



Legal Aid
Agency

Working with others to achieve excellence in the delivery of legal aid

LGFS Help Us Say Yes Webinar – Your Questions

**Criminal Legal Aid Reforms September
2020 onwards**

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Unused Material Up to 3 Hours

Q: Is any supporting information required for the up to three hours fixed fee claim?

A: No, as long as the unused material fixed fee criteria is met, the fee will be paid as claimed.

Q: What can be claimed if only an hour is spent looking at unused material?

A: The fixed fee payment is applicable to any claims up to three hours and is a standard payment of £64.68 if the representation order is granted on or after 19 February 2021.

Q: What does '*all cases past the guilty plea stage*' mean for eligibility. Does it not cover cases where CPS choose to discontinue for example?

A: If a case is discontinued by the prosecution prior to or at the Pre -Trial and Preparation Hearing (PTPH), the case is not eligible for an unused material fixed fee payment.

For a case to qualify for the payment, it must be a case on indictment which progresses past the PTPH by way of the client entering a plea of not guilty and the matter being listed for trial.

Q: If a case transfers from one firm to another can both firms claim the unused material fixed fee?

A: If the transfer takes place after the Pre -Trial and Preparation Hearing (PTPH), hearing and the matter is listed for trial, both firms can claim the unused material fixed fee.

If the transfer takes place on or prior to the PTPH hearing, only the 'new' solicitor would be eligible to claim the unused material fixed fee.

Q: What can I do if I have had my claim determined but I omitted to claim the unused fixed fee?

A: Provided that your case is eligible for the fixed fee, you can open a redetermination on the Crown Court Defence (CCD) system and explain via the messaging function that you wish to claim the unused material fixed fee.

Unused Material Over 3 Hours

Q: Can you discuss the average amount of pages to be reviewed per hour?

A: All Unused Preparation Claims for paper-heavy cases are considered on their own merits and the time spent is determined on the basis of 'reasonableness'.

[Paragraph 11, Appendix E of the Crown Court Fee Guidance](#) sets out the starting rates for considering unused documentary material. These starting rates will be applied by the LAA's determining officer.

If you are claiming more than the guideline rates you must provide justification within the [LU1 form](#).

Q: If data is uploaded to Egress, how do we get this information to the LAA for assessment?

A: We do not have access to Egress or other platforms used by the police to store evidence.

If material on Egress is served by the prosecution as used material it will be uploaded into the exhibits section of the Digital Case System as a link.

This material will be electronic in nature and a full assessment of the material would be required.

Therefore, the Egress data would need to be downloaded, saved and uploaded to the LAA's Secure File Exchange (Galaxkey).

In exceptional circumstances, where Galaxkey cannot be reasonably used, we would accept an encrypted USB or disc containing the Egress material.

Please discuss with CCU before submitting discs.

Q: If you are claiming over 3 hours of unused material and also have a special preparation claim, can they be claimed together or is it better to upload them as separate claims?

A: We would advise you to submit all claims together with your Litigator Graduated Fee claim.

Sending Hearings

Q: Can a sending hearing fee be claimed if the defendant elects for a Crown Court Trial at the Mode of Trial hearing at the magistrates' court?

A: Yes, the sending hearing fee can be claimed on all indictable only and 'either way' matters that are sent to the Crown Court for trial.

Q: How many sending fees are applicable in the following scenario: two defendants one youth court and one adult, both sent up on the same day to the Crown Court?

A: One sending hearing fee is payable as both defendants appeared at the same sending hearing.

Q: If one defendant has two separate matters with two separate representation orders, and both matters sent to the Crown Court, can you claim two fees?

A: If both matters are sent to the Crown Court at the same sending hearing, only one fee is applicable.

If there are separate sending hearings for each matter, a fee is payable for each sending hearing.

Q: Is there a time limit in which you must submit the sending fee claim?

A: We would advise that you claim the sending hearing as soon as is practicable.

However, the three-month time limit for lodging claims as per the Criminal Legal Aid (Remuneration) Regulations is in force.

