



Legal Aid
Agency

High Cost Family - Care Case Fee Scheme Information Pack - 1 Advocate (External or In-house)

For Cases Registered from 01 October 2015

Version	Issue date	Last review date	Owned by
6.0	08/06/2022	03/06/2019	High Cost Family Team

Version History

Version	Date	Reason
1	01/04/2013	First release – Legal Aid Reform transition to Legal Aid Agency
2	16/04/2013	Clarifications in response to frequently encountered issues/questions. Amendments in Counsel's fees following consultation with the Bar
3	01/04/2014	Changes to LAA team structure and scheme rebranding
4	20/01/2015	Scheme Improvements. Amalgamation of the original Barrister and newer In-House Solicitor Advocate schemes and packs.
5	03/06/2019	Scheme improvements to provide for early return of high cost contract and higher cost limitation. Clarifications in response to frequently encountered issues/questions.
6	08/06/2022	Changes to update team branding and contact details

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Overview

This Information Pack applies to all HCF Section 31 cases registered as high cost from 01 October 2015.

The HCF Family Care Case Fee Scheme (CCFS) is a pricing scheme developed by the Legal Aid Agency based on analysis of bills subject to assessment by the South Tyneside High Cost Family (HCF) Team. It is a simplified method of agreeing advocate's fees and solicitor's profit costs.

The Civil Legal Aid (Procedure) Regulations 2012 Part 6, “Special Case Work” includes extra conditions and controls for very high cost civil cases. Once referred to the Agency as high cost, there must be a CCFS Form or a Full Case Plan submitted.

Criteria for funding High Cost Family Cases are set out in Part 6 of The Civil Legal Aid (Procedure) Regulations 2012.

The Legal Aid Agency has established the HCF Team in our South Tyneside office to handle the majority of these family cases. Contact details are set out in Annex A below.

The Referral Criteria are set out in Regulation 54 under Part 6 of The Civil Legal Aid (Procedure) Regulations 2012. Put simply, any case where the costs are anticipated to, or actually do, exceed £25,000 (including all profit costs with enhancement, disbursements and any counsel’s fees but excluding VAT) will be referred as Special Case Work.

In family cases these will typically be public law Children Act cases with over 10 main hearing days, which includes the fact finding hearing, welfare/disposal hearing or composite final hearing, but not directions hearings, case management hearings or pre-trial review hearings, or cases with multiple parties, or cases with a proliferation of experts and assessments. Certificates with first instance proceedings that go on to an appeal are likely to meet the criteria as it is the whole costs of the ‘closely connected’ matter that are relevant. The Director of Legal Aid Casework has a discretion to treat more than one set of proceedings or certificates as a ‘single case’ if they appear to the Director to be closely connected or proceeding together through the Court. A Provider may request the LAA to link more than one set of proceedings or more than one certificate.

The Care Case Fee Scheme is a pricing model devised from historic analysis of bills subject to court assessment. The Single Counsel Care Case Fee Scheme was modelled around FAS. The Two Counsel model was modelled around FGF. It is for that reason there are differences between the two event models.

This scheme does not replace any of the relevant costs rules, regulations and provisions but builds on them to achieve the same level of costs that would be paid on assessment. It assists Providers by avoiding the need for very detailed case planning, and therefore quicker certainty of fees and consequent payment. It assists the Legal Aid Agency fixing costs consistently and quickly.

The Care Case Fee Scheme has been extended to handle in-house solicitor advocate cases. This scheme remunerates the advocacy in addition to the litigator work.

2. When is the scheme used?

This scheme only applies to Section 31 care and supervision applications. The scheme may be applied to other family cases, on request and at the discretion of the HCF team, if a family case follows a similar pathway and includes a fact finding and disposal hearing. It is used where the actual or projected future costs at prescribed rates exceed a total value of £25,000 (excluding

VAT) and where a single advocate has been or will be instructed. These cases are managed by the HCF Team based in the South Tyneside office.

When notifying the LAA that a case has or is likely to become high cost the provider must confirm whether the case falls within the HCF Care Case Fee Scheme or relates to other proceedings, which are outside the Scheme. The provider must confirm whether application is being made for the case to be considered exceptional (see Section 9 Family Full Case Planning Information Pack and Section 4 below) or whether, in relation to proceedings outside the Scheme, application is being made for the case to be considered under the Scheme.

