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Legal Aid

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Legal Aid For The Apparently Wealthy – Regulation Changes

The Lord Chancellor has made Regulations bringing about changes in legal aid eligibility following his consultation last year about legal aid for the apparently wealthy. The changes are contained in the Civil Legal Aid (Assessment of Resources) (Amendment) Regulations 1996, the Legal Advice and Assistance (Amendment) Regulations 1996 and the Legal Aid in Criminal and Care Proceedings (General) (Amendment) Regulations 1996. All these Regulations come into force on 1 June 1996 to give time for new forms to be introduced.

The most important change concerns the treatment of an assisted person's dwelling house, which previously has been wholly exempt for eligibility purposes. Now for advice and assistance, and civil and criminal legal aid the following rules will apply as from 1 June 1996:

1. The market value of the property will be taken into account in so far as it exceeds £100,000
2. The capital amount in respect of a mortgage debt or charge over the property may not exceed £100,000
3. As regards allowances against income for mortgage payments (i.e. for civil/criminal legal aid), if the

mortgage debt exceeds £100,000 the amount allowed will be reduced in proportion (for example, if mortgage debt is £200,000, only half the amount actually paid will be taken into account).

4. There are also provisions for second and subsequent dwellings which provide that the total amount of mortgage debt to be allowed for all properties cannot exceed £100,000

The effect of these changes is that for capital, one will need to take into account the value of an assisted person's home, reduce this by the amount of the mortgage or by £100,000, whichever ever is the less, to produce a net equity figure. If this exceeds £100,000, the excess over £100,000 is taken into account as the capital of the assisted person. For pensioners, the usual disregards of capital may assist further.

The green form key card and forms CLA 4 A and C will be amended and circulated prior to the 1 June 1996. Note that the above changes apply to applications for legal aid made on or after 1 June 1996 but will not apply to further assessments or amended assessments on existing certificates. The Regulations also do not affect those in

receipt of passported benefits. Later in the year it is proposed that income support will be replaced with job seekers allowance and this may require some subsequent regulations.

Also on the 1 June 1996, for civil and criminal legal aid, an additional discretionary power is being introduced which allows the assessment officer to take into account the assets of persons other than the applicant for legal aid. This Regulation is designed to catch those who have access to substantial income or capital assets which are in the name of other people or companies. The Regulation may be applied where the other person has transferred resources to the assisted person, has been maintaining the assisted person in the proceedings or where any of the resources of the other person have been made available to the assisted person. If this happens, the resources of the other person can be treated as those of the assisted person. This new discretionary power can be invoked on an application for legal aid but is also likely to be used where the assisted person has complex financial affairs which have been brought to the Board's attention by representations. Certificates in force before 1 June 1996 are not affected.



Enhanced Payments on Account

The Lord Chancellor has recently announced two improvements to the payments on account scheme available to franchised firms, with effect from 1st April 1996.

The first, is a new payment of £250, on account of solicitor's costs, payable on the issue of a full civil legal aid certificate in a category of work for which the solicitor holds a franchise contract. The payment, which will be net of any payments claimed if the certificate was originally granted as an emergency certificate, will be automatically included in the payment run following the issue date, and there will be no need to register a claim. The

new payment scheme will apply to all certificates issued after 1st April 1996, but payments will not commence until after 1st May 1996, when the Board's computer systems will be changed to allow this new facility.

The second improvement is to the existing payment of profit costs scheme. The changes allow franchised solicitors to claim 75% of profit costs incurred to date for legal aid certificates issued in categories for which they hold a franchise contract, every six months, instead of every nine months as at present. This is in comparison to non-franchisees, who can only claim every twelve months. The six monthly cycle

will be calculated from the date of the certificate, including certificates issued prior to 1st April 1996. All claims for payment must be submitted for payment within two months after the due date, and any payments made will be net of any previous payments on account. Any claims which would qualify for payment under the old scheme as at 31st March 1996 will still be honoured, provided they are submitted by 31st May 1996. A further claim may then be submitted from 1st July 1996.

The Board will be writing separately to all franchisees, to formally inform them of these improvements.

Small Claims Cases and Legal Aid

On 8th January 1996 the small claims limit increased to £3000. This affected all cases where proceedings were issued on or after that date, except defended possession cases and personal injury claims over £1000.

Cases that fall within this expanded jurisdiction will automatically be referred to arbitration on the filing of a defence. As arbitration cases do not, by their nature, generally require representation of the parties it would not be justified for legal aid to be granted for them.

In order to assist solicitors in handling such cases the Board's position can be summarised as follows:

WHEN SHOULD GREEN FORM ADVICE BE GIVEN?

Advice and assistance is available to litigants in person, subject to financial eligibility. Solicitors will be able to advise on the merits of the proceedings and assist the litigant in any necessary

steps to be taken. Advice may include the likely success of an application to rescind the reference to arbitration. The advice given should enable the litigant to proceed in person and make representations in support of an application to rescind.

Green form extension applications will be considered on the basis of reasonableness having regard to all the issues, including what is at stake, the costs involved, the prospects of successful recovery and the operation of the solicitor's charge.

The solicitor may also, where appropriate, prepare written representations for the application to rescind. It is expected that the majority of such applications will be dealt with on the papers. If, after written representations have been submitted by either party, the district judge requests an oral hearing a limited legal aid certificate may be appropriate. For legal aid to be granted there must be a

tangible benefit to the litigant and the costs/benefit position must be considered carefully having particular regard to the operation of the statutory charge.

