



Legal Aid
Agency

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

Civil Billing - Help Us Say Yes Webinar - Your Questions

Reporting outcomes on your statutory charge cases

December 2023



Your questions answered:

General

Q: Can we upload our outcomes and Admin1 on the day we submit our bill?

A: We understand that it is usually easy for suppliers to send in their results along with their final bill on the same day. However, for the statutory charge, the priority should be reporting to us as soon as possible after the case is settled. This helps the Legal Aid Agency (LAA) take necessary steps to safeguard the fund. It is important to note that we may reject claims if there are unresolved issues with the outcomes.

Statutory charge

Q: If we have a certificate with multiple proceedings, for example, children and finances, and we need to submit our claim as 2 separate bills (one as interim and one as final), how do we report the statutory charge without submitting an outcome? We do not want to submit the outcome as this would then prevent us from submitting an interim bill for one aspect of the bill.

A: It is best to submit your interim bill for the Children Act work before submitting the outcome for the ancillary relief.

Q: Can the client pay the statutory charge in part and postpone the remaining outstanding amount?

A: Yes. However, we need to have a form of security, for example a charge or restriction on the property, to enable the postponement.

Q: If the property was in the sole name of the opponent and has been transferred to the client who lives in the family home with her child, does the statutory charge apply? When is it enforced?

A: The statutory charge will apply in this case; however, the LAA can postpone it. We can put a charge on it so it will be repaid on the sale of the property in the future. The charge will be interest bearing. The rate is currently 8% and is simple interest, so the amount of interest will be the same each month.

Q: What date should be input into the outcomes if a final order has been made and the statutory charge applies, but there is still implementation work, so we do not want the certificate to be discharged yet?

A: If you do not want the certificate to be discharged, leave the date and reason for discharge blank. Use the 'Other Information' field to let us know the position and to confirm you do not want the certificate to be discharged because implementation work is ongoing.

Q: How soon after the final order does the LAA need to be notified of the outcome? What if the transfer of property has taken place prior to notification?

A: You need to let us know as soon as possible after the final order has been made. This will keep you within the regulations, which say that you must let us know "forthwith" how the matter concluded.

Q: When a property is to be sold and proceeds divided, do I complete the land property award which always gets accepted?

A: This is the correct way to report, as there has been an order regarding the property.

Q: If the defendant has passed away in trusts of land and appointment of trustees' act (TOLATA) proceedings, would any recovery or preservation be inheritance, and the Statutory Charge not apply?

A: This is correct. You would seek to discharge the certificate because the matter has concluded, and the statutory charge would not attach.

Q: Would you still submit outcomes immediately if an agreement is reached or a final order is made even if you are waiting for the property to sell? It can take time for this to happen, and it would all depend on what the property would sell for.

A: You should submit your outcome as soon as possible after the final order. If the property were jointly owned, the LAA could apply for a restriction over it to protect our position pending the sale.

Q: Where can we find the standard statutory charge postpone clause for inclusion in final orders?

A: It is certified for the purpose of the Civil Legal Aid (Statutory Charge) Regulations 2013 that the lump sum of £x has been ordered to be paid to enable the Petitioner/Respondent to purchase a home for himself/herself (or his/her dependents) [that the property (address) has been preserved/recovered for the Petitioner/Respondent for

use as a home for himself/herself (or his/her dependants)] (amended to reflect the regulations under the Act and AJA 1999)

Costs

Q: In an 'Inter Parte' matter when is it best to discharge the certificate? We keep receiving notifications from the LAA and we can only submit them when the matter is fully settled and the CLAIM2 is ready for submission.

A: In cases where costs are successfully recovered, the final outcome should only be submitted when the matter is fully settled. There is no obligation to discharge the certificate at any earlier date, but if you wish to do so for any reason, you can. It is advised that you indicate that a further outcome will be submitted following the final settlement.

Q: Legal help costs recouped (in Inter Parte matters) do not show the VAT breakdown when we receive the provider statement of account (PSoA). This could cause an accountancy issue. Are there plans to have this reviewed?

A: There are no plans to review this.

Q: Is there a definition for the difference between reporting a cost award or cost settlement?

A: The documentation to be uploaded will differ, but the process of completing the cost award, and the information required, is the same. The information required will always include the amount of costs awarded, the amount recovered, and the interest on costs recovered.

Q: I believe that when creating a statement of costs, you calculate them based on private rates rather than legal aid rates, is that correct? And then if the costs are later recovered from the other party, we can make a separate private bill for that work and another legal aid bill for the remaining costs where the statutory charge applies. However, I assume if we cannot recover those costs, they will go back to being based on legal aid rates.

A: You are entitled to recover costs from the other side at private rates unless otherwise provided in the court order. In relation to legal aid billing, refer in the first instance to Section 19 of the Civil Finance Handbook. Your understanding is correct. Once costs have been recovered, these may be retained, and a claim made against the LAA for any non-recoverable costs. If recovery is unsuccessful then all certificated costs, including the inter partes costs, should be billed to the LAA at legal aid rates.



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