



Legal Aid
Agency

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Civil High Cost Family- Help Us Say Yes Webinar – Your Questions

Care case fee scheme (CCFS)

28 September 2023



Your questions answered:

Q: What are the options for solicitor advocates where there is only, or mainly, a solicitor advocate to do the hearings? Do you have some tips to do the plan right first time?

A: For 1 Counsel cases, the solicitor advocate (when applying the care case fee scheme (CCFS) advocacy model) can claim the solicitor advocacy event rate, £1,157 or £707 plus FAS, for any hearing day or advocates meeting they have attended alone and done their own advocacy.

For 2 Counsel cases, the solicitor advocacy rate is generally only applied during the 2 Counsel authority period. If there have been 2 Junior Counsel authorised and the solicitor acts as the second Junior Counsel, they will claim £1,660.50 (full event) throughout the authority period. If King's Counsel (KC) and Junior Counsel have been instructed, if the solicitor acts as the Junior Counsel, they will claim £1,800 (full event) throughout the authority period.

In some instances, we would allow the solicitor advocacy rate outside the 2-Counsel authority period:

- If the solicitor has attended 90 to 95% of the events alone and done their own advocacy with no recourse to Counsel, we would allow the advocacy rate - £1,800 or £1,660.50 depending on what level of 2 Counsel has been granted for the case.

Q: Is it Counsel's decision whether they claim family advocacy scheme (FAS) or family graduated fee (FGF)? Can you confirm if that is for main hearing days for 10 days or less?

A: For 1 Counsel cases:

- if there are fewer than 11 main hearing days, Counsel must claim FAS

For 2 Counsel cases:

- if there are fewer than 11 main hearing days, Junior Counsel can either claim FAS or FGF
- KC must claim FGF

Q: If there is a 10-day final hearing and the solicitor advocate did 3 of those days, can Counsel still claim FGF?

A: This does not impact whether FGF, FAS, or CCFS rates are claimed by Counsel. The fee scheme is dictated by the 10 main hearing day rule:

- if there are more than 10 main hearing days, Counsel will claim CCFS rates
- if there are fewer than 11 main hearing days, KC would claim CCFS, and junior Counsel would claim FAS or FGF (FAS if just a 1 Counsel case)

Q: If there is no 'back sheet' for Counsel's instruction for the advocates meeting or conference as it was arranged via a telephone call or email, would it be sufficient for Counsel to sign a copy of the email or the solicitor's telephone note?

A: Yes, in this scenario they would suffice as proof of attendance.

Q: Can you repeat what you said about the scenario where there is authority for advocates meetings in the initial order for all advocates meetings going forward for 1 Counsel?

A: Where we have a court order that allows an advocates meeting before each hearing, if there have been 2 or 3 advocates meetings in a row without a hearing, we would not allow this. For the extra advocate meetings, we would require further court orders listing these in advance.

Q: Is there a definition of a 'solicitor advocate' for claiming conferences where they are not the solicitor litigator running the case?

A: In this case, the same rules would apply to them as Counsel for conferences. They could claim a conference if the client, solicitor litigator and solicitor advocate were in attendance. The limits of the number of conferences would still apply as well.

Q: If the circumstances of a case change drastically more than 28 days after being registered as 2 Counsel, with no hourly rates initially being requested or submitted, is it possible for the solicitor to move to hourly rates after those initial 28 days have elapsed?

A: The general rule is if the solicitor applies the CCFS model, they must continue with this fee scheme. However, we appreciate that 2 Counsel cases can be very complex and unforeseen work can arise. In this scenario, my best advice would be to inform the HCF team as soon as possible that you wish to apply hourly rates, due to the nature of the

changes to the case, and provide as much justification as possible, we will then consider your request and may allow hourly rates, this will be assessed on a case-by-case basis.

If the solicitor has not decided which model to apply within 20 working days and then decides to claim hourly rates, sanctions will apply if there is insufficient justification for the delay. We will treat the date the case plan is submitted as the registration date, and costs up to that date will be limited to the pre-contract limit (generally £25,000).

Q: FGF Conferences on 2 Counsel matters: On a 2 Counsel matter with less than 11 main hearing days, therefore staying on FGF throughout, where permission does cover KC for the final hearing, does the conference limit of 2 reset after a fact finding hearing, same as it would on events? (Would KC who attended 2 conferences before the fact finding hearing, be paid FGF for a further conference between the fact finding hearing and final Hearing?)

A: Under FGF, KC and Junior Counsel can only claim a maximum of 2 conferences throughout the entirety of the case, even if the fact finding hearing and the final hearing have been split.



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