



Legal Aid
Agency

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Escape Case Electronic Handbook

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Contents

Guidance on use of Handbook	6
Guidance Links	7
1: Means Assessment	9
1.1: Failure to provide Means Information	9
1.2: Evidence of Means	10
1.3: Accommodation Costs	10
1.4 Evidence of Means	11
2: Legal Help Form	13
3: Attendance and Preparation	14
3.1: Evidence on File	14
3.2: Administrative Work and Overheads	14
3.3: Perusal of Documentation	15
3.4: Preparation of Documents	15
3.5: Letters and Telephone Calls	16
3.6: Advocacy	16
3.7: Waiting	17
3.8: Travel Time	17
3.9: Running Record of Costs	18
4: Rates	19
4.1: Counsel Rates	19
5: Disbursements	21
5.1: Irrecoverable Disbursements	21
5.2: Requirement for disbursement Vouchers	22
5.3: Advocacy Support Services	25
5.4: Apportionment between parties	25
5.5: Cancellation Fees	25

5.6: Contact Centre Fees	25
5.7: Counsel or Solicitors as Experts	26
5.8: Courier Fees	26
5.9: Costs of Communication Support Professionals	26
5.10: Court Fees	27
5.11: DNA Testing	27
5.12: Drug and Alcohol Testing	28
5.13: Expert Administrative Costs	30
5.14 Expert Witness Standards	30
5.15: Independent Social Workers	31
5.16: Interpreters and Translation Costs.	31
5.17: Observations of Contact.	34
5.18: Photocopying	34
5.19: Prior Authority	34
5.20: Process Server Fees	34
5.21: Psychologists	36
5.22: Psychotherapists	36
5.23: Police Disclosure	36
5.24: Expert Rates	36
5.25: Risk Assessments	38
5.26: Solicitor Agents	39
5.27 Subject Access Requests	39
5.28: Staged Disbursements	40
5.29: Surveyor Fees	40
5.30: Transcription Fees	41
5.31: Travel and Subsistence Costs	41
5.32 Local Travel to Court – Travel Expenses	45
5.33: Use of Disbursements in Jurisdictions Outside of England & Wales	48
6: VAT	50
7: General Claiming	55

7.1: Submission of the Claim	55
7.2: Document Clips	56
7.3: Staged Disbursements	56
7.4: Bill Preparation	57
7.5: Counsels Fees and the Solicitors Bill	58
7.6: Which claim form?	58
7.7: Checks made on processing	58
7.8: Under-Claims	58
7.9: Delegated Authority	59
8: Rejects	60
8.1: Our Approach to Assessment	60
8.2: Claim Completion Checklists	62
8.3: Reject Reasons	62
8.4: Claim Fix	62
9: Appeals	63
9.1: Time Frames to Appeal	63
9.2: Appeals in relation to Nil Assessment	63
9.3: Points of Principle of General Importance	63
10: The Solicitors Charge	64
10.1: Basic Elements of the Statutory Charge	64
10.2: The Statutory Charge under Legal Help	64
10.3: Waiving the charge	65
10.4: How to Report the Statutory Charge to the LAA	66
10.5: Contract Breaches in respect of the Statutory Charge	66
11: Civil Escape Cases	67
11.1: Means Assessment	67
11.2: Disbursements for Family Help Lower	67
11.3: Family Law Controlled Work – Legal Help (level 1) and Family Help (Lower) (Level 2)	67
11.4 Public Law Rates	68

11.5: Private Law Rates	69
11.6 Housing Cases	72
11.7 Education and Discrimination matters from 1st September 2019 onwards:	73
12: Mental Health Escape Cases	76
12.1: Mental Health Tribunal Hearing	76
12.2: Fee Scheme Question and Answers	77
12.3 New Matters Starts for New Legal Issues in Non MHT Cases	79
13: Immigration and Asylum Escape Cases	82
13.1: Scope	82
13.2: Matter Starts	83
13.3: Means Assessment	83
13.4: Means Assessment – Computation Period	88
13.5: Transitional Means Arrangements	88
13.6: Disbursements	88
13.7: CW3 Applications	88
13.8: Calculating the Applicable Fee	88
14: Immigration and Asylum Disbursements CW3 Applications	90
14.1: Electronic Signature	90
14.2: Calculation of Cost Limit	90
14.3: Expert quotations	91
14.4: Country expert reports	91
14.5: Interpreters at court	92
14.6: Medical reports	92
14.7: Pre decision reports	93
14.8: Reasons for refusal letter and Determinations	93
14.9: Transcripts	94
14.10 Interpreters at Home Office Interviews for Clients who Lack Capacity or are Children	94
Appendix 1: Rates	95
Appendix 2: Checklist for Submission of Escaped Cases Claims	99

Appendix 3: Welfare Benefit Matrix	102
Appendix 4: Evidence of Means	103
Welfare Benefits	103
Other Forms of Support	104
Appendix 5: Confirmation of Benefits Forms	106
Appendix 6: Expert Rates	109
Appendix 7: Standard Disbursement Template	112
Appendix 8: News Articles	116
Appendix 9: Which Contract/Cost Assessment Guidance	118
Appendix 10: Desk Aids	120
Appendix 11: Third Party Support	121
Appendix 12: Electronic Appeal	122
Appendix 12: Version History	123

Guidance on use of Handbook

This handbook has been created from caseworker queries and requests for clarification on specific issues. It is a handbook designed for caseworkers to assist them in their everyday work and is not a comprehensive guidance document. It should be used in conjunction with the contract specification and other guidance such as the costs assessment guidance and where possible reference has been made to these within the handbook. The handbook is intended to be used electronically and, as it will be updated on a regular basis to reflect current processes users should always access it electronically to ensure the correct guidance is being referred to.

Please note that the references in *red* relate to internal processing

Links to the relevant guidance and regulations are provided over the next two pages. Guidance on the applicable contract and cost assessment for different categories of law can be found in Appendix 6.

This handbook relates to controlled work escape cases. Further information on certificated cases can be found in the [Civil Finance Electronic Handbook](#)

Guidance Links

Guidance links			
Electronic Handbook (civil finance)	Electronic Handbook (Escape Cases)	Cost Assessment Guidance (2010)	Cost Assessment Guidance 2007
Statutory Charge Manual	Expert Witness Guidance	Cost Assessment Guidance (2013)	Mental Health contract guidance 2014
Unified Contract	2010 Standard Civil Contract	2013 Standard Civil Contract	2014 Standard Civil Contract
2015 Standard Civil Contract	Appeals Guidance	Points of Principle Manual	Funding Code Guidance
Prior Authority Guidance	Guidance on funding outside England and Wales	Means Assessment guidance (controlled work)	CWA Guidance
Inquest Funding	Civil Eligibility Calculator	Cost Assessment Guidance 2018	

Claim forms and Codes

Claim codes	Outcome codes	Forms and checklists	Mental Health Controlled work forms
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Rates

Rates Calculator	Expert Rates 2013	Expert Rates Dec 2013	Expert Rates 2011
2014 Rates			

Legislation

Local Travel	Children Act	Family Law Reform Act 1969 (DNA test)	LASPO Act 2012
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Miscellaneous Links

Provider Payment Dates	Court Fees	HMCTS webpage	Court Finder
Where to send your work	London Travel	London Borough Checker	

Internal Guidance

Delegated Authority Limits	SOPS	Training Materials	Reject Codes
Assessment Codes	Desk Aids		

Contact Details

Liverpool Escape Case Team	Mhu-ec@justice.gov.uk
South Tyneside Escape Case Team	southtynesideescapecases@justice.gov.uk
CW3	Cw3@justice.gov.uk Cw3online@justice.gov.uk

1: Means Assessment

This section covers general means assessment guidance. There is additional category specific means assessment guidance

11: Civil Escape Cases

12: Mental Health Escape Cases

13: Immigration and Asylum Escape Cases

1.1: Failure to provide Means Information

3.24 Standard Civil Contract Specification 2018

Point of Principle CLA 55

There are a number of different situations that may arise regarding non provision of means information:

1. We never require evidence of means because the client is unlikely to be able to provide it (e.g. street homeless clients)
2. The client is able to provide evidence, but the provider may be justified in carrying out initial work before they have received the evidence – e.g. the client hasn't brought the evidence for their first appointment, but there is (urgent) work that needs to be carried out immediately without waiting for the client to go back and obtain the evidence.
3. The client does not provide evidence of means at the start of the case, and it would be reasonable for the provider to wait until s/he returns with the evidence, but the provider commences work anyway.

In the second situation the provider can claim for urgent work even if the client never subsequently supplies the evidence of means. Since 2007 this has meant that the provider can claim a full fixed fee in these situations (previously they were limited to two hours work), although any claim for disbursements must relate to the urgent work.

In the third situation the contract specification places the provider at risk of not being paid at all, if the client never provides the financial evidence (since we won't regard the provider as having acted reasonably in undertaking work before receiving satisfactory evidence)

The contract does not confirm the approach to take where the evidence is subsequently provided and therefore caseworkers should consider the facts of the individual case when determining which approach to take. This may be considered a contractual breach under 14.12(b) of the Standard Terms of the 2018 Standard Civil Contract or caseworkers may undertake a nil assessment as per POP CLA55

Please note where a nil assessment has been undertaken and the provider seeks to appeal they must provide both evidence of client's financial eligibility **at the time** the application for legal aid was signed **and** reasonable justification for submitting their claim without this evidence.

1.2: Evidence of Means

Evidence of wages for clients who are paid on a weekly basis

[Guide to determining financial eligibility for controlled work and family mediation](#)

The computation period covers the period of one month prior to the date funding is granted (date the Controlled Work form is signed). If the client is paid on a weekly basis ideally providers should obtain documentary evidence of as many weekly wage slips as have been paid to the client in the computation period.

Despite the above if the provider only obtains one weekly wage slip from within the computation period as evidence of the client's eligibility this is acceptable. In such circumstances you should accept the wage slip and a calendar monthly figure can be obtained for assessment purposes by multiplying the figure by 52 to arrive at an annual figure and then dividing the annual figure by 12.

1.3: Accommodation Costs

A deduction is made for the amount **payable** during the computation period. Evidence should be obtained (e.g. copy of bank statement, mortgage statement, or rent book) to support the amount stated where housing costs exceed 1/3 of gross income – basically the evidence is necessary to confirm that the amount **payable** is as stated by the client, not to restrict the allowance to the amount actually paid out. Please note bank statements would only be considered appropriate evidence where it is clear what the payment relates to.

Thus if the accommodation costs are above 1/3 of gross monthly income, what we are looking for is proof of the liability, rather than proof it is being paid.

It should be noted that amount assessed will still be net of Housing Benefit (due to the fact that HB is a disregarded benefit for income purposes); effectively the two cancel each other out.

In addition all of the other provisions, such as the allowance being capped at £545 per month for clients with no dependents etc. still apply.

1.4 Evidence of Means

Detailed below on examples in relation to evidence of means. Further information can be found in Appendices 3-5

Client 1:

Mr Stevens has no form of independent income, he does not work and relies on Ms James for accommodation, they receive no other support from Ms James and the provider would need to explain how they meet their everyday expenses accordingly.

Client 2:

Mr Ali receives financial support from Mr Osborn. Mr Ali receives £75.00 per week but does not receive any support with regards to accommodation or sustenance. **$£75 \times 52 \div 12 = £375.00$** . As the amount of support is modest, an explanation regarding how client meets everyday expenses must be provided.

Client 3:

Mrs Welch is providing accommodation, financial support and sustenance to Mr Richards. Mrs Welch provides Mr Richards with £30.00 per week for everyday expenses, such as bus fares, employment expenses.

$£30.00 \times 52 \div 12 = £130.00$.

This would be sufficient to establish eligibility as it explains how they meet their everyday expenses and that the client is provided with accommodation and sustenance.

Client 4:

Mr Smith has recently been made homeless and lost his job. Mr Williams has allowed him to stay with him and provide him with sustenance but is unable to provide him with financial support. Mr Smith approaches a solicitor to assist him with a S.184 appeal, when determining Mr Smith's eligibility for Legal Help, Mr Williams provides a letter confirming the type of support he is providing.

This letter would suffice regarding accommodation and basic needs but does not explain how the client meets his everyday expenses. An explanation in terms of how the client is meeting his living costs would be required.

Client 5:

Ms Anderson has been victim to domestic violence and has been ejected from the matrimonial home. She approaches a solicitor to obtain a divorce from Mr Martin and wishes to reclaim the matrimonial home for herself and her three children.

Ms Anderson is currently living in a women's refuge and is receiving sustenance and her basic needs. The refuge produces a letter advising of the support they provide Ms Anderson with accommodation and basic needs such as clothing and toiletries. They also confirm that the client has been subject to domestic abuse.

In scenarios such as this it is possible the client will be dependent upon the refuge and have no independent sources of income. Provided that the solicitor explicitly states that the client has no income and relies solely on the refuge – this would be sufficient evidence for determining eligibility.

2: Legal Help Form

Photocopied and Scanned Legal Help Form

Paper Files

The original Controlled Work forms are not always retained on file. Standard Civil Contract 2018 Rule 3.12 requires that the fully completed Controlled Work form be retained on file. The Legal Aid Agency requires sight of the original form signed and dated by the client. A photocopy is not acceptable.

Electronic Files

Where files are stored electronically a scanned version of the Controlled Work form is acceptable, provided it is an electronic PDF copy of the entire form. Photocopies will not be accepted.

Additional guidance can be found in the document [“Controlled Work and Audit Trends”](#)

3: Attendance and Preparation

3.1: Evidence on File

Section 1.7 Cost Assessment Guidance 2018

Where there is no evidence of work on file either through an attendance note or supporting documentation this work should be disallowed

3.2: Administrative Work and Overheads

Section 2.1 – 2.3 Cost Assessment Guidance 2018

Subject to any express exceptions payment will not be made for time spent purely on administrative matters. This will include the opening and setting up of files, diarising the file, liaising with costs draftsmen, maintaining time costing records and other time spent in complying with requirement of the contract.

Expenses which may be classed as overheads are generally not payable. In house photocopying is generally considered to be an office overhead as are the costs of postage (including recorded delivery), stationary, faxes, scanning, typing and the actual costs of telephone calls

Other overheads include staffing expenses (including training), the cost of maintaining premises and administrative expenses.

Video Conference

Q: The solicitors have claimed for a video conference but have claimed the video conference fee and room booking. Can this be claimed?

A: Whilst the contract indicates that room hire is irrecoverable as it forms part of administrative costs this is not the case with video conferencing. Where the room hire and the hire of the video conference form part of a package it will be reasonable to allow those fees

Perusal of expert CV

Providers will have an approved list of experts they use. Where an expert is required that is not on this approved list (possible due to it being an unusual skill set) it will be reasonable to spend time perusing the experts CV to determine whether to instruct them.

3.3: Perusal of Documentation

Section 2.8 – 2.14 and 2.39 – 2.41 Cost Assessment Guidance 2018

As a very rough guide it takes approximately two minutes per page of A4 to read a simple prepared document and to consider its contents and significance. Time taken will depend on the quality and layout of the document. When the solicitor has claimed for perusing documentation consideration should be given as to the documentation considered, the relevance of the documentation in the case and whether there was any duplication – for example different fee earners perusing the same document or repeated perusal of documentation.

3.4: Preparation of Documents

Drafting Attendance Notes

Section 1.28 Cost Assessment Guidance 2018

There is no requirement that file notes should be typed up. If they are, then a reasonable time (see 2.16 Costs Assessment Manual) may be allowed for time spent dictating a file note where it is reasonably lengthy, detailed and relates to an attendance or notes used in preparation of the case. Costs will not be allowed for preparation of file notes solely to record time expended

Preparing Legal Aid Forms

Section 2.58 – 2.63 Cost Assessment Guidance 2018

Below are the time frames usually considered reasonable for form completion by providers although more may be justified in complex cases

Application for legal aid	30 minutes	The time standard is the same for both CCMS and paper applications. For CCMS reasonable time for completing means assessment may be allowed
EC Claim 1	30 minutes	

Claims for CCMS downtime or slowness are considered an office overhead and are not claimable as per 2.1 of the Cost Assessment Guidance. Any incidents relating to CCMS downtime should be flagged with Online Support for investigation.

3.5: Letters and Telephone Calls

Communication	Claim	Comment
E-mail	Standard letter	These would have to have content, and not merely administrative. These will not be paid in addition to a letter. Additional time may be claimed if lengthy/complex but will need to be evidenced
Text message chain /WhatsApp message chain, etc.	Standard phone call	CAG 2.30: Text messages may be claimed as short telephone calls or attendances paid at the hourly rate for the time reasonably incurred, under the same principles applying to telephone calls On these same principles a WhatsApp message may be claimed as short telephone calls or attendances paid at the hourly rate for the time reasonably incurred, under the same principles applying to telephone calls

3.6: Advocacy

What costs are included in solicitor advocacy?

- Work which would be included within escaped cases and considered to be advocacy would be as follows:
- Acting as advocate for client at a tribunal hearing
- The following are not considered to form part of advocacy and will be paid at the attendance and preparation rate
- Attending upon the opponent at court
- Drafting an order
- Considering documents which were not previously available.
- Attending upon the client may also fall within the definition of advocacy when the advocate will need to take instructions from the client as the hearing progresses

e.g. during negotiations with the other party or in relation to documents which are produced at the last minute

- Preparation will not be considered to form part of advocacy costs (other than as detailed above)

3.7: Waiting

Q: Where a telephone call includes a substantial amount of waiting should this be claimed as waiting or as attendance?

A: Caseworkers should consider the length of time the provider was waiting to determine whether it was reasonable to claim. Where the caseworker considers that it is reasonable they will consider whether a standard call is claimable or it can be claimed at hourly rates. Where it is claimed at hourly rates this will be allowed at the applicable rate for waiting.

3.8: Travel Time

2.42 – 2.51 Costs Assessment Guidance 2018

All costs must be justified as being reasonable. Where costs are claimed in relation to travel – these costs may arise from both travel time and travel expenses. The reasons for travel should be justified on the claim form.

3.11 of the costs assessment guidance confirms that the following questions should be considered:

- *Was there a reasonable need for the journey?*
- *Was the appropriate form of transport used?*

Where travel time has been incurred caseworkers should consider whether it was reasonable to travel or whether it would be more appropriate to use a local agent or conduct the meeting via telephone attendance or video conference. Providers should provide justification on the claim form for the travel. This will be particularly appropriate where travel time is over 5 hours (round trip).

Please note that there is a distinction between the time spent travelling which may be paid as detailed above (subject to reasonableness) and travel expenses (i.e. disbursements) which may not be paid when they are considered local travel. Further details on this can be found in [5.32 Local Travel](#)

Travel to the funded client

2.47 Costs Assessment Guidance 2018

It may be appropriate to allow travel to the funded client, where for example the funded client is vulnerable, a child, is housebound, in prison or hospital. However, the provider will need to detail the context necessitating the specific reasons why that travel was necessary on the claim form to allow a judgement on its appropriateness. Any travel expenses will be subject to the rules set out in section 5.30

Please see [5.31: Travel and Subsistence Costs](#) for details on travel expenses

3.9: Running Record of Costs

Q: Is a running total required after each item?

A: No, as long as the overall total of costs is included on the running record of costs it can be accepted for assessment purposes.

4: Rates

Checks can be made on the applicable rates using the following:

- Remuneration Regulations (matters applied for after April 2013)
- Payment Annex of the contract (matters applied for prior to April 2013)

Tables in [Appendix 1: Rates](#)

London/Non London Rates

The following website will provide details on London Boroughs – this will help when considering whether the London rates apply

<http://local.direct.gov.uk/LDGRedirect/Start.do?mode=1>

4.1: Counsel Rates

Attending Hearing with Counsel

Where the solicitor is attending a hearing where counsel is representing the client the applicable rate will be the lower 'attendance at court or conference with counsel' rate.

Location of Counsel

The location of counsel's chambers determines whether the London or non-London hourly rates are payable. This is consistent with the LAA's position in respect of determining which rates apply in other instances:

In relation to agents, [Costs Assessment Guidance 2.49](#):

"If agents are instructed, London rates are payable where the agent is based within the Agency's London region"

In relation to Licensed Work, [Costs Assessment Guidance 2.49](#):

"The location of counsel's chambers will determine whether the London or non-London rate is applicable. Where a chambers has more than one address the location of the provider will be taken into account"

The [Guide for Expert Witness Remuneration 6.27](#) states:

“The location of the expert will be the determining factor as to whether London or non-London rates or fees apply. London rates will apply where the expert is based within a London Borough and where applicable the location of the expert’s registered office will be used to determine which rate will apply. Where an expert works from or has a number of different office locations, the office closest to the provider will determine which rates apply”

However, if London based counsel is instructed for proceedings taking place outside London, it would not be considered reasonable to pay the London hourly rate, or any additional travel costs, where it was reasonable to instruct a more local barrister.

