



# Ministry of JUSTICE

## BY EMAIL

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24 August 2011

Dear Sir / Madam

### THE COMMUNITY LEGAL SERVICE (FUNDING) (AMENDMENT No2) ORDER 2011

### THE CRIMINAL DEFENCE SERVICE (FUNDING) (AMENDMENT) ORDER 2011

I am writing further to Catherine Lee's letter of 13 July 2011 in response to your comments on the draft Community Legal Service (Funding) (Amendment No.2) Order 2011 and the draft Criminal Defence Service (Funding) (Amendment) Order 2011, which were sent to you pursuant to the Lord Chancellor's duty under section 25(2) of the Access to Justice Act 1999. Attached are copies of the revised Orders, which have been laid today and will come into force on 3 October 2011 for criminal and civil legal aid, and 1<sup>st</sup> February 2012 for legal aid for family cases.

The Orders implement reforms to the civil and criminal legal aid remuneration schemes on which the Government recently consulted in their consultation *Proposals for the Reform of Legal Aid in England and Wales*, which ran from 15 November 2010 to 14 February 2011. The Government's response to that consultation was published on 21 June 2011. The purpose of Catherine Lee's letter was to seek your views on whether the text of the Funding Orders delivered the policy intentions as set out in that response.

In addition to the statutory consultees, responses were received from the Criminal Bar Association (CBA), the Family Law Bar Association (FLBA) and the Civil Legal Aid Sub-Committee). We also received comments from the Legal Aid Practitioners' Group (LAPG), the Housing Law Practitioners' Association (HLPA), Shelter, the Mental Health Lawyers Association (MHLA), Young Legal Aid Lawyers (YLAL) and the Association of Lawyers for Children (ALC), and around 400 individuals.

The issues that were raised by consultees included both clarificatory and more substantive drafting points as well as policy issues. In respect of the latter category (policy issues), these are matters that were previously fully considered and responded to during the original consultation process. This letter therefore only addresses the key policy points raised by the statutory consultees where clarification is requested, or those points made about the substance of the Orders.

We have reviewed the drafting comments received and set out below are details of the changes we have made to each Order, as well as our response to those specific points on which clarification was requested.

### **The Community Legal Service (Funding) (Amendment No2) Order 2011**

The Law Society requested clarification about the handling of proceedings under the Inheritance (Provision for Family and Dependants) Act 1975 and the Trusts of Land and Appointment of Trustees Act 1996. While these have been removed from the definition of family proceedings for the purposes of payment under the Funding Order, this work will continue to be carried out by providers with family contracts under the Unified Contract where the proceedings arise out of family relationships. Payment in these matters will be in accordance with the rates set out under Table 10 of the Payment Annex i.e. non-family rates, as is currently the case. I understand that the position will remain the same under the proposed new interim-family contract.

Article 8 of the Order now introduces definitions in respect of junior and senior counsel in order to provide clarity about when the different rates will be paid.

The rate payable for a Surveyor in the table in Section 1 of Schedule 6 "Experts' Fees and Rates" has been amended from a fixed fee of £225 to an hourly rate of £50. This rate will apply regardless of whether the case is within or outside London and reflects the policy set out in the consultation response published on 21 June.

In connection with the above, the Law Society raised concerns about how experts not listed in Schedule 6 to the Order should be remunerated. As set out in Catherine Lee's letter, the expert types listed in Schedule 6 represent only the most commonly instructed expert types. In considering requests for funding of expert types not listed in the Orders, the Legal Services Commission (LSC) are likely to have regard to the codified rates in deciding the reasonableness of the amount charged and may request multiple quotes to ensure this reflects market rates. Section 2 of Schedule 6 sets out provisions for the funding of any expert service of a type not listed in Section 1.

An additional change to the expert's fees schedule was made in both Orders in respect of the GP (records report) expenses. The fees are listed as being £90 in London and £63 for non-London work in both the civil and criminal orders, but the words 'fixed fee' have been added to clarify that this is not per hour and is instead, per report.

A number of minor amendments have been made to the table in Schedule 7 "Remuneration of barristers in independent practice". These are as follows:

- The terms "in" and "outside" London which are used in relation to the payment of junior in the county court have been replaced by the terms "London Rate" and "Non-London Rate". These terms are already used in tables 7(a) to 8(d) of the current Order without a definition being included in Article 3.
- The Supreme Court has been added to the list of courts where 'led junior counsel' can be remunerated under this section.
- The references in the table to Queen's Counsel being "approved for instruction by the LSC" have been revised to refer to "approved for briefing or instruction by the LSC" to more accurately reflect current practice.
- The word "the" is now used consistently before "type of court".

- The Bar Council noted that the table in Schedule 7 does not include rates payable to barristers appearing in other forums under a legal aid certificate, in particular, the Upper and Appeal Tribunals. The policy intention is that the LSC will continue to follow current practice with such instances and where, for example, as in the case of the Upper Tribunal they currently pay barristers at the High Court benchmark rate, they would apply the new rates to those forums in future.