The scheme can be used with external barristers or in-house solicitor advocates. The scheme will pay fees for advocacy carried out within a solicitor's firm in addition to the litigation tasks.

The Care Case Fee Scheme is based on costings in high cost care proceedings. It is not appropriate to manage cases that follow a distinctly different timetable and process using the fees in this model, for example ancillary relief or most private family law proceedings. For those cases where it is not appropriate to apply this model then a full case plan and detailed billing process is required. See the relevant pack on the website.

3. How does it work in practice?

At the point it is likely that the costs will exceed £25,000, the Provider must contact the LAA by general case enquiry informing the LAA of this. The LAA will set up a case plan task on CCMS to which the Provider must upload a signed contract and Counsel Acceptance Form/s (if External Advocate is being used) and separately apply to amend the cost limitation to £32,500. A CCFS Form (case plan) will not be required until the end of the case unless the costs will exceed the increased limit. If the costs are likely to exceed £32,500 or a previously agreed higher figure, an interim CCFS Form should be submitted, although **this is not a requirement where specific prior agreement of all counsel instructed has been reached to the effect that the CCFS Form can be submitted at the end of the case**. Delay in submitting the CCFS Form may have financial implications for both the Provider and counsel instructed including not being able to seek payments on account above the existing cost limit.

When the LAA makes an offer in relation to a CCFS Form, the Provider may submit a cost amendment request for that amount whilst representations relating to any reduced amounts are made and considered.

At the end of the case the provider will submit the updated and fully completed final CCFS Form detailing the actual hearings/events, which have taken place and been attended and provide supporting documentation as specified in the Final FAST checklist available on our website. This will be reviewed and a final contract value will be agreed. The final CCFS Form should be provided no later than 3 months after the case concludes. The LAA will pay the provider and external advocate in accordance with the scheme based on the agreed information set out in the final

CCFS Form once bills have been uploaded to CCMS. Counsel fees under the Family Advocacy Scheme are claimed through their normal route.

Where counsel is retained once the case is registered, a signed Counsel Acceptance Form is required for each counsel.

Where counsel is instructed prior to registration and is not subsequently retained in the proceedings and has been paid under FAS, those fees do not need to be converted to events (but may be if counsel so chooses) nor is a signed Counsel Acceptance Form required.

4. Exceptional Cases

When the provider notifies the LAA that the costs of the case will exceed £25,000 and the case comes within the Scheme, payment will be paid under the Care Case Fee Scheme, unless agreed as exceptional.

A case is exceptional if the estimated total costs calculated by hourly rates, including any enhancement, exceed the total costs calculated using the CCFS Model by 30%. This may arise where there are few events in comparison to the amount of non-advocacy (litigator's) work involved. You must provide reasons to justify this. A non-exhaustive list of circumstances is set out below.

If you consider that a case is exceptional, you must inform the LAA that you wish to be funded outside of CCFS when you notify the LAA that the case will be high cost. A general case enquiry must be sent through CCMS. If urgent work is necessary, which prevents you from providing reasons at the time of notifying the LAA, the reasons must be provided to the LAA within 2 weeks of the initial notification.

The following are some of the circumstances, which may lead to a case being considered exceptional, although it is stressed that this list is not exhaustive:

- Where there is an issue of law that is new or unclear due to conflicting decisions and/or statutory requirements, or issues of public policy, requiring exceptional preparation and legal research. Of course, approval of this work would be subject to the merits test.
- The factual matrix which raises highly unusual issues or a multiplicity of issues going significantly beyond that commonly experienced in similar cases.
- A clear and significant dispute between experts on the same key novel issue(s), the resolution of which is likely to result in very different outcomes (adoption or return home) and an understanding of the relevant research materials is necessary. An example would be the Al Alas Wray type dispute with novel legal determination of Vitamin D deficiency as the cause of rickets.