5: Disbursements

Additional Guidance

4.21 – 4.27 and 6.62 Standard Civil Contract Specification

For specific guidance on disbursements and prior authorities in Immigration and Asylum cases please see 14: Immigration and Asylum Disbursements CW3 Applications

5.1: Irrecoverable Disbursements

4.28 and 6.61 Standard Civil Contract Specification 2018

This is a non exhaustive list of irrecoverable disbursements.

Costs of (or expenses relating to) the residential assessment of a Child or treatment, therapy, training or other interventions of an educative or rehabilitative nature unless authorised by us.
Ad Valorem stamp duties.
Capital duty.
Clients travelling and accommodation expenses save in the circumstances prescribed in the Costs Assessment Guidance and unless they relate to treatment, therapy, training or other interventions of an educative or rehabilitative nature or to the residential assessment of a Child.
All fees, charges and costs of Child contact centres, including assessments and reports on supervised contact, and of other professional assessments of contact between Children and adults.
Discharge of debts owed by the Client, for example, rent or mortgage arrears.
Fee payable on voluntary petitions in bankruptcy.
Fee payable to implement a pension sharing order.
Fee payable to the Office of the Public Guardian.
Immigration application fees.
Mortgagees" or lessors" legal costs and disbursements.
Passport fees.
Probate fees.
In the Family Category of Law only, costs of or expenses in relation to the provision of Family Mediation, conciliation or any other dispute resolution including Family Group conferences.
In the Family Category of Law only, costs or expenses of risk assessments within section 16A Children Act 1989 (as amended) and undertaken by Cafcass officers or

Welsh family proceedings officers, including assessments of the risk of harm to a Child in connection with domestic abuse to the Child or another person.
In the Family Category of Law only, costs of or expenses relating to any activity to promote contact with a Child directed by the court under Section 11A to 11G Children Act 1989 (as amended). This includes all programmes, consideration of suitability under s11E and other work to or with a view to establishing, maintaining or improving contact with a child or, by addressing violent behaviour, to or with a view to enabling or facilitating contact with a child.
Any administration fee charged by an expert including, but not limited to, (i) a fee in respect of office space or provision of a consultation room, (ii) a fee in respect of administrative support services, such as typing services, (iii) a fee in respect of courier services and (iv) a subsistence fee.
Any cancellation fee charged by an expert, where the notice of cancellation was given to the expert more than 72 hours before the relevant hearing or appointment.

Please note that we consider anger management courses to be therapy or training and are therefore considered to be an irrecoverable disbursement.

Reference should be made to 4.29 of the contract specification which confirms that *“If you propose to incur a disbursement which does not appear in the list in the table at Paragraph 4.28 then you must consider whether the disbursement is recoverable or not by reference to its purpose and the provisions of Paragraph 4.24”*

Administrative Costs

Administrative fees are generally not payable.

Late Payment Fees

We will not pay for late payment charges. These are considered to be an irrecoverable disbursement and therefore cannot be paid out of the fund.

Disbursements under Family Help Lower

Please see [11.2: Disbursements for Family Help Lower](#)

5.2: Requirement for disbursement Vouchers

Submission of Disbursement Vouchers

Where disbursements are being claimed we require the submission of a disbursement voucher for any amount which has a value of £20 or over (inclusive of VAT).

Where no disbursement voucher is available e.g. In respect of Mileage or Court fees your request should be accompanied by a file note, letter confirming payment or ledger entry showing full details of the disbursement claimed. File ledgers will only be accepted in lieu of a disbursement voucher where invoices are unlikely e.g. mileage or court fees.

- Invoices for experts should be produced by the expert and should contain the following details:
- The experts name
- The specialism of the expert,
- The address of the expert and, where they are claiming travel where they are travelling to and from
- The client name
- A breakdown of the work undertaken. The breakdown should contain the hourly rate or contain sufficient detail to allow the hourly rate to be easily determined. This requirement applies to all claims submitted (including those issued before the codified rates were introduced).

Where the solicitors have been unable to provide the level of detail in the vouchers due to the age of the case we will accept vouchers without that level of detail but providers will need to justify this in a covering letter. The invoice should represent work undertaken rather than be a quotation.

Where disbursement vouchers are required these should be collated on a clip and attached to the claim.

The table below details the standard evidence requirements however this does not mean that further evidence cannot be requested if necessary to undertake an assessment.

Type of Disbursement	Standard Evidence Requirement	Minimum requirement if unable to provide standard evidence
GP Medical Records	Receipt/Invoice Letter from medical centre confirming payment Justification for charge if incurred after 25/05/18	Ledger entry
Police Disclosure	Receipt/Invoice Letter from police confirming payment Justification for charge if incurred after 25/05/18	Ledger entry
Train Fare	Train Ticket	Ledger entry with screen print verifying rail fare.

Car Parking	Ticket/Receipt from car park detailing amount paid and date	Ledger Entry
DNA Testing	Invoice	Court Order Ledger entry Letter confirming payment
Drug and Alcohol testing	POA and Bill - Invoice Bill –court order confirming drugs tested. This isn't required if prior authority has been granted and it matches	Court Order/Attendance Note of hearing Ledger entry Letter requesting testing and letter confirming payment
Experts	Invoice	Ledger Letter confirming payment Copy report
Risk Assessments	POA and Bill – Invoice Bill – court order confirming risk assessment criteria. This isn't required if prior authority has been granted and the amount matches	Court Order/Attendance Note of hearing Ledger entry Copy Report

Unable to Provide Vouchers

Where the solicitors are unable to provide vouchers we will, in exceptional circumstances accept a copy of the ledger entry to verify that the disbursement has been incurred.

Where we need to assess the disbursement we would require some form of supplemental evidence to enable an assessment to be made (i.e. copy of the instructions and a copy of the report drafted)

Examples of exceptional circumstances where alternative evidence will be accepted

Client attends a hearing and these costs are paid from the legal aid fund. The client is drug dependent and provides no further instructions to the provider after the hearing and fails to supply evidence of the travel for the purposes of invoice requirements. Despite efforts of the firm to obtain the invoices they are unable to do so.

This would be an exceptional circumstance and we could authorise payment. File evidence would be required, that the monetary transaction made (file letter) together with evidence from the file/sols letter to clearly outline context of the payment, ordered to attend by the Court etc.

5.3: Advocacy Support Services

Advocacy support services or witness intermediaries are services provided to the client to provide support during the proceedings or in court and also to aid their understanding of the proceedings. They generally do not form part of legal representation or representation at court. As the legal advice continues to be provided by the solicitor or counsel it is not considered that these costs are recoverable from the fund.

5.4: Apportionment between parties

Further guidance on apportionment of experts' fees can be found in [section 1.6 of the Narrative and Guidance Document](#) and [section 4.4 and 4.5 of the guidance on the remuneration of experts witnesses](#).

When considering the amount payable each case will need to be considered individually based on the information detailed in the claim form.

5.5: Cancellation Fees

Additional Guidance

Schedule 5(4) Civil Legal Aid Remuneration Regulations 2013
4.28 Standard Civil Contract Specification 2018

No cancellation fee will be payable if the expert is cancelled more than 72 hours before a hearing or appointment.

For a case where a hearing scheduled for a number of days might be cancelled, the 72 hour notice would extend into the number of days of that cancelled hearing. It might be right to reimburse for the first or second day but the notice would allow the expert rescheduling subsequent days and further cancellation fees would not be appropriate.

5.6: Contact Centre Fees

The costs of or expenses relating to assessments or reports (including on contact at a contact centre) based, in whole or in part, on an observation of contact with a child/children cannot be charged as disbursements recoverable from the Fund.:

Supervised contact involves professional supervision and/or observation of the contact having regard to safety issues and/or contact reintroduction. Supported contact is contact taking place at a specified, neutral venue without any professional supervision although there may be contact centre staff present. Previously, the costs of an assessment of supervised contact or other professional assessment of contact could in certain

exceptional circumstances and, subject to the exclusions in paragraph 1.3 of the Funding Code, be met by the Fund on behalf of a funded client. However, this is no longer appropriate in relation to orders or directions made on or after 6 April 2009 requiring an assessment of contact, including contact re-introduction or any report based, in whole or in part, on an observation or observations of contact with a child/children.

The correct approach when finding any such costs would be to disallow the entire report as being out of scope, as a disbursement arising in whole or in part, on an observation of contact and therefore irrecoverable under [paragraph 2.5, sub paragraph 3, of the Funding Code decision making guidance and the contract specification](#). Costs of completing the contact centre referral form and the form itself are a recoverable expense however no more than 12 minutes should be allowed

5.7: Counsel or Solicitors as Experts

Additional Guidance

5.37 – 5.44 of the Guidance on the Remuneration of Expert Witnesses

5.8: Courier Fees

Additional Guidance

2.2 Cost Assessment Guidance 2018

Courier Fees are generally an irrecoverable disbursement against the fund. However, exceptionally these will be claimable as disbursements, where they are incurred in relation to a particular case or matter and it was reasonable to do so. When making a claim (other than payments on account) solicitors must justify the exceptional circumstance and the reasonableness of courier costs

For payments on account there is no requirement to justify the use of the courier – this will be assessed upon submission of the claim as above.

5.9: Costs of Communication Support Professionals

Additional Guidance

3.7 Cost Assessment Guidance 2018

The Equality Act 2010 places an obligation on service providers to make reasonable adjustments so that they can assist clients with disabilities. The provider as service provider is therefore obliged to make adjustments, where it would be reasonable to do so. The adjustment is not a disbursement as it is to be borne by the provider.

Where it would not be reasonable to make the adjustment, the client can be charged and so the costs may be a disbursement and reimbursed by the Lord Chancellor. In recognition of the level of these costs and to prevent any gap in provision, the costs of sign language interpretation have been deemed unreasonable for providers to bear on an ongoing basis. These costs will be reimbursed by the Lord Chancellor. It is important, however, for the costs of the interpretation, and any additional preparation time incurred by the interpretation, to be calculated and notified to the Agency separately, so that the cost does not get passed onto the BSL client via the statutory charge. These costs should therefore be reported as part of the costs of assessment.

5.10: Court Fees

Additional Guidance

9.1 Cost Assessment Guidance 2018

In controlled work matters, court fees are not a permitted disbursement

5.11: DNA Testing

The funding order and Remuneration Regulations set out a rate per test and an additional fee for reporting. The test includes testing of the father and child (plus mother if required). The amount would increase for each additional child tested. If there are a number of alleged fathers each father and child/children tested would constitute a separate test. The report fee is per report not per person.

For a matter opened on 01/06/2012 the applicable rate would be £315 for the test plus an additional fee of £90 making a total of £405. A further fee of £133 is allowable for each additional child tested.

If there is no detailed breakdown on the invoice but the amount claimed is for the total of the test fee and the report fee this is reasonable without the need for a further breakdown although caseworkers should check the rates claimed are within the codified rate e.g. if the invoice says "DNA testing £324 this will be acceptable as it represents the £252 test fee plus the £72 report fee.

Where grandparents are being tested the provider should confirm why it was necessary for the grandparents to be tested. We would also expect alternative quotes to be sought and evidenced with the claim.

DNA Sample Collection Fees

Where a sample fee has been charged a fee of between £50- £90 per collection address would be considered reasonable. This will include any associated costs.

Where three samples are being collected of the mother, alleged father and child from the same address one collection fee of between £50-£90 would be considered reasonable. Where the DNA sample for the mother and child is collected at one address and the DNA sample of the alleged father is collated at a different address two sample collection fees will be payable. The invoice should detail that the collection took place at different addresses.

Factors that might point to the higher amount being charged could include difficulty in collating the sample from the client or the number of clients attending at the same address. This is not however an exhaustive list and we would expect providers to provide details to justify this.

Payment of DNA tests

S22 (4) AJA or S30 (1) LASPO

[S20 \(6\) Family Law Reform Act 1969](#) confirms that the party who made the application for the test should generally pay the costs of DNA tests. Where the court makes an order on its own motion we would generally expect these costs to be split equally between the parties.

Where solicitors are claiming these costs and the funded client is the respondent to the application for the DNA testing itself we should not pay these costs unless justification has been provided.

5.12: Drug and Alcohol Testing

There are no hourly rates for drug/alcohol testing, and these are generally not itemised on a time basis. Where a report is ordered we require a breakdown of the work undertaken including any rate claimed and time taken. These tests will commonly arise in Residence/Contact and Care cases and would normally arise by Order of the Court.

The court will specify on the order what they require each party to be tested for i.e. which drugs, length of time to be tested and the type of test it should be.

Although there are no hourly rates, the solicitors should only be requesting that the laboratories quote and undertake any testing in accordance what the court has ordered, i.e.:-

- Which drugs are being tested
- Length of time over which the testing should arise, e.g. three months; and
- The type of test that it should be.

Alcohol testing bracelets (for example, Scram X) may be claimed if this has been ordered by the court and it is not part of a therapy or support programme

Assessment

We require the court order and the invoice to be submitted alongside the claim. The work undertaken must match that requested on the court order in relation to the three elements above for payment to be made.

The main inconsistencies that arise when applying for a request for testing from a laboratory are as follows:

The length of time the testing should cover – the standard period of testing is 3 months unless the court orders any other length of testing period (this should be specified on the court order).

The type of analysis/testing required – testing can be carried out as an Overview/Standard testing or on a Month-by-month/rolling/segmented testing basis. The overview/standard testing is where one sample is tested for the previous three months. With month-by-month/Segmented testing a sample will be collected and tested on a monthly basis. This is a lot more costly method of testing, and, unless the court order specifies this method of testing solicitors should only request testing on an Overview/Standard testing basis.

If the court specify the types of drugs that should be tested then the quote should match these drugs and no others.

When the court order hair strand testing for alcohol this will only be for FAEE and ETG testing, Liver Function testing will not be required. We would only expect to see Liver Function testing on the quotation when the court has specifies this type of testing or when the court order states blood testing for alcohol. Where the court order states liver testing and the invoice confirms alcohol package this will be satisfactory.

If the solicitor requests a quote from the laboratories that matches that of the Court Order it will be justified on assessment/taxation, however where the solicitor accepts a quote that differs from the court order they will be risking a reduction on billing. Where the nature of

the testing is not clear it should be rejected, where the nature of the testing or on assessment the amount is considered unreasonable the cost should be reduced

Also note that any fees in respect of administrative support services are not payable by the LAA. This includes Split invoicing fees charged by laboratories.

Sample Collection Fees

There is no codified rate for sample collection for drug testing although it is considered that the DNA sample collection fee is a comparative fee. A fee of between £50 and £110 would be considered reasonable having regard to the fees payable on DNA testing and potentially more complex collection requirements. Where providers are claiming towards the higher end of the range this would need to be justified on assessment.

5.13: Expert Administrative Costs

4.24 and 6.61 Standard Civil Contract Specification 2018

Schedule 5(4) Civil Legal Aid (Remuneration) Regulations 2013

Any administration fee charged by an expert is considered to be irrecoverable against the fund - this includes but is not limited to:

- a fee in respect of office space or provision of a consultation room
- a fee in respect of administrative support services, such as typing services
- a fee in respect of courier services and
- a subsistence fee

5.14 Expert Witness Standards

On 01/10/2014 changes were implemented in [Practice Direction 25B](#) to introduce standards for expert witnesses acting in family matters involving disputes about children. The standards apply to the following proceedings where the expert was instructed on/after 01/10/14:

- Care and Supervision
- Adoption Proceedings
- Private Law Cases relating to child arrangement orders

Subject to any order made by the court, the LAA will only pay for expert witnesses in these cases where the experts comply with the practice directions.

Providers will need to confirm that the expert meets the standards either by annotating the claim form or in a supplemental note submitted with the claim. Where the expert does not meet the standards we require an order from the court which specifies why instruction of an expert who does not meet the standards should be used in the case along with a copy of the experts CV.

5.15: Independent Social Workers

Additional Guidance

7.180 – 7.181 Standard Civil Contract Specification 2018

Family Cases

In family cases the current rate for independent social workers (ISWs) is based on the rates paid by CAFCASS. ISWs are not listed in the Remuneration Regulations, and they are instead paid in accordance with ss7.182 and 7.183 of the Standard Civil Contract in line with the rates payable by CAFCASS for the work.

A rate of £35 per hour was introduced by CAFCASS on 1 May 2023. Accordingly, the LAA will allow claims for this rate in relation to ISW instructions that take place on/after 1 May 2022. Those instructions that took place prior to 1 May 2022 will continue to be remunerated at the previous rates of £33 (£30 p/h outside of London and £33 inside of London if instructed prior to 1 April 2014).

Non-Family Cases

There are no set rates for independent social work services in non-family cases. In such cases the LAA, when determining what rate to apply may use the family rates above as the starting point taking into account all the circumstances of the individual case and any evidence supplied by the provider. This approach is confirmed in the [Expert Witness Fees Guidance \(6.2 – 6.4 and 6.8\)](#) and in [section 3 of the Risk Assessment Guidance](#)

5.16: Interpreters and Translation Costs.

Additional Guidance

5.23 – 5.27 and 5.35 – 5.36 Guidance on Remuneration of Expert Witnesses

Point of Principle CLA 34

The guidance on remuneration of [Expert Witnesses \(5.23 – 5.27\)](#) confirms that a rate of £100 per 1,000 words would be considered reasonable for translation as this is the rate that prior authority would not be required in a certificated matter. Please note this does not supersede the codified rates for interpreters which should be applied where applicable. Additional guidance on interpreters can be found in [5.35 – 5.36 of the Guidance on the Remuneration of Expert Witnesses](#)

For translation we will require either the rate per word and number of words translated or the hourly rate and time taken. We will generally consider the hourly rate for interpretation to be a comparable rate to that used for translation.

Interpreters Charges

For work undertaken from 01/04/2019, attendance and waiting at a hearing can be claimed at the codified rate for interpreters. It is considered that a rate of 2/3rds of the hourly rate is reasonable in respect of travel time in all instances.

Telephone Interpretation

Where telephone interpretation is undertaken prior to 01/04/17 (as opposed to face to face interpretation) it has been agreed that a rate of between £42 p/h and £53.40 p/h is considered reasonable. This equates to between 70 and 89 pence per minute.

For telephone interpretation undertaken on or after 1st April 2017 the codified rate for interpreters will apply. As per the Civil Legal Aid (remuneration) (amendment) Regulations 2013 the current hourly rate is £25 for London and £28 for non-London.

In addition please see [5.30: Transcription Fees](#)

Use of In-House Interpretation Services

[Point of Principle CLA34](#)

The costs if a firm's in house interpreter are not allowable as a disbursement or under profit costs. However, should the main fee earner with conduct of proceedings speak the same foreign language as the client, then this can be claimed as an attendance on the client. Provided no third party interpreter has been used, this may also be taken in to account as a relevant factor for a discretionary enhancement (subject to the usual rules on enhancement of costs).

Minimum Charges

Where an interpreter is claiming a minimum charge we would expect these to be justified on submission of either the claim or the prior authority/CW3 application (where applicable). In order for us to make an assessment as to whether these costs were reasonable the provider would need to demonstrate that there was a scarcity of resource and therefore it

was necessary to instruct an interpreter who claimed for that minimum charge. This can be done by providing written evidence from at least three local service providers that they charge a 1 hour minimum fee. Any justification or evidence provided must be dated within 12 months of the instruction of the interpreter. It is not sufficient for the provider to state that this is a standard charge that is claimed on all cases.

Where no justification has been provided we will assess to the actual time taken.

Justification for claiming above the codified rate

Where the provider has instructed an interpreter above the codified rates, they will have done so at the risk of LAA refusing to pay above the codified rate on assessment. To demonstrate that it was reasonable to instruct an interpreter above the codified rate the provider will need to include with their claim:

- Interpreter's invoice with a breakdown of costs;
- Confirmation that there was a scarcity of local interpreters available to undertake work at the codified rate. Written evidence, such as quotes or a table of price lists, from at least 3 local service providers should be uploaded with their claim and these must be dated within 12 months of the instruction of the interpreter.

This will be considered on a case-by-case basis and any decision will not be binding on the assessment of another case. The provider must therefore justify these costs under each claim. Just because we have paid above the codified rate on one case will not be justification for paying above the codified rate on another case.

Interpreters Travel

The actual time taken for an interpreter to travel to attend upon a client can be claimed. This is opposed to simply allowing the reasonable time to travel from the interpreter's registered office to the client. This is on the basis that an interpreter will often travel directly from one client to another throughout the course of the day and will not return back to the office in between attending upon clients. It is therefore considered reasonable to allow the actual time taken for an interpreter to travel from one client to another.

Despite the above in order to make such an allowance the invoice from the interpreter must clearly specify the details of the journey undertaken on a specific date, including the start and destination point. The Legal Aid Agency will not make an assumption in the event of claims for long journeys by an interpreter that a lengthy journey between clients has taken place. If specific details of the journey are not provided the default position will be to allow the reasonable time to reach the client's location from the interpreter's registered office

5.17: Observations of Contact.