### **The Criminal Defence Service (Funding) (Amendment) Order 2011**

The Law Society suggested that an additional amendment be made to Schedule 2, for payments in retrials that would allow the litigator to elect which trial is the original, and which is the retrial for payment purposes, in line with the provisions for advocates in Schedule 1. This is a new proposal and not an area that was considered as part of the legal aid reform consultation. Any such change merits further policy consideration and will therefore be considered separately to the legal aid reforms.

The Criminal Bar Association (CBA) suggested that provision of a fee for travel expenses and travelling time to conferences be added to Article 13 of the amending Order to ensure consistency of payment. We consulted on the basis of a fixed fee for all work in elected either way cases and do not propose to amend the Order as suggested. We note that in magistrates' courts cases in urban areas there is no payment for travel time or expenses.

We have made a number of additional drafting changes for clarity. The principal changes are:

- replacing whole paragraphs where a number of amendments were previously being made e.g. the new paragraph 10 of Schedule 10 inserted by Article 24 of this Order;
- replacing all the tables in Schedule 1 that will apply from 1 April 2012 in a single schedule (Schedule 3 of this Order); and
- making clear that the new Part 3A fixed fee in Schedule 1 is payable in addition to the graduated trial fee, in a case where there is a cracked trial or guilty plea before a retrial takes place.

In addition to the above, Article 10 of the Order now also inserts a new provision in paragraph 1 to Schedule 1, to ensure that evidence that is scanned and served electronically by the prosecution, for convenience, counts towards pages of prosecution evidence (as defined in the 2007 Order). This proposal did not form part of the legal aid reforms but was consulted upon separately. The Law Society proposed wording to take account of increased CPS electronic working in the future. However, their suggestion provides too wide a definition for current purposes. The change we have made provides a limited extension regarding the specific issue of the service of certain scanned electronic evidence. We will work with the Law Society and the Bar Council as it becomes clearer how the Crown Prosecution Service will be implementing electronic evidence as part of their CPS T3 programme in order to agree a long term position.

On 18th August 2011 the Bar Council further raised the issue of Section 51 hearings being classed as a Standard Appearance, which they expected to be included in the Order. Payments to barristers have already been made on the basis that a section 51 appearance is already treated by the LSC as a Standard Appearance. To formalise this, the LSC will publish amended guidance and issue communications to providers on the basis that this is an interim operational solution that confirms a current practice and ensures advocates are paid correctly. We intend to make a further Order to deal with this issue as soon as possible.

As the LSC will be implementing the changes set out above through contract amendment (where appropriate), they will be making any consequential changes shortly.

Yours faithfully,

Elizabeth M. Gibby

**Dr Elizabeth Gibby**  
**Deputy Director, Legal Aid Remuneration and Provider Strategy**  
**Access to Justice**

**2011 No. 2066**

**LEGAL SERVICES COMMISSION, ENGLAND AND  
WALES**

**The Community Legal Service (Funding) (Amendment No.2)  
Order 2011**

*Made* - - - - - *18th August 2011*

*Laid before Parliament* *24th August 2011*

*Coming into force in accordance with article 2*

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 6(4) and 25(8A) of the Access to Justice Act 1999(a).

The Lord Chancellor has consulted the General Council of the Bar and the Law Society in accordance with section 25(2) of that Act and has had regard to the matters specified in section 25(3) of that Act.

**Citation, commencement and interpretation**

**1.** This Order may be cited as the Community Legal Service (Funding) (Amendment No.2) Order 2011.

**2.** This Order comes into force—

- (a) in relation to this article, articles 1, 3, 4, 5, 6(c), 7, 8, 11, 12, 13, 14 and article 9 in so far as it relates to Parts 4 and 5 of Schedule 1 to the 2007 Order, on 3rd October 2011;
- (b) in relation to article 6(a) and (b) and article 9 in so far as it relates to Parts 1, 2 and 3 of Schedule 1 to the 2007 Order—
  - (i) where funded services are provided under the 2010 Standard Civil Contract on 3rd October 2011;
  - (ii) where funded services are provided under the Unified Contract on 1st February 2012;
- (c) in relation to article 9, in so far as it relates to Schedule 2 to the 2007 Order, and article 10 on 1st February 2012.

**3.** In this Order, “the 2007 Order” means the Community Legal Service (Funding) Order 2007(b) and words and phrases used in this Order have the same meaning as in the 2007 Order.

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(a) 1999 c.22. The reference in section 6 to the Lord Chancellor was changed to the Secretary of State by S.I.2003/1887 and changed back to the Lord Chancellor by S.I. 2005/3429. Section 25(8A) was inserted by section 153 of the Coroners and Justice Act 2009 (c.25).

(b) S.I.2007/2441, amended by S.I. 2008/1328, 2008/2704, 2009/2468, 2010/95 and 2011/1027.

**Amendments to the 2007 Order**

4. The 2007 Order is amended as follows.

5. In article 3(1), in the definition of “family proceedings”, after paragraph (i) insert—

“but excludes proceedings under the Inheritance (Provision for Family and Dependents) Act 1975(a) and the Trusts of Land and Appointment of Trustees Act 1996(b);”.

