



Legal Aid
Agency

Family Legal Aid Cases and Hourly Rates

Rob Damião

Subject Matter Expert, Legal Aid Agency

June 2022



Content

Rates Payable

What hourly rates apply in Family cases outside of FAS

Point of Assessment

What is the point of assessment for your costs?

How CCMS Works

How to use CCMS and help us pay you first time

Additional Support

Guidance to Help Us Get You Get Paid First Time

Notes:



Click on an image to jump straight to the individual section. If printing, right click on your mouse and select **'print'**.



Under the header Page Size & Handling, make sure to select **'shrink over-sized pages'** to ensure your printer doesn't cut off any information.

Rates Payable

What hourly rates apply in Family cases outside of FAS



Rates: What Proceedings Are Excluded from FAS

- ❖ Child Abduction proceedings
 - ❖ Proceedings under the Inheritance (Provision for Family and Dependents) Act 1975
 - ❖ Proceedings under the Trusts of Land and Appointment of Trustees Act 1996
 - ❖ Separate representation of a Child in proceedings other than Specified Proceedings (as defined in section 41(6) of the Children Act 1989) and proceedings which are being heard together with Specified Proceedings (including where the Child is the applicant or respondent in proceedings as well as 16.4 cases)
 - ❖ Applications for Forced Marriage Protection Orders under the Forced Marriage (Civil Protection) Act 2007
 - ❖ Defended proceedings for divorce, judicial separation, dissolution of a civil partnership or for the legal separation of civil partners
 - ❖ Nullity proceedings (including proceedings for annulment of a civil partnership)
 - ❖ Proceedings under the inherent jurisdiction of the High Court in relation to the children
 - ❖ Applications for Parental Orders under the Human Fertilisation and Embryology Act 2008
- 

Rates: Other FAS Excluded Services

- ❖ Cases under an Individual Case Contract for a Very High Cost Case
- ❖ Work undertaken by Queen's Counsel acting as such under a prior authority issued by LAA
- ❖ Work in relation to any appeal against a final order
- ❖ Cases before the Court of Appeal or Supreme Court



[2018 Family Specification, paragraphs 7.107 - 7.109](#)

Rates: Calculating the Rates

- ❖ The Civil Legal Aid Remuneration Regulations do not lay out a specific rate for advocates in independent practice for any work undertaken for Family proceedings that fall outside the scope of the Family Advocacy Scheme (FAS).
- ❖ The 2018 Standard Civil Contract Family Specification provides that the rates will be determined as reasonable on assessment.
- ❖ It also gives the authority to use the rates payable to a solicitor for the same work or, alternatively, the rates payable under the now defunct Family Graduated Fee scheme (FGF) less 10%.

“Where you provide Advocacy Services in proceedings or circumstances excluded from the FAS ... Where such Advocacy Services are provided by Counsel, they are subject to reasonable remuneration as determined on cost assessment under this Specification. Any such assessment of the reasonableness of Counsel’s fees may however take into account the rates which would be payable under this Specification if the services had been provided by a solicitor, and the rates which would have been paid under the Community Legal Service (Funding) (Counsel in Family Proceedings) (Remuneration) Order 2001.”

Family Specification 2018, para 7.113

Rates: Which Rates Apply

Table 9(a)

Proceedings that are specified under Parts IV or V of the Children Act 1989, e.g.:

- ❖ Appealing a Care/Supervision order
- ❖ An Education Supervision order that has reached the Court of Appeal

Table 9(b)

Any other family proceeding, e.g.:

- ❖ CAO (Residence) where you represent the child in proceedings
- ❖ Forced Marriage Protection order



Civil Finance Electronic Handbook, Appendix 2

Enhancement: The Fundamentals

- ❖ There is no contractual basis to enhance a rate that is not laid out in statute
- ❖ If a case is complex or out of the ordinary, a higher hourly rate can be claimed under the same principles as enhancement
- ❖ The advocate should specify any higher rate being claimed, drawing the assessor's attention to any key issues in the claim
- ❖ The assessor will consider the evidence in front of them against the rate claimed and either authorise, reject for more information or reduce the enhancement claimed
- ❖ The assessor will not allow or assume any higher rate unless it has specifically been requested by the advocate