Any assessment, for example from a psychologist or psychiatrist required to inform the decision of the court may be based on some observation of contact. However, the purpose of the report must be to express an expert opinion on risk and/or safety of contact in principle rather than any assessment of supervised contact itself and any contact centre costs or fees must be met elsewhere. We might therefore expect to see a psychiatrist observing one session of contact in order to inform the report more generally but the purpose of the report must not be to assess contact.

Guideline times for observations of contact can be found in [section 6.1 of the Guidance on the Remuneration of Expert Witnesses](#).

5.18: Photocopying

The costs of in house photocopying will generally not be allowed as these costs are generally considered to form part of the office overheads. The exception to this is where there are unusual circumstances or the documents are unusually numerous.

Copies of over 500 pages will usually be considered exceptional.

Copying should be done at the lowest commercial rate – approximately 4p per copy (A4 size). Please note however that these are guideline rates and if the firm are not able to obtain copies at these rates this should be justified with reference to alternative quotes obtained

1 to 5 Copies	10p each
6 to 49 Copies	8p each
50 to 199 Copies	7p each
200 to 499 Copies	5p each
500+ Copies	4p each

Where the copies are made by another party for copies of documents they provide this payment will usually be allowed on assessment subject to the costs being reasonable.

5.19: Prior Authority

Please see [13.6: Disbursements](#) section in relation to Immigration and Asylum CW3 applications

5.20: Process Server Fees

For Process Servers in Scotland [please see 5.32](#)

Telephone Calls

It would usually be considered reasonable to allow a few telephone calls to facilitate the service of documents. Some process servers will claim a flat rate for these telephone calls which is reasonable charge provided the rate claimed is reasonable. The rate payable could be based on one unit of their hourly rate (similar to how solicitors claim)

Checks should be made however to ensure the telephone calls are not administrative and the reasons for the calls should be detailed by the process server to allow for an accurate assessment to be undertaken. These are generally claimable at 1/10 of the hourly rate

Swear Fees

Although not a requirement outside of committal and freezing orders, the court prefers any affidavit/statement of service to be officially sworn so the cost of the swear fee is allowable under Legal Aid so they can be certain the respondent has received and understood the order. The cost of doing so is around £5 for one document and then a further £2 for any additional document. Where charges have been made for additional documents full details of what these documents are should be provided.

Travel

Given the nature of the work undertaken by process servers it is considered that the hourly rate applies to time spent travelling. The process server should detail on their invoice where they are travelling to and from.

Generally there is an expectation that an enquiry agent within either the locality of the court or respondent would be instructed. This approach is confirmed in [3.10 of the Cost Assessment Guidance 2018](#) which confirms that “It will seldom be reasonable to instruct an enquiry agent except in the locality where the work is being done”.

Repeated Attempts at Service

Where the process server has attempted service on more than three occasions this should be justified by the provider/process server. We may also question whether substituted service was considered by the court.

Supplementary Costs

Where additional costs are charged, such as preparing an invoice or uploading documents to a database, consideration should be given to whether the supplementary cost is something a privately paying client would be reasonably expected to incur. Where it is not considered reasonable, it should be assessed to nil and a right of appeal given. Where the court is the assessing authority and has allowed these costs, there is no need to question the costs further.

Time spent by a process server undertaking a risk assessment prior to service is considered to form part of their office overheads and is therefore not allowable on assessment. For claims assessed by the LAA these costs will be disallowed on

assessment. Where the court is the assessing authority the claim will be returned to the provider for the work to be removed from the claim.

5.21: Psychologists

Whether the child psychologist or the adult psychologist hourly rates is applied depends upon the purpose and nature of the assessment required rather than the type of case (i.e. public or private). For instance, where the parents are being assessed specifically on addictions the adult psychologist rate would usually apply. Where it is the child who is to be assessed then the child psychologist rate would usually apply if a child psychologist is to carry out the work.

If the main purpose is the assessment of the parents and that may include seeing the child with the parents, then the appropriate rate to be applied would be that of the adult psychologist.

The costs of therapy cannot be paid.

5.22: Psychotherapists

There are no codified rates for psychotherapists and we would therefore need to consider if there was a comparable rate. Many psychotherapists have trained as ISW's and, where it is clear that the work carried out most closely fits that of an Independent Social Worker (ISW) then the ISW rate of £33/£30 may be applied.

A similar position applies to play therapists.

5.23: Police Disclosure

We would usually expect an invoice in support of a claim for reimbursement of any fee payable to the police however many police authorities do not provide an invoice. In these circumstances the provider should confirm that in their covering letter and provide a copy of their ledger detailing the payment to the relevant police force.

5.24: Expert Rates

Additional Guidance

S2 Guidance on the Remuneration of Expert Witnesses

Guideline rates – Annexes 1-5 Guidance on the Remuneration of Expert Witnesses

Expert Rates prior to 03/10/11

There are no codified rates for experts where funding is applied for prior to 03/10/11. The codified rates can be used as a guide to what rate would be considered reasonable.

Expert Rates for certificates after 03/10/11

Codified rates were introduced for experts where funding is applied for on/after 03/10/11.

These are hourly rates and cannot be exceeded without prior authority. The maximum hourly rate applies to all work undertaken by the expert (except travel) including attendance at court, report writing, interviews with client.

Reductions were made to some of the codified expert rates for funding applied for on/after 01/12/13. There were however no changes to housing disrepair surveyor fees or the rates for [cerebral palsy experts](#)

Please note the criteria for being an “expert” is not narrowly defined as somebody who is providing a medical, psychiatric report etc. but will cover the wide range of services listed in the codified rates and others where there is no codified rate where an expert opinion or service has been provided.

All rates are detailed in the [guidance on the remuneration of expert witnesses](#)

Case Start Date (to and from)	
03/10/2011 and 31/03/13	Community legal service (funding) amendment No2 Order 2011 Schedule 6
01/04/2013 and 01/02/13	Civil Legal Aid (Remuneration) Regulations 2013
On/after 02/12/13	Civil Legal Aid (Remuneration) (amendment) Regulations 2013

London/Non London rates for experts

As the rates differentiate between London and Non London, this can cause issues identifying the appropriate rate. The guidance states that the address of the registered office (the address registered with HMRC) determines where the expert is based and hence the rate paid.

However, where the expert has more than one office, the office closest to the client or Provider will be used to determine the rate.

Should the experts have a PO box address outside of the London Boroughs or have given their home address as their registered office and it is apparent that they are based in London, it is reasonable to conclude that the experts have more than one office and if the place of work in London is closer to the client or Provider, the London rate is applicable.

London rates can be applied for any location that falls within the London Boroughs. If there is any doubt whether the expert is within a London Borough, or otherwise, enter the postcode or address in the link, to clarify:

<http://local.direct.gov.uk/LDGRedirect/Start.do?mode=1>

No expert Rate

Where an expert is not listed the LAA or the court will assess the rate payable. In considering the rate at which to fund the expert service, the LAA:

- must have regard to the rates set out in section for other experts, potentially are there experts of a similar nature.
- may require a number of quotes to assess the reasonableness of the rate payable.

We may also consider the work undertaken by the expert, whether the work is comparable to that of another expert and we will also consider the qualifications of the expert.

5.25: Risk Assessments

Additional Guidance

5.6 – 5.11 Guidance on the Remuneration of Expert Witnesses

Risk assessments within section 16A Children Act 1989 and undertaken by Cafcass officers or Welsh family proceedings officers are irrecoverable disbursements. This exclusion of risk assessments does not extend to specialist assessments of risk that require professional expertise which is beyond that held by Cafcass officers/Welsh family proceedings officers.

There is a set rate for specialist risk assessment expert services. For funding applied for between 01/10/2011 and 30/11/13 the applicable rate is £63 and for funding applied for after that date the appropriate rate is £50.40.

Caseworkers will need to examine the nature of the work undertaken in order to determine whether the expert service being provided is in fact that of a specialist risk assessment expert in accordance with guidance or, whether the expert is providing independent social work services.

The following combination of factors could point to a risk assessment being required:

A court order in the proceedings specifies that a 'risk assessment' is required; and

Work that is being done is over and above that requiring independent social work expertise. In considering this caseworkers will need to look at the nature of the services being provided. For example, the following circumstances may require the expert service provided to be treated as a risk assessment:

- There is a substantiated criminal allegation relevant to the proceedings in the immediate background of the case (e.g. a conviction for a sex offence or pending proceedings for this case; and
- A finding of sexual abuse relevant to the case has been made by a court; and
- A report is specifically required to address the risk posed as a result of the above factors.

All the above types of factors would need to be present in order to justify remunerating the expert services provided at the risk assessment rate of £63/£50.40 per hour. Only if prior authority is granted, can a higher hourly rate apply.

We do not routinely require court orders for risk assessments. If prior authority has been granted for a risk assessment then a check has been made by the prior authority team that the risk assessment fulfils the criteria

If prior authority hasn't been granted then a copy of the court order should be provided so that we can establish if the work fulfils the criteria for a risk assessment. For payments on account, where the rate of £63/£50.40 is being claimed an invoice stating that the social worker acted as a risk assessor will suffice.

Further guidance can be found in the [Risk Assessment Expert Fee Guide](#)

5.26: Solicitor Agents

These costs form part of the solicitors profit costs and should be claimed at the applicable hourly rate or within the fixed fee rather than as a disbursement.

5.27 Subject Access Requests

Subject Access Requests – Copies of Records

With the introduction of the Data Protection Act 2018 on 25th May 2018 the position in relation to charging for copies of records under a subject access request has changed. From that date anyone can make a request to a company or organisation asking for access to the personal information it holds on them and, this right can be exercised at any point for free.

Where the organisation considers that a subject access request is “manifestly unreasonable or excessive” there is provision for a charge to be made.

This will particularly impact on charges for a medical record. Where a client is requesting their medical records then this should be done under a subject access request. There will be circumstances where a doctor’s surgery will not treat a request as a subject access request and will charge e.g. when solicitors seek them for the purpose of court assessments arising from a court order for expert assessment.

Requests for police disclosure are often for full disclosure including third party information which means the costs of disclosure are generally claimable as they contain information that relates to individuals other than the client. These requests are made pursuant to the Family and Police protocol or a court order where the police fail to comply with the protocol. Further guidance can be found in 5.23: Police Disclosure

For information disclosure requests that incur a fee, we would expect to see details of the fee in the case file as fees vary and a justification of a charge being made. This may be in the letter from the charging organisation, a copy of information from their website or a short note from the provider on the file.

Where requests for information incur a charge because they fall outside the scope of the Data Protection Act 2018 and any Relevant General Data Protection Regulations, we would expect to see an invoice, covering letter or a copy of the ledger from the organisation disclosing the information which details the payment.

Further details can be found on the [Information Commissioners website](#).

5.28: Staged Disbursements

Please see [7.3: Staged Disbursements](#)

5.29: Surveyor Fees

Correct Rate

The Payment Annex and Remuneration Regulations confirms that the correct rate for surveyors fees are paid at a lower rate for non-disrepair cases.

For certificates issues between 3rd October 2011 and the 1st December 2013, the rate is set at £50 per hour;

For certificates issued on/after 2nd December 2013, the rate is set at £40 per hour.

For housing disrepair cases see below.

Housing and Disrepair Cases

The type of diagnostic and investigative survey undertaken in housing disrepair cases will generally involve more complexity than a housing valuation. It is therefore accepted that a surveyor acting as an expert witness in a housing disrepair matter would meet the exceptionality criteria required to exceed the codified rate for property valuations.

As a result from 01/04/2013 the following rates were introduced for surveyors in housing disrepair cases

Outside London	Up to £85 per hour
In London	Up to £115 per hour

5.30: Transcription Fees

There are no codified rates for transcription fees and therefore any assessment will be based on

- Whether it was reasonable to incur the costs, based on the specific circumstances of each case and;
- If the costs are reasonable and proportionate.

We will generally require a copy of the court order requesting the transcription along with the invoice, which should detail a breakdown of how the costs were reached. In cases where there has been no order for transcription (for example in relation to an appeal), the provider should detail the reasons why an order cannot be provided

Further guidance on transcription fees can be found in [6.23 – 6.25 of the Guidance on the Remuneration of Expert Witnesses](#). In addition please see [5.16: Interpreters and Translation Costs](#).

5.31: Travel and Subsistence Costs

Local Experts

In respect of disbursements fixed rates have been introduced for experts that must be applied; however on assessment the expert's context and the reasonableness of their fees must also be considered including whether it is more appropriate to instruct a more local expert. The Cost Assessment Guidance indicates that 'payment for disbursements that are more expensive by reason of the distance of the client from the provider's office will be limited accordingly'.

In respect of this 'localism' issue, if the Provider is experiencing difficulties in instructing experts in the locale this needs to be made apparent in the bill submissions. This will allow an informed judgement as to the reasonableness of any additional costs arising.

On a practical level this is a question on assessment rather than a reason to reject a claim.

Travel Rate for Experts

The maximum hourly rate paid to experts for travel is £40. It would generally not be considered reasonable to pay more than the expert applicable hourly rate and, whilst a discretionary decision, it is considered that 2/3 of the hourly rate would be considered reasonable. The only exception is Travel in respect of process servers

Example 1:

A psychologist has an hourly rate of £117. They have claimed their travel costs at £78 which equates to 2/3 of their hourly rate. As this exceeds the maximum hourly rate for travel of £40 this should be reduced to the £40 maximum

Example 2:

An independent social worker has an hourly rate of £30. They have claimed their travel costs at their hourly rate of £30. It is not considered reasonable to pay the full hourly rate for travel costs and a payment of 2/3 of the hourly rate (£20 per hour) is considered reasonable.

The £40 maximum expert travel rate is not considered appropriate as this is above the hourly rate charged by independent social workers

Overnight Expenses for Experts

For disbursements arising from third party instruction (e.g., an expert), provided their invoice details the expenses, this will be sufficient to consider payment. However, it should contain sufficient information to allow an understanding of why the travel and overnight expense was considered appropriate and consideration should be given to the guide rates for accommodation.

There is no provision for payment of subsistence costs to an expert. [Please see 5.13: Expert Administrative Costs](#)

Vouchers

Any claim for disbursements of £20 or over (including VAT) should be evidenced. For travel costs this will be the receipt or ticket and, where mileage is being claimed this will be the ledger and file note detailing the number of miles.

Only standard class rail costs are payable. If no ticket is available for the journey taken then alternative proof of the disbursement supported by evidence that the amount claimed represents the appropriate standard class fee will be acceptable (e.g. screenshot from ticketing website)

Claims for mileage must specify the destination and mileage involved to allow verification of the distance claimed. When submitting a claim (as opposed to a payment on account) justification should also be provided as to why it was reasonable to travel by car rather than public transport.

Provider Travel and Subsistence Claims.

Where travel and/or accommodation is allowed, the following guide rates apply:

Standard Mileage Rate	£0.45 per mile maximum
Public Transport Mileage Rate (applicable where public transport is available but the provider chooses to drive)	£0.25 per mile maximum
Expert Travel (hourly rate)	£40 maximum
Overnight Hotel – London, Birmingham, Manchester, Leeds, Liverpool or Newcastle-Upon-Tyne city centres	£85.25 £100 for overnight stays incurred on/after 01/09/23
Overnight Hotel – elsewhere	£55.25 £65 for overnight stays incurred on/after 01/09/23
Overnight (other than at a hotel)	£25.00
Night Subsistence Allowance (<i>not payable for experts</i>)	£21.00
Personal Incidental Allowance (<i>not payable for experts</i>)	£5.00
First class travel will not be allowed unless it is more cost effective than standard travel	

All accommodation, night subsistence and personal incidental expenses will need to be evidenced by a receipt in accordance with current validation processes. Where travel is apportioned across a number of certificates this should be noted on the claim form or on an attendance note. This will help to avoid any queries when the claim is being processed.

The rates above do not include the overnight subsistence allowance of £21.00 and the personal incidental allowance of £5.00. In the costs assessment guidance these are all incorporated into one overall rate.

Alternative rates may be accepted by the LAA in exceptional circumstances.

Taxi Costs

Where taxi costs are claimed but public transport alternatives are available claims may be assessed to the cost of public transport unless evidence is provided that this was unavailable or inappropriate.

Mileage

The mileage rate of 45p is a maximum rate. The [Civil Specification Contract 6.54](#) confirms that providers can only claim whatever disbursements have actually been incurred and therefore where the mileage rate incurred on the ledger is lower than the lower amount should be allowed.

Please note that the mileage rate for travel takes into account the costs of fuel (petrol/diesel) and therefore no separate claim should be made for fuel costs

Issue Date	Travel Rates
Matter opened pre-9th May 2011	Solicitor Mileage: capped at 45ppm Client Mileage: capped at 45ppm Expert mileage: no maximum, subject to reasonableness Expert travel rate: no maximum, subject to reasonableness
Matter opened post 9th May 2011	Solicitor Mileage: capped at 45ppm Client Mileage: capped at 45ppm Expert mileage: capped at 45ppm Expert travel rate: capped at £40 per hour.

Congestion Charge

3.20 – 3.22 Costs Assessment Guidance 2018

The congestion charge may only be claimed as a disbursement where it is incurred exclusively in relation to the case or matter. Fee earners of providers based inside the charging zones will need to provide evidence that they would not have incurred the charge if it were not for that particular fee earner case work, given that if a fee earner uses a private car to travel to/from his or her office inside the zone the daily charge will be triggered by his or her normal journey to/from work.

Consideration should also be given as to whether travel by car was the most appropriate and cost effective mode of travel.

No payment can be made without evidence that the congestion charge has been paid for the date claimed.

Travel & Mileage: When to check?

Checking Mileage and Travel Time:

Any checks should be made using the [court finder route checker](#) for court attendances or Google maps or equivalent route planner for any other travel. This should be checked against the highest travel estimate.

Providers should justify any discrepancy

Caseworkers should annotate any discretionary assessment on the database when the assessment is completed.

Additional Casework Checks

The checks above do not preclude caseworkers making checks where they have concerns about the amount claimed. This, however, is not an expectation.

Funded Client Travel Costs

3.23– 3.32 Costs Assessment Guidance 2018

The rules for payment of funded client travel expenses differ depending on the situation.

Attendance at court: The funded clients travel expenses will be paid where it is reasonable for the client to attend court. The guidance states this is as a witness of fact and we would expect to see justification as to why this is considered reasonable.

Travel to attend experts: These are paid where it was necessary for client to attend the expert and where the client cannot afford to pay for visiting the expert (the client is impecunious). When considering whether the costs should be allowed we would need to consider the cost of the travel, distance to the expert and the method of travel.

Where travel costs are payable we should consider the most reasonable form of travel, this is usually public transport.

These costs should be included as disbursements within the solicitors' bill.

5.32 Local Travel to Court – Travel Expenses

3.15 of the Cost Assessment Guidance confirms:

Paragraph 5.22(3) of the Practice Direction to Rule 47.6 CPR (Civil Procedure (Amendment) Rules 2013) states that local travel expenses incurred by legal representatives will not be allowed on assessment. What is “local” will be a matter in the discretion of the court dealing with the case at the relevant time, but as a general rule, will

be taken to mean within a radius of 10 miles radius of the court. However, courts will generally take a flexible approach and may allow travel expenses where local public transport is known to be poor. Any claim for travel expenses within this 10 mile radius should be supported by a file note giving the particular reasons for the claim.

On the basis of the above we will not pay for any travel expenses to court where the journey is within a 10 mile radius of the court unless justified on the claim. If there is no justification any costs that have been incurred should be assessed to nil. This applies to both solicitor and counsel claims assessed by the LAA.

Where mileage has been apportioned (and therefore appears to be below 10 miles) the provider should note this clearly on the claim.

Time spent travelling can be paid regardless of distance subject to reasonableness tests. This will be paid at the applicable hourly rate for travel and waiting. Further details on travel time can be found in [3.8: Travel Time](#)

It has been agreed following discussions with provider representative bodies that the local travel guidance will only apply to matters started on/after 01/09/14.

