



Legal Aid
Agency

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

Litigator fee scheme

Guide for Litigators

November 2023



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Creating an Account - CCD

Claim for Crown Court Defence (CCD) is an online billing application for the Advocates' and Litigators' Graduated Fee Schemes

CCD enables advocates, litigators and support staff to submit all Advocate Graduated Fee Scheme (AGFS) and Litigator Graduated Fee Scheme (LGFS) bills online.

The application is available nationwide to all advocates, litigators and support staff who wish to submit their AGFS and LGFS bills electronically.

Accessing online Billing

The LAA will provide a nominated user with an initial login so you can access the billing application. The nominated user will need to provide the following information to

mailto:crowncourtdefence@justice.gov.uk

- Name Role – ie Clerk/ Litigator
- Firm Supplier Number i.e. 0A234B
- Email address and VAT Status
- You will receive log in details within 5 working days

Setting up other users

Additional members of your organisation can be set up within the 'Manage Users' function of CCD. Once you input their personal information and select the appropriate user role, a confirmation email will be sent to the individual, along with a temporary password to access the system.

Roles and Responsibilities

There are two user roles: • 'Litigator', and • 'Admin

Crown Court Defence (CCD) Actions							
User Action	Create Bill	Update Bill	Submit Bill	Review Bill	Review other Bills	Delete Bill	Set up another Litigator/Admin
Litigator	✓	✓	✓	✓		✓	
Admin	✓	✓	✓	✓	✓	✓	✓

Making a Claim – CCD

Once an account has been created, CCD should be used to submit all claims under LGFS.

This can be done by selecting 'Start a claim' tab.

Selecting a Bill Type

You can then select from four options. Each option will provide different Case Type selections, so it is important to select the correct one. These are:

- Litigator final fee
 - o This should be selected to claim a fee at the conclusion of a case. These will be any of the Fixed Fees, a Guilty Plea, a Cracked Trial, a Trial, a Cracked before Retrial or a Retrial.
- Litigator interim fee
 - o This should be selected to claim an interim Litigator fee or an Interim Disbursement. If the claim is just for a disbursement, then the 'Disbursement only' tick box should be selected later in the process.
- Litigator transfer fee
 - o This should be selected for any claim where representation of a client has either transferred away or transferred to your firm at any point throughout the case.

- Litigator hardship fee
 - o This option should be selected where your firm is in financial hardship and would like to claim a hardship fee prior to the defendant having been arraigned. If the defendant has been arraigned and entered a not guilty plea then an Interim Litigator fee claim can be made instead.

Completing the Claim

You should then follow the steps as signed posted on CCD to provide all the details necessary to your claim. This includes the case details and all fees and expenses being claimed.

Please note that if the case is one that has been recorded on the Common Platform then the URN should be provided but if the Case is not on Common Platform than the Case number, starting with a T, S or A, should be provided.

For any claim other than a Fixed Fee or Interim Disbursement, the indictment and evidence PPE service will need to be uploaded onto the claim. For a Breach of a Crown Court order or a Contempt fixed, the representation order will need to be uploaded to the claim whether this was issued by the Crown Court or the LAA.

Fixed Fees

Under LGFS certain case types are remunerated as a fixed fee, meaning that the same fee will be paid for every such case. These are case types where typically the main proceedings have been conducted in the Magistrates Court but has been sent for sentence or appealed at the Crown Court. The Case types are:

- Committal for Sentence
- Appeal against Sentence
- Appeal against Conviction
- Breach of a Crown Court order
- Hearing Subsequent to Sentence
- Contempt

The fixed fee rates can be found in Schedule 2 Part 5 Paragraph 19 Criminal Legal Aid (Remuneration) Regulations 2013 (as amended).

Contempt

A contempt fixed fee can only be claimed where the contempt is alleged to have been committed by a person other than a defendant in a case.

Remuneration for work done in regard to a contempt alleged against a defendant is included within the Final Fee, whether that be a Graduated Fee or a Fixed Fee.