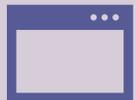
Enhancement: Guidance



[Civil Finance Electronic Handbook, chapter 3](#)



[Cost Assessment Guidance, chapter 12](#)



[CCMS Interactive Module: how to submit an Appeal Bill](#)

Point of Assessment

What is the point of assessment for your costs?



Point of Assessment

The right to claim is incurred at the end of the case. This is normally from the date the court orders detailed assessment or the client's funding is withdrawn.

This is to:

- ❖ Protect the client in case a financial interest arises
- ❖ Protect advocates from debt arising if costs are awarded at the end the case
- ❖ Prevent inconsistent assessment

This applies regardless of LAA or the court being the assessing party

“All claims for Assessment and payment by us must be submitted within 3 months of the right to claim accruing. The right to claim accrues in the following circumstances:

a) when an assessment certificate is issued by the court; or

b) where the Claim is to be assessed by us when:

- (i) a final order of the court is made for detailed assessment of your costs under this Section 6; or
- (ii) the later of: the date of service of a notice of discontinuance under Civil Procedure Rule 38.3 in respect of the entire proceedings under the determination to which the Certificate relates; or
- (iii) 3 months after the date of the dismissal of application to set the notice of discontinuance aside under Civil Procedure Rule 38.4; or
- (iv) an offer to settle is accepted or a payment into court is made under Civil Procedure Rule Part 36 in respect of the entire proceedings under the determination to which the Certificate relates; or if none of (i) to (iii) above apply, the date of the withdrawal of the determination (or, where relevant, the date that the withdrawal has been finally confirmed on appeal)”

Standard Civil Contract Specification 2018, para 6.33

Point of Assessment: Payment on Account

Payments on Account (POAs) are interim payments, they can be paid at any point throughout the life of a case and are not subject to detailed assessment. The following restrictions apply:

- ❖ At least 3 months must have passed since the certificate was issued;
- ❖ The certificate must not be over 3 years old;
- ❖ Claims can be made at up to 80% of incurred costs;
- ❖ Claims can be made once every 3 months; and
- ❖ One final POA can be claimed if the case is not billed within 6 months of the date of assessment

CCMS will enforce all of these rules for you when you try to submit a POA.

Also note, a POA is not a guarantee of payment on final assessment.

Point of Assessment: Payment on Account Guidance



[Civil Finance Electronic Handbook, chapter 15.3](#)



[CCMS Picture Guide](#)



[VHCC Scenario Guide & FAQ](#)

How CCMS Works

How to use CCMS and help us pay you first time



CCMS: Codified Barrister Bill Line

[Save and Return to Bill Details](#)

7.1.126

Codified Barrister Bill Line

In this section you should only claim for combinations of counsel level and court type, which are covered by Codified Barrister rates. Please use the link to the FAQ Document if you are unsure of these combinations. Anything that is excluded from Codified Barrister rates will be billed in the following section. If you do not wish to enter any activities on this screen, you will need to remove the line in order to continue. Please click 'remove' to do this.

Remove

Activity Date

Activity Type

The Codified Barrister Bill Line is always the first page CCMS presents when creating your itemised bill.

This page automatically creates the rates under Schedule 2, Table 1 of the Remuneration Regulations. These rates are for barristers in independent practice for work that is not advocacy service in relation to family proceedings.

Click 'Remove' then next on this page.

CCMS: Exclusions from the Codified Barrister Scheme

[Save and Return to Bill Details](#)

7.1.126

Exclusions from the Codified Barrister Scheme

In this section you should only claim for combinations of counsel level and court type, which are excluded from Codified Barrister rates. Please use the link to the FAQ Document if you are unsure of these combinations. If you do not wish to enter any activities on this screen, you will need to remove the line in order to continue. Please click 'remove' to do this.