Question:	Answer:
What is "local" travel to court?	Local travel is classed as a journey to court that is 10 miles or less from your office to the court you are travelling to.
Is the local travel rule applicable to a 10 mile (or less) return journey or a one way journey?	Local travel is classed as a 10 mile or less one way journey. It is not calculated on the distance of a return trip. For example if your local court is 7 miles away from your office this is the distance that is used for calculating whether travel costs are claimable or not. The return trip of 14 miles is not the distance used and in such an example travel costs would not be claimable given the one way journey to court is less than 10 miles.
Does the local travel rule apply to journeys to locations other than courts that are less than 10 miles away from my office?	No. The rule only applies to journeys to court. Travel expenses incurred as a result of journeys to other destinations within 10 miles of your office are potentially remunerable, subject to the usual reasonableness rules and necessary documentary evidence (e.g. travel to attend

	upon a client in prison based less than 10 miles from your office).
What about journeys that are above 10 miles, can I claim travel costs for such journeys?	Yes. The position in respect of non-local travel to court (i.e. one way journeys to court in excess of 10 miles) remains unchanged and therefore the relevant travel costs are remunerable.
What are travel costs?	Section 3 of the CAG relates to disbursements only. Therefore disbursements incurred as a result of journeys to court of less than 10 miles are not remunerable. This includes the following (but is not exhaustive): Mileage Train tickets Bus tickets Taxi fare Ferry tickets
Can I claim my travel time then?	Yes. If you are undertaking a journey to court that is less than 10 miles you can claim the time the journey takes as travel within your profit costs in the usual fashion. The time taken should be claimed at the appropriate hourly rate for travel and waiting and is subject to the usual reasonableness provisions and fee scheme rules.
Can I claim my car parking costs?	Yes. If you travel to court in your car and the journey is less than 10 miles you can still claim the cost of car parking as a disbursement. This is due to the fact that car parking is a disbursement that is incurred irrespective of the distance of the journey to the relevant court.
If I drive to court 8 miles away from my office, park in a public car park, represent my client, and then drive back to my office what can I claim?	You can claim the following: Profit Costs Time taken to travel to court Time spent at court (attendance, waiting, advocacy etc.) Time taken to travel back to your office Disbursements Parking Costs Mileage for the journey to court cannot be claimed in accordance with CAG 3.14 as the journey each way is less than 10 miles.

If I drive to a court that is based 11 miles away from my office can I claim my travel disbursements?	Yes. Local travel is defined as a one way journey of 10 miles or less. If the journey is 11 miles it falls outside of this definition and travel disbursements can be claimed in the usual fashion.
If the journey to court is above 10 miles from my office can I claim the expenses in respect of the full journey or are the first 10 miles non claimable.	You can claim your travel disbursements in such instances for the full distance of the journey. When travelling to a court that is over 10 miles away from your office the full travel disbursement can be claimed and it is not necessary to disregard the first 10 miles.
When did this rule become effective?	The rule became effective for certificates issued from 1 st September 2014 onwards.
What about certificates issued prior to this date?	The rule does not apply and disbursements incurred as a result of travel to court are remunerable irrespective of the distance travelled, subject to the usual reasonableness and documentary evidence provisions.
Does the local travel to court rule include travelling to Tribunals within 10 miles of my office?	No. Tribunals do not fall under the remit of the CPR and are governed by The Tribunal Procedure Rules. The guidance at CAG 3.14 does not therefore extend to travel to Tribunals and travel costs can be claimed subject to the usual rules irrespective of the distance of the journey to the Tribunal. Please note that this is a change of approach from our initial guidance on this matter issued in September 2014.
My journey to court is less than 10 miles but is a particularly difficult trip to make. I note the wording in CAG 3.14 allows for discretion in respect of difficult trips. Can I claim my travel costs in such instances?	CAG 3.14 does contain scope to allow travel costs in respect of difficult trips. If you feel that the trip to court of 10 miles or less is particularly difficult and should therefore be allowable you should provide justification as to why you feel this is the case with your claim (attendance note, covering letter etc.).
Are there any exemptions?	No. Only the above.

5.33: Use of Disbursements in Jurisdictions Outside of England & Wales

The use of an expert outside of the jurisdiction of England & Wales is allowable from the fund subject to the usual rules on reasonableness and proportionality.

As the costs are incurred in a foreign jurisdiction, then the codified rates applicable to experts are not enforceable. However, the codified rates can be used as a comparator to determine the reasonableness of any claim.

This does not affect the LAA's position with Independent Social Workers in jurisdictions outside of England & Wales, which cannot be paid under any circumstances.

Please also see [10.7: Counsel or Solicitors as Experts](#) for the use of legal experts in foreign jurisdictions

Process Servers in Scotland

Where a client is required to serve papers on an opponent based in Scotland, the serving of papers is undertaken by Sheriff Officers or messengers-at-arms. They charge flat rates that are set by statute in Scotland so it is unlikely a breakdown of any mileage will be provided. As the costs are incurred outside the jurisdiction of England and Wales, the LAA is able to accept these invoices. Costs should be checked against:

[Act of Sederunt \(Fees of Sheriff Officers\) 2013](#); or

[Act of Sederunt \(Fees of Messengers-at-arms\) 2013](#) as applicable.

6: VAT

S4 Costs Assessment Guidance

It is not for the LAA to determine the VAT status of individual cases. Any queries that a provider has on VAT in individual cases should be referred to HMRC

VAT Rates and applicable dates

Section 4.37 Costs Assessment Guidance 2018

On Bills the VAT calculation is based on the date of last progressive work undertaken as detailed in the claim form excluding bill preparation. In some circumstances a firm may elect to use the VAT rate that was applicable when the work was undertaken, particularly with true disbursements. In these circumstances caseworkers may see split rates.

Applicable VAT Period	Rate
1991: forward	17.5%
1/12/08 - 1/1/10	15%
1/1/10 - 4/1/11	17.5%
4/1/11: forward	20%

VAT on disbursements

S4.7 – S4.20 Costs Assessment Guidance 2018

It is the responsibility of the Solicitor to determine the basis of a claim for VAT either as a true disbursement or not ([paragraph 4.14 Cost Assessment Guidance](#)). They will then claim the sum on the claim form. Although true disbursements are claimable inclusive of VAT the LAA requires a breakdown of the fee to show VAT separately. This is so the LAA can confirm the correct or reasonable hourly rate has been claimed by the expert under the [CLS \(Funding Order\) \(Amendment No 2 2011\)](#).

The following should be considered upon receipt of a claim

When caseworkers consider an item they will not be determining the decision from the solicitor to claim VAT or whether the individual expert is VAT registered

The caseworker shall verify only that the VAT rate applied is within those that can accurately be sought. This would be either:

- the VAT rate claimed at the time the expert invoiced, or
- The VAT rate at date of final work.

As a general rule, travelling expenses incurred by a provider in the performance of his or her clients instructions are not VAT disbursements and must be included as part of the provider’s overall charge. This means that they are not true VAT disbursements, but are subject to VAT at the same rate as for profit costs unless the provider is not VAT registered.

Q: Is VAT payable on provider travel disbursements?

A: Yes we should pay VAT on travel expenses. Travel expenses are considered an integral part of the solicitors supply to the client and therefore attract VAT much the same way as their profit costs do. Rail fares are zero rates so therefore the likelihood of us double paying on VAT is small. If they claim VAT we should be paying it and if they don’t we won’t.

VAT on travel		
Goods or Services	VAT rate	More Information
Houseboat moorings	Exempt	VAT Notice 742
Parking spaces or garages supplied with houseboat moorings	Exempt	VAT Notice 742
Passenger transport in a vehicle, boat or aircraft that carries not less than ten passengers	0%	VAT Notice 744A
Tolls for bridges, tunnels and roads operated by public authorities	outside the scope of VAT	Privately-operated tolls for bridges, tunnels and roads are standard-rated Update 1 to VAT Notice 700

Rail fares are ‘zero rated’ so therefore it is unlikely that we will pay double VAT on travel

Example:

- Train ticket bought for £50
- Solicitors can claim from LAA £50 + VAT
- Rail fares are zero rated on VAT and therefore solicitors can claim VAT in addition as the rail fare doesn't include VAT.

VAT in Cases Where the Client does not have the right to reside in the UK.*S4.26 – S4.34 Costs Assessment Guidance 2018*

Where a funded client's right to stay in this country has not been determined, the costs of any legal services will not attract VAT. VAT is not claimable on any case unless the client has residential status. Even where a client may be physically present in the UK this doesn't mean that the UK is their 'place of residence'. Their place of residence can only be in the country from which they originated, or where they have a right to remain. (4.29 Cost Assessment Guidance)

Once an individual has been granted leave or permission to remain in the UK VAT will be applicable even if they "overstay"

The guidance on VAT in immigration cases was originally published in [Focus 49 \(December 2005\)](#). This confirms that:

"For VAT purposes, persons who have not been granted either permission or a right to remain in the UK should be treated as belonging in their country of origin. This will apply for example, to asylum seekers and those entering without permission. "Belonging" in this context involves something more than physical presence alone – see above. In these circumstances, the country in which individuals have their usual or permanent place of residence can only reasonably be seen to be their country of origin unless and until they are granted the right to remain in the UK.

This policy applies to all supplies of legal services in relation to an application to remain in the UK (including services relating to that application, or costs, after a judgment has been made) even if a final bill is rendered after the recipient has been granted the right to remain in the UK. Consequently if work is done after determination to close the file VAT need not be apportioned."

Q: Is VAT claimable on detention centre standby claims?

A: Where a client is detained this is because they do not have a right to reside in the UK or because they do not have any status. Their place of residence would therefore be considered to be their country of origin and so VAT would not apply.

Should leave to remain be granted, VAT is triggered for work undertaken from that point, it is not retrospective for the whole of the work incurred. No apportionment should be necessary unless other work is done after the determination of the right to stay, when the client would be resident and VAT chargeable. For controlled work, if a client acquires residential status during the course of a case, then VAT can be claimed from the start of the next form of service. This approach has been adopted due to the billing method on controlled work.

Q: If temporary leave to remain is granted during legal help but the matter proceeds to CLR what VAT can be claimed?

VAT can be claimed for work undertaken under CLR as the client has leave to remain. No VAT can be claimed for work undertaken under legal help (even for work undertaken after the grant of leave to remain).

VAT and Interpretation Costs

The general position on the treatment of VAT is not applicable for the costs of interpretation services is as follows:

Where the interpreter is instructed to allow the provider to communicate with the client, the service is supplied to the provider, as part of his or her supply of legal services to the client. The costs of the interpreter will not be viewed as a true disbursement. The provider will charge VAT on these services to the client (LAA) if and only if the provider is registered for VAT.

Where the interpreter is instructed to allow the client to communicate with the provider, the interpretation is viewed as being provided directly to the client. The costs of the interpretation will constitute a true disbursement for VAT purposes, VAT will be chargeable if and only if the interpreter is VAT registered.

The LAA's approach on assessment will be to assume that the client has been the recipient of interpretation services. Therefore, the fees of interpreters will always be treated as a true VAT disbursement. In instances where there is the potential that VAT will not attach, it is the provider's job to provide evidence and justification for why VAT should attach.

Interpretation where the client has no right to reside in the UK

Whether or not it is supplied in the context of legal services, interpretation is viewed as a service that is supplied in the physical location where it takes place, irrespective of the

place of residence of the client. Hence VAT will be chargeable if the interpreter is registered for VAT.

Where a provider is not registered for VAT and is unable to reclaim from HMRC any VAT it incurs, it should take the approach of passing the gross fees of the interpreter, inclusive of VAT, directly on to the LAA (paragraphs 4.17 to 4.20 Costs Assessment Guidance).

VAT and services abroad

VAT is claimable at the applicable rate for the country in which the service was provided.

For example, if a toxicology test is undertaken in France, the toxicologist is subject to VAT in France, and the applicable rate for that country would apply.

Counsel's VAT

Counsel Fees can attract the rate applicable at the time the service was provided, however they can also elect to apply the rate at the time that the total bill is presented

7: General Claiming

7.1: Submission of the Claim

The forms can be located on the [website](#). We would encourage providers to use the electronic EC Claim 1 form.

Electronic Signatures

When the claim has been submitted electronically the use of an electronic signature is allowable in respect of claim forms. The electronic signature must be a typed copy of the relevant parties name in the signature section of the claim form and the date section should also be completed electronically. Alternatively if a copy of the original claim form is submitted electronically (for instance following a further information request for the form via email) the scanned copy of the original signature is acceptable.

If a signature and date, whether original or electronic are not provided, then the claim form cannot be accepted and must be rejected in order to obtain the same. Please note that the name in the signature section must **not** be the name of the firm with ownership of the matter.

Copy Documentation

Where the claim has been mislaid we will accept a copy of the claim and enclosures. The solicitor must detail the reasons for submitting a copy claim and they must resign the form.

Photocopied documentation can be accepted where the provider can confirm they hold the original paperwork on file in case of audit. This can be confirmed by either telephone or email, whichever is more appropriate.

Incorrect Rates

Where the incorrect rate has been claimed then the claim should be returned for the provider to include the correct rates

Incorrect Totals

Where the totals page has been added up incorrectly for example where there is a calculation error or letters and calls have been omitted from the claim these cannot be changed by the processing caseworker. The claim will need to be rejected so that solicitor can provide an updated totals page of the claim form

Supplemental Bills

Where a bill has been paid but the solicitors have omitted to something on that bill we would need to consider whether the client has a financial interest in the claim. If so the agreement of the client should be obtained before accepting a further bill

Where we are paying an amended claim then the entire claim should be resubmitted with any previous payments being recouped. The solicitors can either amend CWA to reflect the amended claim or void the original claim allowing the revised claim to be considered afresh.

Recoupment

Where monies are being recouped we should inform the provider (solicitor and counsel) in writing of the recoupment or adjustment to their claim.

7.2: Document Clips

To assist processing we have suggested that the file of papers is organised into the following clips/sections.

Clip 1	Clip 2	Clip 3
EC Claim 1 Running Record of Costs Counsels Fee Note Evidence of Disbursements	CW1 Legal Help Evidence of Means CW2 CLR Evidence of Means	Granted/Part granted CW3 applications

7.3: Staged Disbursements

Staged disbursements should **not** be included in the total disbursements figure of the EC Claim1 when the full claim is submitted; instead they should be listed in the stage disbursements section of the form.

By adding the staged disbursements figure to the outstanding total you will be able to calculate the full total for disbursements claimed in the case.

Example:

The provider opened a case in February 2013 and subsequently claimed a £200 staged disbursement through CWA in May 2012.

The Escape Case was billed on CWA in January 2013. All disbursements (including staged disbursements) amount to £500.

When submitting the EC Claim 1 the provider should claim £300 for disbursements and then list that they also claimed £200 for a stage disbursement, thus accounting for the total disbursement amount of £500.

Any VAT that disbursements attract should be claimed at the same time as the relevant disbursements. For example if the provider claims £1,000 as a staged disbursement in respect of an expert's report and the report attracts VAT this should be claimed as part of the staged disbursement, rather than the overall VAT for all disbursements when the full claim is submitted.

Appeals and Staged Disbursements

If deductions are made to a claim on entries made on staged disbursements and also the main claim both sets of deductions would be included as part of the same appeal process. It is not necessary for the items to be appealed separately.

7.4: Bill Preparation

On escaped cases an allowance of 30 minutes is considered reasonable in the majority of cases. For larger bills we may consider a higher allowance.

No bill preparation is claimable for cases where only the fixed fee is claimable.

These costs can however be taken into account when the costs escape the fixed fee however they should not become a mechanism to escape the fixed fee. This means that:

- The provider considers the value of the costs arising as recorded on their system.
- If they are below the escape threshold then the costs have not escaped and the fixed fee is due.
- Only where the costs have escaped would it be reasonable to draw a bill;
- An escape from the fixed fee threshold solely as a consequence of costs arising from drawing the bill would be inappropriate, the costs arising would not be considered reasonable.
- Where the costs of an escaped case claim have been assessed to below the threshold only the fixed fee will be payable and the costs of preparing the bill cannot be added as preparation of the bill was not justified.

Example

- Escape case threshold: £1000
- Profit costs (excluding claim preparation): £1200
- Bill preparation: £25
- Total profit costs claimed £1225.

On assessment claim reduced to £980 excluding bill preparation therefore the fixed fee is payable in this matter. The costs of drawing up the bill cannot be added to take it back over the threshold which would allow it to be paid at hourly rates.

7.5: Counsels Fees and the Solicitors Bill

Inclusion of counsels fees within the bill

Solicitors are responsible for claiming Counsel's fees within their bill. A fee note is required detailing the work undertaken

7.6: Which claim form?

All claim forms and checklists can be found on our [website](#)

7.7: Checks made on processing

Signature

The claim must be signed and dated otherwise this will be rejected. This should be an original signature of a representative of the firm.

Rate Checks

On bills assessed by the LAA checks should be made that all rates claimed are correct

For all bills where the funding was granted after 03/10/11 checks should be made on all expert fees and barrister fees

7.8: Under-Claims

Please note that, where there is potential for a supplemental claim, it must be submitted in line with the guide lines on submitting [Supplemental Bills](#).

Scenario 1:

Q: A provider has submitted their claim. As the caseworker is going through the file, they locate several hours worth of file notes that do not appear to have been claimed for.

A: Given the volume of documentation the bill should be rejected to ensure the provider has not omitted this from their initial submission.

Scenario 2:

Q: Provider has claimed the wrong hourly rates, meaning they will actually be underpaid.

A: The bill should be rejected, the rate claimed should always be correct.

Scenario 3:

Q: Provider has miscalculated their totals, they are claiming less as a total than is listed in the bill.

A: The bill should be rejected.

Scenario 4:

Q: Incorrect fixed fee claimed that is lower than it should be.

A: As with Scenario 2, the wrong rate has been claimed and this claim should be rejected.

Scenario 5:

Q: Expert with a codified rate of £135 is claiming £130 per hour.

A: Pay as claimed.

Scenario 6:

Q: A disbursement voucher is attached to the bill, but not claimed within the bill.

A: Pay the bill as claimed. If the provider wishes to claim the disbursement at a later date, they may do so as a supplemental claim.

Scenario 7:

Q: Amount claimed for a disbursement is lower than listed on the disbursement voucher.

A: If there is no apparent reason (such as apportionment), then the claim should be rejected in the first instance as the LAA must be sure it is paying the correct amounts.

7.9: Delegated Authority

Delegated authority is an internal process to verify payment above specific financial limits.

Please see the delegated authority guide, checklist and authority levels (this is an internal document only)

8: Rejects

The LAA has been working closely together with Contract Managers, Case Management Staff and Providers to reduce the amount of claims that are rejected. This has involved training to providers and this training can be found on the LAA training website.

8.1: Our Approach to Assessment

Detailed below is our approach to reject and assessment of claims. Providers should use the checklists to ensure that all information is provided on submission as this will help us to process the claim quicker.

	Reject	Assess
Means Assessment & Merits Decisions	<ul style="list-style-type: none"> • Matter opened under incorrect category • Incorrect matter type code • Error – matter start rules 	<ul style="list-style-type: none"> • Work out of scope • Merits criteria not satisfied • Means evidence missing • Client out of scope on capital and income • Client incorrectly passported • Means assessment incomplete/ incorrect • Evidence for NASS support insufficient
Form/System Completion	<ul style="list-style-type: none"> • Not signed and dated by solicitor (can be electronic) • Outcome codes • EC1 form not completed correctly • Incorrect calculation/ totals of claim • Costs on CW1/EC/RRC differ substantially • No details uploaded to CWA and claim not on month before/after • Duplicate claim form submitted • Missing UFN • UCN missing so revised EC1 is required 	<ul style="list-style-type: none"> • CW1 form incomplete • Completed Legal Help Form not on file • Completed CW1 form not on file • Duplicate entry on CWA

Documents & Evidence	<ul style="list-style-type: none"> • No running record of costs provided • Multiple items of work not evidenced • No evidence for individual items of 1 hr or more • Bundle of notes missing • No or inadequate response to any requests for information and/or documentation 	<ul style="list-style-type: none"> • Work not substantiated by file note or evidence • No evidence of work done • Insufficient evidence of work done
Rates and Fee Schemes	<ul style="list-style-type: none"> • Incorrect fee scheme (including underclaim) • Incorrect hourly rates (including underclaim) • Does not meet threshold to be escape fee 	<ul style="list-style-type: none"> • Escape fee reduced to fixed fee
Disbursements/Experts	<ul style="list-style-type: none"> • No/missing evidence/voucher • No breakdown of work undertaken • Nature of drug/alcohol testing unclear • Amount claimed differs from invoice/voucher (incl work underclaim) • Expert fees above codified rates • Further information required in relation to work done by expert 	<ul style="list-style-type: none"> • Expert fees unreasonable • Exceptional travel costs and expenses • Drug and alcohol testing unreasonable
Counsel Fees	<ul style="list-style-type: none"> • Further information in relation to work done by counsel (inquests) 	<ul style="list-style-type: none"> • Counsel fees post LAR • Counsel fees unreasonable • Enhanced rates for counsel excessive
Cost Assessment		<ul style="list-style-type: none"> • Discretionary/reasonableness issue with claim • VAT incorrect • VAT cannot be claimed • Admin costs/Form Filling • Form Completion • Research

The caseworker may email the provider requesting information/documentation if the caseworker has invested time considering the claim before realising that information is needed. This is a discretionary decision and the expectation is that the provider would be able to provide the information within 24 hours.

This is not an exhaustive list. For any other reason the caseworker would be expected to use their discretion.

8.2: Claim Completion Checklists

The claim completion checklist was devised as an aid for caseworkers and providers and to encourage the reduction of rejects. The checklist details all of the mandatory checks that providers should make prior to submission of their claim and caseworkers once in receipt of the claim.