If a solicitor is advising a potential litigant but the value of the claim is uncertain the investigative work in order to establish quantum should be done under the green form scheme.

Whilst the nature of the small claims procedure does not generally justify the grant of full legal aid, in some cases the litigant in person may require additional legal assistance. Examples of this are where the litigant has some form of disability which leads to a lack of understanding or comprehension of the proceedings; such as mental handicap, illiteracy or poor grasp of English. It may be appropriate in those circumstances for a McKenzie friend to be used under the green form to assist the litigant. To justify this there must be a need for legal help rather than help or support which could be provided by a

social worker, friend or relative.

The solicitor's charge under the green form scheme falls to be protected and recovered by solicitors. Advice in the proceedings can be piecemeal. Solicitors should ensure that the client is fully aware of the effect of the charge in the event of recovery of damages and/or property and must take all necessary and reasonable steps to protect their charge. This is likely to include notifying the other side and obtaining a unequivocal undertaking from the client that any recovery/preservation must pass via the solicitor and to repay the charge amount. Should the client decline to provide such an undertaking it would be justified for the solicitor to refuse to provide advice and assistance.

WHEN WILL FULL LEGAL AID BE AVAILABLE ?

An application for legal aid for a case

falling within the expanded small claims jurisdiction is likely to fail the merits test under section 15(3)(a) of the Legal Aid Act 1988.

It is only likely to be justified to grant legal aid where there are exceptional circumstances warranting representation by a solicitor and where such representation will produce sufficient tangible benefit to the client, having regard to the costs likely to be incurred and the operation of the statutory charge.

Cases in which the reference to arbitration is rescinded may be the subject of a legal aid application in the normal way. It is unlikely that legal aid will be granted for representation on an application to rescind, unless the court requests an oral hearing and the case is otherwise meritorious.

If a case remains within the small claims procedure the limited costs

allowable in arbitration will mean that any financial advantage by representation would be reduced or negated by the workings of the statutory charge. Examples of cases where a grant of legal aid may be justified will be those that involve violence or harassment, e.g. an assault or trespass/illegal eviction injunction. In such cases the costs/benefit equation will be considered carefully.

Whilst the costs/benefit test is not the sole or decisive factor in the grant of legal aid exceptional cases should involve a sufficient tangible benefit to the client. It is recognised that cases with a value at the upper end of the expanded jurisdiction might satisfy the costs/benefit test. Factors to consider in the evaluation of costs/benefit will be what is at stake (financially or otherwise), the likely costs, the strength of the case and the prospects of successful recovery.

Delays in Taxation

New Power to Make Payment on Account

The Civil Legal Aid (General) (Amendment) Regulations 1996 have introduced a new payment on account provision for solicitors (whether or not franchised) who have had to wait six months or longer since submitting their bill for taxation and have not yet been paid. The new rule gives solicitors similar rights to counsel under Regulation 101 (2). Solicitors may apply for payment on account where:

1. The proceedings have concluded or the solicitor is otherwise entitled to have his costs taxed

2. The solicitor could commence proceedings for taxation in accordance with the time limits laid down by rules of court
3. The solicitor has not received payment in respect of those costs for at least six months since he submitted his bill.

Where the requirements of this Regulation are satisfied the solicitor may apply for payment of 75% of profit costs. This new power may be of use to solicitors who are unable to claim the sums in question under the Permanent Payment on Account Scheme in Regulation 100 because the

appropriate window for applying has been missed, and those who are unable to apply for hardship payments on account under Regulation 101 (1) because application can only be made under that Regulation where it appears unlikely that an order for taxation will be made in the next 12 months.

However, this new power only applies to certificates issued on or after the 1 April 1996. It will therefore take at the very least 6 months from that date before any cases may qualify for payment under this new head. Any relevant payment on account application forms will be amended in due course.

Legal Aid Eligibility and Remuneration Changes 1996

The new eligibility limits will take effect from 8 April 1996. A new, updated keycard will be sent to all Legal Aid account holders shortly. Details of the new limits are set out below. Remuneration rates are being

increased with effect from 1 April 1996. There are additional increases for franchisees for work within their franchise categories.

The new rates of payment apply to work done on or after 1 April 1996.

If work was done before 1 April but the solicitor applies for payment after that date, the old rates continue to apply. Details of the new rates can be found on pages 5-14 of this issue of Focus.

LEGAL AID ELIGIBILITY FROM 8 APRIL 1996

1. Green Form – Legal Advice and Assistance

Income limit: £75 per week

Weekly dependants' allowances:

Dependants	partner	£27.30
	under 11	£16.45
	11-15	£24.10
	16-17	£28.85
	18 and over	£37.90

Capital limits:

No dependants	£1000
One dependant	£1335
Two dependants	£1535

Plus £100 for each additional dependant

Contribution system: none. Ineligible if weekly disposable income exceeds £75

State benefits: automatically qualify on income if on income support, family credit or disability working allowance, but may still be out of scope on capital.

2. ABWOR

Income Limit: £162 per week

Weekly dependants' allowances: as for green form – see above

Capital Limits:

No dependants	£3000
One dependant	£3335
Two dependants	£3535

Plus £100 for each additional dependant

Contribution system: free if weekly disposable income up to £67. If between £67 and £162, weekly contribution of one-third of excess income over £67.

State benefits: automatically qualify on income free of contribution if on income support, family credit, or disability working allowance. Automatically qualify on capital if on income support.

