations of the Review Group majority and minority reports, sub-group to develop proposals.
- 3.19 The targets dates for these actions were “H2 2021”²⁶ and “H2 2022”²⁷ respectively. The commissioned research is thus presumed overdue.
- 3.20 The economic consultancy Indecon are the ones conducting this project²⁸.

²⁵ Cf. Law Society of Ireland, [‘Plan for civil-law shake-up is set out’](#) (27 May 2022)

²⁶ H2 2021: Commission an economic analysis of litigation cost control models.

²⁷ H2 2022: Arising from the findings of the economic analysis, seek legal advice on potential options and develop proposals.

²⁸ Cf. Indecon - [Economic Evaluation of Options for Control of Litigation Costs](#)

- 3.21 On 21 February 2022, the Law Society of Ireland and Irish Bar sent their [Submission to Indecon economic consultants Economic evaluation of options to control Litigation costs](#) stating their position and preference for non-binding guidelines.
- 3.22 The Law Society of Ireland, together with the Irish Bar, also commissioned their own research which was published in July 2022²⁹.
- 3.23 Authored by EY, the [Analysis of the impact of proposals to reduce legal costs in Ireland](#) recommended non-binding guidelines for practitioners.

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²⁹ Cf. Irish Legal News, '[Legal costs report recommends non-binding guidelines for practitioners](#)' (22 July 2022); Bar of Ireland Law Library, '[New Report on Models for Legal Costs Reform Recommends Non-binding Guidelines for Fair and Equal Access to Justice](#)' (22 July 2022); Law Society of Ireland Gazette, '[High-legal-costs view 'not backed by evidence''](#)' (22 July 2022)

Northern Ireland Law Society Survey of Member Firms

The sample frame for this survey was the Law's Society's database of practicing solicitor firms in Northern Ireland. The relevant database extract was taken in February 2009.

A total of 539 firms were contacted and asked to participate in the survey, and they covered the broad spectrum of firms within the Northern Ireland marketplace (ranging from single-handed operations to very large firms).

Given the broad range of firms being asked to participate, the survey form was necessarily designed as a 'one-size-fits-all' document, and at the instruction of the Law Society it was closely based on the survey carried out in summer 2005, which was developed in line with the Donaldson case.

Survey forms were sent out to 522 firms by email at the start of March and a further 17 were posted to firms for which no email address was available. All firms were initially asked to respond by the 20th April 09, however this was later extended to the 27th April to for any delays caused by the Easter holidays.

As the requested information was commercially sensitive, firms were assured that the information provided would be treated in strictest confidence and that no individual respondents would be identified through any material published or released/

A total of 98 responses were received and used in the analysis of the results, giving an implied response rate of 18%. This was slightly behind the response rate for the 2005 survey however the returns received in 2009 noted a total of 675 solicitors apportioned as;

- 237 sole practitioners or equity partners;
- 59 salaried partners;
- 85 solicitors with less than 3 years post qualification experience;
- 62 solicitors with 3 to 5 years post qualification experience;
- 70 solicitors with 6 to 10 years post qualification experience;
- 77 solicitors with more than 10 years post qualification experience; and
- 85 apprentice solicitors.

The average solicitors' firm in Northern Ireland, as evidenced by the returns to the questionnaire, therefore consists of 6.6 solicitors apportioned as to 2.42 sole practitioners or equity partners, 0.6 salaried partners and 2.92 employed solicitors.

The data from the survey was analysed to produce the median salaries for the categories of professional fee-earners identified above. In this instance due the large variety in the sample and the type of data being analysed the median was deemed to be the most appropriate measure.

Median Professional Salaries

	Median Salary (£)
Solicitors with less than 3 years post qualification experience	£20,677
Solicitors with 3 to 5 years post qualification experience	£29,577
Solicitors with 6 to 10 years post qualification experience	£36,218
Solicitors with more than 10 years post qualification experience	£40,012
Salaried Partners	£45,125

For the purposes of the later calculations, an average of these salaries has been calculated which indicates that an average salaried solicitor in Northern Ireland receives a salary of £34,322 per annum.

Median Non- professional Salaries

	Median Salary (£)
Administrational and secretarial staff	£17,273
Para Legal or Law Clerk of less than 5 years experience	£12,558
Para Legal or Law Clerk with 5-10 years experience	£18,575
Para Legal or Law Clerk with more than 10 years experience	£22,206
Apprentice Solicitors	£12,287

Median expenditure excluding professional salaries

The median expenditure excluding professional salaries as evidence by the returns to the survey is **£418,006** per firm apportioned as;

Non-professional staff costs	£166,786	Document storage charges	£2,669
NIC or other contributions to state funded benefits	£16,723	Purchase office equipment	£2,598
Pension contributions	£10,025	HP repayments re office equipment	£3,024
Company cars, travel and motor expenses	£10,900	HP / loan repayments motor vehicles	£6,000
Unspecified staff expenses	£2,360	Stationery	£7,216
Practising certificate fees	£6,255	Telephone / fax charges	£7,002
P.I. insurance premiums	£12,085	Internet connection charges	£517
Contributions to the Compensation Fund	£1,673	Postage	£3,985
Staff training	£1,722	Courier services (inc. DX system)	£1,892
Subscriptions to publications/online services	£1,005	Software / software support	£3,000
Rent/mortgage payments	£92,371	Accountants' fees	£6,500
Rates	£6,651	Bank charges / interest	£3,844
Service charges	£3,000	Other relevant expenses	£6,653
Building insurance premiums	£1,363	Depreciation (office)	£6,675
Heating and lighting	£3,489	Depreciation (motor vehicles)	£7,638
Cleaning	£1,800	Other expenses not detailed	£7,197
Security	£389		
Office repairs	£3,002	Total	£418,006

Benchmark Salary Information for Equity Partners

In undertaking meaningful and robust benchmarking there are two strands. The first is ensuring appropriate benchmark organisations are chosen, which is critical to providing parity between the different benchmarks. In determining the specific market data for the post within this review, we took into account the following:

- Functions and responsibilities of the job holder;
- Skills, experience and qualifications required to do the job;
- Size of the organisations as measured by number of staff and expenditure;
- Business sector in which the organisations operate.

The second element to transparent and objective benchmarking is ensuring an accurate match in terms of responsibility level and scope of the role versus benchmarks. The most

robust matching mechanism is by job evaluation. Consequently we have matched the roles versus roles with similar demands from our private and public sector samples. The information and quantitative data presented in this paper are drawn from a number of sources including:

- underpinning private sector benchmarking from the PwC NI Salary Survey. Our Salary Survey has been undertaken on an annual basis for 26 years and has a rolling basis of 300 participating organisations; and
- publicly available information on private and public sector remuneration.