Reject Checklists	
EC Claim 1	Civil Checklist
EC Claim 1	Immigration and Asylum Checklist (NIAT)
EC Claim 1	Mental Health Claims

Immigration and Asylum Claims

Where the claim is submitted in respect of an immigration or asylum matter where a reject is found caseworkers will continue to check for a further five minutes after which point the claim will be rejected. Providers are encouraged to check the remaining points on the checklist are correct prior to resubmission.

8.3: Reject Reasons

When claim is returned to providers by way of a reject, the correct reject reason(s) should be used and any correspondence should clearly confirm what information is needed or steps that should be taken to enable the claim to be processed.

8.4: Claim Fix

The claim fix service was introduced in the autumn of 2012 to enable providers to challenge rejects received or to raise queries. The team have a 24 hour turnaround target and providers must email details to the following address: laacivilclaimfix@justice.gov.uk. Reports are provided to the contracting teams and feedback is also given to individual caseworkers.

9: Appeals

Where costs have been assessed by the LAA there is a right of appeal.

In addition please see [Appeals and Staged Disbursements](#)

Where providers are appealing an assessment decision they should submit their full file of papers with their appeal submission.

9.1: Time Frames to Appeal

Any appeals against the assessment of costs must be submitted within 28 days although an extension may be granted of up to 14 days if requested within the first 21 days, and a good reason given. Appeals received after the deadline has elapsed will be rejected.

9.2: Appeals in relation to Nil Assessment

If a claim that has been reduced to nil (this may be on the basis of the means assessment) is reinstated by the adjudicator we will carry out a usual assessment of the file once the same is returned to us from the adjudicator. Paragraph 6.81 from the 2018 contract states:

“Where in dealing with an appeal on the papers only the assessor identifies new issues the assessor will, as he or she considers appropriate in the circumstances, either:

Adjourn the appeal and seek representations from the parties before making his or her final decision; or

Refer the matter back to us for a new decision”

9.3: Points of Principle of General Importance

Under the 2018 Standard Civil Contract there is no provision to make a point of principle application. All previously certified points of principle can be found in the [points of principle manual](#).

10: The Solicitors Charge

10.1: Basic Elements of the Statutory Charge

The basic requirements for the statutory charge to apply are as follows:

- Sums must be spent by the LAA in funding services for the client
- Property must have been recovered or preserved by the legally aided client in the dispute
- Regulations must not make the recovered property exempt from the charge, or the costs incurred excluded from calculation of the statutory charge

Recovery and Preservation

Recovery is where the client has gained as a result of the proceedings. Preservation is where the client succeeds in fending off a claim by someone else to their property or to possession of the property i.e. at the end of the dispute the client keeps all or part of what they regard as their own.

10.2: The Statutory Charge under Legal Help

The charge can arise in favour of the provider only where family help (lower) has been granted and no certificate issued in the same matter

Where a certificate has not been granted but a client recovers or preserves property (which is not their main or only dwelling) under family help lower the statutory charge will arise if the claim escapes the standard fee. A case will escape the standard fee where the costs calculated at hourly rates are 3x the standard fee and the amount of the charge will be the costs above the fixed fee escape threshold together with any disbursements. In these cases the charge will be in favour of the provider and this should be recorded on CWA

The approach to the solicitors charge at the controlled work level is intended to incentivise early settlement. Where a settlement fee has been paid at level 2 it is exempt from the statutory charge.

Example:

A provider in Leeds undertakes Level 1 and Level 2 work on a finance case, the case becomes exceptional and there has been recovery/preservation

The exceptional threshold is calculated on three times the standard fee in this case:

- Standard fee = £294
- £86 (*legal help private law national fee*) + £208 (*Family Help (lower) Non London Finance Fee*)

The costs (excluding VAT) are as follows:

- £1500 profit costs
- £25 disbursements

The charge will apply to all recorded profit costs above the exceptional threshold of £882 plus any disbursements and applicable VAT

- Profit Costs: £1500 *less*
- Exceptional threshold: £882 *plus*
- Disbursements: £25 *plus*
- Applicable VAT: £128.60
- Amount of Solicitors Charge = £771.60

Where the statutory charge arises in relation to the costs of legal help, help at court or family help lower where money or property has been recovered after a certificate has been granted, then the charge will be in favour of the LAA.

10.3: Waiving the charge

5.1.12 Statutory Charge Manual

Where the charge is in favour of the provider there is discretion to waive the charge where its enforcement would cause grave hardship to the client or distress or would be unreasonably difficult because of the nature of the property. Any decision to waive the Statutory Charge must be referred to the LAA

10.4: How to Report the Statutory Charge to the LAA

Where the charge arises the provider should fill in the CMRF (or online equivalent) as usual with information of the costs incurred on a case. Details of the total amount recovered/preserved by the client should be entered in the “value of costs/damages recovered” field. CWA will then calculate the amount payable.

10.5: Contract Breaches in respect of the Statutory Charge

6.2 Statutory Charge Manual

7.11 & 14.11 – 14.12 (b) Standard Civil Contract Standard Terms 2018

The decision to withhold payment must be based upon an identifiable inaction on the providers’ part giving rise to the actual loss. The Provider should be notified of the decision to withhold/recoup in writing giving them 28 days to make any representations. After that time period has elapsed any payments due will be withheld and any payments already made will be recouped from their account.

11: Civil Escape Cases

11.1: Means Assessment

Aggregation of Means between Foster Child as Client and Foster Carer(s)

If a child is granted Legal Help then their means should be aggregated with their parent(s)/guardian(s) (unless there is a contrary interest between them).

In the case of Foster Children the child as a 'looked after' child is the responsibility of the local authority rather than the foster carer(s), therefore the assessment is based upon the child's resources only without aggregating the foster carer(s).

11.2: Disbursements for Family Help Lower

For family cases under Family Help (Lower)) we do not usually expect any disbursements other than out of pocket expenses to be incurred e.g. we would not expect expert fees to be incurred as any outstanding assessments would be undertaken by the local authority ([paragraph 4.5 of Appendix 1 to the Costs Assessment Guidance](#)). However, the exception to that might be if the provider wanted a report into a client's capacity to instruct a solicitor.

11.3: Family Law Controlled Work – Legal Help (level 1) and Family Help (Lower) (Level 2)

Different rates and fee levels are payable depending on the type of work. The guidance below should be used in conjunction with:

- the relevant Family Specification;
- Remuneration Regulations/relevant Payment Annex;
- Merits Regulations (Funding Code for pre April 2013 cases);
- 2018 Costs Assessment Guidance; and
- Guidance for Reporting Controlled Work and Controlled Work Matters.

11.4 Public Law Rates

Hourly rates

- The rates in tables 7(a) – 7(c) are payable for different types of Family Public Law Work:
- Rates under table 7(a) are payable for help at court and family help (lower);
- Rates under table 7(b) are payable for all other family work, except that listed under table 7(c);
- Rates under table 7(c) in relation to family work are payable for family help (lower) and related legal help in relation to section 31 of the Children Act 1989.

Legal Help (Level 1)

3.2 Appendix 1 Costs Assessment Guidance 2018

“Legal help in public law cases will cover the initial meeting with the client, follow-up advice and assistance as appropriate including correspondence, liaising with the local authority and completing any necessary application for legal representation. It can also include advice to clients both before and after a child protection conference were appropriate. There will usually be more appropriate support to clients attending child protection conferences than attendance at those conferences where providers may only be able to take a limited note. However, there may be some exceptional circumstances where the attendance of the provider is necessary, not merely to provide support for the client but to enable proper legal advice to be given at the conference itself and where, for example, the provider needs to be present at the meeting to progress the client’s case.”

Family Help (Lower) (Level 2)

4.1 Appendix 1 Costs Assessment Guidance 2018

Remuneration for family help (lower) (level 2) may only be claimed where an applicant at Regulations 32 to 35 of the Merits Regulations and the following conditions are satisfied:

- the local authority has given written notice of potential s31 Care, but no proceedings have yet been issued.
- your Client is a Parent (as defined above);

- your Client requires advice and assistance with a view to avoiding the proceedings, or narrowing and resolving any issues with the local authority.

A copy of the letter before proceedings from the local authority should be attached to the CW1PL form when you submit your file for assessment.

For the purposes of calculating whether a case escapes from the standard fee, or for payment where a case has escaped, the relevant hourly rate for all work is the rate for family help (lower) specified in the [Remuneration Regulations/Payment Annex](#). In s31 Care proceedings where legal help is provided but no family help (lower), the relevant hourly rate is that for legal help specified in the [Remuneration Regulations/Payment Annex](#).

CWA Case Stage/Level codes

FPC01 (Level 1)	<p>This code should be used when only the level 1 fee is being claimed and no further work is undertaken for the client pre-proceedings.</p> <p>This code covers all types of Public Law Children work.</p>
FPC02 (Level 2)	<p>This code should be used when there is pre-proceedings advice to the client involving negotiation with the Local Authority about the issue of proceedings and no work has been undertaken at level 1.</p> <p>This level of advice cannot be claimed unless the client has received a Notice of Intention to Issue Proceedings from the Local Authority.</p>
FPC03 (Levels 1 and 2)	<p>This code should be used when there is pre-proceedings advice to the client involving negotiation with the Local Authority about the issue of proceedings and work was previously undertaken at level 1.</p> <p>This level of advice cannot be claimed unless the client has received a Notice of Intention to Issue Proceedings from the Local Authority.</p> <p>This code may only be used in potential care and supervision proceedings where the Matter Type 1 code is FAMW and may only be used when representing parents of the child or those with parental responsibility subject to the potential care order.</p>

11.5: Private Law Rates

Hourly rates

The rates in Table 7(b) are payable for Family Private Law Legal Help and Family Help (Lower) escape cases.

Legal Help (Level 1)*3.7 Appendix 1 Costs Assessment Guidance 2018*

Divorce Only Cases, Domestic Abuse Proceedings and Child Abduction Proceedings cases can escape from the Standard Fee for legal help. For all other family matters this is not possible.

Enhanced Petitioner Fee*3.9 Appendix 1 Costs Assessment Guidance 2018*

A higher standard fee is available for Legal Help for Divorce Only cases. The fee may be claimed where:

- your Client requires advice and assistance in order to initiate and progress proceedings for divorce, nullity, judicial separation or the dissolution of a civil partnership; and
- those proceedings are issued; and
- three months after proceedings are issued or when the proceedings are concluded (whichever is sooner) no other Form of Civil Legal Services is provided to your Client for any Family Dispute related to those proceedings; and
- you are satisfied that at that time it is unlikely that the Client will require any further services related to those proceedings.

This enhanced petitioner fee may not be claimed in addition to the family help (lower) (level 2) fee for children or finance. If a matter moves on to family help (lower) (level 2) then only the standard legal help (level 1) fee may be claimed.

Family Help (Lower) (Level 2)*4.1, 4.7, 4.9 and 4.11 Appendix 1 Costs Assessment Guidance 2018**7.60 Standard Civil Contract 2018*

Child abduction proceedings and domestic abuse proceedings can only be remunerated at legal help. For all other cases, remuneration for family help (lower) (level 2) may only be claimed where all criteria [at Regulations 32 to 35 of the Merits Regulations](#) and the following conditions are satisfied:

- *the matter involves more than simply taking instructions from and advising the client and providing any follow up written or telephone advice (whether or not there is a second meeting with the client). Family help (lower) (level 2) will also not be appropriate where the client requires only general advice about the dispute and methods of dispute resolution such as Family Mediation;*
- *you are involved in substantive negotiations with a third party (either by conducting the negotiations yourself or by advice and assistance in support of mediation);*
- *there is a significant family dispute which, if unresolved would be likely to lead to family proceedings. Where there is no dispute, i.e. the parties have already agreed to contact arrangements, then family help (lower) (level 2) will not be appropriate and any advice provided to the client will be under legal help (level 1).*

“It should be noted that these criteria differ from the previous criteria set out in the Contract. There is now no longer any requirement for a second meeting to take place in order for the criteria for family help (lower) (level 2) to be satisfied. However, there must be evidence on the file of involvement by the provider in substantive negotiations with a third party or their legal representative.”

“The fact that such negotiations exist is not itself enough to trigger entitlement to a family help (lower) level 2 fee. You must show that you are actively involved in the negotiations as required under 7.58 of the 2018 Specification. If mediation is taking place between the parties the test is whether you have provided advice and assistance in support of mediation. In any case where mediation is not taking place family help (lower) (level 2) can only be claimed if you can show, and evidence on the file, that you are conducting the negotiations. Therefore:

You must be engaging directly with the third party or their representative to progress the negotiations.

If your client or others are negotiating with the other side but are coming to you for advice on issues arising during the negotiation that does not constitute conducting the negotiation.

What is important is your genuine engagement with the third party to progress the negotiation. Sometimes the other party may choose not to respond to you directly, but to respond via your client or some other person. The fact that some communication may not come to you directly does not preclude you from meeting the criteria set out in Paragraph 7.60 of the Specification. “

Court fees

7.64 Standard Civil Contract Specification 2018

Court fees are an allowable disbursement under Family Help (Lower) only where such fees are incurred for the purpose of obtaining a consent order. In all cases, court fees may only be incurred where they are a reasonable and proportionate step which satisfies the reasonable private paying individual test ([regulation 7 of the Merits Regulations](#)).

11.6 Housing Cases

Higher Rates for Housing Cases

8.1 Costs Assessment Guidance 2018

A section 202 review is applicable in cases whereby the client wishes to challenge the local authority's (LA) decision in relation to their eligibility for assistance, the duties owed to them, the decision of the LA to notify other LA's and make a referral for assistance, the suitability of accommodation offered when discharging their duty or suitability of private sector accommodation offered to them in discharge of their duty.

For the higher housing rates to apply in these cases the solicitor must assist a client in pursuing a review under section 202 of the Housing Act.

“Under table 7(c) of Part 1 of the Remuneration Regulations, higher rates are payable for housing cases that involve legal help provided in relation to a review under section 202 of the Housing Act 1996 or legal help or help at court provided to a defendant to a possession claim in the county court. These rates are those generally applicable for controlled legal representation, save that any advocacy provided under help at court is paid at the same rate as preparation/attendance, and not the controlled legal representation advocacy rate”

The solicitor must have drafted and submitted to the local authority the request for review under section 202 of the housing act. Where information was provided to the client in relation to the review, where the merits were considered or where a request for an extension made but subsequently no submissions were sent to the local authority then only the lower housing rates apply.

Homelessness cases under section 202 of the Housing Act 1996:

8.2 Costs Assessment Guidance 2018

“In respect of homelessness cases, the increased rates apply only where the matter involves assistance in pursuing a section 202 review, not where advice is given as to the possibility of seeking a review that is not pursued, nor where the client attends for the first time after a section 202 decision has been made and a further section 202 review does not arise within the matter.”

Possession Cases

In respect of possession cases, the increased rates apply to any case where legal help is provided in relation to possession proceedings that have been issued in the county court. These rates will therefore be considered to apply to applications to suspend warrants for possession or to suspend, postpone or set aside possession orders, whether or not legal representation is subsequently obtained in relation to the case.

For the avoidance of doubt, the higher rates do not apply where advice is given in respect of a notice of seeking possession but possession proceedings are not issued.

Where a matter contains assistance described above, the higher rates may be reported for all the work carried out in the matter. This will be relevant for:

- calculating whether the matter reaches the escape fee threshold;
- the amount payable for the matter if it does escape the Standard Fee;
- provisions relating to average costs per case in the Contract Standard Terms.

Note that the higher rates in table 7(c) of the Remuneration Regulations have no impact on the level of the Fixed Fee or escape fee threshold which are as set out for all Housing work in the Remuneration Regulations.

The rates are set out in [Appendix 1: Rates](#)

11.7 Education and Discrimination matters from 1st September 2019 onwards:

For matters in this category opened between April 2013 and September 2019 clients wishing to access civil legal aid services in Education and Discrimination had to apply via the Civil Legal Advice (CLA) service under the mandatory telephone gateway. The case was subsequently dealt with by a small number of specialist telephone providers

responsible for delivering both remote and face-to-face advice. The work completed by these providers is reported to the LAA via a bespoke system for CLA providers.

From 1 September 2019 face-to-face contracts in these categories have been reintroduced. Work completed from this date under the face to face contracts is reported to the LAA using CWA in the same way as other Controlled Work matters.

There will be different remuneration provisions for Education and Discrimination matters opened under the face to face contracts. These are set out separately below.

Education

Like the majority of Controlled Work cases, Education matters opened as a face to face matter are remunerated under a standard fee scheme:

The fee payable is for each claim is £272, including counsel costs but excluding disbursements and VAT.

There is provision to escape the fixed fee. When the costs of a claim as calculated under hourly rates (including counsel costs but excluding disbursements and VAT) exceeds £816, the case will be paid via hourly rates. The hourly rates that are used for these purposes are set out in the following table:

Activity	London Rate	Non-London Rate
Preparation, Attendance and Advocacy	£52.65 per hour	£48.24 per hour
Travel and Waiting Time	£27.81 per hour	£27.00 per hour
Routine Letters Out and Telephone Calls	£4.05 per item	£3.78 per item

For these “escape fee cases”, as in other categories of law, providers will only be credited the fixed fee unless they submit a claim for assessment to the LAA. Once the case has been assessed CWA is amended by LAA caseworkers to allow payment of the full amount (subject to any adjustments made on assessment).

Discrimination

A different system of remuneration is used in Discrimination matters opened under the 2018 Standard Civil Contract:

The matters are paid at the hourly rates in the table below with no “maximum case cost”:

Activity	London Rate	Non-London Rate
Preparation, Attendance and Advocacy	£46.53 per hour	£43.88 per hour
Travel and Waiting Time	£24.62 per hour	£24.62 per hour
Routine Letters Out and Telephone Calls	£3.60 per item	£3.47 per item

If, however, a provider submits a claim for payment above £700 (including counsel costs but excluding disbursement and VAT) the amount that CWA will credit to them will be limited to £700-00 (plus disbursements and VAT).

The system will flag that costs have exceeded £700-00 using the “Escape Fee Flag”. Providers will be required to submit a claim for assessment to the LAA for payment of the remaining costs. Once the fee has been assessed CWA will be amended by LAA caseworkers to allow payment of the full amount (subject to any adjustments made on assessment).

12: Mental Health Escape Cases

12.1: Mental Health Tribunal Hearing

MHT Conducted via Correspondence

9.84 Standard Civil Contract Specification 2018

If the MHT is conducted via paper representations, rather than at an oral hearing, the provider cannot claim the Level 3 fee as the Level 3 fee was clearly intended to cover the act of advocacy in front of the tribunal. The Mental Health specification also clearly states that

'If no effective MHT hearing takes place, for example because the Client is discharged before the hearing, then you will not be entitled to claim a MHT Level 3 fee unless you are entitled to claim a MHT Level 3 fee in substitution for an Adjourned Hearing Fee'.

Adjourned Hearing Fees

Q: MHT decision is Deferred Conditional Discharge. How do I treat adjourned hearing fees in this matter?

A: It is not uncommon for the MHT to issue a client a deferred conditional discharge at an MHT hearing. This effectively means that the panel is satisfied that the client can be released, but usually subject to certain criteria being in place. This criterion is not usually in place on the date of the Tribunal hearing and will often require further work to organise. The MHT will set a future date for a reconvened hearing to ensure that their directions are being complied with and the necessary arrangements are being made to allow the client to be discharged.

Providers can claim in this scenario in the following ways:

- *The first hearing can be claimed as an adjourned hearing and the reconvened hearing can subsequently be claimed as the final (Level 3 fee) hearing. This is as long as the usual criteria for claiming an adjourned hearing fee is met, (i.e. attendance, possibility of adjournment/postponement not possible etc.).*
- *The provider can treat the first hearing as the final (Level 3) hearing and the subsequent reconvened hearing will also fall under the Level 3 fee. This is on the basis that the Level 3 fee will cover all the sittings of the MHT until a decision (disposal) is reached.*

Given the above the discretion as to how to claim such an issue lies with the provider, and either way is acceptable for LAA assessment purposes. The claim should not be rejected by Caseworkers for either approach.

12.2: Fee Scheme Question and Answers

Barred Nearest Relative making applications for MHT under S2

The case was claimed as a L1 + L2 MHT file where the client was the nearest relative (NR) (i.e. the wife of the patient).

She had made an application to have her husband discharged from his section 2 using her NR rights.

The Responsible Clinician (RC) issued a barring order against her that then prevented her from making an application to the MHT for her husband's discharge because according to the rules no MHT application under section 2 can be made by a NR were a barring order has been made against that NR although under section 3 the NR would have been permitted to pursue such an application to the MHT

Proposed action by the firm:-

The firm initially advised the client under LH (L1) and moved to L2 on the basis that they would then submit a Tribunal application in the full knowledge that it was likely to fail because of the aforementioned rules for section 2 cases.

They did this on the basis that if it was refused then they would ask the Secretary Of State to intervene and use his discretion to refer the matter on their behalf to the Tribunal once again.