3. Civil legal aid

	£ per year
Lower income limit	£2498
Upper income limit	£7403
	£8158 personal injury
Lower capital limit	£3000
Upper capital limit	£6750
	£8560 for personal injury

Yearly dependants' allowances:

Partner	£1423
Dependants	under 11 £858
	11-15 £1257
	16-17 £1504
	18 and over £1976

Capital disregards for pensioners:

Annual disposable income (excluding net income derived from capital)	Amount of capital
up to £370	£35,000
£371 - £670	£30,000
£671 - £970	£25,000
£971 - £1270	£20,000
£1271 - £1570	£15,000
£1571 - £1870	£10,000
£1871 - £2498	£5,000

Contribution system: contribution from capital of excess over £3,000. Ongoing monthly contribution from income of 1/36th of excess over £2498 for the life of the certificate.

State benefits: automatically qualify for civil legal aid free of contribution if on income support.

LEGAL AID ELIGIBILITY FROM 8 APRIL 1996 – (continued)

4. Criminal Legal Aid

Free legal aid income limit: £49

Free legal aid capital limit: £3,000

No upper income or capital limit

Contribution system: contributions from capital of the excess over £3,000.

Weekly contributions from income of £1 for every £3 or part of £3 by which weekly disposable income exceeds £48.

State benefits: automatically eligible free of contribution if on income support, family credit or disability working allowance.

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GREEN FORM AND ABWOR – OUTSIDE LONDON

1. Green Form

	Franchisees £	Non-Franchisees £
Preparation	45.50	44.00
Travelling and waiting	25.50	24.50
Routine letters written and telephone calls	3.55	3.40
Costs limit – Petition prepared	136.50	132.00
– Other cases	91.00	88.00

2. ABWOR – (other than Mental Health Review Tribunals, Disciplinary Life Prisoners and Warrants of Further Detention – see below)

	Franchisees £	Non-Franchisees £
Preparation	45.50	44.00
Advocacy	57.25	55.25
Attendance at Court where counsel assigned	31.00	30.00
Travelling and Waiting	25.50	24.50
Routine letters written and routine telephone calls	3.55	3.40

3. ABWOR – Mental Health Review Tribunals* and Discretionary Life Prisoners

	Franchisees £	Non-Franchisees £
Preparation	54.50	52.75
Advocacy	66.25	64.00
Attendance at Court where counsel assigned	31.00	30.00
Travelling and Waiting	25.50	24.50
Routine letters written and routine telephone calls	3.90	3.75

*Note that there is currently no franchise category covering Mental Health Review Tribunal work.

4. ABWOR – Warrants of Further Detention*

	Franchisees £	Non-Franchisees £
Preparation	60.67	58.67
Advocacy	76.33	73.67
Attendance at Court where counsel assigned	41.33	39.99
Travelling and Waiting	33.99	32.67
Routine letters written and routine telephone calls	4.73	4.53

*Note these rates apply only to Duty Solicitors providing ABWOR in Unsocial Hours.

ABWOR for warrants of further detention at other times or by own solicitors is paid at the normal ABWOR rates in 2 above.

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GREEN FORM AND ABWOR – FEE EARNER IN LONDON AREA

1. Green Form

	Franchisees	Non-Franchisees
	£	£
Preparation	48.25	46.50
Travelling and Waiting	25.50	24.50
Routine letters written and telephone calls	3.70	3.55
Costs limit – Petition prepared	144.75	139.50
– Other cases	96.50	93.00

2. ABWOR – (other than Mental Health Review Tribunals, Discretionary Life Prisoners and Warrants of Further Detention – see below)

	Franchisees	Non-Franchisees
	£	£
Preparation	48.25	46.50
Advocacy	57.25	55.25
Attendance at Court where counsel assigned	31.00	30.00
Travelling and Waiting	25.50	24.50
Routine letters written and telephone calls	3.70	3.55

3. ABWOR – Mental Health Review Tribunals* and Discretionary Life Prisoners

	Franchisees	Non-Franchisees
	£	£
Preparation	58.25	56.25
Advocacy	66.25	64.00
Attendance at court where counsel assigned	31.00	30.00
Travelling and Waiting	25.50	24.50
Routine letters written and telephone calls	3.90	3.75

* Note that there is currently no franchise category covering Mental Health Review Tribunal work.

4 ABWOR – Warrants of Further Detention*

	Franchisees	Non-Franchisees
	£	£
Preparation	64.33	62.00
Advocacy	76.33	73.67
Attendance at court	41.33	39.99
Travelling and Waiting	33.99	32.67
Routine letters written and telephone calls	4.93	4.73

*Note these rates apply only to Duty Solicitors providing ABWOR in Unsocial Hours. ABWOR for warrants of further detention at other times or by own solicitors is paid at the normal ABWOR rates in 2 above.

DUTY SOLICITOR SCHEME AND POLICE STATIONS – FEE EARNER IN LONDON AREA

1. Court Duty Solicitor

	Franchisees	Non-Franchisees
	£	£
Standard Rate	53.50	52.00
Enhanced Rate	66.88	65.00
Travelling	25.50	25.00

2. Police Station Duty Solicitor

	Franchisees	Non-Franchisees
	£	£
Availability during duty period to a maximum of	3.85* 92.00	3.75 89.25
Advice and assistance other than by telephone		
– Duty Solicitor Unsocial Hours	61.75	60.00
– Duty Solicitor Other Hours	50.25	48.50
– Own Solicitor	50.25	48.50
Travelling and Waiting		
– Duty Solicitor Unsocial Hours	61.75	60.00
– Duty Solicitor Other Hours	50.25	48.50
– Own Solicitor	25.75	25.25
Telephone Advice	22.00	21.50
Routine telephone calls	3.75	3.60
Cost limit per case	90.00*	90.00

*Note Franchisees are not subject to any clawback of standby payments and do not require authority to exceed £90 costs limit.