Northern Ireland Marketplace

Public Sector	
• Assistant Solicitor (Grade 5)	Median £61,153
Private Sector	
• NI Accountancy Partner (ACCA)	Mean £65,000
• NI Salary Survey Top Management	Mean £97,091
• NI Salary Survey General Mgmt	Mean £73,385
• NI Salary Managing Director	Median £64,800
Legal Sector	
• Salaried Partner (NI)	Median £45,125

UK Legal Sector

England and Wales	
• Equity Partner (incl. Greater London)	Median £85,185
• Equity Partner (excl. Greater London)	Median £72,012
• Salaried Partner (incl. Greater London)	Median £70,000
• Salaried Partner (excl. Greater London)	Median £58,779
Scotland	
• Notional Salary for Equity Partner (2008)	£71,750

Equity Partner's Notional Salary & Calculation of Hourly Rate

When calculating the Equity Partner Notional Salary rates and the Hourly Rate the following assumptions were used;

- The comparators are based on basic salary as oppose to total remuneration figures
- It is appropriate to included the NI Salaried Partner average salary as not all firms will have salaried partners
- The Median salary for an Assistant Solicitor in the NI Public Sector is **£61,153**
- The appropriate comparators in the wider NI private sector are Managing Director and Accountancy Partner
- Average expenditure excluding professional salaries is **£418,006**
- The percentages of the Notional Professional Salary bill and Average Expenditure bill are equivalent in relation to equity partners and salaried solicitors
- The number of *Chargeable* hours per annum for a full-time fee-earner has been taken as 1,100 hours.

Calculation 1 based on original comparators

Benchmark Salaries

- NI Average Salaried Solicitor £34,322

- NI Salaried Legal Partner £45,125
- Assistant Solicitor (SCS) £61,153

Notional Salary for Equity Partner/ Sole Practitioner of **£46,866.67**, based on average of the above comparators.

Notional Professional Salary Bill for Average Practice

• 2.42 Partners/ Principals @ £46,866.67	=	£113,417.34
• 3.52 Salaried Solicitors @ £34,322	=	£120,813.44

Total Prof Salaries Bill = £234,230.78

The notional salary of an individual equity partner / principal is **20 %** of this bill and that of a salaried solicitor **14.65%**.

These are the percentages of a firm's overheads, other than the professional salaries for which each fee-earner is responsible.

Partner/ Principal

% of Overheads (excl Prof Salaries) £418,006 x 20 %	=	£83,601.20
Add Notional Salary		£46,866.67
	=	£130,467.87

Divided by 1,100 hours = **£118.61 per hour**

Salaried Solicitor

% of Overheads (excl Prof Salaries) £418,006 x 14.65%	=	£61,237.88
Add Average Salary		£34,322
	=	£95,559.88

Divided by 1,100 hours = **£86.87 per hour**

The average of these figures is £102.74 per hour

Calculation 2 based on Northern Ireland Comparators only

Benchmark Salaries

- NI Salaried Legal Partner £45,125
- NI Accountancy Partner £65,000
- Assistant Solicitor (SCS) £61,153
- Managing Director £64,800

Notional Salary for Equity Partner/ Sole Practitioner of **£59,019.50**, based on average of the above comparators.

Notional Professional Salary Bill for Average Practice

• 2.42 Partners/ Principals @ £59,019.50	=	£142,827.19
• 3.52 Salaried Solicitors @ £34,322	=	£120,813.44

Total Prof Salaries Bill = £263,640.63

The notional salary of an individual equity partner / principal is **22.39%** of this bill and that of a salaried solicitor **13.02%**.

These are the percentages of a firm's overheads, other than the professional salaries for which each fee-earner is responsible.

Partner/ Principal

% of Overheads (excl Prof Salaries) £418,006 x 22.39% = £93,591.54
 Add Notional Salary = £59,019.50
 = £152,611.04

Divided by 1,100 hours = £138.74 per hour

Salaried Solicitor

% of Overheads (excl Prof Salaries) £418,006 x 13.02% = £54,424.38
 Add Average Salary = £34,322
 = £88,746.38

Divided by 1,100 hours = £80.68 per hour

The average of these figures is £109.71 per hour

Calculation 3 based on NI and GB Comparators

Benchmark Salaries

- NI Salaried Legal Partner £45,125
- NI Accountancy Partner £65,000
- Assistant Solicitor (SCS) £61,153
- Managing Director £64,800
- Equity Partner (excl GL) £72,012
- Notional Salary (Scot) £71,750

Notional Salary for Equity Partner/ Sole Practitioner of **£63,306.67**, based on average of the above comparators.

Notional Professional Salary Bill for Average Practice

- 2.42 Partners/ Principals @ £63,306.67 = £153,202.13
- 3.52 Salaried Solicitors @ £34,322 = £120,813.44

Total Prof Salaries Bill = £274,015.57

The notional salary of an individual equity partner / principal is **23.1%** of this bill and that of a salaried solicitor **12.53%**.

These are the percentages of a firm's overheads, other than the professional salaries for which each fee-earner is responsible.

Partner/ Principal

% of Overheads (excl Prof Salaries) £418,006 x 23.1% = £96,573.25
 Add Notional Salary = £63,306.67
 = £159,879.92

Divided by 1,100 hours = £145.35 per hour

Salaried Solicitor

% of Overheads (excl Prof Salaries) £418,006 x 12.53% = £52,376.15
 Add Average Salary = £34,322
 = £86,698.15

Divided by 1,100 hours = £78.82 per hour

The average of these figures is £112.08 per hour

Calculation 4 – using variable chargeable hours

In this calculation the following assumptions were used;

- The comparators are based on basic salary as oppose to total remuneration figures
- The Median salary for an Assistant Solicitor in the NI Public Sector is **£61,153**, and this is appropriate Public Sector comparator
- The appropriate comparators for Equity Partners in the wider NI private sector are Managing Director and Accountancy Partner
- There is a comparison in salaries across the UK Legal Sector
- Average expenditure excluding professional salaries is **£418,006**
- The percentages of the Notional Professional Salary bill and Average Expenditure bill are equivalent in relation to equity partners and salaried solicitors
- The number of *Chargeable* hours per annum for Equity Partners/ Sole Practitioner is 1000, and for all other salaried solicitors is 1200

Benchmark Salaries for Equity Partner

- NI Accountancy Partner £65,000
- Assistant Solicitor (SCS) £61,153
- Managing Director £64,800
- Equity Partner (excl GL) £72,012
- Notional Salary (Scot) £71,750

Notional Salary for Equity Partner/ Sole Practitioner of **£66,943**, based on average of the above comparators.

