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Agency

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# Civil Finance - Help Us Say Yes Webinar – Your Questions

## High cost billing

November 2023



## Your questions answered:

**Q: I have a care matter where we are provider number 4. Our costs will be claimed under CCFS. However, the previous 3 firms are all choosing different ways to claim, for example, fixed fee, hourly rate, and CCFS. Does each previous provider submit their own interim claim separately? We registered the matter as high cost, so the previous firms are all pre-contract.**

**A:** In CCFS agreements, there is no real 'pre contract' as in staged agreements despite it being the last acting firm that has registered the certificate as high cost. All earlier firms should have their costs individually agreed with the HCF (High Cost Family) team, whether through a formal contractual agreement or an informal agreement, if they wish to send a claim prior to the last acting firm's agreement. It is extremely preferable each firm has its own cost allocation and submits individual bills. This is because any POAs will not be recouped until we process the final bill on the certificate and because monies paid within a secondary firm's claim will be paid to that firm and the onus will be on them to forward monies. Unnecessary complications arise if firms do not claim their own costs. Especially if there is an unused cost allocation or unrecouped POAs.

**Q: When is a Counsel acceptance form required? Is it when Counsel is claiming FAS and Events, or Events only?**

**A:** Counsel Acceptance forms (CAF) are needed for all external advocates acting outside of FAS. We recommend you supply these as early as possible to prevent delays in submitting your final bill.

**Q: Does the under £20 rule for disbursement vouchers not apply to HCC billing?**

**A:** It does apply; however, we still need information where claims have specific rules. Travel to court, for instance, is subject to the 10 mile radius rule, so we need the start point (office postcode) and end point (court postcode). Subsistence claims have exclusions around alcohol, cigarettes, and newspapers, so we need to ensure these have not been claimed.

**Q: What happens if an expert sends an invoice many months after the case has concluded and the case plan is approved by the LAA? Is there any mechanism to be able to submit an adjustment bill for HCC or is there an absolute bar?**

**A:** You would need to have the agreement amended, whether CCFS or staged, and therefore you would need to contact the team that approved the contract. Once agreed then there are a number of ways it would be possible to submit the further claim –

depending on how long it is since the final bill you may be able to submit a further final claim or you may have to have the adjustment bill restriction placed on the certificate to submit the bill or if there was a previous assessment which allows for the extra cost to be claimed then an appeal (even where the claim is not in relation to the assessed item(s)) will be appropriate. The type of bill submission is a means to an end, to allow the further payment of agreed costs.

**Q: In relation to Counsel's instruction, at final billing, do we need to send endorsed briefs for every advocate's meeting or hearing being claimed if a CAF has been signed?**

**A:** No, Counsel will claim their own fees, so if you have checked all Counsel costs are paid, you do not need to send anything related to Counsel. It may be wise to include a fee note or CF1a, however, if all Counsel fees are paid these are not needed.

**Q: In an ongoing case, Counsel has overclaimed by a huge amount and been paid; however, their hourly rate and enhancement claimed in the draft case plan, were later reduced significantly. The system will not show the recoupment at our end, so it will likely not allow us to upload a final claim that exceeds the costs allocated, which will be less than the costs already paid to Counsel. At what point should Counsel make a recoupment, and how will we know the position, as it is not possible to allocate less costs than already paid to Counsel? How are we to go about this?**

**A:** Counsel should send a general enquiry as soon as possible detailing the amount and VAT to be recouped. As the recoupment process is an offline one, CCMS (Client and Cost Management System) does not recognise a reduction in the amount paid so we must manually increase the overall cost limit by the amount recouped. The increase is automatically added to the firm that had conduct of the case's cost allocation, so if all parties have been allocated and paid correctly, there should be no issue with the solicitor's final claim. If you check before submitting and there are insufficient costs available, send a billing enquiry, and we will check and request the cost amendment from the HCF team.

**Q: With regards to subsistence payments of up to £21, do you mean Counsel can claim for food and drink (not alcohol) on top of travel and hotel, providing all receipts are submitted?**

**A:** Yes. Check section 10.32 (p104, 105 & 106) of the [Electronic Handbook](#) for details.

**Q: Is there a limit to the client's travel fare to court for 20 days FFH in a high cost matter?**

**A:** There is no determined limit, but for confirmation of the claiming regulations, please refer to 10.32 (p106 & 107) of the [Electronic Handbook](#), as well as 3.23 to 3.32 of the [Costs Assessment Guidance: for use with the 2018 Standard Civil Contracts](#).