Schedule 2 Part 5 Paragraph 17 Criminal Legal Aid (Remuneration) Regulations 2013

Hearing Subsequent to Sentence

A hearing subsequent to sentence fixed fee can be claimed where a hearing takes place after sentence under the following enactments:

- Section 1CA of the Crime and Disorder Act 1998 (variation and discharge of orders under 1C)
- Section 155 of the Powers of Criminal Courts (Sentencing) Act 2000 (alteration of Crown Court sentence)
- Section 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendant: review of sentence)

Disbursements

Disbursements can be claimed on any final fee claim. For every disbursement an invoice must be provided that includes a breakdown for the work completed and the hourly rate claimed.

Where a prior authority has been granted this should also be provided on the claim. If a prior authority has not been granted or the invoice exceeds the amount of hourly rate granted, then an explanation of why the expense needed to be incurred to justify it.

Interim Disbursements

Please note that Interim Disbursements cannot be redetermined –do not send messages regarding redeterminations for this category of claim –submit new claims only.

All disbursements can be claimed on CCD with your litigator fee claim at the end of the case, however, if a case is ongoing some firms may choose to apply for a payment on account in respect of certain disbursements. These claims are known as Interim claims.

Claims for Interim disbursements should include the following documentation:

- the representation order/ MAAT number
- the original invoice
- a copy of the CRM4 prior authority grant certificate.

Interim disbursement claims can only be made if prior authority has been granted for the expense. If the invoice exceeds the prior authority, then the excess will need to be justified on your final fee claim once the case has concluded.

All invoices should include the client's name/case reference and a breakdown of work undertaken. We cannot accept quotations or estimates, only invoices are accepted.

Graduated Fees

The LGFS graduated fees can be claimed on any case sent to the Crown Court for trial and are based on several proxy categories that determine the value of the fee paid. These are:

- Case Scenario
- Offence Class
- PPE

Case Scenarios

There are three case scenarios which, alongside the offence class, forms the basis for the basic fee. These are:

- Guilty Plea
- Cracked Trial
- Trial

A guilty plea can be claimed where the defendant has, at the first hearing that a plea is entered, plead guilty to all counts. Where the prosecution offers no evidence to some or all counts on the same day that the defendant had entered a plea, this will also be remunerated as a guilty plea.

A cracked trial claim can be made for a case where, after a hearing at which the defendant has plead not guilty, the case has been listed for trial and for whatever reason the case does not proceed to trial.

A Trial can be claimed where the case has proceeded to trial. If the PPE is below the cut off, then the number of trial days will uplift the fee. The trial will be counted from the day the prosecution had opened their case to the day the Jury had given their verdict. Each day between these two events that there was a hearing will be counted as a trial day.

Discontinuance

A discontinuance can be claimed where before the first hearing at which a defendant enters a plea, the case is discontinued.

If the case is discontinued after the prosecution has served or disclosed some evidence in the case, then you can claim this as a Guilty Plea. You will need to provide evidence of PPE having been served in the usual way.

The fee for a discontinuance will be 50% of a Guilty Plea.

Newton Hearings (Trial of Issue)

Where a Newton Hearing has taken place in a case on indictment, this can be claimed a Trial with a length in days on the hearing at which the defendant entered guilty pleas and the length of the Newton Hearing itself. That a Newton has taken place will need to be verified on Court Logs.

Where the case was not listed for Newton but you feel that one did take place, justification of what the issue of fact was and what ruling the Judge was required to make will need to be provided. We will then consider if we feel it is appropriate to remunerate the claim based on a Newton hearing.

Fitness to Plea Hearings

Where a fitness to plea hearing has taken place and the case proceeds to trial the fitness to plea hearing can be included as a trial day.

Where a fitness to plea hearing has taken but the case does not proceed to trial, you can choose to claim either Guilty plea/ Cracked Trial (appropriate) or a Trial based on the length of the fitness hearing.

Hearing under Section 28 Youth Justice and Criminal Evidence Act 1999

If a section 28 hearing take place you can claim this as a trial day.

Transfer Scenarios

A transfer scenario can be claimed where representation has transferred between Litigators. You will be considered either an Original or New Litigator.

There can only be one New Litigator in a case, and this will be the Litigator that represents the defendant to the conclusion of the case. In the case of multiple transfers every Litigator that had representation prior will be considered an Original.

