Legal Aid Agency

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

Advocates special preparation (ASP2) form completion guidance

January 2022

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Completion of the form

You should download the most up to date version of the ASP2 form from GOV.UK:

https://www.gov.uk/government/publications/af1-claim-for-advocate-graduated-fees

Section 1 – Case details

In this section you need to confirm:

- your/counsel's name
- your provider number
- MAAT number for the case (this can be found on the original representation order)
- that you have not claimed for the work elsewhere

Below is an image of section 1 of the form. It includes a space for the advocate name, the provider number, the MAAT number and a tick box to confirm that the work detailed in the claim has not been requested for remuneration elsewhere.

Case Details:

Advocate Name	Provider Number	MAAT Number
Enter your name here	Enter your provider number here	Enter the MAAT number here

The work detailed in this claim has not been requested for remuneration elsewhere: ☑

Section 2 – Hours claimed

In this section you must confirm how many hours special and/or wasted preparation you are claiming and under which criterion. If you are claiming under more than one criterion you need to confirm the total number of hours special and/or wasted preparation you are claiming.

Below is an image of the hours claimed section of the form.

Hours claimed:

Please confirm the number of hours you are claiming under each criterion:

Special Preparation Excess PPE	Wasted preparation	Special Preparation Novel/Very Unusual	Total
39.75	25	60	124.75

Explanation of the image

In the example above, counsel is claiming:

- 39.75 hours claimed for considering PPE served in excess of the relevant threshold
- 25 hours claimed as wasted preparation
- 60 hours claimed for preparation substantially in excess of the amount done for case of the same type as the case involves either a very unusual or novel point of law or factual issue
- The total amount of special and wasted preparation claimed is 124.75 hours.

Section 3 – Supporting evidence checklist

For all claims, you **must** provide:

- indictment
- representation order and any amendment orders
- LAA report and/or NAEs
- work log

Important note

We require the indictment to understand what charges your client faced.

We require the representation orders to verify that the case is legally aided and the number of counsel instructed in the case.

We require the LAA report and/or NAEs to validate the PPE for the case.

We require the work log to understand the work undertaken.

A failure to provide these could delay the assessment of your claim or even lead to the rejection of your claim.

Important note

If you are only claiming wasted preparation or special preparation under one criterion, you will only need to complete the relevant section of the form.

If you are claiming under multiple criteria, you must complete all the relevant sections.

If you are claiming:

Special Preparation because the PPE exceeds the relevant threshold – please complete section 1

Wasted preparation – please complete section 2

Special Preparation as the case involved a very unusual or novel point of law or factual issue – please complete section 3

Section 4 – PPE claims

If you are claiming special preparation as the PPE exceeds the relevant threshold, you must complete section 1, which can be found on pages 2 to 4 of the claim form.

In section 1 you must provide details of:

- the offence banding
- the amount of documentary evidence claimed as PPE
- the amount of documentary evidence claimed as special preparation
- how much time is claimed as special preparation for considering documentary evidence
- the amount of electronic evidence claimed as PPE
- the amount of electronic evidence claimed as special preparation
- how much time is claimed as special preparation for considering electronic evidence

Below is an image of section 1 of the claim form. It contains a table with three rows and three columns.

The first row asks you to detail the number of pages of documentary evidence included in the graduated fee, the number of pages claimed as special preparation, and the time claimed as special preparation.

The second row asks you to detail the number of pages of electronic material included within the graduated fee, the number of pages claimed as special preparation, and the time claimed as special preparation.

The third row asks you to detail the total number of pages included in the graduated fee and the total number of pages claimed as special preparation.

Section 1 – PPE:

Please only complete this section if your claim relates to reading pages of evidence served in excess of the relevant threshold. ***Please see Appendix D of the Crown Court Fee Guidance.***

Offence banding	Band 9 Drugs Offences 15,000 + pages

Type of Material	**Pages included in the Graduated Fee**	**Pages claimed as Special Preparation:**	**Time claimed as Special Preparation (hh:mm)**
Documentary (Paper) e.g. statements, exhibits, ROTIs etc.	4,890		
Electronic (telephone downloads etc.)	10,110	6,208	39:45
Totals:	15,000	6,208	

Explanation of the image

In the example above, counsel is claiming:

- 4,890 pages of documentary evidence within the graduated fee
- 10,110 pages of electronic evidence within the graduated fee

- 6,208 pages of electronic evidence as special preparation - 39 hours and 45 minutes are claimed as special preparation

Section 1b is only to be completed if electronic evidence forms part of your claim. There is a box which allows you to provide detail of:

- the pages/documents to be included within the PPE
- why those pages should be included in the PPE

Below is an example of the detail required.