Notional Professional Salary Bill for Average Practice

- 2.42 Partners/ Principals @ £66,943 = £162,002.06
- 3.52 Salaried Solicitors @ £34,322 = £120,813.44

Total Prof Salaries Bill = £282,815.50

The notional salary of an individual equity partner / principal is **23.67%** of this bill, and that of a salaried solicitor **12.14%**.

These are the percentages of a firm's overheads, other than the professional salaries for which each fee-earner is responsible.

Equity Partner/ Principal

% of Overheads (excl Prof Salaries) £418,006 x 23.67% = £98,942.02
 Add Notional Salary = £66,943
 = £165,885.02

Divided by 1,000 hours = £165.89 per hour

Salaried Solicitor

% of Overheads (excl Prof Salaries) £418,006 x 12.14% = £50,745.93
 Add Average Salary = £34,322
 = £85,067.93

Divided by 1,200 hours = £70.89 per hour

The average of these figures is £118.39 per hour

Legal Sector Data**England and Wales - The Guideline Hourly Rates for 2009**

	Band A	Band B	Band C	Band D
National 1	£213	£189	£159	£116
National 2/3	£198	£174	£144	£109

- They breakdown the hourly rate into 4 categories of fee-earner
 - Band A – Solicitors over 8 years qualified experience
 - Band B – Solicitors or Legal Executives over 4 years qualified experience
 - Band C – Other qualified Solicitors or Legal Executives
 - Band D – Trainee solicitors, paralegals and equivalent
- Previously they had further broken down the hourly rates by 6 regions (3 London regions and 3 National regions, however when reviewing the rates for 2009, they have combined National 2 and National 3 in one rate across the 4 categories.
- Their survey focused on the average hourly rate (in £) charged by fee earners of different levels of experience and for the overall percentage reduction in initial Bills of Costs submitted.
- It covered four broad categories of work;
 - Personal Injury Cases (excluding clinical negligence);
 - Clinical Negligence Cases;
 - Chancery Cases; and
 - Employment Tribunal Cases.

Scotland – The Cost of Time Survey

The 2008 Survey of Legal Practices in Scotland is based on a questionnaire sent to all firms in Scotland. This year 224 firms participated but only 219 were eligible for inclusion for various reasons, representing 18% of all firms.

Key findings this year were:

Profitability

- Median profit per partner was £104,000;
- The average year-end was December 2007 with 25% before July 2007 and 25% after March 2008, so for most firms the impact of the economic slow down will not be reflected in these figures. Next year's results are likely to see a marked deterioration.

Fee income

- Median fees per fee earner were £125,000, increased from £118,000 last year and £111,000 the year before;
- The most profitable firms in the survey consistently achieve fees per partner better than £400,000 for firms with under 10 partners and over £800,000 for firms with 10+ partners.

Fee earner and staff ratios

- The most profitable firms tend to have higher levels of gearing – in the case of the 10+ partner firms this is around five fee earners in addition to each equity partner;
- Larger firms had just over ¾ member of support staff per fee earner. In smaller firms this was 1¼ to 1½.

Salary ratios

- In the most profitable firms salaries (including allowance for a notional salary) were approximately 50% fees.

Overheads

- In the most profitable firms non-salary overheads were under 25% fees.

Partner capital, debtors and outlays

- A quarter of 10+ partner firms had debtors per fee earner in excess of £49,000;
- The median debtor days for 10+ partner firms was high at 91 days, with a quarter of firms greater than 142. Equivalent figures for well run firms in England & Wales were 74 and 85 days.

The Cost of Time

- The hourly expense rate for all solicitors in 2008 was £146, a level that produces an income per partner, before any allowance for pension and return on capital of £71,750.

Average hourly expense rates, by size of firm, geographical location and type of practice, are derived from the Survey. These are calculated according to the assumptions set out below and include a notional salary in respect of each profit-sharing partner, together with an allowance for pension provision and interest on capital.

If each fee-earner had generated fee income at his or her appropriate hourly rate for the assumed number of chargeable hours, then the amount available for distribution among the profit-sharing partners would have been sufficient to provide each partner with their notional salary, related pension provision and interest on capital.

Average 2008 hourly expense rates (£)

	(£)
All Solicitors*	146
Profit Sharing Partners	163
Salaried Partners	136
Associates	92
Qualified Assistants	81
Trainees	80
Unqualified Fee-Earners	69

* All solicitors represents the average of all solicitors in the Survey – profit sharing partners and also those who were not profit-sharing partners.

"Net profit" is defined as total income less total expenditure (including any allowance for depreciation). It equates with the distributable profit as shown in a firm's accounts.

In the Survey partners are classified as either "profit-sharing" or "salaried". In those cases where a particular partner's remuneration is paid partly as a salary and partly as a share in profits, he is regarded as a profit-sharing partner if the greater part of his remuneration is paid as a share of profits.

Firms were asked to base the questionnaire they completed on their latest accounts.

Fee income comprises all income except bank interest and income derived from firm investments.

In the calculation of "all salaries", and the expense rates, a notional salary of £71,750 has been used. This was 4% higher than the salary used in 2007, which itself was based on a three year average of historic profitability.

In calculating the hourly expense rates the following specific assumptions have been used:

- Number of chargeable hours per annum for a full time fee-earner:
 - Partners – 1,000
 - Trainees – 800
 - All other fee-earners – 1,200
- Rate of return for interest on working capital: 4.0%. Where necessary, an average value of £50,000 per profit-sharing partner has been used to estimate the working capital of the firm;
- Pension provision for profit-sharing partners : 17.5% of notional salaries ;
- An inflationary growth rate for expenses based on movements in the retail price index.

Northern Ireland - The Billy Wright Inquiry

The maximum hourly rates established for the Billy Wright inquiry were

Leading Counsel	£200
Junior Counsel	£100
Solicitors	£150

The maximum number of hours that could be charged in respect of each member of a legal team of an represented party was 40 hours per week save that the Solicitor to the Inquiry could authorise the exceeding of the 40 hour per week cap up to 60 hours for Counsel during the oral hearings and for a short period before they commence where he is satisfied that such action is justified, for example, where the work involved in any week clearly needs to exceed 40 hours.