When claiming a Transfer, you will need to provide the original representation order or MAAT number and may also be required to provide the amending order issued by the Court.

If a fee earner moves to a different firm and brings the representation of a defendant with them then this is not considered to be a transfer.

The transfer the scenario that should be claimed is dependent on at which point the transfer has occurred. The fees are as follows:

- Up to and Including PCMH Transfer (org) will be 25% of a Cracked Trial
- Up to and Including PCMH Transfer (new)-Guilty Plea will be 100% of a Guilty Plea
- Up to and Including PCMH Transfer (new)-Cracked Trial will be 100% of a Cracked Trial
- Up to and Including PCMH Transfer (new)-Trial will be 100% of a Trial
- Before Trial Transfer (org) will be 75% of a Cracked Trial
- Before Trial Transfer (new) – Cracked Trial will be 100% of a Cracked Trial.
- Before Trial Transfer (new)–Trial will be 100% of a Trial
- During Trial Transfer (org) will be 100% of a Trial fee
- During Trial Transfer (new) will be 50% of a Trial fee
- Transfer after Trial (or Guilty Plea) before Sentence (new) will be 10% of a Trial
- Transfer before retrial (org) will be 25% of a Cracked Trial

- Transfer before Cracked Retrial (new) will be 50% of a Cracked Trial
- Transfer before Retrial (new) will be 50% of a Trial
- Transfer during Retrial (org) will be 25% of a Trial
- Transfer during Retrial (new) will be 50% of a Trial
- Transfer after Retrial (or Cracked Retrial) before sentence (new) will be 10% of a Trial

Retrials

A retrial can be claimed where a trial has taken place and the Judge has ordered for a new trial to be listed. Only the first trial in a case is remunerated as a Trial and each subsequent Trial is remunerated as a Retrial.

The fee for a Retrial is 25% of a Trial fee.

When considering if a Retrial claim is payable, we will verify from court records whether a Retrial has taken place or a continuation of a previous Trial that had been adjourned. If it is a continuation of the previous Trial, then those additional days will be added to the fee for the previous Trial rather than remunerated as a Retrial.

The following points may indicate that it is a Retrial:

- Judge has ordered a new trial.
- Jury were unable to reach a verdict when asked at the first or previous trial.
- A change in Judge between the previous trial and the new one.
- A shorter first trial followed by a longer second trial.
- A change to the indictment between the previous trial and the new one.

The following may indicate that it is a continuation of the previous trial:

- The previous trial did not reach a natural conclusion with the Jury being asked to reach a verdict.
- The previous trial was adjourned for disclosure or witness issues.

Offence Class

The offence class is determined by the offences that appear on the indictment for that defendant. This will be verified from the indictment itself and so a copy of the indictment must be provided on every graduated fee claim.

Most offences are categorised the Table of Offences at Part 7, Schedule 2 of the Criminal Legal Aid (Remuneration) Regulations 2013. However, offences that are not classified in the table will fall into offence class H. You have the option of requesting a reclassification of any offence that is not in the Regulations.

To request a reclassification, you must state on your claim which offence class they think the offence should fall into and provide justification for this. We will then consider whether it is appropriate to reclassify that offence based on the facts of the case.

Robbery/ Armed Robbery

The offence of robbery is classified in the regulations as Class C where armed robbery is classified as Class B. However, both offences will only appear on an indictment as Robbery. Therefore, to verify if the offence was armed robbery you will need to provide evidence the defendant or any co-defendants used an offensive weapon to conduct the robbery. This evidence is typically a case summary, opening note or witness statement attached to the your claim.

Where the defendant has intimated that they have a firearm so as to make the victim believe they were so armed will be enough to satisfy armed robbery. This is true even if the defendant was not actually armed or that they were armed only with an imitation firearm.

In the case any other item it is not enough that the defendant has only intimated that they were so armed. You will need to evidence to us that the victim had actually seen the article in question, rather than only having believed the defendant was armed. For this reason, it is not enough that the defendant was also charged with having an article with a blade or point. We will need to verify the article in question was used in the robbery and the victim had seen it.

