



Legal Aid
Agency

Providing access to justice through working with others
to achieve excellence in the delivery of legal aid

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

Hourly Rates

December 2023



Your questions answered:

Q: Are there any exceptional circumstances for claiming more than a 50% enhancement for proceedings in the county court?

A: No. The limit is set by regulation and cannot be exceeded.

Q: Can we submit our CLAIM1 for pre contract costs once the case plan has been agreed?

A: Once the case plan has been agreed, you must upload a signed contract and apply for a cost increase. You may then submit your pre contract or individually agreed stage claims.

Q: Where Counsel fees are assessed throughout the case, will that still be dealt with by the High Cost Family team (HCF), including pre contract, even where you are not assessing pre contract claims?

A: Yes. If the work relates to the Family Graduated Fee scheme (FGF) even as part of the pre contract costs they will still be checked by the high cost family team.

Q: Can we submit a case plan up to and including the final hearing, if the certificate does not currently cover the final hearing but we are listed up to the final hearing?

A: Yes, although you must also submit an amendment to the certificate to obtain cover for that final hearing.

Q: Is the enhancement limit of 50% inclusive of the solicitor's 15% panel membership?

A: Yes, all enhancements include the guaranteed 15% for panel membership.

Q: Is the preparation time for the pre contract CLAIM1 and case plan claimed in Stage 1 of the case plan?

A: Yes. This work is carried out post registration of the case as high cost.

Q: For deprivation of liberty (DOL) matters at the High Court, is the payable hourly rate set at £135 or would justification still be required?

A: It depends on the circumstances, for example, whether the deprivation matter is linked to care proceedings or is standalone or 1 or 2 Counsel. You should check on an individual basis depending on the specific circumstances.

Q: Should we submit the stage 2 case plan whilst stage 1 is still under consideration?

A: Yes. Submit your plan as soon as you know the work to be done.

Q: In terms of experts' fees, how can we factor in their travel costs before they travel?

A: It needs to be part of the quote, as it must be accounted for in the contract or cost limit to be claimed in a bill.

Q: When a case is finished, do we send an accurate plan with the actual work carried out?

A: No. The agreements per stage are a set sum. In effect a cost limit per stage. You bill up to that limit per stage for the work done in that stage. It is important to note that post contract agreements are not interchangeable when billing. For example, if you claim lower profit costs but higher disbursement costs than agreed, we will limit the disbursements. We cannot offset these against a profit cost underspend.

Q: Is there any discretion regarding the registration date? We registered a case as high costs but were unable to provide a case plan within 28 days.

A: No, there is no discretion as it is a set date. Submission of the plan is required in 28 days. If you are unable to comply you must request an extension or your costs, post registration, may be at risk until we receive a completed plan.

Q: We often get wardship cases come back asking for Counsel fees to be rebilled at FGF. It seems to be a mixed response dependent on the caseworker?

A: It is going to be case specific depending on whether it is 1 or 2 Counsel. If a matter is specifically excluded from FAS or FGF, the starting point would normally be the solicitor rate plus enhancement.

Q: The Counsel fees clerk habitually claims £135 per hour despite our letting chambers knowing about Rule 16.4, where the LAA consider them to be paid at £59.40 plus enhancements?

A: We appreciate this happens, however, we will always use solicitor rate as a starting point and may, if practical recost and make an offer on that basis.

Q: Are there any alternatives to preparing a CLAIM1 form? Is it acceptable to prepare a bill as if it were to be sent to the court for assessment?

A: Submission of a bill can either be via the “bulk upload” service in CCMS or at Summary level but with a CLAIM1 in support of the sums claimed. Court assessed formats are not acceptable for a bill to be assessed by the LAA.

Q: If the case involves Section 8 representation of an adult and the number of main hearing days goes above 10, can Counsel claim events fees or do they remain on FAS?

A: Counsel remain at FAS for Section 8 matters regardless of the number of main hearing days.

Q: Are we allowed or expected to submit our pre contract costs up to the date of registrations as an interim claim before the conclusion of the high cost case?

A: You may submit an interim bill for any agreed stage as long as a high cost contract has been signed and the cost limit allows. Only the final stage should be submitted as a final bill. The final bill option only becomes ‘live’ once the case outcomes have been submitted. All stages should ideally be submitted within 3 months of conclusion.

Q: I have a case that is changing constantly. By the time I get a case plan out, more things have changed. Do you have any advice, especially as courts are slower at supplying new court dates and orders, and are adjourning at the last minute?

A: Planning is your responsibility. We do not prescribe a stage length or date range. You should only plan to a specific known date or event, as once a stage is agreed the cost is set and only altered in accordance with the guidance as set out in the information packs.

Q: Please explain the process of making a final claim when there are previous solicitors and generally.

A: The last acting firm has conduct of the certificate and therefore responsibility for ensuring all costs to previous providers and Counsel have been discharged or at least billed. Any previous solicitors should provide an interim claim with the last provider certain these have been paid or submitted before submitting case outcomes as this takes away the interim bill option from CCMS. Counsel fees agreed under a high cost contract can be submitted and processed before the solicitors' final claim as, since February 2023 (only applicable to high cost agreements) we can recoup individual POAs from Counsel, however, if a Counsel has not been paid on processing of the solicitors final claim then that claim will be rejected. It is therefore exceptionally important for your KPI's that you are aware of any outstanding claims before submitting your final bill.

Q: For Section 8 representation of a child, if there are less than 10 main hearing days, is it correct that Counsel claim FAS, and if more than 10 days, then they claim solicitor hourly rates plus enhancement or £135 per hour depending on Counsel's call date? Or is £135 per hour just for Inherent Jurisdiction cases?

A: Section 8 cases are subject to FAS for Counsel regardless of the number of main hearings.

Q: If a stage is eligible for a 5% bonus, as actual or assessed costs are within 50% to 95% of the agreed stage, is this separately interim billed as a single line claim after the relevant stage bill?

A: We are happy to accept the bonus claim as a part of the individual stage claim or as a standalone bill submission. Please ensure it is fully noted as a bonus payment claim, and which stage it relates to (if standalone).

Q: What happens if the actual costs exceed the agreed case plan, for example, if we encounter unexpected extra disbursements? Can these be retrospectively added to earlier stages already agreed?

A: To have any stage reconsidered, the work you wish to add should be unforeseen and have a value of more than 5% of the stage.

Missed or forgotten disbursements must be agreed by the individual Case Manager on a case by case basis.



© Crown copyright 2024

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