**Q: When registering a high cost case for a private children matter, so at hourly rates, do we need to submit the case plan and the CLAIM1 for pre-contract costs at the same time, once the case has been registered as high cost?**

**A:** Cases registered after 1 May 2023 will have pre-contract costs assessed by the Finance Team. However, we require sufficient information to understand what has happened in the case. Provide a reasonable idea of the work done and the level of pre-contract costs. The pre-contract bill is ideal because it should provide all of this information. It is not essential, however. Provided that you give a reasonable account of what has happened and what you have done.

**Q: I have not done a high cost case plan before, but I understand that I may be required to do them in future, so came to this training. I work in immigration law. Are there any issues worth looking out for in relation to high cost case plans in immigration matters?**

**A:** Having taken advice from the Head of Operations, Immigration and Asylum, the vast majority of immigration case plans are actually public law JR's. I would, therefore, direct you to the [High cost cases: non-family \(civil\)](#) webpage for further details. In particular, the [Solicitors & Barristers Information Pack](#) and the [Judicial Review Case Plan \(Costs Only\)](#) will largely be relevant to the types of cases you will prepare. There are nuances with agreements which differ from some family matters; however, the case manager should be able to guide you. The high cost billing team should be able to assist with any billing issues when the time comes. Send us a billing enquiry if you need any specific help.

**Q: Is the Stages agreement in relation to VHCC hourly rates not events for staged agreement submissions? In family law cases, do we submit part 1 pre-contract costs, then prepare an estimated part 2 up to the timetabled order that you have, that might not be timetabled to final order?**

**A:** For billing purposes, when talking about stages, this is in relation to an agreement made using detailed (fully costed) family case plans as denoted on the [High Cost Family](#) webpage. The billing team does not recognise any stages in CCFS agreements.

**Q: When we submit our final case plan, we usually submit court orders for all experts' invoices. Do we not need to do this, or are you only asking for drug and transcription costs? Does this relate to non-high cost cases, or just high cost cases?**

**A:** Court orders are only required for billing where they are required to justify claims made. This is usually in relation to toxicology claims, transcription claims (except where this is required for an appeal) and FAS. We recognise it may be easier to send all court orders if that is how they are stored, and that is fine. We do ask you to highlight or number the relevant orders, as there can be lots of orders to work through to find a single transcription requirement and items can be missed in a long thread. It will be helpful to the assessor and avoid assessments or even rejections.

**Q: Do you know why Counsel's LAA remittance advice is sent electronically but the PSOs are sent by post? We do not always receive the PSOs.**

**A:** We post PSOs once a month. However, we are investigating a CCMS upgrade to allow you to access them electronically.

It is a high priority with the MoJ digital team, and a lot of work has been completed, with a view to a release next year.

If Counsel is missing any PSOs, they can request them via payment information: [PaymentInformation@justice.gov.uk](mailto:PaymentInformation@justice.gov.uk)

There is also an [Aide Memoire for Chambers](#) of contacts, links, and information.

**Q: Would you prefer one single PDF document upload or combined orders, combined AVMs, and combined experts? I tend to upload separate sections.**

**A:** We are happy with whichever works best for you. However, as noted above, highlighting or numbering the relevant orders helps avoid assessments or rejections.

**Q: For a private children matter detailed hourly rate case plan, do Counsel's fees need to be submitted at the same time as our pre-contract costs as they are claiming hourly rates?**

**A:** For billing purposes, no. Where the matter is contracted then we can pay Counsel independently and outside of normal billing rules. A CCMS upgrade in February 2023 allows Counsel POAs to be recouped on processing their claim. It will again be beneficial to all parties if Counsel pre contract amounts can be confirmed when solicitors submit their pre contract claim, as the cost limit for pre contract costs is set, and the amount can be utilised by all parties for profit costs and disbursements; and Counsel are not set to the agreed amounts as in the stage agreements. The difficulty lies when Counsel bill at the end of the case and claim more than is available as solicitors have already claimed.

Counsel should theoretically be paid in full in pre contract, so if costs are not available, then recoupments will hold up the whole billing process.

**Q: When you say not to limit the case plan as you will do this on your end, does this apply to pre contract costs if you exceed the cost limit?**

**A:** The simple answer is yes. All claims are still subject to some assessment even where they may be agreed by separate high cost contracts. If you self-limit, then there is a chance you could receive less than would otherwise be available. Leave the assessment to the assessor and this issue will not occur.



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