6. In article 5(2)—

(a) in sub-paragraph (b)(i) for “200% for non family proceedings” substitute “100% for proceedings”;

(b) in sub-paragraph (b)(ii) for “100%” substitute “50%”; and

(c) after sub-paragraph (d) insert—

“(e) must—

(i) provide for payment of expert services of a type listed in Section 1 of Schedule 6 at the fixed fees or at rates not exceeding the rates set out in that section;

(ii) provide that the Commission may increase the fixed fees or rates set out in Section 1 of Schedule 6 if it considers it reasonable to do so due to exceptional circumstances as defined in Section 2 of Schedule 6; and

(iii) include provisions relating to the payment of expert services that accord with those set out in paragraphs 1 and 3 to 5 of Section 2 of Schedule 6.”.

7. In article 5A(3), omit sub-paragraphs (b) and (c).

8. After article 5B insert—

**“Remuneration of barristers in independent practice providing funded services under a certificate in civil (non-family) proceedings**

5C.—(1) This article applies where—

(a) funded services are provided by a barrister in independent practice under a certificate; and

(b) the funded services are not advocacy services in family proceedings to which article 5A applies.

(2) Subject to paragraph (3), the Commission must fund payments to a barrister in independent practice at the hourly rates set out in Schedule 7.

(3) The Commission may increase the hourly rate for junior counsel in the county court if it considers it reasonable to do so.

(4) For the purposes of this article and Schedule 7—

(a) “junior counsel” means a barrister in independent practice of less than 10 years call; and

(b) “senior counsel” means a barrister in independent practice of 10 years call or more.

9. For Schedules 1 and 2 to the 2007 Order substitute Schedules 1 and 2 set out in Schedule 1 to this Order.

10. For paragraph 77 of Schedule 4 to the 2007 Order substitute—

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(a) 1975 c.63.  
(b) 1996 c.47.

“77.—(1) This paragraph applies where advocacy services within article 5A(3) are provided by counsel.

(2) There shall be determined on cost assessment, a figure having regard to—

- (i) the work reasonably done by counsel;
- (ii) the remuneration that would have been payable had the services been remunerated in accordance with paragraph 76 as it applied before 1<sup>st</sup> February 2012; and
- (iii) the remuneration that would have been payable had the services been remunerated under the provisions of the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001(a).

(4) The remuneration payable to counsel is the figure determined on cost assessment in accordance with paragraph (2) reduced by ten percent.”.

11. In Schedule 5 to the 2007 Order, omit paragraphs 4 to 6.

12. After Schedule 5 to the 2007 Order, insert Schedules 6 and 7 set out in Schedule 2 to this Order.

### **Transitional Provisions**

13.—(1) Where funded services are provided under a certificate and—

- (a) the application for the certificate is signed before the date this Order comes into force in relation to those funded services, regardless of whether the scope of the certificate is extended on or after that date; and
- (b) the application is received by the Commission before the expiry of 7 days after the date this Order comes into force in relation to those funded services,

the 2007 Order continues to have effect as if this Order had not been made.

14. Where funded services are provided otherwise than under a certificate and—

- (a) an application for funded services is made before the date this Order comes into force in relation to those services; or
- (b) a client was in receipt of Legal Help before the date this Order comes into force in relation to that Legal Help and the funded services are extended on or after that date to include Help at Court or Legal Representation,

the 2007 Order continues to have effect as if this Order had not been made.

Signed by authority of the Lord Chancellor

18th August 2011

*McNally*  
Minister of State  
Ministry of Justice

## **SCHEDULE 1**

Article 9

### **“SCHEDULE 1**

Article 5

### **Fees and Hourly Rates**

Subject to any specific provisions of this Schedule, words and expressions used in this Schedule have the same meaning as in the 2010 Standard Civil Contract or, in relation to

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(a) S.I.2001/1077; amended by S.I. 2003/2590, 2005/184, 2114 and 3504, 2006/2364, 2007/2443 and 3169, 2008/666, 2009/1854 and revoked by S.I. 2011/1027.

services provided under the Unified Contract, that contract. The fees and rates in this Schedule are exclusive of value added tax. References to "Schedule Authorisation" shall, in respect of services provided under the Unified Contract, be read as "Specialist Quality Mark".

## Part 1 — Civil Standard and Graduated Fees

### 1 – Legal Help and Help at Court

**Table 1**

The fees in this Table for Housing do not apply to the Housing Possession Court Duty Scheme – see Table 6.

