



Legal Aid
Agency

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High cost family and civil billing – #HelpUsSayYes Webinar – Your Questions

Counsel

September 2024

Your questions answered:

Q: Can solicitors claim an events fee for written submissions if attended by counsel and/or handing down of judgment?

A: When claimable, one event for written submissions is only claimable by the advocate who drafts them. Underruns however maybe applicable if the judge sets aside one of the listed hearing days for written submissions to be prepared. A solicitor event is claimable for judgement hearings attended by counsel.

Q: we've had several occasions where we've gone to claim our first POA for counsel on CCMS only to be informed that costs limitation has exceeded, and when we go back to SOLS are informed that they can't allocate any funds for counsel until end of case / or they don't do interim case plan ? How do counsel get their payments due (especially if they haven't claimed any under FAS)...

A: If the cost limit has been exceeded no POAs can be claimed. It is at this point discussions should be had between yourselves and your instructing solicitor to submit an interim case plan to increase the cost limit.

Section 3 of the single counsel CCFS information pack states the following *"if the costs are likely to exceed £32,500 or a previously agreed higher figure, an interim CCFS Form should be submitted, although this is not a requirement where specific prior agreement of all counsel instructed has been reached to the effect that the CCFS Form can be submitted at the end of the case"*

Q: Following on from q above: If costs of £32.500 have been given to SOLS and nothing allocated to Counsel...how can we get paid ? my understanding is that Counsel should be eligible for POA - we have same issue when Counsel stays FAS, as they haven't reached criteria for EVENTS, therefore would mean counsel is never being paid ?

A: Counsel should seek a cost allocation from the instructing solicitor. The cost limit cannot be increased further until either an interim or final CCFS form is agreed.

Q: 2CL events matters, where it is not required for the advocates meeting to be ordered in advance, can 2 be recoverable before the same hearing (if those are the only 2 attempted to be claimed in that period there the cap of 2 applies)

A: Yes. The LAA will agree an event fee for up to two advocates meetings for the solicitor and counsel. If the main hearing is split, we will agree up to a further two event fees for the solicitor and counsel for advocates meetings in the welfare/disposal stage. Other advocates meetings even if ordered by the court will not attract an event fee and the cost of attendance for all such meetings is absorbed into the cumulative price arising from all other agreed events. This is different to single counsel cases due to differences in the calculation of the event price.

Q: If a 7 day FF turns out to be 5 days, can the solicitors claim the underrun for 2 days

A: There are many factors which can indicate if underruns are claimable, and each case would need to be considered independently. The factors we would need to consider are the type of case (single or KC/Two counsel), if the hearing was prior to registration, when the listing was made (more or less than 5 days) if the hearing was subsequently relisted and when that relisting was.

Q: If the court lists 30 minutes online and the rest of day is used for submissions, a full event can be claimed, both counsel and solicitor?

A: An event is any hearing day (be it a five-minute direction hearing or day 14 of a fact-finding hearing). If no hearing takes place, an event fee is not claimable.

Q: If the court orders specifies that a submissions day can be counted as a full event, can it then be claimed?

A: An event fee is claimable for oral submissions in front of the judge. If no hearing takes place and the day is for written submissions, this will depend on whether it fits the criteria for an event to be claimable for written submissions.

Q: In regards to Hotel expenses, is there a cap that can be claimed per day like in FAS cases?

A: Hotel and travel expenses are claimable in line the electronic handbook section 6.8: Travel of the electronic handbook. When submitting a case plan justification should be provided by the instructing solicitor as to why local counsel could not be instructed.

Q: Is advice for KC an event?

A: No - An event fee for counsel is any hearing day, advocates meetings and a limited number of substantive client conferences.

Q: Is there a different event fee for counsel if heard in high court? Or is the event fee the same regardless of court type?

A: Within the single counsel CCFS events model the rates for counsel does differentiate between the level of court. The rates can be found in "Annex B" of the CCFS information pack. For KC/2 Counsel cases the rate covers all levels of court.

Q: If matter was single counsel and then goes x2 counsel say for Final Hearing - can you confirm that Hearings prior to x2 stay as £981, then all hearings once granting go to £1188 ? as quite a few Costsdraftsman state all hearings prior should be turned to £1188 as situ when FAS goes to x1 Counsel ?

A: The events models are designed to remunerate over the full life of the case as such if KC/Two counsel is instructed for a final hearing all fees would be remunerated using the Two Counsel events model. There is one scenario where this would not be the case which is as per section 12 of the two-counsel information pack

“Occasionally the authority for King's Counsel is very limited perhaps for an advice only or a consultation or for a one-day legal arguments hearing. In those circumstances, the 2 counsel model will not be applied and, if the case is high cost, it will be managed by the South Tyneside VHCC Family Unit in accordance with the Care Case Fee Scheme Single Counsel Information Pack. The discrete fee for KC will be agreed between the Provider and counsel's clerk on the basis of either the FGF scheme or hourly rates by reference to The Civil Legal Aid (Remuneration) Regulations 2013.”