DUTY SOLICITOR SCHEME AND POLICE STATIONS – OUTSIDE LONDON

1. Court Duty Solicitor

	Franchisees	Non-Franchisees
	£	£
Standard Rate	52.25	50.75
Enhanced Rate	65.31	63.44
Travelling	25.50	25.00

2. Police Station Duty Solicitor

	Franchisees	Non-Franchisees
	£	£
Availability during duty period to a maximum of	3.80* 90.75	3.65 88.00
Advice and assistance other than by telephone		
– Duty Solicitor Unsocial Hours	61.75	60.00
– Duty Solicitor Other Hours	46.50	45.50
– Own Solicitor	46.50	45.50
Travelling and Waiting		
– Duty Solicitor Unsocial Hours	61.75	60.00
– Duty Solicitor Other Hours	46.50	45.50
– Own Solicitor	25.75	25.25
Telephone Advice	21.25	20.75
Routine telephone calls	3.60	3.50
Cost limit per case	90.00*	90.00

*Note Franchisees are not subject to any clawback of standby payments and do not require authority to exceed £90 costs limit.

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MAGISTRATES' COURT CRIMINAL – FEE EARNER IN LONDON AREA

1. HOURLY RATES

	Franchisees	Non-Franchisees
	£	£
Preparation	48.50	47.25
Advocacy	57.75	56.50
Attendance at court where counsel assigned	31.50	30.50
Travelling and Waiting	25.50	24.75
Routine letters written and telephone calls	3.70	3.60

2. STANDARD FEES for Franchisees

	Lower Standard Fee	Lower Limit	Higher Standard Fee	Higher Limit
	£	£	£	£
Category 1	191.00	354	453.00	598
Category 2	336.25	602	755.00	963
Category 3	299.25	507	629.00	778

3. STANDARD FEES for Non-Franchisees

	Lower Standard Fee	Lower Limit	Higher Standard Fee	Higher Limit
	£	£	£	£
Category 1	185.50	344	440.00	581.50
Category 2	326.50	584	732.50	934.75
Category 3	290.50	493	611.00	755.25

MAGISTRATES' COURT CRIMINAL – OUTSIDE LONDON

1. HOURLY RATES

	Franchisees	Non-Franchisees
	£	£
Preparation	46.00	44.75
Advocacy	57.75	56.50
Attendance at court where counsel assigned	31.50	30.50
Travelling and Waiting	25.50	24.75
Routine letters written and telephone calls	3.55	3.45

2. STANDARD FEES for Franchisees

	Lower Standard Fee	Lower Limit	Higher Standard Fee	Higher Limit
	£	£	£	£
Category 1	148.25	276	357.00	478
Category 2	262.25	474	601.00	790
Category 3	236.50	418	536.00	730

3. STANDARD FEES for Non-Franchisees

	Lower Standard Fee	Lower Limit	Higher Standard Fee	Higher Limit
	£	£	£	£
Category 1	144.25	268	346.00	463.75
Category 2	254.50	460	583.00	767.25
Category 3	229.75	406	520.25	709.50

CIVIL LEGAL AID – PRESCRIBED RATES – FRANCHISEES

(except Care and Family Proceedings within regulations 3(2)(a) or (b) Legal Aid in Family Proceedings (Remuneration) Regulations 1991)
The figures in brackets are the London rates applicable to a fee earner whose office is in the London Legal Aid Area.

	High Court £	County Court or Magistrates' Court £
Routine letters out	7.50 per item	6.60 per item
Routine telephone calls	4.15 per item	3.65 per item
All other preparation work including any work which was reasonably done arising out of or incidental to the proceedings, interviews with client, witnesses, and other parties; obtaining evidence; preparation and consideration of, and dealing with documents, negotiations and notices; dealing with letters written and received and telephone calls which are not routine.	75.00 per hour (79.50 per hour)	66.00 per hour (70.00 per hour)
Attending counsel in conference or at the trial or hearing of any summons or application at court, or other appointment.	37.00 per hour	32.50 per hour
Attending with counsel at the trial or hearing of any cause or the hearing of any summons or application at court, or other appointment.	75.00 per hour	66.00 per hour
Travelling and waiting	33.25 per hour	29.20 per hour

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CIVIL LEGAL AID – PRESCRIBED RATES – NON-FRANCHISEES

(except Care and Family Proceedings within regulations 3(2)(a) or (b) Legal Aid in Family Proceedings (Remuneration) Regulations 1991)

The figures in brackets are the London rates applicable to a fee earner whose office is in the London Legal Aid Area.

	High Court £	County Court or Magistrates' Court £
Routine letters out	7.40 per item	6.50 per item
Routine telephone calls	4.10 per item	3.60 per item
All other preparation work including any work which was reasonably done arising out of or incidental to the proceedings, interviews with client, witnesses, and other parties; obtaining evidence; preparation and consideration of, and dealing with, documents, negotiations and notices; dealing with letters written and received and telephone calls which are not routine.	74.00 per hour (78.50 per hour)	65.00 per hour (69.00 per hour)
Attending counsel in conference or at the trial or hearing of any summons or application at court, or other appointment.	36.40 per hour	32.00 per hour
Attending with counsel at the trial or hearing of any cause or the hearing of any summons or application at court, or other appointment.	74.00 per hour	65.00 per hour
Travelling and waiting	32.70 per hour	28.75 per hour

CIVIL LEGAL AID – FAMILY PROCEEDINGS – FRANCHISEES

The figures in brackets are the London rates applicable to a fee earner whose office is in the London Legal Aid Area.

