



**The Criminal Bar Association response to the Annual Review of  
Legal Aid Accommodation and Subsistence Rates Terms of Reference**

**1. Lib Archbold's paper states:**

“On 1 September 2023 legal aid accommodation guideline rates were uplifted to £100/night for London and other city centres<sup>1</sup>, and £65/night elsewhere<sup>2</sup>. These rates are exclusive of VAT.”

2. In assessing whether this uplift is adequate, the CBA stresses that it is important to recognise that accommodation for advocates conducting trials should not only involve providing a bed for the night but must include sufficiently sized accommodation to allow for a desk/table as overnight and early morning working is usually essential.

**Adequacy of Uplift**

3. It is submitted that the uplifted accommodation rates are still much too low to allow advocates access to suitable places to stay. Moreover, it does not tend to reflect the variable pricing that many hotels now operate so that they charge differing rates depending on the day of the week.

---

<sup>1</sup> Manchester, Liverpool, Leeds, Newcastle and Birmingham

<sup>2</sup> Previously £85.25/night and £55.25/night

4. In addition, sometimes hugely inflated rates are levied if there is a surge in demand caused by both business and social events in that locality. This can cause the advocate to be significantly out of pocket as well as still having to support their own domestic expenditure.
5. The £85.25/£55.25 rates that applied up until 2023 had been in place since no later than 2011. We believe they were in place before that time but the attached NTT guidance for 2011 shows that they were in place then.<sup>3</sup> If one applies the Bank of England Inflation Calculator to these figures, they should have increased to £121.77./£78.80. by July 2024.

#### **Additional Allowance in Long complex Trials**

6. In addition, we submit that specific allowance should be made for long running cases where advocates have to stay away from home for long periods of time. Then their accommodation allowance should be sufficient to cover adequate workspace, and have self-catering facilities which are essential for health and wellbeing reasons.
7. In such cases, advocates should also be able to retain their accommodation over the weekends, to allow them to create a comfortable, stable living and working environment when having to spend what may be many months away from home. It also avoids the significant disruption and stress of having to “move out” on a Friday morning before a full day of calling evidence, only to then have to “move back in”, possibly to a different apartment, on the Monday, which the present system requires advocates to do, alongside their preparation for the court day. The alternative, which is for the advocate to meet the additional cost of keeping the accommodation over the

---

<sup>3</sup> See p.35 of the NTT Guidance for 2011

weekend themselves, is too great a financial and personal burden to place on counsel conducting a complex long running trial.

### **Travel and Mileage**

8. Although your consultation does not raise the issue of the mileage rate, the author of this response's recollection is that the current rate of £0.45 per mile was available as long ago as 1992. Since that time fuel prices have risen by very large amounts. By our calculation applying the Bank of England Inflation Calculator to the present rate would equate to £0.97 as of August 2024. Even if that recollection is incorrect, the attached NTT Guidance for 2011<sup>44</sup> shows that the rates were already in place in 2001. Applying the inflation table to the present rate from then until August 2024 means that at the very least the rate would have risen to £0.82.
9. In 1992 this rate was available without the restriction of the advocate having to justify it if it was more expensive than public transport, whereas now the rate would be reduced to £0.25 per mile if this applies. There has thus been a dramatic amelioration of the rate allowed for travel over the last 20-30 years.
10. Whilst we recognise that these rates are often applied across the whole of the civil service and that this might have budgetary implications if applied universally, we respectfully submit that it could be confined to advocates, especially as they are often required to be away from home for weeks at a time, and sometimes even at weekends.
11. As there are now only approximately 2,400 advocates specialising in criminal cases in England and Wales, we submit that making an adjustment to their travel expenses in

---

<sup>44</sup> See p.35 of the NTT Guidance for 2011

this way would add only a limited amount to the cost for the MoJ but ensure that significant amounts of unnecessary time is not spent striving to find an hotel within budget which is suitable whilst at the same time not exposing the advocate to the anxiety of not knowing whether they will recover their expenses in full.

### **Subsistence Rates**

12. Likewise, the £21 overnight subsistence rate has remained at £21 since at least 2011.<sup>5</sup> Applying the Bank of England inflation calculator to this rate means that this should now be £30.18 as of August 2024.

### **Conclusion**

13. We would ask that the LAA provide precise details of for how long the accommodation rates were frozen prior to 2023 and for how long the mileage rate and subsistence rates have been frozen at £0.45 per mile and £21 respectively.
14. In conclusion therefore we suggest that significant increases are essential to these rates to afford advocates proper and appropriate accommodation, suitable for the difficult and stressful job that they do, and to allow them fully to recover their travel, hotel and subsistence expenses.

**The Criminal Bar Association**

**September 2024**

---

<sup>5</sup> See p.35 of the NTT Guidance for 2011