CPS served 723 pages of witness statements and 4,167 pages of documentary exhibits. In addition to this they also served a full telephone download report for my client. The telephone report is in PDF format and totals 16,318 pages, there is also a duplicated Excel version of the report.

The following sections of the report have been claimed as PPE:
Call log - 95-360 = 265 pages
Chats - 361-5,162= 4,801 pages
SMS Messages - 8,742-13,500 = 4,758 pages
Locations - 14,022-14,308 = 286 pages.

The call log and chats/messages and locations are key to the prosecution case against my client.

The remaining pages fall to be claimed as special preparation.

Explanation of the image

In the example above counsel has stated:

CPS served 723 pages of witness statements and 4,167 pages of documentary exhibits. In addition to this they also served a full telephone download report for my client. The telephone report is in PDF format and totals 16,318 pages, there is also a duplicated Excel version of the report.

The following sections of the report have been claimed as PPE:

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Locations – 14,022-14,308 = 286 pages

The call log, chats/messages and locations are key to the prosecution case against my client.

The remaining pages fall to be claimed as special preparation.

There is a second box in section 1b in which you need to provide detail about the electronic material. Below is an example of the detail you should provide.

Client's telephone download report was served in PDF format and totals 16,318 pages, there is a duplicated Excel version of the report. I have used the PDF version to calculate the page count and where possible the Excel version was used to consider the data more efficiently.

Key dates, numbers and postcodes/cell siting areas were used to consider contact with other members of the OCG on key dates, I also checked the surrounding data to be sure of context.

Explanation of the image

Client's telephone download report was served in PDF format and totals 16,318 pages, there is a duplicated Excel version of the report. I have used the PDF version to calculate the page count and where possible the Excel version was used to consider the data more efficiently.

Key dates, numbers and postcodes/cell siting areas were used to consider contact with other members of the OCG on key dates, I also checked the surrounding data to be sure of context.

Section 1c allows you to provide background information and/or justification of your claim. It is very important that you provide an overview of the case against your client, key evidence against your client and why the time you are claiming is reasonable. Below is an example of the detail required for a lower value claim.

Client charged with two others with conspiracy to supply class A drugs. Defendant was first on the indictment and was said to have a leading role in the OCG and was responsible for the distribution and onward sale of drugs.

Client accepted he was friends with his co-defendants and any contact between them was innocent, defendant was out of work at the time of the offences and was contacting his friends looking for work. In August 2019 he was able to get work as a taxi driver, his co-defendants often booked him as a taxi driver, this explains their frequent co-location.

Explanation of the image

Client charged with two others with conspiracy to supply class A drugs. Defendant was first on the indictment and was said to have a leading role in the OCG and was responsible for the distribution and onward sale of drugs.

Client accepted he was friends with his co-defendants and any contact between them was innocent, defendant was out of work at the time of the offences and was contacting his friends looking for work. In August 2019 he was able to get work as a taxi driver, his co-defendants often booked him as a taxi driver, this explains their frequent co-location.

Important note

Very often, the case manager will only have the detail you provide to make an assessment. It is therefore essential that you provide as much detail to support your claim as you can.

The larger the value of the claim, the more detailed background and justification we would expect.

Section 5 – Wasted preparation

If you are claiming wasted preparation on behalf of previously instructed counsel, you must complete section 2, which can be found on page 5 of the claim form.

All questions must be answered.

Question 1 – Please confirm who undertook the wasted preparation

Question 2 – Please confirm if the trial cracked or went to a trial lasting 5 days or more. There is a drop-down menu for you to select from.

Question 3 – Please confirm why the brief was returned. There is a drop-down to select one of the five options listed below.

(a) the trial advocate is instructed to appear in other proceedings at the same time as the main hearing in the case and has been unable to secure a change of date for either the main hearing or the other proceedings;

(b) the date fixed for the main hearing is changed by the court despite the trial advocate's objection;

(c) the trial advocate has withdrawn from the case with the leave of the court because of the trial advocate's professional code of conduct or to avoid embarrassment in the exercise of the trial advocate's profession;

(d) the trial advocate has been dismissed by the assisted person or the litigator; or

(e) the trial advocate is obliged to attend at any place by reason of a judicial office held by the trial advocate or other public duty.

Question 4 – Please provide background information as to why the brief was returned. Below is an example of the detail required.

Please provide background detail as to the return of brief.