The hourly rates specified above and the numbers of hours specified above could only be exceeded with the prior approval of the Secretary of State.

Other Sector Data

Education- Teachers Pay

The Law Society requested that consideration was given to other professionals and the relationships between their remuneration and that of GB, one group specifically mentioned was teachers. The process for establishing remuneration for teachers within Northern Ireland is outlined below. It is important to note that the levels of remuneration of teachers and solicitors, particularly in relation to the notional salary for Equity Partners, are not deemed to be comparable.

In Northern Ireland agreement on teachers' pay and conditions of service is reached through the Teachers' Salaries and Conditions of Service Committee (Schools), which comprises the employing authorities/employer representatives, the Department of Education (DE) and the five recognised teachers' unions (Irish National Teachers' Organisation, National Association of Schoolmasters and Union of Women Teachers, Ulster Teachers' Union, Association of Teachers and Lecturers, and National Association of Headteachers).

Following negotiations, the Department determines teachers' pay in accordance with the provisions of Article 69 (1) and (6) of the Education and Libraries Order 1986. In doing so it issues Pay Determinations/Circulars which give legal effect to salary changes.

Teachers' (Terms and Conditions of Employment) Regulations (Northern Ireland) 1987 No. 267 (and Amendment Regulations 1988 No. 299) make provision as to the terms and conditions of employment of teachers in grant-aided schools and to peripatetic teachers.

Other contractual changes, and agreed schemes and procedures, are normally issued by the employing authorities/employer representative bodies, and further advice on these issues is available directly from them.

Health Service - Doctors' and Dentists' Pay

The Law Society requested that consideration was given to Medical GPs as a comparison group in relation to the Notional Salary for Equity Partners

The Review Body on Doctors' and Dentists' Remuneration was appointed in July 1971. The reviews are conducted under the terms of reference introduced in 1998, amended in 2003 and 2007.

The Review Body on Doctors' and Dentists' Remuneration is independent. Its role is to make recommendations to the Prime Minister, the Secretary of State for Health, the First Minister and the Cabinet Secretary for Health and Wellbeing of the Scottish Parliament, the First Minister and the Minister for Health and Social Services in the Welsh Assembly Government and the First Minister, Deputy First Minister and Minister for Health, Social Services and Public Safety of the Northern Ireland Executive on the remuneration of doctors and dentists taking any part in the National Health Service.

In reaching its recommendations, the Review Body is to have regard to the following considerations:

- the need to recruit, retain and motivate doctors and dentists;
- regional/local variations in labour markets and their effects on the recruitment and retention of doctors and dentists;
- the funds available to the Health Departments as set out in the Government's Departmental Expenditure Limits;
- the Government's inflation target;
- the overall strategy that the NHS should place patients at the heart of all it does and the mechanisms by which that is to be achieved.

The Review Body may also be asked to consider other specific issues.

The Review Body is also required to take careful account of the economic and other evidence submitted by the Government, staff and professional representatives and others.

The Review Body takes account of the legal obligations on the NHS, including anti-discrimination legislation regarding age, gender, race, sexual orientation, religion and belief and disability.

In their most recent review they came to the conclusion that doctors and dentists working for the NHS have relatively secure employment and are likely to be much less affected by the economic downturn. They believe that in the unusual circumstances this year, only modest increases were justified and recommended that for 2009-2010 a base increase of 1.5 per cent to the national salary scales for doctors and dentists.

The core traditional role for general medical practitioners (GMPs) is the family doctor, working in either General Medical Services (GMS) or in Personal Medical Services (PMS), in the primary care sector of the NHS. The Review Body is only concerned with GMS which is governed by a United Kingdom wide contract.

Most of the doctors working in the GMS are independent contractors – self-employed people running their own practices as small businesses, usually in partnership with other GMPs and sometimes others such as practice nurses, although unlikely other small businesses a significant amount of the costs are provided for out of public funds. Some practices belong to sole practitioners and some to companies which employ salaried doctors to staff them.

The latest GP Earnings and Expenses Enquiry (EEQ) provides a detailed study of the earnings and expenses of both contractor and salaried GPs in the UK in 2006/07, the third year of the new General Medical Services (nGMS) contract. Key findings from the report are as follows and relate to NHS and private, full and part-time work:

The average income before tax for **GPs** working under either a GMS or PMS (GPMS) contract in 2006/07, was £93,316 in Northern Ireland (a decrease of 5.4% since 2005/06).

The expenses to earnings ratio (EER) for GPMS **contractor GPs** in 2006/07, which represents the proportion of gross earnings taken up by expenses, was 48.7% in Northern Ireland (an increase of 2.0 percentage points since 2005/06).

There was no available information for salaried GPs in Northern Ireland. However, the average income before tax for **salaried GPs** in the UK in 2006/07 working in either a GMS or PMS (GPMS) practice was £53,940. The average gross earnings for GPMS **salaried GPs** in the UK in 2006/07 was £60,137. The average expenses for GPMS **salaried GPs** in the UK in 2006/07 was £6,196.

It is imperative to note that Contractor GPs have additional responsibilities, covering clinical, organisational, operational, financial and personal responsibility for provision of GP services not borne by salaried GPs. On average, contractor GPs work more hours than salaried GPs. These factors are reflected in their average earnings.

Average income before tax for **combined GPs** (contractor + salaried), working in either a GMS or PMS (GPMS) practice, in the UK in 2006/07, was £100,676.

Given the current economic climate and the issues identified above, such as significant amounts of the costs for GPs practices are covered by public funds, this group would not be an appropriate comparator at this time. It is improbable that Equity Partner in Solicitors practices in Northern Ireland have an equivalent ratio of 49% of expenses to gross earnings.

APPENDIX 4 COPY LETTER FROM PAUL KERR - REVIEW OF PWC REPORT - APRIL 2010

Patricia A. Kerr, B.A. (Hons)**Legal Costs Consultant**

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Patricia A. Kerr B.A. (Hons)
Paul G. Kerr, B.C.L.

Your Ref: KDJT
Our Ref: PGK

28th April 2010

Mr Kevin Delaney,
Assistant Secretary,
The Law Society of Northern Ireland,
Law Society House,
DX 422 NR
BELFAST

Dear Kevin,

Re: The Hourly Rate: PWC Report

I thank you for your letter of 31st Ult., with the copy of the draft PWC report.

