



Legal Aid  
Agency

# Help us to say yes Webinar: Getting your civil cost appeals right first time

## Certificated and escape case

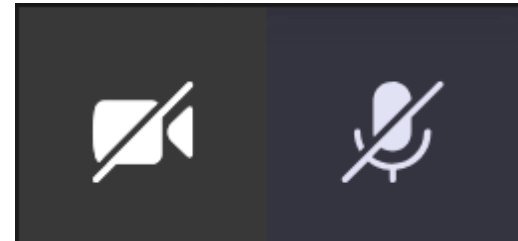
20 July 2023

## Technical tips for this webinar

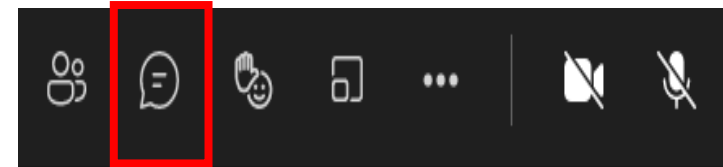
1. Please put yourself on mute during the webinar
2. You can ask us questions at the end of each session through the 'meeting chat'
3. Click on the 'meeting chat' to ask a question
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## Name of webinar

### Purpose of the webinar:

- To highlight how to get your appeals right first time and to prevent the need for appeals



By the end of the webinar, you will have an understanding of:

- Who appeals caseworker are and what we do
- How to present information in your appeal
- What to avoid (e.g. resubmitting the whole bill in CCMS)
- How you can avoid the need to appeal

# Introduction



## Introduction: Appeals

- The appeals team is spread across various legal aid offices:
  - Escape case appeals are processed by caseworkers in both Liverpool and South Tyneside
  - The national appeals lead is based in the Liverpool office.
- Appeals are allocated to the relevant teams within the specialist areas such as civil finance; mental health; escape cases and high-cost cases
- Appeals caseworkers are also assessors:
  - They are familiar and up to date with guidance
  - Have the skills to make reasonable decisions on the information you have provided in support of your appeal.
- Each appeal is logged on receipt on an internal tracker.
- The appeals caseworker will determine:
  - Reject the appeal
  - Grant the appeal
  - Request further information or,
  - Refer to the independent cost assessor

## Independent cost assessments:

- Appeals, which the internal reviewer cannot make a determination on, are referred to an independent costs assessment (ICA)
- The ICA work independently of the LAA. Their decisions are not influenced by our teams.
- We provide them with:
  - Your appeal evidence,
  - An agenda note
- The ICA decision is final:
  - There are no further rights of appeal once an ICA decision is received
  - **Please note:** Point of Principle applications are no longer accepted.

# Appeals: Contract rules





## Appeals: Contract Rules

You have the right of appeal against our assessment findings on all claims that are billed to the LAA, pursuant to Standard Civil Contract 2018:

- **6.71:** If you or Counsel are dissatisfied with any decision of ours as to the Assessment of the costs of Contract Work, you may appeal to an Independent Costs Assessor (“the Assessor”)
- **6.72:** The appeal must be made in writing (setting out full reasons) within 28 days of notification of the assessment decision and must be accompanied by the file. We will only extend the 28-day time limit where you have requested an extension for good reason within 21 days. Any extension of the time limit will be for a maximum of a further 14 days
- **6.73:** Failure to comply with any of the requirements set out in *Paragraph 6.72* means that you accept our decision and lose your right to dispute it.

# Information required for appeals



## Information required for escape case appeals:

For **all** escape case (EC) appeals, we require:

- EC Claim 1
- Cost ledger
- Letter of representations which must confirm which reductions you are appealing and why

We also require the following (where applicable):

- File notes for all items of work which have been reduced
- Disbursement vouchers for any disbursements which were reduced

If your case has been nil assessed, we will require your **full** file of papers which must include:

- Fully completed means form
- Evidence of means from the computation period

**Please note:** If your appeal against the nil assessment is successful, we will undertake an assessment of your costs, pursuant to Standard Civil Contract 2018 rule 6.80

## Information required for civil finance appeals:

For all civil finance appeals we require:

- Written representations:
  - These can be uploaded as a document or sent via document request
- Copies of file notes and / or explanation of work undertaken
- Disbursement vouchers and associated orders
- Copy of original claim narrative
- Ledgers
- Any document / letter which supports your appeal:
  - For example, if it is a GP medical report / expert report, wherever possible, briefs / indexes to bundles

# Stages of an appeal



## Appeal Stages: Internal review:

You have the right of appeal against our assessment findings on all claims that are billed to the LAA.

- The appeal stages are:
  1. Internal review
  2. Independent costs assessment (ICA)

### Internal review:

- An internal LAA reviewer will review the original decision considering your representations:
  - If your representations are accepted in full, the appeal process ends.
  - ***It is important to note that we do make mistakes on assessment - in these cases we will provide the caseworker with feedback on the error – repeated errors are used to inform future discussions and guidance***
    - The reviewer will write to you advising of changes made to the original decision and the recalculated results.
  - When your appeal is not accepted in full, the issues remaining under dispute will proceed to an ICA for determination

# Appeal Stages: Independent costs assessor (ICA)

## Independent costs assessor

- ICA appeals are considered on paper
- An ICA assessor will:
  - Review the assessment together with your appeal
  - Consider the issues
  - Make decisions on the matters under dispute.
- We will forward you the assessor's final determination on the appeal, along with the revised impact upon the assessments

The target for all appeals:

- We aim to have all appeals finalised within 20 days

# What can and cannot be appealed?





## What can be appealed:

### Scope can be appealed in *some circumstances*:

- Any work claimed within your bill, which pre-dates the issue of certificate, cannot be claimed:
  - An exception will be made in circumstances there has been an administrative error, for example, a typographic error on dates, or wrong date submitted for outcomes / discharge of certificate.
  - We recognise at times work is nil assessed which relates to billing / outcomes / final letters to clients, these **can** be appealed

