



Legal Aid
Agency

Working with others to achieve excellence in the delivery of legal aid

Litigator and Advocate Fee Scheme

Guide for litigators and Advocates on Redeterminations, Written Reasons and Cost Judge Appeals

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Rejections, Redeterminations and Soft Rejects

Claims that have been rejected for payment by caseworkers will be clearly indicated when the bill has been returned and will appear red in CCD's dashboard. You can progress rejected bills through the message function.

For electronic bills submitted via CCD, you do not need to fill out a separate form to request a redetermination. All redeterminations will be dealt with the messaging function where you will have the opportunity to provide your reasons for appeal and upload any additional evidence to support your redetermination request.

If the team identify that the claim isn't complete and this falls within the soft reject reasons, the caseworker will contact you via the application's messaging function to request the missing information. If a response is received within the 48 hours, the caseworker will process the claim accordingly. If no response is received, the claim will be rejected at which point you may resubmit the claim along with the required information.

Where a representative is dissatisfied with the calculation of the fees, the representative may seek a redetermination.

The representative has 21 days, from the date of the LAA decision, to ask the LAA to review the decision. Representatives should submit their request for a redetermination through the CCD online billing system. **Please select 'redetermination' and do not submit a new claim for redetermination requests as this will delay the process.**

A redetermination involves the LAA checking the information, including any additional information supplied by the applicant against actual court case file information or prosecution information

The LAA will then determine whether any amendments need to be made to the payment and amend the payment accordingly.

For requests for a redetermination of the offence banding or class, the LAA will confirm banding 17.1 under the AGFS, Class H under the LGFS, or attribute a different, more appropriate band or class to the case

The LAA will subsequently notify the applicant of the redetermination decision. The LAA may provide written reasons for the decision as part of the same process or may inform the applicant of their right to request written reasons.

If no written reasons have been provided, the applicant may request written reasons, through the CCD billing system, within 21 days of the review decision.

If the applicant is dissatisfied with the written reasons given by the LAA, then the applicant has a right to appeal to the Costs Judge.

Written Reasons

If you wish to request Written Reasons, please ensure you tick the Written Reasons box in CCD when you submit your request. Please ensure all submissions as to the reasons for your request are also attached with any additional evidence.

If no written reasons have been provided, the applicant may request written reasons, through the CCD billing system, within 21 days of the review decision

If the applicant is dissatisfied with the written reasons given by the LAA, then the applicant has a right to appeal to the Costs Judge.

Cost Judge Appeals

Regulation 29 of the Criminal Legal Aid (Remuneration) Regulation 2103

<http://www.legislation.gov.uk/all?title=criminal%20legal%20aid%20%28remuneration>

provides the timeframe, documentation required, and the Lord Chancellor's involvement, when appealing to a Costs Judge against the determination of a claim.

Representatives can only appeal to a Costs Judge after they have sought a redetermination and received the written reasons from the LAA. The importance of this is reflected in the Costs Judge decision: *R. v. Charlery and Small* (2010) where it was held that if the solicitor does not request a redetermination under article 29 of the Criminal Defence Service (Funding) Order 2007 as amended there is no right of appeal for recovery of payments under 26. (Note: under the 2013 Remuneration Regulations the regulation references are 28, and 25 respectively).

An appeal must be made within 21 days of the receipt of the written reasons, by giving notice in writing to the Senior Costs Judge. Please note that all appeals must be submitted to the Senior Courts Costs Office electronically using the CE-File system:

<https://www.gov.uk/guidance/ce-file-system-information-and-support-advice>

Representatives must inform the LAA of their decision to appeal so the LAA can also provide appropriate information to the Costs Judge if necessary. Representatives must

send the request for redetermination, including any information and documents supplied to the LAA, and the LAA's written reasons to the Costs Judge.

At the close of the appeal process, the LAA will amend the payment as appropriate and inform the litigator or advocate.



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Where we have holders concerned.