- A significant dispute between parties to the proceedings which goes beyond that ordinarily encountered in similar cases the resolution of which is likely to result in very different outcomes for the children, and which involves extensive numbers of witnesses and other materials (such as DVDs, audio tapes) to consider. This would take the form of extending the number of court bundle payments that may be claimed beyond those allowed under FAS.
- Where the case requires a level of client contact, preparation and on-going work during the proceedings which goes significantly beyond that which would ordinarily be expected in cases of a similar type – e.g. a client with severe mental illness, communication or learning difficulties who require extra conferences/extraordinary level of client care. This would take the form of extending the number of client attendances, or conferences that may be claimed beyond those allowed under FAS.
- There has been a late change in representation, which will require exceptional levels of preparation by the litigator.
- Where the number of hearings and advocates meetings are unusually low for the amount of work that has been undertaken in the case as a result of the application of the Public Law Outline structure.

The LAA will notify you of its decision within 5 working days and, if it agrees that the case is exceptional, then you must submit a Full Case Plan within 4 weeks of that notification. The LAA will consider an extension of time in exceptional circumstances, such as the following, which is not an exhaustive list:

- a. The case unexpectedly extends at fact finding or disposal hearing.
- b. An appeal is to be pursued within restricted timescales.
- c. Recent transfer of representation to new solicitors.
- d. Exceptional and as yet unapproved by prior authority of experts' fees outside the hourly rates or hours set out 'Guidelines on Experts Fees'.

The LAA will inform you within 5 working days whether or not an extension of time is agreed.

5. How much do I get paid?

A fixed amount is applied to all 'events' (as defined in section 6 below) that occur throughout the lifetime of the case, to achieve a cumulative price for all work undertaken.

There are a number of rates that can apply as detailed in Annex B. In order to determine the applicable rate you need to identify the following:

1. The level of judge who will hear it (i.e. High Court, Circuit Judge, District Judge or lay magistrate).
2. The number of main hearing days: 10 days or less, or 11 days or more.
3. The Actual versus each Planned Hearing Length – and whether it over-runs or underruns.
4. The type of advocate instructed: External Advocate (barrister or solicitor advocate) or In-House Advocate (barrister or solicitor advocate).

The event prices for solicitors and barristers are based on historic payments for typical cases paid under the hourly rates and Family Graduated Fee schemes. These figures were calculated taking into account the average hours spent in preparation, attendance, client correspondence, conferences and all other chargeable activities, as well as the rates and enhancements allowed on assessment. These cases were all complex high cost care cases involving instructed junior counsel. All figures exclude VAT. The event price reflects all preparation work through the life of the case.

The event prices reflect that in cases which proceeded past a 10-day 'main hearing', a distinct split in workload is evident, with instructed advocate undertaking additional work where the solicitor's workload decreases.

A 'main hearing' is defined as a hearing listed for and proceeding as a substantive fact finding and/or disposal hearing (sometimes also referred to as threshold/welfare hearings/final hearings) and any separate judgment day following on from those hearings, but excludes any IRH or prehearing review or intervening CMHs between a fact finding hearing and the hearing which concludes all matters.

The planned main hearing length will be that reported when the case was notified as a High Cost Family or subsequently revised by judicial direction over 5 working days (Saturdays, Sundays and Bank and Public Holidays are not included) before it takes place. This revision could take place before the fact finding or disposal hearing. The planned length of hearings must be evidenced by court order or judicial directions made in advance of the hearing.

In general, in this scheme, if there is difficulty in obtaining a sealed order from the court, then it will be acceptable for the solicitor to rely on the order either agreed at court or subsequently emailed to the court at the conclusion of the hearing, or judicial emails. That record will be provided to the LAA where required.

Regardless of who attended, or whether the main hearing was shared between the in-house solicitor advocate or external advocate, it is the total number of planned main hearing days throughout a case that determines whether there were more than 10 days main hearing. If a planned main hearing exceeds ten main hearing days then the '> 10 days main hearing' event price is applied to all events throughout the case.

Advocates should always obtain the relevant documents needed to claim under the Family Advocacy Scheme, as a case may not proceed as expected. If the main hearing is planned for below 10 days but over-runs, this is dealt with as set out in Section 9.

The prices were originally calculated for cases undertaken in the County Court/Family Proceeding Court or the High Court. Under the new procedures these rates have been used to set the fee for either (a) a case in the Family Court with a Family Court Judge other than a High Court Judge or (b) a case in the High Court or in the Family Court with a High Court Judge presiding over the main hearing.

The event prices were originally developed for use with external advocates, traditionally by independent counsel. These have been extended for use with in-house advocates, typically solicitor advocates.