### Please note:

- **Before** you appeal you **must** send a request to have the discharge date amended.
  - Failure to do so will result in your appeal being rejected

### Any items / disbursements reduced or nil assessed can be appealed

- These can be appealed, including reductions on disbursements where there is no codified rate

## What cannot be appealed:

### JR Reg 5a cannot be appealed:

- If permission is refused for JR we cannot deal with the appeal, this ought to be done via [Judicial review discretion pro forma - GOV.UK \(www.gov.uk\)](#)

### Codified rates cannot be appealed:

- We cannot increase codified rates and ICA has no right to do so:
  - For example, expert hourly rates which may be psychologist / process servers.

We cannot increase the rates payable for anything which has a codified rate.

- If you know that your claim exceeds this:
  - Submit a prior authority request (appeals will not be dealt with on paper)

**Escape cases: Reasons appeals are rejected and hints and tips to avoid**



## Escape cases reasons for rejected appeals:

### Escape cases:

- 8 percent of all escape cases appeals are rejected
  - 50 percent: The deadline has expired, and no appeal extension was sought
    - Please ensure all appeals are submitted within 28 days of the assessment, and
    - Any extension must be requested with 21 days of the assessment.
- 43 percent: The appeal was incomplete (the required supporting information hasn't been provided) and we were unable to consider it.

## Escape case assessments and appeals:

Over the last 12 months, the escape case teams have received 2,165 appeals.

Top 3 reasons for escape case appeals:

1. Insufficient evidence (27 percent: 87 percent of these appeals allowed at stage 1)
  2. Insufficient evidence of means (19 percent: 78 percent of which allowed at stage 1)
  3. No evidence of time claimed (11 percent: 92 percent of which allowed at stage 1)
- 
1. 77 percent of all escape case appeals are granted on internal review.
    - This illustrates the majority of appeals we process could be prevented if the necessary information is provided on assessment.

## Escape case assessments and appeals continued:

For all escape case submissions, we require:

- Disbursement vouchers for all disbursements over £20
- File notes for all items of work over 60 mins / 10 units
- Fully completed means form and evidence of means from the computation period
- Counsels fee note (where applicable)

**Please note:** If there are case complexities, which have resulted in higher claims for preparation, please ensure you explain them on your file.

- Costs Assessment Guidance 2.12 suggests 2 minutes reading time per page of documentation,
- Costs Assessment Guidance 2.15 suggests allowing 6-12 minutes to draft a page of documentation
  - If your preparation times are higher than these suggested times, provide a full explanation

If you are claiming time for considering documents, please provide either:

- Copies of the documents on assessment, or,
- Full details of the type of documents concerned and the number of pages involved (Costs Assessment Guidance 2.11)

# Civil billing: Reasons appeals are rejected and hints and tips to avoid



## Civil billing reasons for rejected appeals:

### Civil billing:

- 20 percent of all appeals received from June 2022 to June 2023 were rejected: Totally 337 appeals
  - 219 were rejected for:
    - The Appeal was submitted for the incorrect value
- Of the remaining rejections, the next biggest reason is the appeal being received after deadline without explanation followed by scope (which cannot be appealed)
- [Appeal Bills Interactive Module](#)



## Civil billing appeals:

In the past 12 months civil billing have received 1641 appeals:

- 56 percent of these were granted on internal review

Top reasons for appeals:

- Disbursements: Excessive or no invoices
- Enhancement: Excessive
- Preparation: Excessive
- Scope: Incorrect dates / discharge dates / typographic errors

## Civil billing appeals continued:

To minimise the need for your firm to appeal any assessment we advise:

- Supply additional evidence to support disbursement:
  - Always include associated orders
- Submit detailed grounds for enhancement which are specific to the case
- Upload file notes for preparation which exceed 1 hour, or input the justification within the case narrative, for example:
  - Page numbers
  - Documents considered
  - Why an application took longer than usual
- Ensure your discharge date is correctly entered on CCMS

**Additional guidance / Contact us**



## Links / contact us:

- [Civil Finance Electronic Handbook](#)
- [Escape Cases Handbook](#)
- [Cost Assessment Guidance](#)
- [Lord Chancellor's Guidance on determining financial eligibility for Controlled Work](#)
- [Standard civil contract 2018 - GOV.UK \(www.gov.uk\)](#)
- [Appeals: assessments on controlled and licensed work - GOV.UK \(www.gov.uk\)](#)

## Contact us:

- CCMS: Submit a '**billing**' or '**general**' enquiry
- Civil paper-based appeals, email: [ContactCivil@Justice.gov.uk](mailto:ContactCivil@Justice.gov.uk)

## Our training website:



### CCMS Quick Guides

- [Ministry of Justice: Civil landing page](#)
- [Course: Appeal bills interactive \(justice.gov.uk\)](#)
- [Appealing the correct value when enhancement has been assessed](#)

### CCMS Online Training

- Sign up on 'Eventbrite'

### Online Support Webchat

- Use Webchat for help with IT system issues

### Webinar Recordings

- Our 'Help Us Say Yes' webinars focus on areas where there have been issues or high enquiry levels
- Popular sessions are posted on the training website: [Ministry of Justice](#)

# Our communications channels:

## Legal Aid Bulletin

- A fortnightly e-alert with links to relevant pages
- Join our thousands of subscribers



## Social Media

- Follow us on Twitter
- Get help from our customer service twitter account
- Read our blog



## LAA Portal

- We post the status of our online systems on the portal's home page





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