The Tribunal refused to accept the application.

The firm cited Article 6 of the Human Rights Act by way of persuading the Sec. of state to refer the matter to the MHT.

In effect they were saying that it was unfair that the rules governing a barred NR should be different under a section 2 compared to a section 3 where the NR could make an application to the Tribunal.

The Secretary of State was persuaded by the argument and so referred the application to the Tribunal who then in turn refused the MHT application stating that Parliament's rules on section 2 cases were very clear and that the NR should not be afforded the right to submit a MHT application having been barred by the RC. The firm then began applying for a Funding Certificate to appeal to the Upper tribunal but in the interim the client was then discharged by the RC so there was no need to send in the App1 and the case was closed.

Question and Answers

Q: Can a LH be signed?

A: Yes – entitled to advice on the presenting issue.

Q: Can L2 CLR be granted knowing MHT application was doomed to failure?

A: Yes- the Sufficient Benefit test is met if firm need to test the route to appealing to the Upper Tribunal. However, if the firm had been able to finalise the test at the UT and had failed then any subsequent cases similar to this one are not then likely to meet the Sufficient Benefit test at L2 as effectively a precedent has been set. This would mean that we would only pay for a L1 on those subsequent cases.

Q: If the firm had merely been asking the Sec. Of State to refer a case to the Tribunal knowing that there was no right to a MHT hearing then can a file be opened?

A: Yes – a Non-MHT file could be opened and would “roll up” into a MHT file if the referral was successful and the barred NR was allowed to make an MHT application.

Conditional discharge not constituting new section/set of fees

Q: I represent a patient who is subject to a s37/41. He placed an application to appeal and requested a conditional discharge and the HQ2 (case management form for the tribunal) was completed as such.

It satisfied fee levels 1 and 2 and after the MHRT level 3 was satisfied. At the hearing issues were put forward that gave me the inclination that an absolute discharge may be a possibility. I took my clients instructions and he wanted to apply for the absolute. The conditional discharge was agreed however the Judge said to consider the absolute there would need to be notification to the MOJ (party to the proceedings) and statutory reports prepared and another hearing. I put forward the application and the tribunal accepted it. The Judge was very clear in that no matter what happened re the absolute discharge the conditional discharge still stood. New reports were prepared, my clients instructions were taken on them and when the hearing convened at a later date an absolute discharge was granted.

My question is that as it was an application to consider a different request would that be a new case matter as again fee level, 1, 2 and 3 were satisfied.

A: In practice, I think that the only way that the tribunal could have achieved this end is through an adjournment, with the reconvened hearing taking place once the necessary reports had been prepared.

The other (less likely) alternative is that the tribunal made an order for a deferred conditional discharge, and, prior to this discharge taking effect, the tribunal reconvened and ordered an absolute discharge. We have historically treated these circumstances as tantamount to an adjournment for the purposes of 9.85 to 9.87 of the 2018 Standard Civil Contract Specification.

Otherwise, I don't think that this situation would justify an entirely new set of MHT Fees. In particular it would not seem to me that there "is more than one than one set of MHT proceedings running concurrently", which would allow two (or more) sets of MHT Fees to be paid for tribunal matters arising within the same Period of Eligibility, nor has any event occurred requiring

12.3 New Matters Starts for New Legal Issues in Non MHT Cases

The Mental Health [Specification \(9.43 of the 2018 Standard Civil Contract Specification 2018\)](#) states the following in respect of the opening new files:

"9.43 You must begin a new Matter Start for any work on a new issue where the Client has a statutory entitlement to a further MHT. For the avoidance of doubt, this does not include any issue that originally arose within a previous Period of Eligibility, such as:

- a. ongoing work on an application or reference already before the MHT that has yet to be concluded; or,*
- b. work on a Hospital Managers Review Meeting convened to consider the renewal of detention or a Community Treatment Order under section 20 and 20A of the Mental Health Act 1983 respectively".*

In matter starts involving applications to the MHT the concept of a new legal issue is relatively straight forward and fits in well with the instructions outlined at 9.43 of the specification.

It is less clear how a new legal issue and the subsequent opening of a new file is to be defined in respect of matter starts that do not involve an application to the MHT. It is difficult to provide a definitive, catch all explanation in this respect but hopefully the following examples will provide assistance of how this area should be approached.

Two separate legal issues in different eligibility periods in which separate matters starts should be opened

The client is in their first 6 month period of eligibility on S3 and a file is opened to give the client general advice regarding their rights. The client remains on section until the end of the 6 month period and the client is represented at the Hospital Managers Renewal Meeting.

The client's section is renewed and the client continues to be represented in the second six monthly period of eligibility in respect of obtaining unescorted leave. The client is successful in obtaining this leave and is then discharged by his Responsible Clinician, thus representation for the client ends at this point.

In this instance there are two separate legal issues in two different periods of eligibility and therefore two separate matter starts should be opened as follows:

- Matter Start 1: First period of eligibility in respect of general advice regarding client's rights and representation in respect of the Hospital Managers Renewal Meeting (legal issue 1).
- Matter Start 2: Second period of eligibility in respect of advice regarding obtaining unescorted leave (legal issue 2).

One legal issue spanning several periods of eligibility with no new matter start required

The client is a long standing patient who does not dispute their hospitalisation. A file is opened midway through a period of eligibility to assist the client in respect of property belonging to the client that has been lost by the hospital.

The matter becomes protracted and spans two periods of eligibility. Despite the fact the client has further statutory entitlements to apply to the MHT this entitlement is not exercised. There are no other issues advised upon throughout this period thus there are no new legal issues that would require the opening of a new matter start. The advice on this file can therefore be classed as one single matter start.

Two separate legal issues in the same eligibility period in which separate matters starts should be opened

The client is in their first 6 month period of eligibility on S3 and a file is opened at the outset of the period to give the client advice regarding lost property. The client remains on section until the end of the 6 month period and the lost property issue has not been resolved at this point, thus this file remains open. The client requires representation at their Hospital Managers Renewal Meeting, which is provided by the same solicitor. In this

instance there are two separate legal issues occurring in the same period of eligibility and therefore two separate matter starts should be opened as follows:

- Matter Start 1: First period of eligibility in respect of advice regarding client's lost property (legal issue 1).
- Matter Start 2: First period of eligibility in respect of advice and representation in respect of the client's Hospital Managers Renewal Meeting (legal issue 2).

Please note that the usual rolling up provisions for Non MHT work on matter starts involving applications to the MHT still apply in all instances.

If a provider has a non MHT matter that they feel should be classed as one file due to only one legal issue being in issue then this should be fully explained on the file and it will be considered. Please remember that any decisions made by the LAA to treat matters as separate legal issues can be appealed and referred to an Independent Costs Assessor

13: Immigration and Asylum Escape Cases

13.1: Scope

SET (Protection Route) Applications

SET (Protection Route) applications remain in scope post 1st April 2013 by virtue of *Paragraph 30, Schedule 1, Part 1 of Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012*.

Funding for Judicial Review Matters

Paragraph 19(1) Schedule 1 LASPO 2012

Paragraph 19(1), Schedule 1, Part 1 of LASPO 2012 sets out that ALL actions for Judicial Review are in scope (even where the underlying issue is out of scope e.g. an Article 8 based immigration case). Providers should however consider whether the Judicial Review action they envisage is out of scope by virtue of Para 19(5) and (6) of Schedule 1 and not brought back in by 19(7).

Where the provider believes the Judicial Review is in scope as per Paragraph 19 they may open a legal help matter to provide advice and apply for a determination that a client qualifies for civil legal services provided as Licensed Work including complying with any pre-action protocol. Where the provider already has a matter open under the Immigration and Asylum specification, such Judicial Review work may be undertaken as part of the same matter, as per 8.29 of the 2018 specification.

Judicial Review work is payable at hourly rates in accordance with 8.76(e) of the 2018 Specification. Where Judicial Review work is undertaken as part of a GFS matter, as permitted by 8.29, it must be claimed at rates applicable to hourly rates matters, i.e. [tables 7\(d\) \(Legal Help\) and 8\(c\) \(CLR\) Schedule 1, Part 2 of The Civil Legal Aid \(Remuneration\) Regulations 2013](#).

Family Reunion Scope

Date	Availability of Legal Aid
Prior to 01/04/2013	Matters opened prior to 01/04/2013 remain in scope, subject to the requirements of The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Consequential, Transitional and Saving Provisions) Regulations 2013 being satisfied.

01/04/2013 - 12/06/2014	During this period, Family Reunion matters were deemed out of scope. It was not permissible to open Family Reunion matters during this period, save for where Exceptional Case Funding was granted.
13/06/2014 - 14/12/2014	During this period, Family Reunion matter were treated as being in scope. However, Family Reunion matters opened on or after 13/06/2014 should have been closed on 14/12/2014, unless Exceptional Case Funding was granted. Matters opened during this period should be reported using Matter Type 2 code "IOTH", and it is not necessary for providers to contact their Contract prior to using this code in these circumstances.
15/12/2014 onwards	From 15/12/2014, Family Reunion matters are no longer deemed in scope. Providers are not able to open new matter starts in respect of Family Reunion cases, unless Exception Case Funding is granted.

13.2: Matter Starts

Matter starts where a Home Office decision is withdrawn

If the Home Office issue a decision and then at hearing (or before) the decision/appeal is withdrawn and a further decision is issued, providers should open a new matter start as opposed to continuing under the existing file

Dependants on asylum applications and matter starts

Generally speaking, if a client is applying for asylum as a dependant on another client's asylum application, this would constitute one matter start as there is not a separate and distinct legal issue (3.38 Standard Civil Contract Specification 2018). If the clients were to make separate asylum applications in their own right, two matter starts could be opened, subject to the usual funding requirements being satisfied.

13.3: Means Assessment

Client is employed

Means should be assessed in the usual fashion

Client is in receipt of State Benefits

Means should be assessed in the usual fashion

Client with no leave to remain in receipt of passported benefits

If a client does not have leave to remain they are not entitled to claim state benefits (with the exception of NASS).

Clients can only be passported if they are properly in receipt of a prescribed benefit.

5.1 of [Guide to determining financial eligibility for controlled work and family mediation](#) “If the client is properly in receipt (directly or indirectly) of Income support, Income-Based Jobseekers’ Allowance....”

If a client does not have leave to remain and they are in receipt of a passported benefit, they are claiming the benefit fraudulently and thus they are not properly in the receipt of the benefit.

Immigration fee earners should be aware of the laws surrounding status and entitlement to benefits and therefore they should be able to identify when a client is not properly in receipt of a benefit.

Files where a client with no leave to remain was passported should be nil assessed (unless there is an explanation and evidence on the file to indicate the client was properly in receipt of the benefit).

Client is in receipt of NASS payments

S.98 Emergency/Interim Payments:

If the client has applied for NASS support and is in receipt of emergency payments during the computation period whilst their NASS application is processed (S.98 NASS payments) they are not pass-ported for means assessment purposes and a full assessment of income and capital during the computation period should be completed.

In order to be classed as pass-ported for means assessment purposes the client must be directly or indirectly in receipt of payments under s.4 or s.95 of the Immigration and Asylum Act 1999.

If the client’s sole source of income has been the S.98 interim/emergency NASS payments throughout the computation period then it would be necessary to assess the client based upon this income and their capital position during the period (plus any other income received during the same). All relevant means assessment questions on the Controlled Work application form should be answered.

The client’s confirmation letter of their emergency NASS payments should be used as evidence in support of the client’s initial assessment.

Once the file is opened based upon an initial assessment of the S.98 support it is necessary to monitor the client’s financial position moving forward. If the client subsequently moves onto the substantive S.4 or S.95 NASS payments the client becomes pass-ported for assessment purposes & as long as their capital position remains within the eligibility parameters they would remain eligible for funding. Although please note that in

respect of controlled work asylum and immigration matters only that matters described in regulation 6(1) of the Financial Regulations that clients in receipt of S.4 & S.95 of NASS support are pass-ported through both the **income** and **capital** test.

Alternatively if the client does not go on to receive substantive NASS support it would be necessary to reassess the client once the S.98 payments cease & fully assess how they are supporting themselves at that time and obtain the relevant evidence in support of the same.

Acceptable Evidence of NASS payments:

The following are acceptable forms of evidence to back up the client's NASS payments.

- Confirmation from NASS or Local Authority that the individual is in receipt of support. Written evidence should be less than 6 months old.
- Vouchers: NASS vouchers are now largely obsolete, however where vouchers are paid, a copy of a voucher is acceptable evidence.

If the client's written evidence from NASS or the Local Authority is over 6 months old at the point of assessment and you are unable to obtain more up to date evidence from NASS or the Authority on the basis they do not respond to your requests for the same the following evidence can be used.

- **Client in receipt of NASS payments at Post Office account:** In instances when the client does not have an award letter dated within six months of the date of application you should obtain copies of the statements or receipts they receive from the Post Office & explain the situation on the file when you make the assessment. Confirm that this is the only documentation available that confirms the client's current payments and confirm that NASS cannot be contacted by telephone and ignore requests via correspondence this will be acceptable as evidence of the client's position. The receipts should clearly show both the amount received and the frequency of payment in order to complete the assessment.
- **Client in receipt of NASS payments via payment card:** Increasingly clients are receiving their NASS payments via a payment card (often called an Aspen or Azore card) meaning that the client cannot obtain documentary evidence via a statement, as they do not have an account which produces individual statements or receipts. In such instances if the client's award letter is over six months old on the date of application you should do the following:
- **NASS Award letter and payment card letter available:** Take a copy of the payment card letter and original NASS award letter confirming support and explain the current situation. For pass-ported asylum matters this will suffice as evidence in

support. Ensure that the NASS reference on the original award letter matched the reference on the payment card award letter.

- **Payment card letter only available:** If the client does not have their original NASS payment award letter thus the only evidence available is their payment card award letter explain that the client has not kept their NASS award letter but highlight the NASS reference on the payment card letter. This makes it clear that the monies clearly relate to the fact that the client is in receipt of NASS payments.
- **Payment card only available:** In the event that the client does not have any documentary evidence this will need to be obtained.

Client is in receipt of Third Party Support

For applicants who are being financially supported by friends/family as they have no recourse to public funds and are unable to take employment **it is not** necessary to consider the means of the third party providing the support for Legal Help purposes (unlike Full Representation).

Instead for Legal Help purposes a simplified approach is permitted and providers can assess the extent of the financial support being provided as per the guidance in [Guide to determining financial eligibility for controlled work and family mediation](#) which states:

“Some clients will state that they have no access to any income or capital. It would be for the supplier to decide whether such a statement was credible and whether or not it was therefore impracticable to obtain evidence of means. However, a note of the circumstances should be kept on the file. Clients without any income at all are likely to be those whose circumstances have recently changed. This might be where, for example, they have just separated from a partner and have applied for benefit or have just arrived in this country and applied for asylum. The supplier should enquire how the client is meeting their day-to-day expenses. If a client states that a relative or friend is supporting them, a letter from the relative or friend should be obtained identifying the nature and extent of support.”

Given the above it will not be necessary to aggregate the finances of the third party providing the support; instead just the extent of the financial support provided by the third party will be assessed.

What should the letter from the third party include?

If the third party providing the support is simply providing subsistence support (accommodation and food etc.) and does not give the client money the letter provided must confirm this. In this scenario this is all that is required as we are not looking to assess

the value of the food & accommodation provided. Thus as long as the “nature and extent” of the support does not include cash payments the letter obtained can simply confirm the support provided and it is not necessary to place a financial value on the support provided.

Alternatively if the third party provides food, accommodation etc. and also gives the client monetary payments the financial value of the monetary payments must be specified in the letter identifying the “nature and extent of support”.

It should be noted that the above provision works on the assumption that the client’s position is credible to begin with.

Aggregation of partners who are in a different country from the client

If the client has a partner who is in a different country from the client it would be usual to apply the ordinary aggregation rules, namely to aggregate income and capital unless the client and their partner have a contrary interest in the proceedings to which the funding relates.

This is detailed in the [Guide to determining financial eligibility for controlled work and family mediation](#)

4.2 (3) “In asylum cases, there may be occasions where the client is physically separated from their partner due to the partner still being abroad, but the relationship is still intact. In such cases the normal rules of aggregation still apply and the client and their partner will still be treated as a couple for aggregation purposes. However in such cases it may be necessary to consider whether the assets and income of the partner, together with any of the client’s assets that have been left behind, are currently truly “disposable” as far as the client is currently concerned. In such cases the provider should make reasonable enquiries of the client to determine to what extent that income and those assets are available. If it is decided in an individual case that the partner’s income and assets are not available to the client and therefore excluded from the assessment then it would not be appropriate to make any dependant’s allowance for the partner (see s.6 below)”

In instances in which it is decided that the client’s partner’s income and capital are not available to the client this should be noted on the file and the reasons why. Upon assessment this should reduce any confusion as it will show that the issue has been duly considered and a decision made in light of the individual circumstances of the case.

The guidance in respect of assessing eligibility for Legal Help matters can be found in the [legal aid manual](#) and in the [guide for determining financial eligibility in controlled work and family mediation](#).

13.4: Means Assessment – Computation Period

4.1.1 of the [Guide to Determining Financial Eligibility for Controlled Work and Family Mediation](#) states “the period of calculation when determining income is the calendar month up to and including the date of the application for civil legal services”

If an asylum seeking client arrived in the country less than one month prior to making an application for controlled work, evidence of income must be provided which relates to the entire computation period. Providers should not base the means assessment on the client’s financial circumstances since arriving in the UK. Enquiries should be made to establish how the client was supporting themselves in their country of origin and how they were able to fund the journey to the UK.

13.5: Transitional Means Arrangements

Where a Legal Help file opened pre LASPO progresses to CLR on/after 01/04/13, the case start date is the original start date for Legal help so the means rules in place at that time i.e. for AJA 1999 cases will apply to the reassessment for CLR.

Please note that the transitional savings provisions mean that the increased dependants’ allowances should be used when completing the completed reassessment.

13.6: Disbursements

Please see [14: Immigration and Asylum Disbursements CW3 Applications](#)

13.7: CW3 Applications

Please see [14: Immigration and Asylum Disbursements CW3 Applications](#)

13.8: Calculating the Applicable Fee

Substantive Hearing/ Adjourned hearing

A stage 2b should normally only be claimed if a substantive hearing takes place. However, if an adjourned hearing takes place and a substantive hearing does not, for the purpose of reporting the claim, the adjourned hearing should be treated as a substantive hearing and thus a stage 2b should be claimed ([Guidance for Reporting Controlled Work](#))

Unaccompanied Asylum Seeking Child (UASC) turns 18 during Legal Help stage

If an UASC turns 18 during Legal Help, the matter will continue to be funded at hourly rates under the end of that stage. If a CLR file is subsequently opened, it will be funded under the Graduated Fee Scheme, unless the case falls under any of the other provisions at 8.76 of the 2018 Specification. The CLR file will, however, be a continuation of the same

matter, and the Legal Help start date will be determinative of rates and Contractual provision that apply to the whole matter. The UFN used for both stages should be reflective of the date the Legal Help file was opened.

14: Immigration and Asylum Disbursements CW3 Applications

Additional guidance on expert witnesses can be found in the [5: Disbursements section](#) and the [expert witness fee guide](#).

14.1: Electronic Signature

The use of an electronic signature is allowable in respect of CW3 applications that are submitted electronically. This is on the basis that the process of printing applications in order to provide an original signature and then scanning the same for email submission is a time consuming process. The electronic signature must be a typed copy of the relevant parties name in the signature section of the CW3 form and the date section should also be completed electronically. If a signature and date, whether original or electronic are not provided, then the CW3 cannot be accepted and must be rejected in order to obtain the same. Please note that the name in the signature section must **not** be the name of the firm with ownership of the matter.

In addition please see guidance on [Electronic Signatures](#) on claim forms

14.2: Calculation of Cost Limit

CW3 applications are applications made to extend the cost and/or disbursement limits in a particular matter. Where an extension is granted, authority has been given to incur costs and/or disbursements up to the limit(s) agreed. This is not a guarantee of payment and we reserve the right to assess items where in the context of the full file, it is not considered that costs have been incurred reasonably or in line with the Regulations, Contract or published guidance.

Where a funding request is authorised, the new cost limit is calculated by adding the further costs authorised to the allowable costs incurred to date. If funding was previously granted for costs which a firm have not yet incurred, but which they intend to use for the purpose stated on a previous application, the firm should confirm this and highlight the items of work or disbursements they wish to carry forward. The LAA caseworker will then adjust the cost limit accordingly.

Calculation of Cost Limit

Cost limits are calculated exclusive of VAT and therefore VAT should not be included in any of the figures reported on CW3 applications. When billing the file providers are, of course, permitted to claim VAT, subject to the usual criteria being met.

Interviews costs excluded from the cost limit

Profit costs and disbursements incurred attending interviews as permitted by Regulations 3 and 4 of The Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012 are paid in addition to cost limit and therefore must not be included in the costs reported on CW3 applications. This includes travel to the interview, attendance at the interview, travel disbursements and interpreter's costs. It does not, however, include preparation and pre and post interview conferences.

