



Legal Aid  
Agency

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# Advocate and Litigator Fee Scheme

## Guide– Hardship Claims

December 2020



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# Litigator Hardship Claims

- From 1 May 2020 all representatives at the Crown Court are entitled to submit a claim for hardship under amended arrangements and Regulations. This is designed help Legal practitioners with cash flow and short-term financial problems.
- <https://www.gov.uk/guidance/financial-relief-for-legal-aid-practitioners>
- **USEFUL LINKS AND FAQ**
- <https://www.gov.uk/guidance/financial-relief-for-legal-aid-practitioners>
- [Criminal Legal Aid \(Remuneration\) Regulations 2013](#)
- [Crown Court fee guidance](#)
- [Hardship payment scenarios – COVID-19 transmission period](#)
- [support for public services, individuals and businesses affected by coronavirus \(COVID-19\).](#)
- [Legal Aid Agency payments to providers](#)

## Litigator Hardship FAQ

- How do I make a claim for hardship?

Using CCD in the normal way. There is a separate bill type in CCD (Litigator hardship fee or Advocate hardship fee) and once selected, providers will be asked to submit information depending on what stage the case has reached. The outcome will be reported back in CCD as happens now.

- How much can I expect to be paid?

Please see the attached tables ([here](#)) which show what scenario you will be paid depending on where the case has got to. For example, an advocate making a hardship claim for a case where there has been a PTPH but where the trial has not yet started will be paid a cracked trial fee. The amount actually paid will then depend on which “third” the case cracked in.

- How long will it take to get paid?

We will be processing these claims in strict date order, but we are expecting a significant number of claims to be submitted, and this will clearly take us time to work through. Whilst we have brought in resource to process these claims from right across the LAA, we still expect that it will take us a number of weeks to process them all

- I am a litigator. Am I better off submitting an interim claim or a hardship claim?

Litigators have been able to submit an interim claim in certain circumstances for some time now. Claims can be submitted following:

1. The first hearing at which the assisted person enters a plea of not guilty;
2. The start of a trial listed for 10 or more days; and
3. Where representation is transferred to the litigator following the order of a retrial, after the date for retrial has been set
4. There are no qualifying criteria for a hardship claim over and above these, and they can quickly and easily be claimed using CCD.
5. In terms of Hardship claims, the qualifying criteria set out in Reg 21 still exist, albeit the thresholds have been reduced (the provider needs to have been instructed for 1 month, and the case must be worth more than £450). Given this, interim claims are easier to submit and are likely to be processed more quickly than a hardship claim. If your claim does not meet the interim criteria set out above, a hardship claim can be considered

- What supporting information will be required?

Please provide the same supporting information that you would normally provide when making a claim. This will include information to validate the offence class (the indictment plus any additional information), the rep order in certain circumstances (see [here](#) for when the rep order is still required), the Legal Aid Report to help us validate PPE (or other evidence to justify PPE as appropriate). Please note no evidence of hardship will be required during the COVID19 lockdown period, as this will be taken as evidence of hardship.

- Where can I get more information?

The LAAs pages on GOV.UK have been updated – see here [Financial relief for legal aid providers](#)

- Can I claim disbursements as part of my hardship claim?

The interim payment of disbursements is covered by regulation 14 in the Regs. These allow for interim disbursements to be paid, as long as prior authority has been obtained and the liability has actually been incurred. The regulations do not allow for the interim payment of disbursements in any other circumstances.

## **Litigator Hardship Payment Scenario**

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/888315/Hardship\\_payment\\_scenarios\\_COVID-19\\_transmission\\_period\\_May\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888315/Hardship_payment_scenarios_COVID-19_transmission_period_May_2020.pdf)

### **About these Tables**

You should refer to the scenario table (link above) for information as to the type of fee that can be claimed at various stages of the proceedings during the coronavirus (COVID-19) emergency. It is expected that the majority of LGFS claims will be for interim payments.

## Advocate Hardship Claims

- From 1 May 2020 all representatives at the Crown Court are entitled to submit a claim for hardship under the amended arrangements. This applies when you:
  1. have spent at least 1 month on the case
  2. are unlikely to receive final payment for the case in the 3 months following the submission of your claim
  3. can claim for more than £450 on the case, excluding VAT
  4. are likely to suffer financial hardship
- We will accept that trial delays, and subsequent delays to billing, during the COVID-19 transmission control period will likely result in financial hardship.
- When this happens for cases you are working on you do not need to submit evidence of the likelihood of financial hardship. For example, bank statements or letters from the bank in support of your claim.”
- In a scenario where a trial has started and the final bill is likely to be submitted within 3 months please note that those claims will not qualify for hardship and should be submitted at the end of the trial as a final bill.
- When submitting a hardship claim please ensure you select the ‘hardship claim’ option on CCD rather than ‘final bill’.
- Please ensure you provide all relevant documentation, MAAT number, Indictment, additional information to support the offence band being claimed.
- The fee paid for any hardship claims will be deducted from the final fee when that is submitted even if the advocate who claims the final fee is different to the advocate who claimed hardship

## **Advocate Hardship Payment Scenario**

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/888315/Hardship\\_payment\\_scenarios\\_COVID-19\\_transmission\\_period\\_May\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888315/Hardship_payment_scenarios_COVID-19_transmission_period_May_2020.pdf)

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