Care proceedings – i.e. proceedings for an order under Parts IV or V of the Children Act 1989 – care and supervision/protection of children but including secure accommodation orders.

	High Court £	County Court or Magistrates' Court £
Preparation		
Writing routine letters	£4.25 per item	£3.70 per item
Receiving routine letters	£2.10 per item	£1.85 per item
Routine telephone calls	£4.20 per item	£3.70 per item
All other preparation work including dealing with letters written and received and telephone calls which are not routine	£66.50 per hour (£70.75 per hour)	£59.00 per hour (£62.00 per hour)
Travelling and waiting	£32.50 per hour	£29.50 per hour
Conferences with Counsel		
Attending counsel in conference	£37.50 per hour	£33.00 per hour
Travelling and waiting	£32.50 per hour	£29.50 per hour

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	High Court £	County Court or Magistrates' Court £
Attendances		
Attending with counsel at the trial or hearing of any cause or the hearing of any summons or other application at court, or other appointment	£37.50 per hour	£33.00 per hour
Attending without counsel at the trial or hearing of any cause or the hearing of any summons or other application at court, or other appointment	£65.00 per hour	£65.00 per hour
Travelling and waiting	£32.50 per hour	£29.50 per hour
Fees for junior counsel	See non-franchisee rates	
Taxation and review of taxation (High Court and County Court only)		
Preparing the bill (where allowable) and completing the taxation (excluding preparing for and attending the taxation).	£32.50-£90.75	£32.50-£51.75
Preparing for and attending the taxation (including travelling and waiting).	Discretionary	Discretionary
Review by district judge or judge (including preparation).	Discretionary	Discretionary

Prescribed family proceedings

(a) High Court and County Court proceedings

Preparation

Writing routine letters	£4.25 per item	£3.70 per item
Receiving routine letters	£2.10 per item	£1.85 per item
Routine telephone calls	£4.20 per item	£3.70 per item
All other preparation work including dealing with letters written and received and telephone calls which are not routine.	Where the proceedings were conducted in the divorce registry or the South Eastern Circuit at the time when the relevant work was done. £47.50 per hour All other circuits: £44.25 per hour	£41.50 per hour £39.25 per hour
In addition to the items above, to cover the general care and conduct of the proceedings.	+50%	+50%

Travelling and waiting

	£32.50 per hour	£29.50 per hour
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Conferences with Counsel

Attending counsel in conference	£37.50 per hour	£33.00 per hour
Travelling and waiting	£32.50 per hour	£29.50 per hour

Attendances

Attending with counsel at the trial or hearing of any cause or the hearing of any summons or other application at court, or other appointment	£37.50 per hour	£33.00 per hour
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Attending without counsel at the trial or hearing of any cause or the hearing of any summons or other application at court, or other appointment	£56.75 per hour	£53.50 per hour
Travelling and waiting	£32.50 per hour	£29.50 per hour
Fees for junior counsel	See non-franchisee rates	
Taxation and review of taxation (High Court and County Court only)		
Preparing the bill (where allowable) and completing the taxation (excluding preparing for and attending the taxation).	£32.50-£90.75	£32.50-£51.50
Preparing for and attending the taxation (including travelling and waiting).	Discretionary	Discretionary
Review by district judge or judge (including preparation).	Discretionary	Discretionary

(b) Magistrates' court proceedings

Preparation	£44.50 per hour - (£47.50)
Advocacy	£56.25 per hour
Attendance at court where counsel assigned	£30.25 per hour
Travelling and waiting	£25.00 per hour
Routine letters written and routine telephone calls	£3.45 per item - (£3.60)

CIVIL LEGAL AID – FAMILY PROCEEDINGS – NON-FRANCHISEES

The figures in brackets are the London Rates applicable to a fee earner whose office is in the London Legal Aid Area.

Care proceedings - i.e. proceedings for an order under Parts IV or V of the Children Act 1989 - care and supervision/protection of children but including secure accommodation orders.

	High Court £	County Court or Magistrates' Court £
Preparation		
Writing routine letters	£4.25 per item	£3.65 per item
Receiving routine letters	£2.05 per item	£1.80 per item
Routine telephone calls	£4.25 per item	£3.65 per item
All other preparation work including dealing with letters written and received and telephone calls which are not routine	£65.50 per hour (£69.75 per hour)	£58.00 per hour (£61.25 per hour)
Travelling and waiting	£32.00 per hour	£29.25 per hour