Although slightly disappointed with the hourly rates which PWC's calculations produce I am not surprised with their conclusions as their report very much mirrors the results which we found in our own 2005 survey. I am disappointed however by the lack of response from the profession and I wonder whether a return of 18% is sufficient to render PWC's conclusion statistically valid and also what difference would a significantly larger response have on the figures.

Of the various calculations set out in the report I think the most important for the presentation of a test case is calculation 1 which is based on the empirical evidence generated by the survey. This is not to say that the other calculations are not important: they are, particularly the comparison with England and Wales, but in my opinion they are of secondary importance as being yardsticks against which one can compare and justify the rate or rates arrived at for use in this jurisdiction.

As was our experience with the 2005 survey two issues stand out: the calculation of the notional salary for an equity partner and whether there should be one or a number of rates. Combining the PWC's calculations of a rate for an equity partner with that for a salaried solicitor to arrive at a rate for use for all solicitors has the effect of depressing the rate and leaving us with a rate lower than hoped for. I think we should consider abandoning a single rate and argue for different rates for different fee earners as is the practice in England and Wales.

Notional Salary

When calculating an appropriate notional salary I would take a slightly different approach from that adopted by PWC. The calculation of the notional salary is predicated upon a firm's having to employ an assistant solicitor of sufficient experience to be able to deal with the business dealt with by the partner. I would therefore exclude the first two bands in the Table

VAT Registration No 617 638 325

for Median Professional Salaries on page 1 of the report, namely solicitors with less than 3 years and those with up to 5 years post qualification experience as not having the required experience, and I would take into account only the third and fourth bands namely those with 6 to 10 years and those with 10 or more years post qualification experience¹. This would give a calculation as follows:

- Average salaried assistant solicitor £38,115.00
- Average salaried partner £45,125.00
- Public sector £61,153.00

This would give a notional salary for an equity partner of £48,131.00 and would change PWC's calculations as follows

Salary Bill for Average Practice

2.42 Partners/Principals @ £48,131.00 =	£115,514.40
3.52 salaried solicitors @ £34,322.00 =	<u>£120,813.44</u>
Total Prof Salaries bill	£236,327.84

The notional salary of an equity partner therefore becomes 20.37% of the salary bill and the calculation of the hourly rate would be as follows:

Overheads (excl Prof Salaries) £418,006.00 x 20.37% =	£ 85,147.82
Add notional salary	<u>£ 48,131.00</u>
	£133,278.82

Divided by 1,100 hours = £121.16 which for ease of use in calculations² I would round down to £121.00

I am assuming that the returns to the survey were for 2008/09 figures and if one were to make an adjustment of say 3% to allow for factors such as inflation that would give a basic figure for 2010/2011 of £124.79 which for ease of use in calculations I would round up to £125.00. As you will know the Guideline figures in England and Wales are composite rates inclusive of basic mark-up of 50% and we need to build in a routine mark-up before we can compare our figures with the Guideline Rates. A 50% mark-up applied to 124.75 would give a composite rate of £187.18 which for ease of calculation I would round down to £187.00. This compares to the current Guideline Rates in England and Wales for a Grade A fee earner outside London of between £201.00 and £217.00. The difference remains significant but the gap has closed significantly.

A Single rate for all solicitors

The downside to the above calculation is that it depresses the calculation for a salaried assistant: the higher the percentage which the notional salary is of the salary bill the lower the percentage for the assistant. The above calculations result in the salary of an assistant solicitor dropping to 14.52% of the salaries bill and PWC's calculation would have to be adjusted as follows:

Overheads of £418,006.00 x 14.52% =	£60,694.47
Add average salary	<u>£34,322.00</u>

¹ In England and Wales a "senior" solicitor is one with 8 or more years post qualification experience: see the notes to the Guideline Rates published by the Senior Courts Costs Office on the Court Service Website.

² When drafting a bill it is always easier to work with rounded off figures and this is accepted practice

VAT Registration No 617 638 325

$$£95,016.47 \div 1,100 = £86.37 \text{ say } £86.50$$

The calculation of a single rate for all solicitors therefore would be as follows:

Partner	£121.00
Assistant	<u>£ 86.50</u>
	£207.75 ÷ 2 = £103.75

This is only marginally higher than PWC's figure of £102.74

If I increase by the salaried assistant's figure by 3% to get a figure for 2010 I get £88.96 say £89.00. Using the figures increased by 3% a single rate for all solicitors therefore would be:

Partner	£125.00
Assistant	<u>£ 89.00</u>
	£214.00 ÷ 2 = £107.00

The application of a 50% mark-up produces a composite figure of £160.00 which does not compare favourably with the average figure for Grades A to C fee-earners in England and Wales (£172 to £190.00)

Variable rates

I think that there is strong argument for abandoning a single rate and adopting the English practice of differing rates for different fee earners and I would suggest three bands

Band A: Equity partner

As calculated above

Band B: 6 + post qualification experience including salaried partner³

An average of the Median Salaries in the PWC report is £40,541.66 or 17.11% of the salary bill and the calculation would be as follows:

Overheads of £418,006.00 x 17.11%= £	71,528.82
Add salary	<u>£ 40,541.66</u>
	£112,078.48

Divide by 1100	£101.88
Increase by 3%	£104.93
Uplift by 50%	£157.48 say £158.00

This does not compare favourably with a Grade B fee earner in England and Wales but is a significant increase on what is currently allowed in this jurisdiction (£145.50 when a 50% mark-up is included)

Band C: 0 to 6 years post qualification experience

An average of the Median Salaries in the PWC report for less than 3 years and 3 to 5 years post qualification experience is £25,127.00 or 10.63% and the calculation would be as follows:

³ One could have a separate rate for a salaried partner

Overheads of £418,006.00 x 10.63% =	£44,434.03
Add salary	<u>£25,127.03</u>
	£69,561.06

Divide by 1100	£63.25
Increase by 3%	£65.15
Uplift by 50%	£97.72 say £98.00

The downside to using different rates for different fee earners is that a grade C fee earner would be allowed substantially less than is currently allowed of £145.00 when a 50% mark-up is applied. Some thought will have to be given as to whether the loss on Grade C fee-earners is offset by the increases in the rates for A and B.

Summary

The above approach would give composite rates using a 50% mark up as follows compared to the figures in [] for England and Wales

- Band A: £125.00 basic rate and £188.00 composite rate [£201 - £217]
- Band B: £105.00 basic rate and £158.00 composite rate [£174 -£189]
- Band C: £ 65.00 basic rate and £98.00 composite rate [£111 - £118]

I hope that the above are of some assistance in the Committee's deliberations.