We will consider the following points when verifying if the article should be considered to be an offensive weapon to satisfy armed robbery:

- Articles made for causing injury will be considered offensive weapons. This can cover a wide range of object but typically will include firearms and knives.
- Articles that have been adapted for causing injury to the person. For example, a deliberately broken bottle or a sharpened screwdriver. This will be considered on a case-by-case basis.

- Articles that are not specifically made or adapted to cause injury may be considered an offensive weapon if we are satisfied that the defendant intended to use it to cause serious injury. This is more likely where the article is similar in nature to other offensive weapons. For example, axes or hammers.

Value Based Fraud or Theft

Certain dishonesty-based offences will fall into a different classification depending on the value of the offence. You will need to provide evidence of the value on your claim, this will typically be a case summary, opening note or witness statement. The value must be able to be directly attributable to the value-based offence on the indictment.

These offences will be on for the following:

- Class F – Value of up to £30,000
- Class G – Value between £30,000 and £100,000
- Class K – Value exceeding £100,000

Fitness to Plea Offence Class

Where a fitness to plea hearing has taken place, you can choose to claim either the offence class relevant to any charge on the indictment or a Class D. We will need to be able to verify that a fitness to plea hearing has taken place from the court records.

Restriction Orders under Section 41

Where the Court has made a restriction order under Section 41 of the Mental Health Act 1983, you can choose to claim either the offence class relevant to any charge on the indictment or a Class A.

This is not to be confused with a hospital order under Section 37 of the Mental Health Act 1983 which does not affect the offence class that can be claimed. We will need to verify a Section 41 order on Court records.

Pages of Prosecution Evidence (PPE)

Any graduated fee claim that exceeds the cut off of PPE will be uplifted by an incremental amount at a rate per page. The cut offs for each case scenario and offence class can be found at Schedule 2, Part 2, Paragraph 5 of The Criminal Legal Aid (Remuneration) Regulations 2013. You will need to provide on your claim evidence of the number of pages served in the case. There are several ways of evidencing PPE.

Notice of Additional Evidence (NAE)

The simplest way of evidencing served evidence is to provide the NAE that it was served under. This will state the page count of witness statements, exhibits and interview transcripts. In most cases these figures will be acceptable for verifying PPE.

However, please note that a notional page count of electronic evidence on a NAE cannot be accepted as a qualitative assessment of the material will need to be conducted. Equally if there is an indication that the page counts stated on the NAE include electronic evidence, such as phone download or call data spreadsheets, or duplication then we will not be able to accept that figure without an assessment of the material.

Evidence Index Lists

The latest index list of from the statement and exhibit bundles can be provided to show the page count. Please note, the full index will need to be provided and if there are any duplicated documents these will be discounted.

If there is any electronic evidence in the bundle, such as phone download or call data spreadsheets, these will be discounted. Any electronic evidence discounted in this way will need to be provided for a qualitative assessment.

Legal Aid Agency (LAA) Report

The most common way of evidencing PPE is to provide the LAA report. The LAA report is a digitally created report from the Digital Case System (DCS). The full report must be provided on the claim.

The LAA report will show everything that has been uploaded on to the DCS, however not all of this material is PPE. The Sections that will be included as PPE are the witness

statements (section I), exhibits (section J), transcripts of interviews (section K) and streamlined forensic reports (section L).

Cover Sheets in the LAA Report

Each section of the LAA report may include pages that do not meet the definition of PPE. These are commonly referred to as cover sheets but include the following things:

- Evidence Index Lists
- Placeholder pages linking to multi-media evidence (MME) including body-worn video (BWV) evidence.
- Placeholder pages linking to other sites such as Egress or Evidence.com.

Duplication in the LAA Report

It is quite common for the page on the DCS to be duplicated and this duplication will be represented on the LAA report as the DCS cannot distinguish between original and duplicate documents.

If duplications are claimed as PPE they will be removed from the page count. This will be verified by reviewing the LAA report and identifying those the paper to be duplication. If any pages that have been discounted in this way are not in fact duplicates, then the two documents in question should be provided on a request for redetermination.

Edited Transcripts

The DCS will often have multiple versions of the same transcripts of interviews. However, PPE does not include transcripts that have been edited for the jury. Therefore, we will only include one version of a transcript as PPE. Where there are differing page counts due to the edits then the longest version will be included.