6. What events trigger a fee?

The following events trigger a payment under the scheme:

For solicitors as litigator – An event is any hearing day (be it a five minute directions hearing or day 14 of a fact-finding hearing) and advocates meetings ordered by the Court in advance (judicial emails will suffice as evidence), but excluding substantive client conferences.

For Advocates – An event is any hearing day (including any day set aside by the Court in advance for written submissions), advocates meetings ordered by the court in advance, and a limited number of substantive conferences. No more than two conferences will be paid for without specific authorisation from LAA. See details set out below.

Substantive client conferences for advocates – This covers substantive conferences with the client. It is envisaged that these would normally occur in the run up to substantive hearings. It does not cover any form of conference in the absence of the client, or conferences between solicitors. The number of conferences will be limited to 2 in accordance with the regulations on FAS.

If an in-house advocate attends a client conference to be instructed on the case in addition to the case litigator, they will be paid a FAS or CCFS Advocate fee. Attendance should be evidenced by attendance notes showing that the litigator and advocate attended.

A FAS or CCFS Advocate event fee will not be paid for a substantive client conference to a Solicitor Advocate, who also has conduct of the case.

Experts meetings – These do not attract an event fee but are covered by the cumulative price arising from other agreed events. The LAA will not pay a separate event for a solicitor chairing an experts meeting.

Conferences – These will not attract an event fee for the conducting solicitor. The cost of conferences was taken into account when setting the event price for the conducting solicitor.

Preparation – All solicitor and counsel preparation is included in the cumulative price arising from agreed events. No single item of preparation attracts an event fee.

Written Submissions – If, in line with the Family Advocacy Scheme, the judge sets aside one of those days for written submissions to be prepared, that day will continue to attract an event fee for the advocate providing the written submissions. Written submissions days should be evidenced by a court order made in advance or judicial email. Days set aside by a Judge for written submissions will not count towards the number of “main hearing” days. Written submissions were treated as part of the general preparation of case for the purposes of the event price. For that reason, one event fee will be payable to the individual who prepares the written submissions.

Judge’s reading days – Any day listed as a judge’s reading day, where no advocate is required to attend court, will not attract an event fee. It will also not count towards the number of ‘main hearing’ days unless it is within a group of days when counsel is ordered to attend court, rather than say being for a Monday at the start of a hearing week. If the advocate and/or litigator has been put on notice to stand by and is then called to attend court that day, the event will attract a full event fee and count as a ‘main hearing’ day. This is consistent with the Family Advocacy Scheme. Judicial reading days should be evidenced by a court order made in advance or judicial email.

Advocates meetings – Any day that the judge orders in advance for an advocates meeting will be treated as an event. Payment will be made for an in-house advocate attending under FAS or CCFS as an event. All advocates meetings must be evidenced by a court order or judicial emails. This evidence requirement is in addition to the Family Advocacy Scheme and is required given the higher value of the fees. The order need not stipulate the actual date of the Advocates Meeting.

Only one event per day – Where two events occur on the same day, such as a conference on the same day as a hearing, only one event will be allowed per day. Where an individual is instructed on separate cases and where an event in relation to each case takes place on the same day, an event fee will be payable for each unless the cases have been consolidated or there is some other substantial reason not to treat the events as separate.

7. High Court and Family Court rates

The distinction between event rates is based on the level of court in which a matter concludes. If a matter is heard in the Family Court and the case concludes in the High Court, or a hearing before a High Court Judge within the Family Court, both the solicitor and counsel should revisit their previous fees and claim the High Court event rate for every event. This would not apply to a payment under FAS already made to Counsel, who is not subsequently retained after the case is

registered as high cost. Conversely, fees should be revised if the case has progressed in the High Court or in the Family Court before a High Court Judge but concludes in the Family Court and is not before a High Court Judge.

The exception to this is where a matter is temporarily escalated (i.e. for an appeal hearing). In these instances, the hearing in question will be considered outside of the HCF Care Case Fee Scheme pricing model and remunerated through the appropriate hourly rates. The costs of the Appeal should be set out in Section F of the CCFS Form for agreement with the LAA.