Remove

Activity Date

Activity Type

The Exclusions from the Codified Barrister Scheme page can be used to create an itemised claim and enter your own hourly rate.

Scroll down on this page

CCMS: Exclusions from the Codified Barrister Scheme

Preparation - Advocacy Prep ▼

Court Type

County court ▼

Please choose the Court (or proposed Court) where this activity took place.

Counsel Level

Junior Counsel ▼

Activity Time

01:00

Please enter time spent on this activity. This should be in format HH:MM.

Hourly Rate

£54.90

Please enter the hourly rate you are charging in pounds.

You can manually enter an hourly rate in this box.

If you want to claim enhancement, enter a higher hourly rate (for example, £54.90 base rate + 50% would be an hourly rate of £82.35) and upload supporting justification with your other evidence.

If you want to claim FGF-equivalent, enter 1 hour, the Hourly Rate as the FGF fee, and upload a justification with your other evidence.

CCMS: Other Issues to Keep in Mind



CCMS Process

CCMS doesn't control family cases like non-family cases: it won't send you a prompt to bill when your instructing solicitor submits their bill. It is an issue that we are working on fixing, but until then you will need to ensure you communicate regularly with your instructing solicitor until the point of billing is ready.



Combination of Court and Counsel

Certain combinations of counsel and court are not accepted by CCMS (for example, junior counsel in the County Court). In these cases, you can enter a different combination. We will not reject your claim for these reasons.



CF1A Forms

CF1A forms are not mandatory on family cases, provided you upload any necessary information for assessment, such as justification for a higher base rate being claimed in place of enhancement. You can complete a CF1A if you wish, but as they are intended for non-family cases, they do not show the family hourly rates.

Additional Support

Guidance to Help Us Get You Get Paid First Time



Additional Support



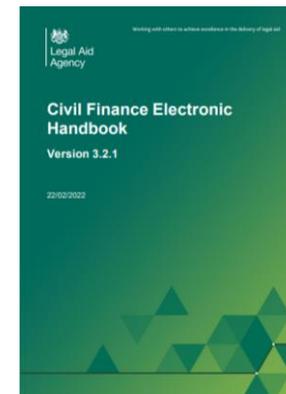
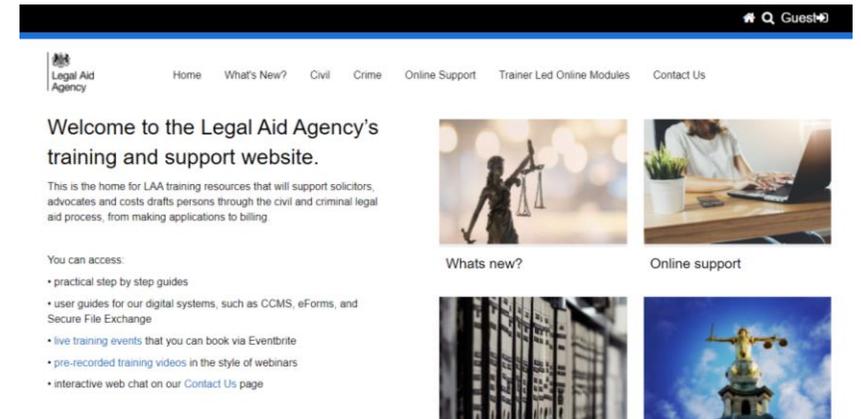
We have an Interactive training module available on our Legal Aid Learning website. It takes no more than 5 minutes to get through and will help you bill any hourly rated case in CCMS (including non-family civil cases).

Click on the image to go to the module.



The Civil Finance Electronic Handbook (chapter 9) has detailed information to help you with all hourly rated claims.

Click on the image to go to the handbook.





Legal Aid
Agency