Prior to accepting these instructions I was engaged in the preparation of a terrorism case listed for trial on 13 September 2021. At the PTPH, the client entered not guilty pleas to all counts, trial was listed for 12 July 2021 with an estimate of 5 days. On the 2 July, a second defendant was added to the case, this increased the trial estimate to 15 days. Due to court availability a new listing of 6 September was given.

Explanation of the image

In the example above, counsel has stated:

Prior to accepting these instructions, I was engaged in the preparation of a terrorism case listed for trial on 13 September 2021. At the PTPH, the client entered not guilty pleas to all counts, trial was listed for 12 July 2021 with an estimate of 5 days. On the 2 July, a second defendant was added to the case, this increased the trial estimate to 15 days. Due to court availability a new listing of 6 September was given.

Question 5 – Please provide detail as to any efforts made to secure a trial date that you were able to attend. Below is an example of the detail required.

Where the court date changed, what efforts were made to secure a date that you were available?

At the hearing on 2 July, I advised the court of the clash with the drugs case, however due to CTLs, prosecution and court availability no alternative date could be found.

Explanation of the image

In the example above counsel has stated:

At the hearing on 2 July, I advised the court of the clash with the drugs case, however due to CTLs, prosecution and court availability no alternative date could be found.

Question 6 – Please provide detail as to the volume of evidence served and unused material disclosed at the point the brief was returned. Below is an example of the detail required.

Please confirm the number of pages of served, unused and audio/CCTV evidence served at the time you returned the brief.

At the point the brief was returned there were 200 pages of witness statements, 1,392 pages of exhibits and around 500 pages of unused material. There was audio/video material/evidence and no telephone data had been served.

Explanation of the image

In the example above counsel has stated:

At the point the brief was returned there were 200 pages of witness statements, 1,392 pages of exhibits and around 500 pages of unused material. There was audio/video material/evidence and no telephone data had been served.

Question 7 – Please provide justification for the time claimed as wasted preparation. Below is an example of the detail required.

Please provide justification for the time claimed as wasted preparation. Please be aware that the larger the claim, the more detailed information we would expect you to provide:

Time was engaged in considering the served evidence, I attended on client twice, once to draft an unsuccessful bail application and once to take instruction on the served material.

Explanation of the image

In the example above, counsel has stated:

Time was engaged in considering the served evidence, I attended on client twice, once to draft an unsuccessful bail application and once to take instruction on the served material.

Section 6 – Very unusual or novel point of law or factual issue

If you are claiming special preparation because the case involves a very unusual or novel point of law or factual issue you must complete section 3, which can be found on page 6 of the form.

There are two questions in this section of the form, it is very important that you provide as much information about the case as you can.

Question 1 – Please provide detail about what specifically about this case was either a very unusual or novel point of law. Below is an example of the detail you would need to provide.

As well as being charged with conspiracy to supply class A drugs, defendant was also charged with a new offence, namely "MADE UP OFFENCE TYPE" contrary to s.1 of the MADE UP OFFENCES ACT 2022.

Defendant was the first to be charged with this offence and as such there is no previous case law.

Explanation of the image

As well as being charged with conspiracy to supply class A drugs, defendant was also charged with a new offence, namely "MADE UP OFFENCE TYPE" contrary to s.1 of the MADE UP OFFENCES ACT 2022.

Defendant was the first to be charged with this offence and as such there is no previous case law.

Question 2 – Please provide detail about what additional work the very unusual or novel point of law or factual issue case when compared to a normal case of this type. Below is an example of the detail you would need to provide.

What extra work did this cause compared to a normal case of this type and why?

As there is no previous case law, drafting arguments in relation to this offence was very difficult. I researched similar offences to draft legal argument as to the validity of the charges and to have the offences dismissed. I have attached copies of my applications, which were ultimately successful.

I would ordinarily spend around 60 hours preparing a case of this type for trial, in this case, I spent 85 hours preparing due to the new offence my client was charged with. I claim the additional 25 hours as special preparation.

Explanation of the image

In the example above, counsel has stated:

As there is no previous case law, drafting arguments in relation to this offence was very difficult. I researched similar offences to draft legal argument as to the validity of the charges and to have the offences dismissed. I have attached copies of my applications, which were ultimately successful.

I would ordinarily spend around 60 hours preparing a case of this type for trial, in this case, I spent 85 hours preparing due to the new offence my client was charged with. I claim the additional 25 hours as special preparation.

Advocates special or wasted preparation hourly rates

Representation orders dated before 31 December 2018

Role	Hourly rate
Junior counsel	£39
Leading junior	£54
QC	£74

Representation orders dated on or after 31 December 2018

Role	Hourly rate
Junior counsel	£39.39
Leading junior	£54.54
QC	£74.74

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