<i>Category</i>	<i>Schedule Authorisation Standard Fee</i>	<i>Schedule Authorisation Exceptional Threshold</i>	<i>Tolerance Standard Fee</i>	<i>Tolerance Exceptional Threshold</i>
Actions Against the Police	£239	£717	n/a	n/a
Clinical Negligence	£195	£585	n/a	n/a
Community Care	£266	£798	£161	£483
Consumer General Contract	£159	£477	£134	£402
Debt	£180	£540	£111	£333
Education	£272	£816	n/a	n/a
Employment	£207	£621	£135	£405
Housing	£157	£471	£124	£372
Miscellaneous	n/a	n/a	£79	£237
Personal Injury	£203	£609	£139	£417
Public Law	£259	£777	n/a	n/a
Welfare Benefits	£150	£450	£122	£366

### 2 – Family Public Law

**Table 2 (a): Legal Help**

*National*

£132

**Table 2(b): Family Help (Lower) – Section 31 Children Act 1989 care or Supervision proceedings only**

*National*

£365

**Table 2(c): Legal Representation - section 31 Children Act 1989 Care or Supervision proceedings only**

<i>Party</i>	<i>Court</i>	<i>No. of Clients</i>	<i>Midlands</i>	<i>North</i>	<i>London and South</i>	<i>Wales</i>
Child	Other	1	£1,949	£1,598	£2,237	£2,183
Child	Other	2+	£2,922	£2,396	£3,355	£3,275
Child	High Court	1	£2,591	£2,125	£2,975	£2,903
Child	High Court	2+	£3,887	£3,188	£4,461	£4,354
Joined Party	Other		£1,033	£798	£1,201	£1,301
Joined	High Court		£1,374	£1,062	£1,597	£1,730



Party						
Parent	Other	1	£2,556	£2,123	£2,907	£2,633
Parent	Other	2	£3,196	£2,653	£3,633	£3,291
Parent	High Court	1	£3,399	£2,823	£3,866	£3,502
Parent	High Court	2	£4,249	£3,530	£4,832	£4,378

### 3 – Family Private Law

Words and expressions in Table 3(e), Table 3(f) and Table 3(g) have the same meaning as in Schedule 3.

#### Table 3(a) – Legal Help

<i>National</i>
£86

#### Table 3(b) – Legal Help – Divorce Petition Only

<i>National</i>
£146

#### Table 3(c) – Family Help (Lower) – Children

	<i>Fee</i>	<i>Settlement Fee</i>
London	£230	£138
Non - London	£199	£119

#### Table 3(d) Family Help (Lower) – Finance

	<i>Fee</i>	<i>Settlement Fee</i>
London	£241	£145
Non- London	£208	£125

#### Table 3(e) Higher Standard Fee Scheme – Children

<i>Region</i>	<i>Court</i>	<i>Family Help (Higher) Standard Fee</i>	<i>Legal Representation Standard Fee</i>
London	Other	£424	£302
	High Court	£509	£362
Non-London	Other	£353	£251
	High Court	£424	£302

#### Table 3(f) Higher Standard Fee Scheme – Finance

<i>Region</i>	<i>Court</i>	<i>Family Help (Higher) Standard Fee</i>	<i>Family Help (Higher) Settlement Fee</i>	<i>Legal Representation Standard Fee</i>
London	Other	£471	£95	£374
	High Court	£565	£113	£449
Non-London	Other	£392	£78	£311
	High Court	£471	£95	£374

#### Table 3(g) Higher Standard Fee Scheme – Domestic Abuse Proceedings

<i>Region</i>	<i>Court</i>	<i>Legal Representation Standard Fee</i>
London	Other	£608
	High Court	£729
Non-London	Other	£507
	High Court	£608

## 4 – Immigration

**Table 4(a) – Immigration Standard Fees**

	<i>Stage 1 (Legal Help)</i>	<i>Stage 2a (Controlled Legal Representation)</i>	<i>Stage 2b (Controlled Legal Representation)</i>
Asylum	£413	£227	£567
Immigration Non-Asylum	£234	£227	£454

**Table 4(b) Additional Payments – Home Office Interview**

Representation at Home Office Interview	£266
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**Table 4(c) Additional Payments for Advocacy Services**

	<i>Additional Payment</i>
Oral Case Management Review Hearing	£166
Telephone Case Management Review Hearing	£90
Substantive Hearing in the AIT	Asylum £302 Immigration £237
Additional Day Substantive Hearing	Asylum £161 Immigration £161

**Table 4 (d) Immigration Removal Centres Standard Fees (for exclusive Schedule Holders only)**

On Site Surgery - advising five or more clients	£360
On site Surgery - advising four clients or less	£180
Fast Track Standby Payment	£34.02

## 5 – Mental Health

**Table 5(a) – Basic fees**

<i>Basic Fees</i>	<i>Value</i>
Mental Health – non Tribunal	£253
Level 1 (Mental Health Proceedings)	£129
Level 2 (Mental Health Proceedings)	£321
Level 3 (Mental Health Proceedings)	£294

**Table 5(b) additional fees**

<i>Additional Fees</i>	<i>Value</i>
Adjourned Hearing Fee	£117
Remote Travel Payment: Level 1 (Mental Health Proceedings)	£69
Remote Travel Payment: Non-Tribunal, Level 2 (Mental Health Proceedings) , Level 3 (Mental Health Proceedings)	£138

## 6 – Housing Possession Court Duty Scheme

**Table 6 Standard Fee**

<i>Standard Fees</i>	<i>Value</i>
London	£75.60
Non-London	£71.55

## PART 2 Hourly Rates – Controlled Work

### 7 – Legal Help, Help at Court and Family Help (Lower)

**Table 7(a) Immigration exceptional cases, Mental Health, Actions Against the Police etc., Public Law, Education and Community Care**