If interview costs are included on a ledger submitted with an application, they must be clearly highlighted and the total costs must be amended to reflect costs incurred exclusive of interview costs.

Costs must only be used for the purpose detailed on the application

Where a funding request is authorised, the costs must only be used for the purpose described on the CW3 application. Once a firm's delegated cost limit has been reached, costs in excess of this limit are recoverable only where the work or disbursements were described on a CW3 application granted by the LAA and claimed upto the agreed cost limit. Costs incurred within the extended limit but where the purpose was not specified on an extension application may be disallowed on assessment or deducted from the cost limit authorised on future applications.

14.3: Expert quotations

All quotations for expert reports should be client specific and fee earners should provide experts with reasonably detailed provisional instructions to enable the expert to produce an accurate, client specific quotation. A copy of the provisional instructions should be submitted with the CW3 application.

14.4: Country expert reports

Before making a request for funding for a country expert report, fee earners are expected to take reasonable steps to address the relevant issues themselves using the objective evidence available in the public domain. Applications for funding must clearly detail the country research which has been carried out and why the objective evidence is insufficient.

Funding for country expert reports will generally only be granted if the issues are client specific, engage with the Reasons for Refusal Letter (RFRL) or determination and cannot be reasonably addressed by the fee earner using information in the public domain.

The average hourly rates for a country expert is generally between £70 - £100. The average time taken is between 8-12 hours, this includes a review of any documentation, meeting with the client, associated travel and the drafting of the report.

Where a claim is made for work undertaken outside these parameters providers should ensure that they justify why the additional time or higher rate was necessary.

14.5: Interpreters at court

If an interpreter is required to attend a tribunal hearing we will allow the full rate as detailed in the remuneration regulations for time at court irrespective of whether this relates to attendance on the client or waiting.

Further Guidance on Interpreters can be found in [5.16: Interpreters and Translation Costs](#).

14.6: Medical reports

Extension applications for expert medical reports should detail what steps have been taken to attempt to obtain medical evidence prior to approaching an independent expert and, if applicable, why any evidence obtained is insufficient.

If a client reports that they are suffering from a medical problem which may have an impact on their immigration and / or asylum case, we would expect evidence to initially be requested from their treating physician, including any referrals made by a client's GP. Given that the treating physician would in all likelihood have a pre-existing, in-depth knowledge of the client's medical issue, it is considered likely they would be able to produce a more helpful and cost effective report at this stage of proceedings.

If a client is not currently receiving treatment for a medical issue or problem, providers should in the first instance refer them on to the NHS (GP, hospital), in order for the client to be diagnosed, referred or receive treatment. A report should then be requested from the client's treating physician before funding is sought for an independent medical expert. At the very least, providers should be seeking to establish with the client whether these steps have already been explored.

Where the client is detained in an Immigration Removal Centre (IRC) and is not currently receiving medical treatment or has not previously been diagnosed with medical problem, it would be considered reasonable to request a Rule 35 report in order to establish if the client has raised any medical issues or has been diagnosed and is receiving treatment, before instructing an independent expert to comment on the same.

When considering applications to extend disbursement limits to obtain expert medical reports LAA Caseworkers should make their decision in line with paragraph 4.24 (a – d) of the Standard Civil Contract Specification 2018. Each application must be considered based upon the individual circumstances of the particular case and a blanket approach to refuse the application unless the above process has been followed must not be taken.

If the application has justified why the standard approach outlined above should not apply then the request can be authorised at the point it is made.

Providers should fully address why the standard approach outlined above is not applicable in the relevant matter and this should give an explanation with reference to 4.24 (a-d) of the Standard Civil Contract Specification 2018.

14.7: Pre decision reports

Generally speaking, it is not considered reasonable to grant funding for pre-decision expert reports on the basis that they are deemed to be speculative and pre-emptive. We would expect the client's case to be presented to the Home Office via the Home Office interview (where applicable), witness statement(s) and written submissions. If the client's application is refused, we may consider funding requests under Controlled Legal Representation for reports which address the facts disputed by the Home Office.

As an exception, we will consider funding requests for pre-decision reports from the Helen Bamber Foundation and Freedom from Torture, on the basis of a [Home Office Asylum Policy Instruction](#). However, this concession does not extend to individual employees of the Helen Bamber Foundation and Freedom from Torture if they are not producing a report on behalf of their respective organisation. We may also consider funding requests for reports to assist fresh claims whilst the case is at Legal Help.

When considering applications to authorise requests to obtain pre decision reports LAA Caseworkers should make their decision in line with paragraph 4.24 (a – d) of the Standard Civil Contract Specification 2018. Each application must be considered based upon the individual circumstances of the particular case and a blanket approach to refuse the application prior to the Home Office making a decision must not be taken.

If the application has justified why a pre decision report is justified then the request can be authorised at the point it is made.

Where a provider feels that a pre decision report is essential to progressing the client's case the reasons why will need to be fully explained in light of the above criteria. Providers should fully address why the standard criteria outlined above is not applicable in the relevant case and this should give explanation with reference to 4.24 (a-d) of the Standard Civil Contract Specification 2018.

14.8: Reasons for refusal letter and Determinations

Where a funding request is made for an expert report, copies of the Home Office Reasons for Refusal Letter and/ or the tribunal determination must be provided, if applicable. The paragraphs in the RFRL and/ or determination which are relevant to the requested report should be highlighted.

14.9: Transcripts

If a provider requests for the first tier tribunal to be recorded and transcribed before the date of the hearing the Tribunal Service will make arrangements for it to happen.

In addition please see [5.30: Transcription Fees](#)

14.10 Interpreters at Home Office Interviews for Clients who Lack Capacity or are Children

If an interpreter is required to attend an interview between the client and the Home Office it is not considered reasonable to authorise funding for the interpreting hourly rate for the duration of the interview as the Home Office provide an interpreter for the same. We will pay the interpreting hourly rate for pre and post interview conferences only, the remainder of the interpreter's time spent at the interview must be claimed as waiting time.

If the interpreter provided by the Home Office is inappropriate and the provider believes that use of their interpreter is justified then the reasons for this must be fully recorded on file. If use of the provider's interpreter is justified during the actual interview then the time spent by the interpreter can be claimed at the appropriate hourly rate for interpretation (rather than waiting only).

Appendix 1: Rates

Actions against the police, Public law, Education, Community Care <i>Legal Help, Help at Court and Family Help Lower</i>						
Activity	London rate			Non-London rate		
	Oct 07	July 08	Oct 11	Oct 07	July 08	Oct 11
Preparation, Attendance & Advocacy	£57.35	£58.50	£52.65	£52.55	£53.60	£48.24
Travel & Waiting	£30.30	£30.90	£27.81	£29.45	£30.00	£27.00
Routine Letters and phone call	£4.40	£4.50	£4.05	£4.10	£4.20	£3.78

Employment and Housing (03/10/2012) and Family (03/02/2012) <i>Legal Help, Help at Court and Family Help Lower</i>						
Activity	London rate			Non-London rate		
	Oct 07	July 08	Oct 11	Oct 07	July 08	Oct 11
Preparation, Attendance & Advocacy	£53.10	£54.15	£48.74	£50.05	£51.05	£45.95
Travel & Waiting	£28.05	£28.60	£25.74	£28.05	£28.60	£25.74
Routine Letters and phone call	£4.10	£4.20	£3.78	£3.95	£4.05	£3.65

All Other Categories and Tolerance <i>Legal Help, Help at Court and Family Help Lower</i>						
Activity	London rate			Non-London rate		
	Oct 07	July 08	Oct 11	Oct 07	July 08	Oct 11
Preparation, Attendance & Advocacy	£50.70	£51.70	£46.53	£47.80	£48.75	£43.88

Travel & Waiting	£26.80	£27.35	£24.62	£26.80	£27.35	£24.62
Routine Letters and phone call	£3.90	£4.00	£3.60	£3.75	£3.85	£3.47

S202 Housing Act, Defending a Possession Hearing in County Court and S31 Care Proceedings
Legal Help, Help at Court and Family Help Lower

Activity	London rate			Non-London rate		
	Oct 07	July 08	Oct 11	Oct 07	July 08	Oct 11
Preparation, Attendance & Advocacy	£61.20	£62.40	£56.16	£52.75	£58.40	£52.56
Travel & Waiting	£30.30	£30.90	£27.81	£29.45	£30.05	£27.05
Routine Letters and phone call	£4.40	£4.50	£4.05	£4.10	£4.20	£3.78

Immigration and Asylum hourly rate cases

Activity	London rate			Non-London rate		
	Oct 07	July 08	Oct 11	Oct 07	July 08	Oct 11
Preparation, Attendance & Advocacy	£57.35	£57.35	£51.62	£52.55	£52.55	£47.30
Travel & Waiting	£30.30	£30.30	£27.27	£29.45	£29.45	£26.51
Routine Letters and phone call	£4.40	£4.40	£3.96	£4.10	£4.10	£3.69

Immigration and Asylum – Other Hourly Rates Cases

Activity	London rate			Non-London rate		
	Oct 07	July 08	Oct 11	Oct 07	July 08	Oct 11
Preparation & Attendance	£61.20	£61.20	£55.08	£57.25	£57.25	£51.53

Travel & Waiting	£30.30	£30.30	£27.27	£29.45	£29.45	£26.51
Routine Letters and phone call	£4.40	£4.40	£3.96	£4.10	£4.10	£3.69
Advocacy	£69.60	£69.60	£62.64	£69.60	£69.60	£62.64

Immigration and Asylum – Escape Fee Cases

Legal Help

Activity	London rate			Non-London rate		
	Oct 07	July 08	Oct 11	Oct 07	July 08	Oct 11
Preparation & Attendance	£57.35	£58.50	£52.65	£52.55	£53.60	£48.24
Travel & Waiting	£30.30	£30.90	£27.81	£29.45	£30.00	£27.00
Routine Letters and phone call	£4.40	£4.50	£4.05	£4.10	£4.20	£3.78

Immigration and Asylum – Escape Fee Cases

Controlled Legal Representation

Activity	London rate			Non-London rate		
	Oct 07	July 08	Oct 11	Oct 07	July 08	Oct 11
Preparation & Attendance	£61.20	£64.25	£57.83	£57.25	£60.10	£54.09
Travel & Waiting	£30.30	£31.80	£28.62	£29.45	£30.90	£27.81
Routine Letters and phone call	£4.40	£4.60	£4.14	£4.10	£4.30	£3.87
Advocacy	£69.60	£73.10	£65.79	£69.60	£73.10	£65.79

Representation in Mental Health Proceedings – Legal Help (non MHT & Level 1 MHT)

Activity	London rate			Non-London rate		
	Oct 07	July 08	Oct 11	Oct 07	July 08	Oct 11

Preparation & Attendance	£57.35	£58.50	£52.65	£52.55	£53.60	£48.24
Travel & Waiting	£30.30	£30.90	£27.81	£29.45	£30.00	£27.00
Routine Letters and phone call	£4.40	£4.50	£4.05	£4.10	£4.20	£3.78

Representation in Mental Health Proceedings – Controlled Legal Representation (MHT Level 2 & 3)						
Activity	London rate			Non-London rate		
	Oct 07	July 08	Oct 11	Oct 07	July 08	Oct 11
Preparation & Attendance	£61.20	£64.25	£57.83	£57.25	£60.10	£54.09
Travel & Waiting	£30.30	£31.80	£28.62	£29.45	£30.90	£27.81
Routine Letters and phone call	£4.40	£4.60	£4.14	£4.10	£4.30	£3.87
Advocacy	£69.60	£73.10	£65.79	£69.60	£73.10	£65.79
Attending Tribunal with counsel	£32.55	£34.20	£30.78	£32.55	£34.20	£30.78

Appendix 2: Checklist for Submission of Escaped Cases Claims

In order to avoid rejected claims or reductions from your Escape Case Claims please ensure that the necessary supporting documents and evidence of means has been provided before submitting your claim.

Please refer to this document as a checklist for the documents that we require in support of your claim and what constitutes satisfactory evidence of means.

If the appropriate documents and evidence of means are not provided with your claim this will cause delay to the processing of your claim and could result in the costs of your claim being assessed to nil.

ESSENTIAL ITEMS TO INCLUDE

Have you included the following items with your Escape Case Claim?

EC CLAIM1 Form

- Has a fully completed EC Claim1 Form been provided?
- Is the EC Claim1 Form the current April 2013 version? (Civil – Version 5, Mental Health – Version 6, Immigration and Asylum – Version 7)
- Is the EC Claim1Form signed and dated?

File of Papers

- Has the correct file of papers for this claim been provided with the EC Claim1 Form?

IT Based Running Record of Costs

- Has an IT based Running Record of Costs been provided with the claim?
- Do the costs on the IT Based Running Record of Costs match the costs stated in the EC Claim1 Form?

Disbursements

- Have disbursement vouchers been provided for all disbursements in excess of £20.00 (including VAT)?
- Are the disbursement vouchers clearly identified on the file?
- Does the voucher include a breakdown of the work undertaken, time taken, hourly rate and the client's details?
- If an expert report has been obtained is a copy provided with the claim?
- If enhanced rates for Counsel have been authorised is a copy of the endorsed form provided with the file in addition to Counsel's invoice(s)?

Legal Help Form

- Is the appropriate controlled Work form provided with the claim?
- Is the form fully completed?
- Is the form signed and dated by the client?
- Is the form signed and dated by the Fee Earner (if appropriate)?

SATISFACTORY EVIDENCE OF MEANS

We must be satisfied that your client was financially eligible to receive funding and as such it is necessary to provide documentary evidence showing this to be the case.

Please note that the evidence must refer directly to the computation period, i.e., the calendar month running up to and including the date of the application for funding. Written evidence that does not refer directly to the computation may be accepted where it seems reasonable to do so. See below for full details.

Please refer to this list to ensure that your claim includes the relevant evidence in respect of your client's financial eligibility.

Source of Income- Passported Benefits:

- Was the client in receipt of a passported benefit when funding was granted (Income Support, Income Based Job Seekers Allowance, Income Related Employment Support Allowance & Guaranteed State Pension Credit)? Yes No

Satisfactory Evidence in Support of Passported Benefits – Have you provided one of the following?

- Bank/Building Society account statements from period in which funding was issued showing the relevant benefit in payment. The benefit type must be specified on the statement.
- Original benefit notification letter supported by a recent bank statement where the notification letter is dated more than 6 months prior to the granting of funding.
- Original benefit notification letter only if it is dated less than 6 months prior to the granting of funding.
- Letter from the Department for Work and Pensions confirming that the client was in receipt of the relevant benefit at the time funding was granted.
- If the relevant benefit details were confirmed via a telephone call with the relevant agency has a note confirming the details of the call, any unique reference number given and the name of the person spoken to been provided?

If the client was not in receipt of a passported benefit you must have completed a full assessment of your client's eligibility, including income and capital. You should have obtained documentary evidence from the period when funding was granted in respect of the areas listed below that relate to this particular client.

- Did the client have a partner/spouse? Yes No

If yes proof should also have been obtained and be provided in respect of all areas below relating to the client's partner/spouse (unless the partner/spouse was opponent or there was a conflict of interest between the parties).

Source of Income – Satisfactory Evidence:

Employment – Most recent payslips. Bank statements are not acceptable as evidence of wages as they do not show gross payment and net payments into accounts may include deductions that are not allowable under legal aid rules.

Provided with claim?

Self-Employment – Most recent profit and loss accounts, cash book showing drawings, tax assessment or bank statements showing earnings.

Provided with claim?

State Benefits (various) – satisfactory evidence as per evidence of Passported benefits above:

Provided with claim in respect of each benefit in payment?

Asylum Seekers in receipt of NASS support – Confirmation from NASS or Local Authority that the individual was in receipt of support. The evidence should be within 6 months of when funding was issued. Remember that NASS payments are only passporting for asylum and immigration matters for Legal Help, Help at Court and Controlled Legal Representation.

Provided with claim?

Deductions – Satisfactory Evidence:

Income Tax & National Insurance – For employees, most recent wage slips. For self-employed, most recent tax calculation sheet.

Provided with claim?

Accommodation Costs (where costs are more than 1/3 of client's gross income) –rent book, tenancy agreement, copy of mortgage statement or copy bank statement where it is clear what the payment relates to.

Provided with claim?

Childcare (where costs are more than £600 per month or pro rata for those who work less than 35 hours per week) – copy bank statement where it is clear what the payment relates to or copy of agreement/contract with child-minder.

Provided with claim?

Maintenance (where amount declared appears unreasonable/cases of doubt) – bank statements, cashed cheques, copy of maintenance order (where applicable).

Provided with claim?

Capital:

Generally the client's statement and signature on the application form will be sufficient evidence but documentary evidence of capital should be obtained in cases of doubt. The capital of Passported clients must also have been assessed for matters opened after 1st April 2013.

Provided with claim? (If appropriate)

Clients with no income and applying for benefits when funding issued:

If eligibility was assessed based upon the fact that the client had made an application for benefits that was pending at the time funding was issued then evidence that this claim was successful should be provided with the file.

Provided with claim?

Clients with no income and reliant upon third party support when funding issued:

If the client had no access to income or capital at the time funding was issued and was reliant upon the financial assistance of third parties such as friends and relatives a letter from the party providing the support should have been obtained identifying the nature and extent of this support.

Provided with claim?

Appendix 3: Welfare Benefit Matrix

Source of income	Pass-ported	Assessed	Disregarded
Employed (P.A.Y.E.)	x	✓	x
Self Employed	x	✓	x
Personal Independence Payment (PIP) <i>formerly Disability Living Allowance (DLA)</i>	x	x	✓
Carers Allowance (CA)	x	x	✓
Income Support (IS)	✓	x	x
Contribution-Based Jobseekers Allowance (CBJSA)	x	✓	x
Income-Based Jobseekers Allowance (IBJSA)	✓	x	x
Contribution-Based Employment & Support Allowance (CBESA)	x	✓	x
Income-Related Employment and Support Allowance (IRESA)	✓	x	x
Standard State Pension	x	✓	x
Guarantee Credit	✓	x	x
Universal Credit	✓	x	x
Working Tax Credit and Child Tax Credit	x	✓	x

National Asylum Support Service (NASS) Evidential requirement

Source of income	Pass-ported	Assessed	Disregarded
NASS payments paid under s4 or s95 the Immigration and Asylum Act 1999	✓ Asylum Matters Only	x	x
Asylum Seekers in receipt of NASS support	x	✓	x

Appendix 4: Evidence of Means

Welfare Benefits

Source of income	Satisfactory evidence
Employed (P.A.Y.E.)	Most recent payslip(s).
Self Employed	Bank statements or working accounts/cash book showing drawings. Most recent tax assessment or set of accounts.
State Benefits (various) – Direct Payment of benefit to Client’s bank / building society / post office card account	<ol style="list-style-type: none"> 1) Recent bank / building society statement – however benefit type must be specified on the statement; 2) original benefit notification letter supported by a recent bank statement where the notification letter is more than 6 months prior to the date of the application; 3) most recent letter notifying a change in benefit amount (no more than 6 months old); 4) if the client can only provide a bank statement which does not specify the benefit, the provider should refer to para.12.2.4 above concerning evidence in lieu of written confirmation for audit requirements.
Income Support – IS	<p>See Direct Payments information above.</p> <p>The Award Letter together with the Award Calculation Sheet (or the clerical versions of these forms) should be accepted as satisfactory evidence of claim (if no more than 6 months old). Alternatively, a letter from the Department Of Work and Pensions confirming the client was in receipt of IS at time of applying for Legal Help.</p> <p>[Order Books are now largely obsolete – however if a current order book is held, a copy of the front of the benefit book showing the type of benefit and the date of the last payment order (or if not clear, include copy of second page / inside cover confirming benefit in payment)].</p>
Income-Based Jobseekers Allowance (IBJSA)	<p>See Direct Payments information above.</p> <p>The Award Letter together with the Award Calculation Sheet (or the clerical versions of these forms) should be accepted as satisfactory evidence of claim (if no more than 6 months old).</p> <p>Alternatively, a letter from the Jobcentre Plus / Department Of Work and Pensions confirming the client was in receipt of IBJSA at time of applying for Legal Help.</p>
Income-Related Employment and Support Allowance (IRESA)	<p>See Direct Payments information above.</p> <p>The Award Letter together with the Award Calculation Sheet (or the clerical versions of these forms) should be accepted as satisfactory evidence of claim (if no more than 6 months old).</p> <p>Alternatively, a letter from the Jobcentre Plus / Department Of Work and Pensions confirming the client was in receipt of IRESA at time of applying for Legal Help.</p>

Guarantee Credit (under s.1(3)(a) of the State Pension Credit Act 2002(a))	See Direct Payments information above. The Award Letter together with the Award Calculation Sheet (or the clerical versions of these forms) should be accepted as satisfactory evidence of claim (if no more than 6 months old). Otherwise any relevant correspondence from the paying agency in the client's possession would be acceptable such as a Statement of Entitlement that explains how the client's Pension Credit has been worked out.
Universal Credit	See Direct Payments information above. Award notification letter should be accepted (if no more than 6 months old), Alternatively a letter from the Jobcentre Plus confirming receipt.
Asylum Seekers in receipt of NASS support	Confirmation from NASS or Local Authority that the individual is in receipt of support. Written evidence should be less than 6 months old. [NASS vouchers are now largely obsolete, however where vouchers are paid, a copy of a voucher is acceptable evidence. NASS payments are only passporting for asylum and immigration matters for Legal Help, Help at Court and Controlled Legal Representation].
Working Tax Credit and Child Tax Credit	A copy of the most recent Tax Credit Award Notice issued to the client should be accepted as satisfactory evidence of the claim. Otherwise any relevant correspondence from the paying agency (HM Revenue and Customs) in the client's possession would be acceptable. Bank Statements are also acceptable evidence. (NB Evidence must also be obtained of the client's other income, e.g. salary).