Untitled Documents

On occasions a document on the DCS will be untitled, appearing on the LAA report as '0'. As we cannot be sure what this document is, whether it be a cover sheet, duplicate or something else, we will discount these on first assessment and document in question will need to be provided on a request for redetermination.

Electronic Evidence on the LAA report

At times material that is considered to be electronic material will be uploaded to the DCS and will appear on the LAA report. This material will be discounted from the page count and will need to be provide for a qualitative assessment. This material is things such as but not limited to:

- Extraction reports of a full phone download.
- Excel Spreadsheets including print previews saved as PDF

Electronic Evidence

Exhibits that are served in electronic form are not included in the PPE unless the appropriate officer decides that it would be appropriate to include it having taken into account the nature of the documents and any other relevant circumstances.

Since the introduction of the DCS all evidence will typically be served by electronic format, by being uploaded to the DCS or other file share program. However, we will allow as PPE any documentary or pictorial exhibit that would have been served in paper prior the introduction of the DCS.

However, any exhibit that would never have existed in paper, such as phone download or raw call data etc, will need to be provided with the claim for a qualitative assessment. How we will conduct these assessments is addressed in a separate Electronic PPE.

Disbursements that have been reasonably incurred will be reimbursed in line with the LAA rates as set out in Schedule 5 of The Crown Court (Remuneration) Regulations 2013.

Expenses

Travel expenses that have been reasonably incurred will be paid for such things court hearings, visits to the defendant in prison and conferences with the defence advocate. Other reasons for travel may be reasonable in the circumstance of the case but these should be justified on the claim.

There is an expectation that the defendant will attend your offices if they are at liberty to do so. For this reason, it is unlikely to be reasonable for you to have accepted instruction from a non-local client causing a need to travel more than an hour for court hearings or conferences expect in the most exceptional circumstances. An exception to this is where the defendant is in custody as we recognise that you will have no control over which prison the defendant resides.

Where the travel is reasonable, a ticket or receipt will need to be provided for any travel fares of £20 or more. Travel fares under £20 will not need to be substantiated with a ticket or receipt.

Mileage claims will be remunerated at 25p per mile unless the use of a private motor vehicle can be justified. Where the use of a private motor vehicle is accepted as reasonable the mileage will be remunerated at 45p per mile. A reasonable parking charge will also be reimbursed.

If you have incurred overnight expenses, then justification as to why the was necessary and invoices or receipts must be provided on the claim. Where overnight expenses have been reasonably incurred, they will be reimbursed in line with LAA guideline rates:

Overnight Hotel (including serviced apartments) – London, Birmingham, Manchester, Leeds, Liverpool or Newcastle-Upon-Tyne city centres

£100

Overnight Hotel – elsewhere

£65

Night Subsistence

£21

Personal Incidental

£5

Overnight (other than at a hotel)

£25

A Night substance can be claim for an evening meal of up to £21 and a receipt must be provided. The cost of any alcoholic drinks will not be reimbursed.

A personal incidental claim of £5 per day can be made for the cost of tea or coffer at court if evidenced by a receipt.

Interim Litigator Fees

You can claim up to two interim Litigator fee payments during the life of a case prior to the case concluding.

The first claim can be made after the first hearing at which the defendant enters a plea of not guilty. This is referred to as an Interim- Effective PCMH fee.

The second claim can be made after the commencement of a trial which is listed for 10 days or more. This is referred to as an Interim – Trial Start fee.

Interim -Effective PCMH

PCMH standards for Plea and Case Management Hearing or now more commonly known as a Plea and Trial Preparation Hearing (PTPH).

This is typically the first hearing in the Crown Court and is where a defendant will enter their initial plea.

For the purposes of billing, we will consider a PTPH to be effective if the defendant

has been arraigned and has entered a plea. Situations where a defendant is unable to enter a plea at the PTPH due to fitness to plead issues will be taken into account provided that this information can be verified (usually by way of the court log).