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	High Court £	County Court or Magistrates' Court £
Conferences with Counsel		
Attending counsel in conference	£37.00 per hour	£32.50 per hour
Travelling and waiting	£32.00 per hour	£29.25 per hour
Attendances		
Attending with counsel at the trial or hearing of any cause or the hearing of any summons or other application at court, or other appointment	£37.00 per hour	£32.50 per hour
Attending without counsel at the trial or hearing of any cause or the hearing of any summons or other application at court, or other appointment	£64.00 per hour	£64.00 per hour
Travelling and waiting	£32.00 per hour	£29.25 per hour
Fees for Junior Counsel		
With a brief on an unopposed application for an injunction, or procedural issue.	Standard £88.25 Maximum £146.25	£76.25 £127.00
With a brief on the trial of a cause or matter or on the hearing of an application where the hearing lasts for		
(a) one hour	Standard £133.50 Maximum £268.00	£114.25 £228.50
(b) a half day	Standard £184.75 Maximum £304.50	£159.25 £268.00
(c) a full day	Standard £368.50 Maximum £584.75	£317.75 £508.50
(d) more than a full day	Discretionary	Discretionary
For each day or part of a day on which the trial of a cause or matter, or the hearing of an ancillary application, or a children appointment, is continued after the first day.	Discretionary	Discretionary
Conference (including time reasonably spent in preparation and conference, but not otherwise remunerated).	Standard £20.25 per ½ hour	Standard £17.75 per ½ hour
(a) Complex items of written work (such as advices on evidence, opinions and affidavits of a substantial nature, requests for particulars or answers).	Standard £96.25 per item	Standard £82.75 per item
(b) All other written work.	Standard £57.00 per item	Standard £50.25 per item
Except where the court is within 40 kilometres of Charing Cross or where there is no local Bar in the court town, or within 40 kilometres thereof, for travelling time.	Standard £18.50 per hour + expenses	Standard £15.85 per hour + expenses

1996 REMUNERATION RATES 1 APRIL 1996

Taxation and review of taxation (High Court and County Court only)

Preparing the bill (where allowable) and completing the taxation (excluding preparing for and attending the taxation).	£32.00-£89.25	£32.00-£51.00
Preparing for and attending the taxation (including travelling and waiting).	Discretionary	Discretionary
Review by district judge or judge (including preparation).	Discretionary	Discretionary

Prescribed family proceedings

(a) High Court and County Court proceedings

Preparation

Writing routine letters	£4.25 per item	£3.65 per item
Receiving routine letters	£2.05 per item	£1.80 per item
Routine telephone calls	£4.25 per item	£3.65 per item
All other preparation work including dealing with letters written and received and telephone calls which are not routine.	Where the proceedings were conducted in the divorce registry or the South Eastern Circuit at the time when the relevant work was done. £46.75 per hour All other circuits: £43.75 per hour	£41.00 per hour £38.75 per hour
In addition to the items above, to cover the general care and conduct of the proceedings.	+50%	+50%

Travelling and waiting

£32.00 per hour	£29.25 per hour
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Conferences with Counsel

Attending counsel in conference	£37.00 per hour	£32.50 per hour
Travelling and waiting	£32.00 per hour	£29.25 per hour

Attendances

Attending with counsel at the trial or hearing of any cause or the hearing of any summons or other application at court, or other appointment	£37.00 per hour	£32.50 per hour
Attending without counsel at the trial or hearing of any cause or the hearing of any summons or other application at court, or other appointment	£55.75 per hour	£52.75 per hour
Travelling and waiting	£32.00 per hour	£29.25 per hour

1996 REMUNERATION RATES 1 APRIL 1996

Fees for Junior Counsel	High Court £	County Court or Magistrates' Court £
With a brief on an unopposed application for an injunction, or procedural issue.	Standard £88.25 Maximum £146.25	£76.25 £127.00
With a brief on the trial of a cause or matter or on the hearing of an application where the hearing lasts for		
(a) one hour	Standard £133.50 Maximum £268.00	£114.25 £228.50
(b) a half day	Standard £184.75 Maximum £304.50	£159.25 £268.00
(c) a full day	Standard £368.50 Maximum £584.75	£317.75 £508.50
(d) more than a full day	Discretionary	Discretionary
For each day or part of a day on which the trial of a cause or matter, or the hearing of an ancillary application, or a children appointment, is continued after the first day.	Discretionary	Discretionary
Conference (including time reasonably spent in preparation and conference, but not otherwise remunerated).	Standard £20.25 per ½ hour	Standard £17.75 per ½ hour
(a) Complex items of written work (such as advices on evidence, opinions and affidavits of a substantial nature, requests for particulars or answers).	Standard £96.25 per item	Standard £82.75 per item
(b) All other written work.	Standard £57.00 per item	Standard £50.25 per item
Except where the court is within 40 kilometres of Charing Cross or where there is no local Bar in the court town, or within 40 kilometres thereof, for travelling time.	Standard £18.50 per hour + expenses	Standard £15.85 per hour + expenses
Taxation and review of taxation (High Court and County Court only)		
Preparing the bill (where allowable) and completing the taxation (excluding preparing for and attending the taxation).	£32.00-£89.25	£32.00-£51.75
Preparing for and attending the taxation (including travelling and waiting).	Discretionary	Discretionary
Review by district judge or judge (including preparation).	Discretionary	Discretionary
(b) Magistrates' court proceedings		
Preparation	£44.00 per hour – (£46.75 per hour for a fee-earner whose office is situated within London Legal Aid Area).	
Advocacy	£55.25 per hour	
Attendance at court where counsel assigned	£30.00 per hour	
Travelling and waiting	£24.60 per hour	
Routine letters written and routine telephone calls	£3.40 per item – (£3.55 per item for a fee-earner whose office is situated within London Legal Aid Area).	