<i>Activity</i>	<i>London Rate</i>	<i>Non- London Rate</i>
Preparation, Attendance and Advocacy	£52.65 per hour	£48.24 per hour
Travel & Waiting Time	£27.81 per hour	£27.00 per hour
Routine Letters out and telephone calls	£4.05 per item	£3.78 per item

**Table 7(b) Family and Housing (except as in Table 7 (c)) and Employment**

<i>Activity</i>	<i>London Rate</i>	<i>Non-London Rate</i>
Preparation, Attendance and Advocacy	£48.74 per hour	£45.95 per hour
Travel & Waiting Time	£25.74 per hour	£25.74 per hour
Routine Letters out and telephone calls	£3.78 per item	£3.65 per item

**Table 7(c) Legal Help or Help at Court provided in relation to a review under section 202 of the Housing Act 1996(a) and to a defendant to a possession claim in the County Court; Family Help (Lower) and related Legal Help in relation to care or supervision proceedings under section 31 of the Children Act 1989**

<i>Activity</i>	<i>London Rate</i>	<i>Non-London Rate</i>
Preparation, Attendance and Advocacy	£56.16 per hour	£52.56 per hour
Travel & Waiting Time	£27.81 per hour	£27.05 per hour
Routine Letters out and telephone calls	£4.05 per item	£3.78 per item

**Table 7(d) Immigration hourly rates cases**

<i>Activity</i>	<i>London Rate</i>	<i>Non-London Rate</i>
Preparation, Attendance and Advocacy	£51.62 per hour	£47.30 per hour
Travel & Waiting Time	£27.27 per hour	£26.51 per hour
Routine Letters out and telephone calls	£3.96 per item	£3.69 per item

**Table 7 (e) All other categories and all tolerance work**

<i>Activity</i>	<i>London Rate</i>	<i>Non-London Rate</i>
Preparation, Attendance and Advocacy	£46.53 per hour	£43.88 per hour

(a) 1996 c.52.

Travel & Waiting Time	£24.62 per hour	£24.62 per hour
Routine Letters out and telephone calls	£3.60 per item	£3.47 per item

8 – Controlled Legal Representation

**Table 8(a) Immigration – exceptional cases**

<i>Activity</i>	<i>London Rate</i>	<i>Non-London Rate</i>
Preparation and Attendance	£57.83 per hour	£54.09 per hour
Travel & Waiting Time	£28.62 per hour	£27.81 per hour
Routine Letters out and telephone calls	£4.14 per item	£3.87 per item
Advocacy	£65.79 per hour	£65.79 per hour

**Table 8(b) Immigration - Upper Tribunal cases where permission granted to Client (non Fast Track)**

<i>Activity</i>	<i>London Rate</i>	<i>Non-London Rate</i>
Preparation and Attendance	£74.36 per hour	£69.56 per hour
Travel & Waiting Time	£36.82 per hour	£35.78 per hour
Routine Letters out and telephone calls	£5.35 per item	£4.99 per item
Advocacy	£84.56 per hour	£84.56 per hour

**Table 8(c) Immigration - Other Hourly Rates Cases**

<i>Activity</i>	<i>London Rate</i>	<i>Non-London Rate</i>
Preparation and Attendance	£55.08 per hour	£51.53 per hour
Travel & Waiting Time	£27.27 per hour	£26.51 per hour
Routine Letters out and telephone calls	£3.96 per item	£3.69 per item
Advocacy	£62.64 per hour	£62.64 per hour

**Table 8(d) Representation in Mental Health proceedings**

<i>Activity</i>	<i>London Rate</i>	<i>Non-London Rate</i>
Preparation and Attendance	£57.83 per hour	£54.09 per hour
Travel & Waiting Time	£28.62 per hour	£27.81 per hour
Routine Letters out and telephone calls	£4.14 per item	£3.87 per item
Advocacy	£65.79 per hour	£65.79 per hour
Attending tribunal with counsel	£30.78 per hour	£30.78 per hour

## Part 3 – Hourly Rates – Licensed Work

### 9 – Family Prescribed Rates

**Table 9(a) Care Proceedings**

<i>Activity</i>	<i>Higher Courts</i>	<i>County Court and Family Proceedings Court</i>
Writing routine letters	£4.23 per item	£3.69 per item
Receiving routine letters	£2.12 per item	£1.85 per item
Routine telephone calls	£4.23 per item	£3.69 per item
Preparation and attendance	£70.07 per hour (London Rate) £65.84 per hour (Non-London Rate)	£61.38 per hour (London Rate) £58.41 per hour (Non-London Rate)
Attendance at court or conference with counsel	£37.13 per hour	£32.67 per hour
Advocacy	£70.07 per hour (London Rate) £65.84 per hour (Non-London Rate)	£64.35 per hour
Travelling and waiting time	£32.18 per hour	£29.21 per hour

**Table 9(b) Other Family Proceedings**

The fees in this Table do not apply to proceedings under the Inheritance (Provision for Family and Dependents) Act 1975(a) or proceedings under the Trusts of Land and Appointment of Trustees Act 1996(b) – Table 10(a) or Table 10(b) apply to those proceedings.