We recognise that it is not always possible for a defendant to be physically present at a PTPH and cannot always be formally arraigned. As such we will accept an indication of plea having been given to the Court when verifying an effective PTPH so long as the indictment of plea is evidenced by the court log, PTPH form or DCS case commentary.

The fee for an Interim - Effective PCMH is 75% of a Cracked Trial fee.

Interim - Trial Start

The effective trial start refers to the first day of trial.

The trial will not be deemed to have effectively started until both the Jury has been sworn and evidence has been called, denoted by the prosecution opening their case.

There are some exceptions to this which are not detailed here.

For more information see Section 3.1, Paragraphs 6-13 Crown Court Fee Guidance.

The fee for an Interim - Trial Start is 100% of a Trial fee, based on 1 day.

Interim – Retrial fees

An Interim – Retrial fee can only be claimed by the new Litigator where a transfer of legal aid has taken place between the first and second trial.

A Litigator that represented the defendant at the first trial cannot make an interim claim for the retrial.

You can make an interim retrial claim when representation is transferred to your firm following the ordering of a retrial with date for retrial having been set. The fee for this is 50% of a Cracked Trial.

Request for Redetermination/ Request for Written Reasons

If you disagree with the assessment of your claim, they can submit an appeal by selecting the request a redetermination function on the CCD claim. When submitting a request for redetermination you must include a message explaining what specific element of the assessment is in dispute and why they believe the assessment to be incorrect. A file can be attached to the messages if additional evidence is required.

More on redetermination and written reasons can be found in a separate guide. (Guide for litigators and Advocates on Redeterminations, Written Reasons and Cost Judge Appeals)

Warrant Fees

If the defendant has absconded and the Court has issued a warrant for their arrest you can submit claim for warrant fee once 3 months from the date of issue has elapsed. The fee that can be claimed will dependant on how far the case has progressed before the issue of the warrant. If the warrant is then executed within 15 months of issue, then the warrant fee will be offset from the final fee. If the warrant is executed more the 15 months form the date of issue then a separate fee, unaffected by the warrant fee, can be claimed

Unused Material

Unused material can be claimed with any graduated fee other than a guilty plea with a representation order date on or after 17/09/2020. The first 3 hours of a unused claim will be remunerated as a fixed fee and can be claimed on the CCD claim without any additional information being provided.

Hours in excess of the first 3 will be remunerated at an hourly rate. To claim for unused material over 3 hours the LU1 form must be completed and provided on your CCD claim. The unused material will typically need to be provided along with a work log showing the time taken to consider the material. The assessment of unused will be based on a reasonable amount of time spent considering the material but as a guide the LAA would usually allow between thirty seconds and 2 minutes depending on the nature of the documents being considered.

Quashed/ Stayed/ Joinder Indictments

Where an indictment has been quashed and a new indictment preferred then you can claim a fee for each one as a separate case. However, where an indictment has been, amended, or stayed to allow an amended version to proceed, then this will not be a separate case and only one fee will be payable.

An indictment in a case will be uploaded to the DCS, once this is done that indictment can not be amended. As such when an amendment must be made a new amended version of the indictment must be uploaded. This often results in multiple iterations of the same indictment. The court will often refer to the previous iterations as being stayed to dispose of them in Court despite there being no prospect of them running concurrently.

This has made it increasingly difficult to be able to identify when an indictment is truly quashed and a new case under a new indictment begins. Where it is not clear whether an

indictment is a new one or an amended version of a pre-existing indictment the LAA will consider whether the changes to the indictment are significant enough to as to create an entirely new case against the defendant.

Where one or more indictment are joined into a single indictment only a single fee can be claimed. A fee cannot be claimed for the original iteration of the indictment, as it was before the joinder, as well as a fee for the joinder indictment.

Severed Indictments

Where an indictment is severed then a separate fee may be payable depending on what has been severed. If a defendant that you represent is severed from the original indictment and you do not represent any other defendants on that original indictment, then you can claim only a single fee for the severed indictment.

If the defendant, you represent has multiple counts against them and some are severed but others remain on the original indictment then you can claim a fee for both the original and severed indictment. Likewise, if you represent multiple defendants and one or more is severed but other remain on the original indictment you can claim a fee for both.



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Where we have holders concerned.

