



Legal Aid
Agency

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

Civil finance #HelpUsSayYes webinar: Your questions

Family advocacy scheme (FAS) for counsel

December 2024



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Final Hearings

Q: Given that solicitors often prepare briefs for Counsel to settle cases at dispute resolution appointments (DRA), and 80 percent of these cases are settled as final, but they cannot get final cover on the certificate unless the court states the hearing is final, is there anything in the future that will make DRAs the same as an issues resolution hearing (IRH) in public law?

A: The standard civil contract 2024, category specific rules: Family, 7.127 confirms that ‘a hearing listed with a view to the issues being dealt with under a consent order, or which is otherwise not expected to be effective or contested, is not a Final Hearing’. For this reason, a DRA hearing listed with the intention that the parties will attempt to settle the case by agreement is payable as an interim hearing under the FAS, whether or not it settles the case.

‘Where a case is resolved at an Issues Resolution Hearing held under the Public Law Outline (PLO) and no further hearings take place...this hearing will be paid as a final hearing’ only because 7.128(a) of the 2024 Standard Civil Contract makes a specific exception to this definition to allow this. There is no similar exception for DRAs.

There are no current plans to bring in a similar approach for DRAs, however, we will share your feedback with the service development team to consider as part of any future contract changes.

Bolt ons

Q: If a final hearing is scheduled and then, at an advocates' meeting less than 72 hours before the hearing, it is decided that the expert is no longer needed, can counsel still claim the expert bolt-on fee?

A: Yes. Usually, to claim the bolt-on fee, the expert needs to have been cross-examined at the hearing. However, if the expert was directed to attend but was stood down just before the hearing or attended but wasn't needed for oral evidence, the advocate can still claim the bolt-on fee. This is possible if the advocate had already prepared for the cross-examination and the expert's attendance was properly cancelled less than 72 hours before the hearing. The fee will be payable to each advocate at the hearing where the cross-examination was supposed to happen (costs assessment guidance, appendix 2, 14.40). Make sure the court order confirms this fee is payable for the hearing, or provide alternate evidence as needed.

Q: If there is a final hearing and then a finding of fact a few weeks later with a new, usually bigger bundle, can only one uplift fee be claimed?

A: It depends on the type of case. In public law cases, you can only claim one final hearing bundle fee for both fact finding and final hearings, even if they are listed separately. They are considered part of a single, split final hearing as per 7.129 of the 2024 Standard Civil Contract.

In private law children cases, you can claim separate fact finding and final hearing bundle fees if both hearings are listed separately and the certificate allows this (civil finance electronic handbook, 6.9). Bundle fees are claimed on a first-come, first-served basis. If you know the bundle size will likely increase as the case goes on and counsel is instructed to attend both hearings, you can wait and claim the higher bundle fee for the later hearing.

Travel Justification

Q: Do we need to explain travel justification in a narrative on the fee note?

A: You can include counsel's travel justification as a 'Message to LAA' or in counsel's billing documents. We look in both these locations when travel justification is required.

Q: I have had several travel justifications reduced recently because the justification in the 'message to LAA' box (mileage + car park charges) was not read. Is there an issue with messages not being uploaded to CCMS properly?

A: Any messages entered in the 'Message to LAA' box when [submitting electronic evidence](#) on CCMS should be reviewed by the caseworker (if it entered elsewhere, it will not be seen). Alternatively, you can upload your travel justification as a separate document.

We are sorry if this justification has been missed. If your claim has been assessed, please submit an appeal within 28 days and we will review the matter. If the information was provided on the original claim, feedback will be provided to the caseworker to avoid this in the future.

[CCMS Counsel and Solicitor Advocate: Appeal Bill – Legal Aid Learning](#)

Additional Questions

Q: When we bill a case and send it to the solicitors for allocation, if it is a high cost case and we are still FAS, they won't allocate Counsel's fees until their case plan is approved. This is frustrating for Counsel because they expect FAS matters to be allocated immediately. Recently, we have had to wait 2-4 months for allocation and haven't been able to claim any of our FAS fees, even though the solicitors have already spent £25,000. Is there anything we can do about this?

A: Generally, providers are expected to allocate counsel costs on CCMS as needed so counsel can claim their fee shortly after completing an activity under the FAS.

However, there are a few things to consider with the case plan / high cost contract:

- In care cases, the provider usually submits an events case plan, which is fully assessed after the proceedings have concluded. If counsel does not qualify for events, we expect to see counsel costs allocated as needed to cover the hearings that have taken place.
- When solicitors use a fully costed (hourly rates) case plan, costs are agreed on a stage-by-stage basis. Pre-contract costs should be allocated as per the non-high cost process. However, there can be delays with post-contract costs because sometimes stages cannot be agreed, usually due to the overall costs being too high. Counsel costs for that stage won't be agreed until all costs are agreed. Cost increase amendments should only be submitted for agreed stages, so providers will likely only allocate counsel costs according to the agreed stages. If counsel tries to bill for a hearing in a stage that hasn't been agreed, the costs won't be available on the certificate to allocate. Unfortunately, this means there can be delays while costs for a stage are agreed.

Q: Is there anything we can do about solicitors being slow to allocate our fees, or is that an issue between solicitors and chambers?

A: The agreement between counsel and instructing solicitor is a private arrangement so the LAA has no authority to resolve any disputes. However, if you have repeatedly asked your instructing solicitor to allocate the necessary costs for you to submit a claim for your fees, and they haven't done so, you can contact us. We can then notify the solicitor's contract manager and they can raise the issue with the firm.

Q: Can you advise how long it takes from the date a claim and documents are submitted on CCMS to the authorisation of the claim?

A: Most Counsel FAS bills are assessed for payment (or rejection) within three working days after you confirm 'Documents Sent'. Some bills take longer if they are selected for internal quality testing, have complex queries, or are high value and need secondary

authorisation. You can check the latest processing dates for all bill categories online: [Civil processing dates - GOV.UK](#).

Once a decision is made, CCMS generates and sends bill authorisation, assessment, or rejection letters, usually the same or the next day. Authorised bills join the payment run queue, except if there's a debt on the counsel's account.

The payment run happens weekly, on a Wednesday. Any claims ready for payment will be included in the next scheduled payment. The payment dates for providers can be found on our website: [Legal Aid Agency payments to providers - GOV.UK](#)

If there is a debt on the counsel's account (for example, from recouping a previous payment), authorised fees will offset the debt until it is cleared, or an alternative settlement is agreed with the LAA's recovery services team. During this time, counsel will not receive payment statements for additional payments authorised.

You can generate a provider statement of account (PSoA) to check for debts and details of authorised fees offset against them. Once the debt is cleared, all payments authorised during this period will appear on the counsel's payment statement. This process also delays the appearance of recoupments and 'CCMS Credit Notes' on counsel's payment statements while the debt continues. These adjustments can be seen on counsel's PSoA if needed.



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