<i>Activity</i>	<i>Higher Courts</i>	<i>County Court and Family Proceedings Court</i>
Routine letters out	£6.35 per item	£5.40 per item
Receiving routine letters	£3.15 per item	£2.70 per item
Routine telephone calls	£6.35 per item	£5.40 per item
Preparation and attendance	£70.56 per hour (London Rate) £65.75 per hour (Non-London Rate)	£59.40 per hour (London Rate) £54.90 per hour (Non-London Rate)
Attending court or conference with counsel	£37.13 per hour	£32.40 per hour
Advocacy	£70.56 per hour (London Rate) £65.75	£59.40 per hour (London Rate) £56.70

(a) 1975 c.63.

(b) 1996 c.47.

Travelling and waiting time	per hour (Non-London Rate)	per hour (Non-London Rate)
	£32.18	£28.80
	per hour	per hour (London Rate)
		£27.90
		per hour (Non-London Rate)

#### 10 - Non Family Prescribed Rates

**Table 10 (a) Higher Courts, County Courts and Magistrates' Courts for work carried out with Schedule Authorisation**

<i>Activity</i>	<i>Higher Courts</i>	<i>County Court and Magistrate Court</i>
Routine letters out	£6.75 per item	£5.94 per item
Routine telephone calls	£3.74 per item	£3.29 per item
Preparation and attendance	£71.55 per hour (London Rate)	£63.00 per hour (London Rate)
	£67.50 per hour (Non-London Rate)	£59.40 per hour (Non-London Rate)
Attendance at court or conference with counsel	£33.30 per hour	£29.25 per hour
Advocacy	£67.50 per hour	£59.40 per hour
Travelling and waiting time	£29.93 per hour	£26.28 per hour

**Table 10 (b) Higher Courts, County Courts and Magistrates' Courts for work not carried out with Schedule Authorisation**

<i>Activity</i>	<i>Higher Courts</i>	<i>County Court and Magistrates Court</i>
Routine letters out	£6.66 per item	£5.85 per item
Routine telephone calls	£3.69 per item	£3.24 per item
Preparation and attendance	£70.65 per hour (London Rate)	£62.10 per hour (London Rate)
	£66.60 per hour (Non-London Rate)	£58.50 per hour (Non-London Rate)
Attending court or conference with counsel	£32.76 per hour	£28.80 per hour
Advocacy	£66.60 per hour	£58.50 per hour
Travelling and waiting time	£29.43 per hour	£25.88 per hour

**Table 10(c) First Tier Tribunal**

<i>Activity</i>	<i>London Rate</i>	<i>Non-London Rate</i>
Preparation and attendance	£55.08 per hour	£51.53 per hour
Routine letter out and	£3.96	£3.69

telephone calls	per item	per item
Advocacy	£62.64	£62.64
	per hour	per hour
Attending tribunal or conference with counsel	£29.30	£29.30
	per hour	per hour
Travelling and waiting time	£27.27	£26.51
	per hour	per hour

## PART 4 – Family Mediation Fees

### 11 – Family Mediation

**Table 10(a): Willingness Test**

<i>Willingness Test</i>	
	£25

**Table 11 (b): Assessment Meetings**

<i>Activity</i>	
Assessment alone	£87
Assessment separate	£87
Assessment together	£130

**Table 11(c): Mediation Fees**

<i>Category of Work</i>	<i>Single Session</i>	<i>Multi Session</i>	<i>Agreed Proposal</i>
All Issues Sole Mediation	£168	£756	£252
All Issues Co-Mediation	£230	£1,064	£252
Property and Finance Sole Mediation	£168	£588	£189
Property and Finance Co-Mediation	£230	£834	£189
Child Sole Mediation	£168	£462	£126
Child Co-Mediation	£230	£647	£126

## PART 5 – Rates for specialist support contracts

### 12 – Specialist support contracts in community care, debt, employment, housing, welfare benefits, mental health, immigration and public law

**Table 12**

<i>Category</i>	<i>Fixed fee</i>
Stand – by payment	£27 per hour
Advice payment	£63 per hour

## SCHEDULE 2

Article 5 and 5A

### Family Advocacy Scheme: Fees and Rates

#### 1 – Public law Advocacy Fees

Words and expressions used in this Schedule have the same meaning as in Schedule 4. The fees and rates in this Schedule are exclusive of value added tax.