Q: Can solicitors just submit 1 interim case plan through out the case in order to increase the cost limit, or can they submit several. thank you.

A: An interim CCFS case plan can be submitted whenever required as the progresses. Please note if costs submitted in an interim plan are less than the current agreement then this is unlikely to be considered.

Q: the solicitor advocate did very many hearings and advocates meetings, then 2 Counsels PA was granted because of the huge amount of documents. The FF was listed for 7 days but took 8 days. There may be a 3 or 4 days final hearing days. What is the effect of the solicitor's claim for the very many advocates meetings IF the main hearings are over 10 or 10 or less.

A: The KC/2 counsel model will be applicable therefore the limit of two advocates meetings prior to the fact finding hearing and a further two in the welfare stage will apply.

Q: With regards to Events Hearings going short - say 15day hearing going 12days and the other 3 being adjourned over a month later, can we claim those 3 days as under run as counsel will have to re-prepare case...

A: Underruns will generally not be claimable for the vacated days in this scenario as full events will then be paid at the relisted date.

Q: Once an interim case plan has been submitted and the costs have been increased should we amend Counsel's costs allocation in order for them to submit a payment on account?

A: Yes, counsel cannot claim a POA or submit a claim for costs without an allocation on CCMS

Q: In a single Counsel matter when the Court orders Advocates Meeting be held prior to each hearing for the duration of a matter (normally at the start of a matter), why is this is not accepted for all Advocates Meetings?

A: This order should be accepted for advocates meetings before each hearing beyond the date the order was made. Advocates meetings prior to this order where they have not specifically been ordered in advance would be retrospective and as such not claimable under CCFS.

Q: The hourly rate case plan template is so difficult to use, can a better one please be produced.

A: There are no immediate plans to update it at this stage, but this is being considered.

Q: I have had a number of Inherent Jurisdiction cases rejected at the rates of £112.50 or £135 referring me to Private Law Children Solicitor rates and assessing me down, why is this?

A: From a billing point of view, we would normally follow the contractual agreement and allow rates therein

Q: In different scenarios, if the solicitor sits behind counsel at a hearing, what is the hourly rate for the solicitor?

A: The rate will be the attendance behind counsel rate. Please see the civil rates calculator available at <https://www.gov.uk/government/publications/civil-claims-rates-calculator>.

Q: This varies up and down the country as majority of cases for PR Law Rule 16:4 are being and have been paid since 2013 as £112:50 / £135phr - we've had a couple in recent months disputed by LAA and stated should be SOLS RATES as per electronic handbook - which we've been informed on several occasions this is a base to start from - and the Appeals we've requested go to Independent Adjudicator which they have agreed with Counsel - therefore disputes between SOLS / cost draftsman and Counsel - which all seems to be time efficient

A: These cases are generally paid at the harmonised solicitor hourly rate. Counsel hourly rates have on occasion been agreed in exceptional circumstances.

Q: Article 21 has also been claimed as Hourly Rates, and always been paid as such, and now the recent ones have now been rejected as per Handbook ?

A: For single counsel cases, it will generally be the harmonised solicitor hourly rates that are claimable. For KC/2 counsel cases it will be FGF rates.

Q: Can you explain what a summary level claim is. Is this something that can be used for claiming a CCFS fee? get requested to submit a fee note?

A: A summary level claim is where a group of claims are bunched together and claimed under a single line rather than 'line by line' in the CCMS bill submission. For example, where you may have 10 events agreed at £981 per event you are able to submit a single line bill for £9810 however this must be accompanied by a relevant fee note showing the dates of each event being claimed as the rate and date of event are the main points to be reconciled to the HCF agreement

Q: Solicitor advocate hotel cost were disallowed. The travel by train would be a similar sum. Why was this not claimable? It was from one end of London to the other end, Guildford. disbursement vouchers given.

A: We are happy to check the bill and advise however we will need to have the CCMS certificate reference number before a specific reply can be given

Q: In a 2 Counsel case (KC and Junior), main hearings do not exceed 10 days. Junior Counsel wishes to claim FAS rates. Can KC also claim a FAS rate?

A: Junior counsel may claim FAS if they wish. There is no FAS rate for KC therefore FGF rates should be claimed.

Q: Is there any plans to replace FGF with a more simplified system or accept Events for KC on 2CL matters of less than 11 days?

A: No not at this stage.



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