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CRIMINAL – HIGHER COURTS – EX POST FACTO FEES

HOURLY RATES

	£	London £
Preparation		
Senior solicitor	53.00	55.75
Fee earner (or equivalent)	45.00	47.25
Articled clerk (or equivalent)	29.75	34.00
Advocacy		
Senior solicitor	64.50	64.50
Solicitor	56.00	56.00
Attendance at court		
Senior solicitor	42.25	42.25
Solicitor	34.00	34.00
Articled clerk	20.50	20.50
Travelling and Waiting		
Senior solicitor	24.75	24.75
Solicitor	24.75	24.75
Articled clerk	12.50	12.50
Letters/Phone Calls	3.45	3.60

Where a case is prepared with a view to counsel appearing alone at the substantive hearing the standard preparation fee is increased by £30.00 (£32.00 London area).

Where a fee-earner listens to a taped interview the standard preparation fee is increased by £10.90 for every 10 minutes (or part thereof).

CRIMINAL – CROWN COURTS – COUNSEL – STANDARD FEES

Jury Trials	221.50
Guilty Pleas	117.00
Appeals against convictions	117.00
Appeals against sentence	73.50
Committals for sentence	73.50
Standard appearance fee	46.50
Standard refresher fee	
(1) Half day	81.75
(2) Full day	158.25
(3) More than full day	238.00
Standard written work fee	30.00

Where counsel appears alone the standard basic fee payable is increased by £19.25.

Where counsel listens to a taped interview the standard basic fee payable is increased by £10.90 for every 10 minutes (or part thereof).

CRIMINAL – CROWN COURTS – STANDARD FEES

Outside London

	Lower Fee £	Lower Limit £	Principal Fee £	Principal Limit £
Jury Trial	129.50	179	249.50	312
Guilty Plea	81.50	110	175.00	226
Appeal against conviction	51.00	68	153.00	233
Appeal against sentence	36.25	52	93.00	131
Committal for sentence	42.50	51	97.75	141
Advocacy	26.25	-	-	-
Attendance	21.40	-	-	-
Travelling	18.50	-	-	-

In London

	Lower Fee £	Lower Limit £	Principal Fee £	Principal Limit £
Jury Trial	139.00	186	261.50	326
Guilty Plea	87.50	114	185.50	235
Appeal against conviction	54.50	70	159.00	244
Appeal against sentence	39.25	54	98.00	135
Committal for sentence	45.00	53	103.00	145
Advocacy	28.75	-	-	-
Attendance	21.40	-	-	-
Travelling	18.50	-	-	-

MISCELLANEOUS

1. Contempt Proceedings

Standard Appearance Fee £72.75

Division where solicitor and counsel/advocate both instructed

Advocate £46.50
Solicitor £26.25

2. Mileage

36p per mile

3. Conciliation Reports

From 1 April 1996 onwards the amount allowable as a disbursement when a solicitor makes a referral to a recognised conciliation service under a green form is £33.13 for franchisees and £33.00 for non-franchisees. This is broken down as to:

	Franchisees	Non-Franchisees
Report	£23.35	£23.35
Solicitor's costs	£9.78	£9.65

4. Independent Social Workers

From 1 April 1996 onwards the fees payable to independent social workers are:

Preparation	£16.75 per hour
Travel	£11.17 per hour

Since April 1989, Solicitors and counsel have had the right of appeal to the Board from an area committee's review of costs assessment. Issue fourteen of Legal Aid Focus carried the decisions made by the Board's Costs Appeal Committee covering the period October 1994 - October 1995. Listed below are the decisions of the Costs Appeal Committee on points of principle of general importance for the period October 1995 to February 1996. We hope this will be of help to practitioners when claiming costs.

Application for Advice and Assistance under the Legal Advice and Assistance Regulations 1989

The combined effect of Regulations 9(1),9(3),9(4) and 9(6) of the Legal Advice and Assistance Regulations 1989 is that the making of the application for advice and assistance includes the provision of the information required by Regulation 9(4) so that the application must be made in person and the information which is part of that application shall be provided at the same time as the completion, including signing and dating, of a form approved by the Board.

On attendance on behalf of the client under Regulation 10 of the Legal Advice and Assistance Regulations 1989 the person so authorised should attend to make the application on behalf of a client. The making of that application must include a personal attendance by the person so authorised, the provision of the information required by the Regulations and completion of the form approved by the Board.

If the date inserted on the signing of the form is incorrectly recorded or omitted it shall be permissible to provide to the Board satisfactory evidence to show the date on which the form was actually signed.

(Ref:LAA7 (Amended) 24 .7.95, 21.11.95, 11. 12.95& 25.1.96)

Prescribed Rates and Non-Contentious Business

Remuneration under the Legal Aid in Civil Proceedings (Remuneration) Regulations 1994 or the Legal Aid in Family Proceedings Regulations 1991 includes all work undertaken in respect of anticipated or contemplated proceedings notwithstanding that no proceedings were actually issued."

(Ref: CLA18 -21.11.95)

Magistrates' Court Standard Fees – Series of Offences – Offences separately committed

Whilst offences may, subsequent to committal, appear on separate indictments that does not of itself mean that they cannot form a series of offences and be classed as one case although it is a strong indication that they are separate cases. A similar approach should be adopted for offences triable either way.

(Ref: Crimla 50 (Amended) - 9.10.95 & 21.11.95)

Regulation 10 Attendance on behalf of a client

Whilst it may be usual for the "another person" authorised under Regulation 10 of the Legal Advice and Assistance Regulations 1989 to be independent of the solicitors firm undertaking the advice and assistance there may be circumstances in which the "another person" may be an employee of the firm other than the fee earner advising. In such circumstances a full record of the authorisation (written or otherwise) and the physical attendance on the solicitor should be made. The cost for authorisation of work done prior to the physical attendance by the "another person" should not form part of the solicitor's claim for costs.

