**LEGAL AID AGENCY WEBINAR**

TRANSCRIPT

**Criminal Legal Aid Reform – Advocate Graduated Fee Scheme:   
PART 4 - Unused material claims**

Hi and welcome back to our ‘Help us say yes’ webinar sessions, on around the criminal legal aid reforms. This is the fourth session and, in this session, we're going to talk about the unused preparation fee in excess of the three-hour fixed fee.

If you have a case where the representation order is dated on or after the 17th of September 2020, and the case progresses past the PTPH hearing - so the case is listed for trial and it either ‘cracks’ or it goes to a trial - you are able to claim the time you've spent considering unused material in the case. In this session, I am gonna talk to you about when you make claims in excess of the three-hour fixed fee.

Any claims between 3 hours and 10 hours will undergo a really light-touch assessment by the graduated fee team. An in order to claim with over the three hours, it is mandatory that you provide us with an AU1 form. I will go through this form with you in a few moments.

And, it's also mandatory that you provide us with the disclosure management document or the unused schedule. Uhm, and as I say those claims between 3 and 10 hours will undergo a really light-touch assessment by the graduated fee team.

Any claims between 10 hours and up to 30 hours will undergo a slightly more in-depth assessment, and that assessment will be taken place by the graduated fee team again.

And for any claims of 30 hours or more it will undergo a much more detailed assessment and that assessment will be made by the criminal cases unit.

As I mentioned the AU1 form is a mandatory form that you have to complete when submitting these claims. I am gonna share the AU1 form, and I am gonna go through this form with you now so you can see the sort of detail you need to provide in your claims.

So, as I say, this form is mandatory for any claim of 3 hours or more it is really important that you complete this form. and you provide it with your claim. If this form isn’t provided with your claim there is potential that the claim will be rejected.

Erm, within section one we ask that you provide us with some basic case details. So, we ask that you provide us with the advocate name, or your name. And we ask that you tell us your provider account number and we also ask that you tell us the MAAT number that is associated with this case. The MAAT number can be found on the original representation order.

An, below the case details we have a line that confirms that any work claimed for within this form has not been requested for remuneration anywhere else. An order to tick this, or certify this, you just need to tick in the box, and it will put in a little tick in there for you.

An, section two of the form. In this section we would ask that you provide us with some detail about the case, an, so the first line - if there are any documentary unused materials in the case then you need to tell us about it here. So, in this example there are 350 pages of unused documentary material and the documentary material includes your statement, your unused exhibits an any unused records of transcribed interviews - anything like that would be included within the documentary unused material.

In this example, there were 350 pages and there is a claim for four hours for considering that material.

In this box we have a drop-down so you can select your advocate category. In this example, erm the Advocate is a ‘junior alone’ so we select that. In the next box we have the hourly rate and the hourly rate for junior alone counsel is £39.39. If you want leading junior at the hourly rate is £56.56, and if you are QC, it's £74.74. An, we will select the junior alone rates.

Erm, once you've selected the hourly rate and you've completed the number of hours, we would ask that you just tally up the total for that time spent, so in this example, 4 hours times by £39.39 is £157.56.

In the line below, we would ask that you provide some details about any electronic unused material that's been disclosed in the case. So, electronic unused material would include raw telephone data, it could be telephone download reports, it could be computer download reports.

In this example, there are 15,000 pages. A claim is being made for 70 hours to review those 15,000 pages. Again, it's being undertaken by a ‘Junior alone’ advocate. The hourly rate is £39.39 an hour, an then when that is tallied up we get a figure of £2,757.30.

The final line I've left blank in this example, but if there is any either audio or video material such as CCTV, an body worn footage - any sort of audio recordings, we would ask that you enter the runtime into this box – that you tell us how many hours or how much time you are claiming for viewing this material. An again, we have the drop-down boxes where you can select your type of ‘advocate’ and the ‘hourly rate’ at which you are claiming.

We then have a line where we deduct the three-hour fixed fee, so these two amounts total 74 hours - we've taken the fixed-fee off, which leaves us 71 hours to be claimed as unused preparation. We also ask that you tell us what category of applicant you are, so again in this example it is ‘Junior alone’ and the fixed fee for junior alone is £59.09. Erm, and the final line, we tally up all our figures and we deduct the £59.09 fixed fee.

If we Scroll down to Section 3, we have the monetary value of the claim - so I'll quickly scroll up again so we can see this. I have just transposed this figure into the total amount claimed net. An if you are VAT registered you are able to claim VAT so if you could just enter that figure into the middle box and then total up your claim. Obviously, if you're not VAT registered, you don't need to enter a figure into this box.

Section 4 is the document checklist, erm, so as well as the AU1 form being mandatory for all unused preparation claims it is also mandatory that you provide us with the schedule of unused material and or the disclosure management document if one was served.

If for any reason no unused schedule was provided, or there was no disclosure management document please tell us in the background information, so this would be in Section 5 of the claim form.

The reason we ask for either the unused schedule or the disclosure management document is so that we can verify that the material you are claiming as unused evidence, was actually disclosed as unused material.

And similarly, if the CPS who've given you a letter or erm, if there is any other sort of documentation that can demonstrate the material you are claiming is unused material, please provide that to support nor claim.

And for any claim that is more than 10 hours unused preparation, it is mandatory that you provide us with either a work log or with attendance notes to a, evidence the preparation that you have undertaken in the case.

If we Scroll down to Section 5, this section is mandatory for a number of claims. So, if you are claiming more than 30 hours unused preparation, you have to give us some background information in this box below, here. And, if you are claiming in excess of the guideline rates, we would also ask that you provide us with some background information or justification as to why you are claiming more than those rates.

Em, so in this example, we've just given a little bit of detail about the case, so the client’s charged with two others with conspiracy to supply Class A drugs, an there were 100 pages of unused witness statements, 250 pages of unused documentary exhibits. In addition to this, there were four mobile phones that were served, one belonging to each defendant and then there was also one burner phone - an there's a little bit of information about the clients’ instructions and why, and sort of what preparation was undertaken in relation to these instructions.

An…, if we scroll on, Section 5B is only to be completed where there is electronic unused material. An, so, in this example, if we recall a, there were telephone download reports that were served, or sorry disclosed. So, in this example we've given a little bit of information, so the telephone data included in-and-out core data. An there were also two full phone download reports. It was in PDF format - there was some duplication in Excel. An, PDFs have been used to calculate the page counts and where possible the Excel format was used to consider the material.

And, it's really very important with any claims that you submit that you give us as much information as you can. Very often when we are assessing these claims, the only information we have is what is included on these forms, so it is really important. (Cough.) Sorry, it is really important that you give us all this background detail and this background information. The more information you can provide to us, erm hopefully will make our assessment of your claim much easier.

And the final section of the report is Section 6, and this is a refresher of the hourly rates claimable. So, for ‘QC’ it's £74.74 for a’ leading junior’ it's £56.56, and for ‘Junior alone’ or ‘led Junior’ it's £39.39 per hour. I hope you found this section of the sessions useful, an please do take some time to sort of watch these videos and familiarize yourselves with the forms.

Thank you.

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