Other Forms of Support

Accommodation Only (AO)	If a client is receiving support in the form of AO this needs to be noted on the legal help form. If the client was in receipt of a nil income, any letter of support regarding provision of accommodation would be insufficient to evidence how the client meets their everyday expenses. The provision of accommodation only does not need to be incorporated into the means assessment pages of the legal help form – a letter of support must be attached to the form, advising of the type of support being provided.
Basic Needs – Non Financial	If a client is receiving support in terms sustenance – food, clothing etc. A letter of support must be submitted explaining the level of support provided. As with AO, this would not factor in the means assessment itself, but supporting evidence must be provided. If the client has a nil income, provider must explain to what extent this support helps the client meet their everyday expenses.
Financial	If a client is receiving financial support from a friend, charity or relative – the onus is on the provider to produce evidence. The letter must detail the amount and frequency of financial support given. This is then factored into the income section of the means assessment.

	<p>If, for example, the client received £150 per week from a relative – this would then be calculated as $£150.00 \times 52 \div 12 = £650.00$ → this is then added to the monthly income section of the means assessment.</p>
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Appendix 5: Confirmation of Benefits Forms

Request for confirmation of benefit entitlement for Legal Aid eligibility assessment.

Client Name:	
National Insurance number:	
Name of firm requesting information:	
Address of firm requesting information:	

Name of Benefit:		
Is this contributions-based or income-related?	YES	NO
Date benefit started:		
Is this ongoing?	YES	NO
If not ongoing, what date did the benefit stop?		
Is this a joint claim?	YES	NO
If yes what is the name of the other person?		

Please confirm the value and frequency of the payments.

Amount:	£
---------	---

Frequency:
Weekly, Monthly etc

Name of department confirming benefit:
Name of person confirming benefit:
Contact Details:
Date and signature:

Client Declaration:

I hereby confirm that I consent to my solicitor making enquiries to you in relation to my state benefit entitlement to support my application for Legal Aid assistance.

Please treat this notice as my express written authorisation to provide any & all information that they ask for.

Name: _____

Signature: _____

Date: _____

Record of telephone confirmation of client's benefit entitlement for Legal Aid eligibility assessment.

Client Name:	
National Insurance number:	
Name of issuing department rang:	

Date of phone call:	
Name of person spoken to:	
Contact details of person spoken to:	
Client reference (if applicable):	
Client present during call (Y/N):	

Name of Benefit:		
Is this contributions-based or income-related?	YES	NO
Date benefit started:		
Is this ongoing?	YES	NO
If not ongoing, what date did the benefit stop?		
Is this a joint claim?	YES	NO
If yes what is the name of the other person?		

Please confirm the value and frequency of the payments.

Amount	£
Frequency: Weekly, Monthly etc	
Any other relevant information:	

Appendix 6: Expert Rates

	Funding Granted 3/10/11 – 31/3/13		Funding Granted 1/4/13- 1/12/13		Funding Granted on/after 2/12/2013	
	<u>Non Lon</u>	<u>London</u>	<u>Non London</u>	<u>London</u>	<u>Non London</u>	<u>London</u>
A & E Consultant	£126.00	£135.00	£126.00	£135.00	£100.80	£108.00
Accident Reconstruction	£90.00	£68.00	£90.00	£68.00	£72.00	£54.40
Accountant	£50-£135	£50-£144	£50-£135	£50-£144	£64.00	£64.00
Accountant (general staff)					£40.40	£40.40
Accountant (manager)					£86.40	£86.40
Accountant (Partner)					£108.00	£115.20
Anaesthetist	£135.00	£135.00	£135.00	£135.00	£108.00	£108.00
Architect	£99.00	£90.00	£99.00	£90.00	£79.20	£72.00
Cardiologist	£144.00	£144.00	£144.00	£144.00	£115.20	£115.20
Cell Telephone site	£90.00	£90.00	£90.00	£90.00	£72.00	£72.00
Child Psychiatrist	£135.00	£90.00	£135.00	£135.00	£108.00	£108.00
Child Psychologist	£126.00	£90.00	£126.00	£126.00	£100.80	£100.80
Computer Expert	£90.00	£90.00	£90.00	£90.00	£72.00	£72.00
Consultant Engineer	£90.00	£68.00	£90.00	£68.00	£72.00	£54.40
Dentist	£117.00	£117.00	£117.00	£117.00	£93.60	£93.60
Dermatologist	£108.00	£108.00	£108.00	£108.00	£86.40	£86.40
Disability Consultant	£68.00	£68.00	£68.00	£68.00	£54.40	£54.40
DNA (per person) testing sample	£315 per test	£315 per test	£315 per test	£315 per test	£252 per test	£252 per test
DNA prep of report (per person)	£90.00	£90.00	£90.00	£90.00	£72.00	£72.00
Doctor (GP)	£99.00	£90.00	£99.00	£90.00	£79.20	£72.00
Employment Consultant	£68.00	£68.00	£68.00	£68.00	£54.40	£54.40

Enquiry Agent	£32.00	£23.00	£32.00	£23.00	£25.60	£18.40
ENT Surgeon	£126.00	£126.00	£126.00	£126.00	£100.80	£100.80
General Surgeon	£135.00	£90.00	£135.00	£90.00	£108.00	£72.00
Geneticist	£108.00	£108.00	£108.00	£108.00	£86.40	£86.40
GP (Records report)	£63 fixed fee	£90 fixed fee	£63 fixed fee	£90 fixed fee	£50.40 fixed fee	£72 fixed fee
Gynaecologist	£135.00	£90.00	£135.00	£90.00	£108.00	£72.00
Haematologist	£122.00	£90.00	£122.00	£90.00	£97.60	£72.00
Handwriting Expert	£90.00	£90.00	£90.00	£90.00	£72.00	£72.00
Interpreter	£32.00	£25.00	£32.00	£25.00	£28.00	£25.00
Lip Reader/Signer	£72.00	£41.00	£72.00	£41.00	£57.60	£32.80
Mediator	£126.00	£126.00	£126.00	£126.00	£100.80	£100.80
Medical Consultant	£135.00	£90.00	£135.00	£90.00	£108.00	£72.00
Medical Microbiologist	£135.00	£135.00	£135.00	£135.00	£108.00	£108.00
Meteorologist	£126.00	£180 fixed fee	£126.00	£180 fixed fee	£100.80	£144 fixed fee
Midwife	£90.00	£90.00	£90.00	£90.00	£72.00	£72.00
Neonatologist	£135.00	£135.00	£135.00	£135.00	£108.00	£108.00
Neonatologist Clin Neg – cerebral palsy					£180.00	£180.00
Neurologist	£153.00	£90.00	£153.00	£90.00	£122.40	£72.00
Neurologist Clin Neg – cerebral palsy					£200.00	£200.00
Neuropsychiatrist	£158.00	£90.00	£158.00	£90.00	£126.40	£72.00
Neuro Radiologist	£171.00	£171.00	£171.00	£171.00	£136.80	£136.80
Neuro Radiologist - Clin Neg C'bral palsy					£180.00	£180.00
Neurosurgeon	£171.00	£90.00	£171.00	£90.00	£136.80	£72.00
Nursing Expert	£81.00	£81.00	£81.00	£81.00	£64.80	£64.80
Obstetrician	£135.00	£135.00	£135.00	£135.00	£108.00	£108.00
Occupational Therapist	£68.00	£68.00	£68.00	£68.00	£54.40	£54.40

Oncologist	£140.00	£140.00	£140.00	£140.00	£112.00	£112.00
Orthopaedic Surgeon	£144.00	£144.00	£144.00	£144.00	£115.20	£115.20
Paediatrician	£135.00	£90.00	£135.00	£90.00	£108.00	£72.00
Pathologist	£153.00	£540 fixed fee	£153.00	£540 fixed fee	£122.40	£432 fixed fee
Pharmacologist	£122.00	£122.00	£122.00	£122.00	£97.60	£97.60
Photographer	£32.00	£23.00	£32.00	£23.00	£25.60	£18.40
Physiotherapist	£81.00	£81.00	£81.00	£81.00	£64.80	£64.80
Plastic Surgeon	£135.00	£135.00	£135.00	£135.00	£108.00	£108.00
Process Server	£32.00	£23.00	£32.00	£23.00	£25.60	£18.40
Psychiatrist	£135.00	£90.00	£135.00	£135.00	£108.00	£108.00
Psychologist	£117.00	£90.00	£117.00	£117.00	£93.60	£93.60
Radiologist	£135.00	£135.00	£135.00	£135.00	£108.00	£108.00
Rheumatologist	£135.00	£135.00	£135.00	£135.00	£108.00	£108.00
Risk Assessment Expert	£63.00	£63.00	£63.00	£63.00	£50.40	£50.40
Speech Therapist	£99.00	£99.00	£99.00	£99.00	£79.20	£79.20
Surveyor (non disrepair)	£50.00	£50.00	£50.00	£50.00	£40.00	£40.00
Surveyor (housing disrepair)			£85.00	£115.00	£85.00	£115.00
Telecoms Expert	£90.00	£90.00	£90.00	£90.00	£72.00	£72.00
Toxicologist	£135.00	£135.00	£135.00	£135.00	£108.00	£108.00
Urologist	£135.00	£135.00	£135.00	£135.00	£108.00	£108.00
Vet	£90.00	£90.00	£90.00	£90.00	£72.00	£72.00
Voice Recognition	£117.00	£90.00	£117.00	£90.00	£93.60	£72.00

Appendix 7: Standard Disbursement Template

These have been introduced to confirm the information required on a disbursement voucher.
Submission of disbursement vouchers in this format is not mandatory.

Expert Letterhead

Expert Name (individual and firm)

Client Name

Expert Address

Solicitor Firm

Expert Name:	Area of expertise:
--------------	--------------------

Work Undertaken:

Date of work	Description	Rate	Time	Quantity (unit)	Net claim	VAT	Total
TOTAL							

Travel Costs

Travel date	Reason for travel	Where travel to/from	Miles	Rate	Travel cost	Net claim	VAT	Total
TOTAL								

Additional Information Box

Total Net Costs

Total VAT

Amount payable if apportioned

Expert Letterhead

Expert Name (individual and firm)

Client Name

Expert Address

Solicitor Firm

Expert Name:	Area of expertise:
--------------	--------------------

Work Undertaken:

Date of work	Description	Rate	Time	Quantity	Net claim	VAT	Total
	This section should include details of work undertaken on each date including a description of work undertaken – for example writing report/ travel/mileage						
	For psychological reports the breakdown in the expert witness guidance will assist – for example <ul style="list-style-type: none"> Assess mum/dad Psychological test mum/dad Assess child/Children Time with professionals Time with others (foster carers/family) 						
	For process servers we require details of Work undertaken for example <ul style="list-style-type: none"> Steps and time taken to serve documents Associated costs relating to service 						
	For DNA testing this section should include <ul style="list-style-type: none"> Details of who was tested in initial sample Who was tested in any additional samples Sample collection fees 						
	For drug testing this section should include details of work undertaken, the rate and the quantity For example <ul style="list-style-type: none"> Sample Collection 						

	<ul style="list-style-type: none"> Segmented hair drug test (quantity and size of sample and cost) Report 						
TOTAL							
L							

Travel Costs

Travel date	Reason for travel	Where travel to/from	Miles	Rate	Travel cost	Net claim	VAT	Total
	This should contain reasons why travel necessary (court, assess client etc.)	Please confirm where you are travelling to and from	How many miles		Train fare, parking cost etc.			
TOTAL								

Additional Information Box

This section can be used to provide additional detail on work undertaken
Where cancellation fees are being charged you should provide details of when you were informed of the cancellation

Total Net Costs

Total VAT

Total

Amount payable if app

Payment Method: Fees to be paid by BACS/Cheque etc.

Appendix 8: News Articles

Category of work	Summary and Hyperlinked document	Date of News Article
Checklists	<ul style="list-style-type: none"> • Revised Checklists Issued • Launch of the checklists • Launch of Immigration and Asylum checklist • CW3 checklist • CLA Checklist launched 	23/11/2016 22/11/2012 15/05/2014 26/10/2015 31/10/2017
Claiming guidance	<ul style="list-style-type: none"> • Claiming guidance – avoid rejects 	26/05/2016
Disbursements – Voucher Requirements	<ul style="list-style-type: none"> • Confirmation of need to submit disbursement vouchers • Reminder to submit disbursement vouchers • Confirmation that we require vouchers where disbursement is over £20 including VAT 	25/05/2011 19/01/2011 12/04/2013
Disbursements - Travel	<ul style="list-style-type: none"> • Require vouchers where claiming travel and also details on why travel necessary 	19/12/2012
Disbursements - Experts	<ul style="list-style-type: none"> • Guidance on when to apply for prior authority, benchmarks and document requirements • Requirement to pay experts promptly • Experts Standards 	17/01/2013 15/09/2011 08/10/2014
Disbursements – Expert Rates	<ul style="list-style-type: none"> • Publication of rates • Publication of revised rates 	27/10/2011 28/03/2013
Disbursements – Experts in clinical negligence cases	<ul style="list-style-type: none"> • Fees for specified experts in clinical negligence cases 	03/06/2013
Disbursements – Risk Assessments	<ul style="list-style-type: none"> • Guidance on payment for risk assessments 	11/10/2012
Disbursements – Drug Testing	<ul style="list-style-type: none"> • Confirmation that we require court orders where drug testing is being claimed 	12/04/2013
Disbursements – CW3 electronic submission	<ul style="list-style-type: none"> • Launch of new dedicated e-mail address for CW3 and confirmation of new process • Electronic CW3 	02/07/2014 14/02/2017
Files	<ul style="list-style-type: none"> • Model File Submission 	07/07/2017
Forms	<ul style="list-style-type: none"> • Reminder to use correct form (EC Claim 1 IMM) • New Forms released • Electronic Escape Case Claim forms 	25/09/2014 28/08/2014 09/11/2017

Mental Health Guidance	<ul style="list-style-type: none"> • Updated Mental Health Guidance – 2014 contract 	04/04/2017
Rates	<ul style="list-style-type: none"> • Reminder to use correct rates • Confirmation of rates changes following LAR remuneration cuts • Confirmation of rates changes following LAR remuneration cuts 	28/09/2012 29/09/2011 01/02/2012
Travel	<ul style="list-style-type: none"> • Revised Approach to local travel • Confirmation on travel costs • Local Travel reminder 	22/05/2014 31/03/2011 14/08/2014
Tribunal Work	<ul style="list-style-type: none"> • Reminder for Mental Health Providers undertaking tribunal work 	20/11/2014

Appendix 9: Which Contract/Cost Assessment Guidance

Contract	Start Date	End Date	Matters covered	Amendments	Applicable cost assessment Guidance
Unified Contract 2007	01/10/2007	October 2010 (non family) Feb 2012 (family)	All matters		Cost Assessment Guidance 2007 For Family there is additional guidance on fixed fee schemes
Standard Civil Contract 2010	October 2010	To 01/08/2014 Mental Health Community Care To 01/11/15 Actions against the Police Public Law Clinical Negligence	Clinical Negligence Mental Health Community Care Actions against the Police Public Law Family Mediation	01/04/13 – LASPO 23/03/15 - ASCBPA	Cost Assessment Guidance 2010 (for matters started on/after 01/04/2013) Cost Assessment guidance 2012 (for matters started prior to 01/04/2013)
Standard Civil Contract 2012	01/02/2013	31/03/2013	Family Immigration and Asylum Housing and Debt		Cost Assessment guidance 2012
Standard Civil Contract 2013	01/04/2013		Family Immigration and Asylum Housing and Debt	23/03/15 - ASCBPA	Cost Assessment Guidance 2013
Standard Civil Contract Welfare Benefits 2013	01/10/2013		Welfare Benefits (in London, South East, Midlands and East)		Cost Assessment Guidance 2013

Standard Civil Contract Welfare Benefits 2013	01/02/2014		Welfare Benefits (in North, South West and Wales)		Cost Assessment Guidance 2013
Standard Civil Contract 2014	01/08/2014		Mental Health Community Care	23/03/15 - ASCBPA	Cost Assessment Guidance 2013
Standard Civil Contract 2015	01/11/2015		Actions against the Police Public Law Clinical Negligence		Cost Assessment Guidance 2013
Standard Civil Contract 2018	01/09/2018		All matters		Cost Assesment Guidance 2018

Appendix 10: Desk Aids

PROVIDER TRAVEL DESK AID

TRAVEL EXPENSES

- Mileage can be claimed at 45 pence per mile.
- a copy of the ledger and a file note should be provided detailing the mileage
- Rail Fares should be at standard class.
- a copy of the receipt or ticket should be provided
- any evidence should be retained on file

LOCAL TRAVEL

- Local Travel to Court (*CAG 3.14*)
- Claims for travel expenses for journeys of 10 miles or less each way will generally not be paid as this is considered local travel. The CPR rules confirm that local travel expenses to court cannot be paid. The definition of local is within 10 miles.
- The disallowance of local travel expenses applies to certificates issued on/after 01/09/14.
- The local travel rule does not preclude provider claims for the time spent travelling or other related expenses such as parking

TRAVEL TIME

- Consider whether time spent is reasonable or if a local agent or telephone attendance would be more appropriate
- Travel for journeys over 5 hours or to visit the client may be reasonable but must be justified by the provider. Examples of where this may be justified are where the nature of the client requires it or it is a complex application before the court
- It may be appropriate to allow travel to the funded client, where for example the funded client is vulnerable: a child, is housebound, in prison or hospital. However the provider will need to detail the context necessitating the specific reasons why that travel was necessary on the claim form to allow a judgement on its appropriateness.

CHECKING MILEAGE AND TRAVEL TIME

Checking Mileage and Travel Time

Any checks should be made using the [court finder route checker](#) for court attendances or Google maps for any other travel. This should be checked against the highest travel estimate and any discrepancy justified.

Caseworkers should annotate any discretionary assessment on the claim

The checks above do not preclude caseworkers making checks where they have concerns about the amount claimed.

Appendix 11: Third Party Support

Template for clients receiving third party support for completion by the third party as evidence for means assessment.

Client Name	
Name of person providing support	
Address of person providing support	

Type of Support	Yes	No
Accommodation only		
Basic needs/subsistence non-financial		
Financial		

If financial support is provided, please confirm the value and frequency of the payments.

Amount	£
Frequency/Weekly, Monthly etc	

Please state relationship to client	
-------------------------------------	--

Date support started	
Signed:	
Dated:	

Appendix 12: Electronic Appeal

Provider firm: _____ Provider Account Number: _____

Client: _____

Category of Law: _____

Full Paper File sent in Post? _____ Your reference: _____

Our reference: _____

Date of Item	Item Description	Appeal Reason & Justification	Documents in Support Provided? (Y/N)	Caseworker Decision Reinstated? (Y/N)	Amount Reinstated £	Refer to IFCA? (Y/N)
Provider completion	Provider completion	Provider completion	Provider completion	LAA completion	LAA completion	LAA completion

Appendix 12: Version History

Version 2.3 August 2023	
	Added highlight boxes for regulations and guidance
5.1	Simplified admin cost guidance
5.5	Added reference to appointment as well as hearing
5.15	Updated to reflect new CAFCASS rate for ISW
5.16	Updated paragraph numbers on Guidance document Added guidance on when the codified rate can be exceeded
5.31	Removed reference to priority returns Added new rates for accommodation
7.8	Updated scenario 1 to reject to reflect current process
8.1	Added table to confirm when we reject and assess
8.2	Removed reference to attaching checklist to claim Removed reference to FI and phone calls
8.4	Update reference to claim fix rather than reject fix
8.5	Removed section as now in s8.1

Version 2.2	
	Updated after change in Monarch
Version 2.1	
8.2	Removed reference to priority returns and hard rejects
10.2	Reworded paragraph to make clear that providers charge is only applicable in family help lower



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