**Table 1 (a) Care or supervision proceedings under section 31 of the Children Act 1989 – graduated fees**

<i>Court</i>	<i>Hearing Unit 1 (up to 1 hour)</i>	<i>Hearing Unit 2 (up to 2.5 hours)</i>	<i>Conference Fee</i>	<i>Opinion Fee</i>	<i>Advocates' Meeting Fee</i>	<i>Final Hearing Fee (per day)</i>
Family Proceedings Court	£86.72	£216.81	£127.71	£105.66	£128.16	£506.25
County Court	£95.40	£238.46	£127.71	£105.66	£140.99	£556.88
High Court	£114.48	£286.16	£127.71	£105.66	£169.20	£668.25

**Table 1 (b) Other Public Law cases - graduated fees**

<i>Court</i>	<i>Hearing Unit 1 (up to 1 hour)</i>	<i>Hearing Unit 2 (up to 2.5 hours)</i>	<i>Conference Fee</i>	<i>Opinion Fee</i>	<i>Advocates' Meeting Fee</i>	<i>Final Hearing Fee (per day)</i>
Family Proceedings Court	£75.83	£189.59	£127.71	£105.66	£128.16	£464.31
County Court	£83.39	£208.53	£127.71	£105.66	£140.99	£510.75
High Court	£100.08	£250.20	£127.71	£105.66	£169.20	£612.90

**Table 1 (c) Public Law – bolt-on fees**

<i>Category</i>	<i>Payable For</i>	<i>Fee Payable</i>
Client - Allegations of Harm	Hearings	25% of Hearing Unit Fee
Client - Lack of understanding etc	Hearings	25% of Hearing Unit Fee
Expert's cross examination	Hearings	25% of Hearing Unit Fee
Court bundle payments	Hearings	See table below
Exceptional travel fee	Hearings Advocates' Meetings and Conferences	£32.04

**Table 1 (d) Public Law – bolt-on fees - court bundle payments**

	<i>CB1 (350-700 pages)</i>	<i>CB2 (701-1,400 pages)</i>	<i>CB3 (over 1,400 pages)</i>
Interim Hearing	£59.40	£89.10	£89.10
Final Hearing	£159.30	£239.40	£318.60

#### 2 – Private Law Advocacy Fees

**Table 2 (a) Private law children - graduated fees**

<i>Court</i>	<i>Hearing Unit 1 (up to 1 hour)</i>	<i>Hearing Unit 2 (up to 2.5 hours)</i>	<i>Conference Fee</i>	<i>Opinion Fee</i>	<i>Final hearing fee (per day)</i>
Family	£62.69	£156.74	£125.37	£94.05	£397.04



Proceedings					
Court					
County Court	£68.94	£172.40	£125.37	£94.05	£436.73
High Court	£82.76	£206.87	£125.37	£94.05	£524.07

**Table 2 (b) Domestic abuse – graduated fees**

<i>Court</i>	<i>Hearing Unit 1 (up to 1 hour)</i>	<i>Hearing Unit (up to 2.5 hours)</i>	<i>Final hearing fee (per day)</i>
Family Proceedings Court	£81.50	£203.76	£361.17
County Court	£81.50	£203.76	£361.17
High Court	£81.50	£203.76	£361.17

**Table 2 (c) Private Law Finance – graduated fees**

<i>Court</i>	<i>Hearing Unit 1 (up to 1 hour)</i>	<i>Hearing Unit 2 (up to 2.5 hours)</i>	<i>Financial Dispute Resolution Hearing Unit 1</i>	<i>Financial Dispute Resolution Hearing Unit 2</i>	<i>Early resolution fee</i>	<i>Conference Fee</i>	<i>Opinion Fee</i>	<i>Final hearing fee (per day)</i>
County Court	£63.18	£157.95	£101.07	£252.72	£126.36	£126.36	£94.77	£443.70
High Court	£75.83	£189.54	£121.32	£303.26	£151.65	£126.36	£94.77	£532.44

**Table 2 (d) Private law – bolt-one fees**

<i>Bolt-on Fee</i>	<i>Payable For</i>	<i>Fee Payable</i>
Client - Allegations of Harm	Private Law Children Hearings	25% of Hearing Unit Fee
Expert's cross examination	Private Law Children Hearings	20% of Hearing Unit Fee
Early resolution fee	Private Law Children Hearings	See Private Law Finance table above
Court bundle payments	Private Law Children or Finance Hearings	See table below
Exceptional travel fee	Hearings and Conferences	£32.04

**Table 2 (e) Private law children and finance – bolt-on fees - court bundle payment**

	<i>CB1 (350-700 pages)</i>	<i>CB2 (701-1,400 pages)</i>	<i>CB3 (over 1,400 pages)</i>
Interim Hearing	£59.40	£89.10	£89.10
Final Hearing	£159.30	£239.40	£318.60

## SCHEDULE 2

Article 12

## “SCHEDULE 6

Article 5

### Experts’ Fees and Rates

#### Section 1

**Table**

<i>Expert</i>	<i>Non- London Hourly Rate or fixed fee</i>	<i>London Hourly Rate or fixed fee</i>	<i>Comments</i>
A&E consultant	£126	£135	
Accident reconstruction	£90	£68	
Accountant	£50 - £135	£50 - £144	Partner £144, Manager £108, Accountant £80, General staff £50
Anaesthetist	£135	£135	
Architect	£99	£90	
Cardiologist	£144	£144	
Cell telephone site analysis	£90	£90	
Child psychiatrist	£135	£90	
Child psychologist	£126	£90	
Computer expert	£90	£90	
Consultant engineer	£90	£68	
Dentist	£117	£117	
Dermatologist	£108	£108	
Disability consultant	£68	£68	
DNA (per person) – testing of sample	£315 per test	£315 per test	
DNA (per person) – preparation of report	£90	£90	
Doctor (GP)	£99	£90	
Employment consultant	£68	£68	
Enquiry agent	£32	£23	
ENT surgeon	£126	£126	
General surgeon	£135	£90	
Geneticist	£108	£108	
GP (records report)	£63 fixed fee	£90 fixed fee	
Gynaecologist	£135	£90	
Haematologist	£122	£90	
Handwriting expert	£90	£90	
Interpreter	£32	£25	
Lip reader / Signer	£72	£41	
Mediator	£126	£126	
Medical consultant	£135	£90	
Medical	£135	£135	