Yours faithfully,

Paul G. Kerr

APPENDIX 5 REVIEW OF THE HOURLY RATE - INDEPENDENT SUBMISSION FROM AN LSNI MEMBER LEGAL

Hourly Rate review

Financial Realities of Practice from a Civil Practitioners Point of View

Solicitors are prohibited from providing any services which are not normally provided by solicitors. They therefore require to be remunerated at rates of pay that accurately cover not just the cost of providing those services currently, but must factor in an allowance for the investment required on an ongoing basis to improve the provision of services e.g. additional staff, training and technology.

This 'full cost recovery' is akin to the policy of NICTS that has led to rapidly increased fees for Court services in the last number of years¹.

Crucially for the legal profession however three additional elements that contribute to fair remuneration also need to be considered.

1. The cost of the increased burden of regulation by the Law Society and also implementing policies and procedures for Anti Money Laundering, Data Protection, cyber risk etc.
2. The importance of the issue to the client and the value provided by the legal service provider.
3. The need to 'earn back' the compound underpayment of fees in the last twenty years.

Existing solely on professional fees generated from calculations based on the mechanisms used for hourly rates, scale fees or legal aid payments, (the former two of which are currently being reviewed after long hiatuses of 10 and 6 years respectively, never mind the legal aid hourly rate not being reviewed in 20 years) is likely to lead to a continued underinvestment in legal services.

Solicitors working in civil litigation have been forced to run their practices whilst facing increasing costs without increasing revenue for significant periods of time as outlined above and have endured substantial inflationary pressures, which will consequently impact every aspect of their business. Even using the Bank of England's rudimentary inflation calculator² there was a **34%** increase since the last hourly rate review. Or to use the GDP deflator model preferred by the County Court Rules Committee³, there has been a **29%** increase in inflation over the last 10 years, see extraction of relevant period below*

¹ <https://www.justice-ni.gov.uk/consultations/improving-cost-recovery-civil-courts>

² - [Inflation calculator | Bank of England](#)

³ <https://www.judiciaryni.uk/publications/consultation-review-scale-costs-county-court>

***GDP deflator rate %**

2015	0.66
2016	1.96
2017	1.86
2018	1.92
2019	2.11
2020	5.3
2021	-
2022	0.32
2023	5.14
2024	7.19
2024	1.52

The lack of increase or review in professional fees means investment into predominantly smaller Northern Irish solicitors' practices will be restricted in several areas-

- technology both existing and future – software- case management systems, automation, artificial intelligence, cyber risk, cloud storage, equipment and hardware,
- provision of well-located and modern suitably equipped premises,
- having less billable hours as a result of having to undertake more operational matters in a smaller business,
- staff costs - both in resourcing adequate numbers and remuneration, leading to risk of turnover of staff and loss of investment in training and business intelligence,
- competition for professional staff with external /global practices who have the advantage of higher profitability (being uncurtailed by the NI legal regulatory and costs regime) and are able to expend substantially in relative terms to indigenous practices in Northern Ireland on all of those items listed above, but at a fraction of their turnover/profit relatively speaking, partly because of the scale of their operation , but specifically in terms of outsourcing costs compared to E&W e.g. Newly qualified solicitors will earn 100k in London and the same firm pays a NI equivalent 37k⁴ to potentially perform the legal service in NI and bill out at London hourly rate which is £546 per hour for solicitors and legal executives with +8 years' experience .⁵

⁴ [Frequently Asked Questions | Emerging Talent | Careers | Shoosmiths Lawyers](#)

⁵ <https://www.gov.uk/guidance/solicitors-guideline-hourly-rates>

Related to the 10 year delay in the hourly rate review (which should take place annually), together with the ongoing delay in the county court scale fees review also for 6 years, (the latter of which does take into account the hourly rate and is also as a consequence negatively impacted), places practices in a vicious circle of chronic under-investment. Some members of the profession will be unable to continue or certainly to continue with any degree of profitability and this may have knock on consequences for access to justice, less lawyers, more litigants in person and whatever lawyers are left working longer and longer hours with less returns.

This is in conjunction with, as already outlined, no Legal Aid hourly rate increase in 20 years, despite civil legal aid coming in at a low cost for the LSANI while maintaining access to justice for injured people with the lowest financial means⁶

Compensation Recovery Unit (CRU) registrations of personal injury claims in Northern Ireland

Total Claims 2001	39,067	
Total claims 2023	23,525	As %
of which had legal representation	18,327	78%
of which no legal representation	5,188	22%

The information from CRU demonstrates that the restriction in legal fees has come at a time where over the last 20 years or so there has been a 50% reduction in Personal injury claims in NI and an increase in the numbers of cases not being legally represented, meaning less cases for the profession and less turnover.

This has resulted in a double windfall for compensators who have been able to increase premiums throughout the last decade whilst not having increased legal costs to pay over the same period. The average Premium for motor insurance in 2015 was c £400 and in 2023 was £627 a 57% increase in 8 years.⁷ Furthermore insurers had a further windfall advantage of no personal injury discount rate review being carried out for almost 20 years thereby enjoying a 2.5% discount rate up until 2022.

The increase in the County Court jurisdiction in 2013 with another significant increase anticipated, will result in less and less cases falling to be remunerated outside of county court scale fees.

⁶ Data obtained by a FOI request to the Legal Services Agency Northern Ireland (LSANI) shows a 73 per cent success rate for legally aided personal injury cases for the financial year 2022-23, the provision of civil legal aid costs around £99 million to the Department of Justice. Legal aid expenditure for personal injury claims and clinical negligence claims was c.£3 million.

⁷ Source- ABI presentation to the Finance Committee in the NI Assembly in May 2024

Possibly a post-covid impact, but certainly a more prevalent feature for legal practices is the burden to finance working capital in clients' cases. For example, medical experts/consultants' fees, which have sharply increased and who are increasingly seeking payment up front. This financial burden is in addition to the impact of assistant solicitors and support staff also requiring higher remuneration *today*, despite it perhaps taking several years for the legal practice to receive its payment.