(Ref: LAA10 -21.11.95)

Panel Duty Solicitor rates under the 1992 arrangements

Where a claim falls under the 1992 Duty Solicitor Arrangements the payment to panel duty solicitor shall be at duty solicitor rates until the suspect's initial period of detention at the police station ends.

(Ref:DS 5 - 9.10.95)

Review and Supervision on Franchised File

Time properly spent by franchised firms reviewing and supervising files to meet the franchising criteria is time properly chargeable.

(Ref: Crimla 54 - 21.11.95)

Regulation 44(7) of the Legal Aid in Criminal and Care proceedings (General) Regulations 1989

In considering the deeming provisions under Regulation 44(7) of the Legal Aid in Criminal and Care Proceedings (General) Regulations 1989, although each case must be considered on the basis of its particular circumstances, the criteria in Regulation 44(7)(a) and (b) are likely to be satisfied where there is a court hearing within 10 days or less of the date when initial instructions were taken and an application for legal aid was made no more than 7 days after initial instruction. Circumstances other than a court hearing fixed for within 10 days of initial instructions may justify the provision of representation or advice as a matter of urgency and the particular circumstances of the case may be such that an application made more than 7 days after initial instructions would not be considered to have been unduly delayed.

The time periods mentioned are computed on the basis that time starts to run on the day following initial instruction, and that Saturdays, Sundays and Bank Holidays are counted.

In order to decide whether Regulation 44(7) applies solicitors will need to provide the date of initial instruction, the date the application for legal aid was lodged with the court, the date of the court hearing and the circumstances that it is claimed made provision of the representation or advice necessary as a matter of urgency.

(Ref: Crimla 55 -11.12.95)

Assessment of Authorised Disbursements

An Authority given under Regulations 59, 60 or 61 of the Civil Legal Aid (General) Regulations 1989 does not place a ceiling on the fees that can be claimed in respect of the disbursement so authorised. On assessment further consideration may be given to additional sums claimed. (Ref: CLA 19 – 11.12.95)

Reasons for Reductions in Experts Fees

Where experts fees are reduced on an assessment and the reduction is not accepted, reasons for the reduction must be given on application. (Ref: CLA 20 – 11.12.95)

Magistrates' Courts Standard Fees – Enhanced Rates (pre 01.10.1994)

When a claim for enhancement is made under paragraph 3 of Part 1 of Schedule 1 of the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989 the determining officer should first consider whether the case is "exceptional" and justifies enhancement. If the claim for enhancement is refused, the solicitor should be notified that the case is not exceptional and given reasons. If the determining officer considers the claim for enhancement to be justified the costs should be assessed on the broad average direct cost of the work with an appropriate percentage uplift. (Ref: Crimla 56 – 25.1.96)

Allowance for checking and signing the Report on Case

On the assessment of an ABWOR claim for costs, where a claim is made for preparing and signing the Report on Case, consideration should be given to making a small allowance for the solicitors time in checking and signing the Report on Case. Normally an allowance of 5 - 10 minutes would be appropriate. (Ref: ABWOR 8 – 25.1.96)

Magistrates' Courts Standard Fees – Definition of a case

Having regard to Part III of Schedule I of the Legal Aid Criminal & Care Proceedings (Costs) Regulations 1989 a charge of escape from lawful custody can be a separate case. (Ref: Crimla 57 – 27.2.96)

ABWOR - Mental Health Review Tribunals

ABWOR approval for Mental Health Tribunal work does not cover work only carried out for a Hospital Manager's Appeal. However, if work is properly carried out in preparation for the representation on the Mental Health Review Tribunal it should not be disallowed if it incidentally assists on the Hospital Manager's Appeal. ABWOR approval does not cover representation on the Hospital Manager's Appeal hearing in any event. (Ref: ABWOR 9 – 27.2.96)

Proposed Payment dates for 1 April 1996 – 30 September 1996

There are two payment runs for solicitors and counsel each month. The proposed payment dates for the first six months of the 1996/97 financial year are set out below. Please note that these dates are subject to amendment by the Board should it be necessary but, where possible, you will be told of changes in advance. If you are paid by BACS (Bank Automated Clearing Service) the proposed payment date shown is the date on which you will receive a payment in your bank account. For some smaller banks the BACS credit may appear a day later. The proposed payment date will also be the date by which the last of the cheque/remittance advices are despatched from the Financial Services Section.

Remittance advices are despatched using DX or first class post.

The majority of our payments to the profession are now made through BACS. For details of the benefits of BACS, and an application form, please contact the Master Index Section on 0171 813 1000 ext. 8626.

If you need to ask about the despatch of your payment or remittance advice, please contact the Solicitor/Counsel Settlement Section on the same number, ext 8625. These are both matters for the Board's Financial Services Section in London. But if you have a query regarding an individual item shown on a remittance advice, you should contact the relevant area office, which authorises and processes all such bills.

First Payment date of the Month	Second Payment date of the Month
Tuesday 16 April 1996	Monday 29 April 1996
Tuesday 14 May 1996	Wednesday 29 May 1996
Thursday 13 June 1996	Friday 28 June 1996
Monday 15 July 1996	Monday 29 July 1996
Tuesday 13 August 1996	Thursday 29 August 1996
Friday 13 September 1996	Monday 30 September 1996