microbiologist		
Meteorologist	£126	£180 fixed fee
Midwife	£90	£90
Neonatologist	£135	£135
Neurologist	£153	£90
Neuropsychiatrist	£158	£90
Neuroradiologist	£171	£171
Neurosurgeon	£171	£90
Nursing expert	£81	£81
Obstetrician	£135	£135
Occupational therapist	£68	£68
Oncologist	£140	£140
Orthopaedic surgeon	£144	£144
Paediatrician	£135	£90
Pathologist	£153	£540 fixed fee
Pharmacologist	£122	£122
Photographer	£32	£23
Physiotherapist	£81	£81
Plastic surgeon	£135	£135
Process server	£32	£23
Psychiatrist	£135	£90
Psychologist	£117	£90
Radiologist	£135	£135
Rheumatologist	£135	£135
Risk assessment expert	£63	£63
Speech therapist	£99	£99
Surveyor	£50	£50
Telecoms expert	£90	£90
Toxicologist	£135	£135
Urologist	£135	£135
Vet	£90	£90
Voice recognition	£117	£90

## Section 2

(Provisions relating to experts)

### Payment of expert services of a type not listed in Section 1

1.—(1) This paragraph applies where the Commission receives a request for funding of an expert service of a type not listed in Section 1.

(2) In considering the rate at which to fund the expert service the Commission—

- (a) must have regard to the rates set out in Section 1; and
- (b) may require a number of quotes for provision of the service to be submitted to the Commission.

### Meaning of exceptional circumstances in article 5(2)(e)(ii)

2. For the purposes of article 5(2)(e)(ii), exceptional circumstances are where the expert's evidence is key to the client's case and either—

- (a) the complexity of the material is such that an expert with a high level of seniority is required; or
- (b) the material is of such a specialised and unusual nature that only very few experts are available to provide the necessary evidence.

### General provisions relating to experts

3.—(1) The costs and expenses relating to experts listed at sub-paragraph (2) are not payable by the Commission as disbursements.

(2) The costs and expenses are—

- (a) 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;
- (b) 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.

4. The maximum amount that the Commission may pay as a disbursement in respect of an expert's vehicle mileage is £0.45 per mile.

5. The maximum amount that the Commission may pay as a disbursement in respect of an expert's travel time is £40.00 per hour.

## SCHEDULE 7

Article 5C

### Remuneration of barristers in independent practice

Table

<i>Category</i>	<i>Hourly Rate</i>
Junior counsel in the County Court	£112.50 (Non-London Rate) £135 (London Rate)
Senior counsel alone or leading in the High Court	£135
Led junior counsel in the High Court, Court of Appeal or the Supreme Court	£112.50
Leading senior counsel in the Court of Appeal	£157.50
Queen's Counsel (where approved for briefing or instruction by the Commission) in the High Court or Court of Appeal.	£180
Leading senior counsel in the Supreme Court	£180
Queen's Counsel (where approved for briefing or instruction by the Commission) in the Supreme Court	£225
Noter/Pupil/2nd led junior counsel	£36"

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Community Legal Service (Funding) Order 2007 (S.I.2007/2441) (“the 2007 Order”). It reduces the cap on the level of enhancements to hourly rates that can be paid to 100% for civil non-family proceedings in the higher courts and 50% for all other proceedings.

Schedule 1 (fees and rates payable for funded services) and Schedule 2 (fees and rates payable for advocacy services in certain family proceedings) of the 2007 Order, are replaced by new Schedules reducing the fees and rates payable by 10%.

The funding of expert services is brought within the ambit of the 2007 Order for the first time by the insertion of paragraph (e) into article 5(2) of the 2007 Order and the insertion of Schedule 6 into the 2007 Order. These provide for the fixed fees and hourly rates to be paid for the type of expert services listed in Schedule 6.

The insertion of article 5C and Schedule 7 into the 2007 Order provide for fixed rates to be payable to barristers in independent practice where funded services are provided under a certificate and where the services are not advocacy services in family proceedings to which article 5A of the 2007 Order applies.

Section 3 of Schedule 4 to the 2007 Order deals with the remuneration of advocacy services in family proceedings not dealt with elsewhere in the 2007 Order. Article 10 of this Order amends paragraph 77 of Schedule 4 to the 2007 Order to bring the remuneration in these cases in line with the reduction in fees being made elsewhere in the 2007 Order.