This delay in recovery of professional fees and outlays has been further exacerbated by the taxation process in the High court. As per the BSA guidance on High Court costs;

*'we believe that all practitioners need to educate themselves in relation to costs. The fact of the matter is that those Solicitors whose time is recorded are in a position to achieve higher costs.'*⁸

In a High Court action if a solicitor follows this advice, they face two further challenges. Firstly, in securing a costs drawer and then to have the matter proceed to taxation, these combined factors can result in several years delay post settlement to recover costs. This invariably leaves a plaintiff who wishes to recover fully and fairly with a sword of Damocles hanging over them.

This view echoes that of the Recorder of Belfast, Judge Hart (as was) when writing for the Northern Ireland Legal Quarterly as far back as 2002 (volume 53, number 2);

"A further virtue of the fixed scale costs system is that it avoids the need for taxation, itself a time-consuming process which inevitably creates further expense because of the time spent in preparing the bills for taxation, judicial time spent in determining the costs and the financial cost to the lawyers who do not receive the fees they are entitled to for an appreciable period after the conclusion of the case, and therefore are having to carry the cost of funding the litigation, not just their own costs but the outlays in the form of expert witnesses fees and court fees which have been incurred on behalf of their clients. This is of particular significance in Northern Ireland where plaintiffs are not expected to meet the costs of litigation until the end of the case. As scales embody the swings and roundabouts principle it is inevitable that they cannot provide for the circumstances of every individual case but provided the overall returns to practitioners are fair and reasonable the very considerable advantages of fixed scales to both the public and the legal profession are obvious."

This financial burden is exacerbated in the background of a lack of funders for disbursements and in PI cases, a long lock up of WIP which is not funded either. Traditional retail Lenders view Solicitors as higher risk. WIP is not like stock in a

⁸ <https://www.lawsoc-ni.org/DownloadDocument.ashx?id=da3066f4-522a-4a44-97ff-621e7fc6ed54>

warehouse. Therefore, cost of funding is more expensive and harder to source and perversely firms need to earn more to cover the costs of being high risk.

Feedback on methodology for review

The review cannot be based on the *current* state of play of a solicitor's financial accounts. Practices are just surviving, due to all the factors outlined, therefore analysing contemporary accounts of practitioners will not reveal the true cost of doing business and making a *fair return*.

Plus, some practices may be reluctant to respond to any questionnaire anonymous or otherwise as;

1. They may not have the commercial awareness to answer - they are lawyers not accountants and there is next to zero training in the realities of practice management as opposed to professional legal service provision.
2. Fears of regulatory intervention if the figures actually reveal the practices are insolvent

Suggested alternatives and independent research

- **In the legal Industry**

- Identify some of the big outsourcers to inform as to the level of investment made to implement technology solutions which are in place and what those solutions are.

- Visit a range of high street practices to see the Dickensian state they are in before then going to the local large firms and seeing their practices and costs.

- **Outside the Legal Industry**

- Seek input from the local Universities on what they are working on - AI/automation etc

- Interview companies that want to or are already supplying services to solicitors *e.g.*

- IT- case management software/cybersecurity

- HR and people development and training companies

- Accountants

Business advisors -what is the 'best practice' and how much does that cost to implement and maintain?

Does location Matter ?

Commentary following the hourly rate review carried out in England and Wales in 2021 stated:

“One major area in which the Foskett committee got bogged down was in attempting to ascertain the actual costs of running a litigation practice in different parts of the country. Not only was this an impossible task, but the rationale for attempting it in the first place had been flawed. The LSLA said as much in 2013, and that view seems all the more pertinent now. **There is simply no such thing as a typical litigation practice within any one postcode.** There are a variety of different business models and cost bases reflecting a multiplicity of different inputs...”⁹ (emphasis added)

Can you secure good evidence?

Probably not for the reasons already outlined, and is unlikely here for similar reasons as commented on in review in E&W where it was noted at Section C;

“In the Interim Report the history of GHRs and the particular difficulty of obtaining good evidence of expense of time (EOT) were summarised in section 1, leading to the conclusions that:

a) “The history of GHRs between 2010 and the present is one where it has become apparent that the holy grail of rigorous, fully evidence-based precision, sought but not achieved by the Foskett committee, is simply not possible”¹⁰

Furthermore solicitors were not asked about their running costs – instead see s. 3.6 ;

*“The profession was asked to provide two pieces of information, one historical covering the period 1 April 2019 to 31 August 2020, the other prospective, covering the period 1 September 2020 to 27 November 2020. In addition to the same information requested from the SCCO/RCJs, (i) **summary assessment evidence was sought and (ii) the information was to include rates which were either awarded by the court at an assessment hearing or were agreed between the parties after the commencement of the assessment process.**” (emphasis added)*

I fully accept that there are other issues at play with the history of legal costs in England versus Northern Ireland so the points are only to illustrate that the desired

⁹ <https://www.lawgazette.co.uk/practice-points/guideline-hourly-rates-in-a-post-covid-world/5104208.article>

¹⁰ <https://www.judiciary.uk/wp-content/uploads/2022/07/Civil-Justice-Council-final-report-on-guideline-hourly-rates.pdf>

outcome may not be possible to achieve by following the suggested methodology in the questionnaire.

How many Hours ?

One final matter to potentially raise when determining the appropriate hourly rate is to ask how many hours per year should a solicitor be expected to be able to charge for?

The hourly rate is usually calculated on an assumption of 1175 hours per year. There is nothing to prevent solicitors from billing more than this and anecdotal evidence is that 1500 hours or more might be the targets in large commercial firms.¹¹

Should solicitors be limited in the number of hours per year that they can charge out per year in the same way as other industries for example pilots who are restricted to c. 900 flying hours.¹²

The advantages for the human being doing the legal work is that they are not put under undue pressure on their physical and mental health and additionally they have the time to be able to invest in even more personal and professional educational development. Additionally, it would curtail the ability of larger firms to ‘mop up the talent.’ Which they can do by promising very large salaries relative to what smaller ‘High Street’ firms can pay.¹³

Suggestions

Immediately increase the hourly rate by 30% whilst the investigatory /methodology work continues as this will only take into account the inflationary rises over the last 10 years, never mind the many years of underfunding by the lack of an annual rate review.

Future reviews

To avoid any potential negativity of a perceived ‘hike’ in rate - annual reviews **must** be carried out, as if one looks at the example above re: *GDP deflator - the rates (if reviewed regularly) would have been more modest than what at first blush seems significant when one does not take into account the decade of delay.

¹¹ <https://www.clio.com/uk/blog/billable-hours-chart/>

¹² [Regulating pilot hours and combatting fatigue | Civil Aviation Authority \(caa.co.uk\)](https://www.caa.co.uk/Regulating-pilot-hours-and-combatting-fatigue)

¹³ <https://www.lawgazette.co.uk/commentary-and-opinion/the-true-cost-of-billable-hours-to-the-profession-/5110469.article>

APPENDIX 6 BDO NI HOURLY RATE CALCULATIONS

APPENDIX 6 – BDO HOURLY RATE CALCULATION

In order to ensure a robust process for the calculation of a revised Hourly Rate we have taken 5 different evidence-based approaches to arrive at a new Hourly Rate figure.

In conducting these calculations we have used the mean figures for all data analysis.

The Calculations that have been set out in detail below are as follows:

1. Core Survey Calculation
2. Fee Earner Calculation
3. Verified Accounts Calculation
4. Market Indices Calculation
5. Revised Chargeable Hours Calculation

CALCULATION 1 - CORE SURVEY CALCULATION

Professional salaries

Average Equity partner= £87,068.57

Average salaried partner/ directors= £72,291.12

Average salaried solicitor= £54,666.32

Notional Professional Salary Bill for Average Practice

Salary bill for average practice

2.58 (Average # of equity partners)/ principals @ £87,068.57 = £224,636.9

2.70 (Average # of salaried partners)/directors @ £72,291.12 = £195,186.01

4.74 (Average # of salaried solicitors) @ £54,666.32 = £259,118.37

Total professional salaries bill= £678,941.28

Notional salary of a single equity partner as a % of the overall professional salaries bill= 12.82%

Notional salary of a single salary partner/director as a % of the overall professional salaries bill= 10.65%

Notional salary of a single salaried solicitor as a % of the overall professional salaries bill= 8.05%

For the purposes of this calculation we have used the % of each category notional salary to the average overheads excluding professional salaries.

Fee Earner allocation of overheads

Average Overheads excluding professional salaries= £903,596.88

Equity partner

£903,596.88 x 12.82%= £115,841.12

+ notional salary £87,068.57 = £202,909.69

£202,909.69/1100 hours=£184.46

Salaried partner

£903,596.88 x 10.65% =£96,233.07

+notional salary £72,291.12= £168,524.19

£168,524.19/1100 hours=£153.20

Solicitor

$£903,596.88 \times 8.05\% = £72,739.55$
 + notional salary $£54,666.32 = £127,405.87$
 $£127,405.87 / 1,100 \text{ hours} = £115.82$

Average Cost of Production

The average of these figures is **£151.17**

CALCULATION 2- FEE EARNER

Average Non professional salaries overheads = $£437,643.93$
 Average overheads including professional & non-professional salaries = $£1,663,919.34$
 Mean # of fee earners = 9.61
 $1,663,919.34 / 9.61 = 173,144.57$ $£173,144.57 / 1,100 \text{ hours} = £157.40$

CALCULATION 3- VERIFIED ACCOUNTS

Using the data from the 15 accounts received from the interviewees we extracted the total average overheads, excluding any reference to salaries in the account. This totalled to $£469,865.18$. We noted that the majority of interviewees were partnerships. The breakdown of overheads provided did not professional from non professional salaries. As a result we took the overhead figures from the interviewee data, and added to this the non professional salaries figure ($£437,643.93$) obtained from the survey data. Together this resulted in a total overhead figure (excl. Professional salaries) of $£907,509.11$. We have revised our calculations of THR to consider how these would look using this overhead total of $£907,509.11$. This is then divided by 1,100 chargeable hours at each fee earning level and average of these figures is taken.

We have applied this figure to the survey calculation for each fee earner level, shown below:

Equity partner

$£907,509.11 \times 12.82\% = £116,342.67$
 + notional salary $£87,068.57 = £203,411.24$
 $£203,411.24 / 1100 \text{ hours} = £184.92$

Salaried partner

$£907,509.11 \times 10.65\% = £96,649.72$
 +notional salary $£72,291.12 = £168,940.84$
 $£168,940.84 / 1100 \text{ hours} = £153.58$

Solicitor

$£907,509.11 \times 8.05\% = £73,054.48$
 + notional salary $£54,666.32 = £127,720.80$
 $£127,720.80 / 1,100 \text{ hours} = £116.11$
 The average of these figures is **£151.54**

CALCULATION 4- MARKET INDICES CALCULATION

	CPI	CPIH	RPI	SPPI	Court Fees
% Cumulative Inflation rate/ Court fees (over the last 10 years)	69%	138%	52.17%	47.42%	40.36%
Application to THR	£172.39	£242.76	£155.21	£150.37	£143.17
AVERAGE					£172.78
AVERAGE EXCL. CPIH					£155.28

The average across RPI, CPI & SPPI & Court fees = **£155.28**

CALCULATION 5- REVISED CHARGEABLE HOURS CALCULATION

Using the same figures from Calculation 1, we have amended the Chargeable Hours for both Equity and Salaried partner to 1,067 & 793 hours to consider the impact of this on the rate.

(1,067 hours)

Equity partner

$£903,596.88 \times 12.82\% = £115,841.12$
 + notional salary $£87,068.57 = £202,909.69$
 $£202,909.69 / 1067 \text{ hours} = £190.17$

Salaried partner

$£903,596.88 \times 10.65\% = £96,233.07$
 +notional salary $£72,291.12 = £168,524.19$
 $£168,524.19 / 1067 \text{ hours} = £157.94$

Solicitor

$£903,596.88 \times 8.05\% = £72,739.55$
 + notional salary $£54,666.32 = £127,405.87$
 $£127,405.87 / 1100 \text{ hours} = £115.82$

The average of these figures is **£154.64**

*(793 hours)***Equity partner**

£903,596.88 x 12.82% = £115,841.12

+ notional salary £87,068.57 = £202,909.69

£202,909.69/793 hours = £255.88

Salaried partner

£903,596.88 x 10.65% = £96,233.07

+ notional salary £72,291.12 = £168,524.19

£168,524.19/793 hours = £212.51

Solicitor

£903,596.88 x 8.05% = £72,739.55

+ notional salary £54,666.32 = £127,405.87

£127,405.87/1,100 hours = £115.82

The average of these figures is £194.72

The overall average at both 1067 hours and 793 hours = **£174.68****SUMMARY OF CALCULATIONS**

Method	1. SURVEY	2. FEE EARNERS	3 VERIFIED ACCOUNTS	4 MARKET INDICES	5 REVISED CHARGEABLE HOURS
Rate calculated	£151.17	£157.40	£151.54	£155.28	£174.68

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