Under the Family Court Procedures, the appropriate rate to apply depends upon whether the case heard is either (a) a case in the Family Court with a Family Court Judge other than a High Court Judge or (b) a case in the High Court, or in the Family Court with a High Court Judge presiding over the main hearing.

Example 1 – *The solicitor through the lifetime of a certificate undertakes nine interim hearings, two advocates meetings, one PHR, a 10 day fact-finding/threshold hearing and a five day disposal/welfare hearing. The matter is heard in the Family Court throughout and the main hearing is in excess of 10 days. Their total is 27 events at £531 per event making £14,337 for all work done under the certificate.*

Junior counsel in the same case undertakes six interim hearings, one advocates meeting, one PHR, the ten day fact-finding/threshold hearing, the five day disposal/welfare hearing and two substantive client conferences. Their total is 25 events at £981 per event making £26,487 for all work done under the certificate.

Example 2 – *As above, the solicitor through the lifetime of a certificate undertakes nine interim hearings, two advocates meetings, one PHR, a 10 day fact-finding/threshold hearing and a five day disposal/welfare hearing. The matter is heard in the Family Court to start but the disposal/welfare hearing is heard in the High Court. As the case concluded in the High Court it is the higher event payment rate that is used. The main hearing is in excess of 10 days. Their total is therefore 27 events at £801 per event making £21,627 for all work done under the certificate.*

Junior counsel in the same case undertakes six interim hearings, one advocates meeting, one PHR, the ten day fact-finding/threshold hearing, the five day disposal/welfare hearing and two substantive client conferences. Their total is 25 events at £1,026 per event making £25,650 for all work done under the certificate.

8. What happens if the agreed number of events changes?

A CCFS Form is agreed on the basis of the actual previous and future planned hearings (based on the court listings at the time of notification). If this changes, the case plan and the agreed costs are simply adjusted up or down, which may result in the matter returning to the 10 day or below event rate. In respect of the main hearings it needs to be recognised that preparation is front loaded and therefore, if a main hearing under or overruns, the agreed price is adjusted by a

notional refresher rate. These refresher rates are set to reflect the costs of attending based on historic proportions: 60% of the barrister's fee and 40% of solicitor's profit costs. Under and over run event rates apply only to main hearing days and where the listing is revised by judicial direction 5 working days or less (Saturdays, Sundays and Bank and Public Holidays are not included) before it takes place. Under and overrun event rates will only apply to hearing days after registration as a high cost case.

Example 3 – *The event fees for a fact-finding/threshold hearing listed for 5 days in the Family Court where the total 'main hearing' is not listed over 10 days would be £3,870 (£774 x 5) for solicitors and counsel would be paid through the FAS model. If the hearing were to overrun by 2 days solicitors would instead receive a total of £4,491 (£774 x 5 plus £310.50 x 2) and counsel would receive the usual FAS payment for the additional two days.*

Example 4 – *The event fees for a fact-finding/threshold hearing listed for 5 days in the Family Court where the total 'main hearing' is not listed over 10 days would be £3,870 (£774 x 5) for solicitors and counsel would be paid through the FAS model. If the hearing were to under-run for 2 days solicitors would instead receive a total of £3,249 (£774 x 3 plus £463.50 x 2) and counsel would receive the usual FAS payment for the days attended.*

Once a case has been accepted by the LAA as a High Cost Family, then it can remain so and be claimed as such, subject to a high cost contract being agreed and signed together with the appropriate Counsel Acceptance Form also being signed, even if the costs end up being less than £25,000. Equally, where no high cost contract has been agreed or signed, even though it has been registered as a high cost case, and the case concludes with costs less than £25,000, the case may be de-registered. In the latter case, application should be made by the Provider, but the ultimate decision rests with the LAA. If a case is de-registered the Provider must submit a bill for detailed assessment by the Court. Where a case is de-registered an application may be made by the Provider to increase the cost limit up to £25,000 if the reason for not doing so earlier was the request to register the case as high cost. An application for an increase in costs will be considered favourably in those circumstances.

Vacated Hearings – These will be remunerated as follows:

- If a main hearing is vacated within 5 working days (Saturdays, Sundays and Bank and Public Holidays are not included) of the listing and is not subsequently relisted LAA will accept each day as being an under run.
- If a main hearing is vacated within 5 working days (Saturdays, Sundays and Bank and Public Holidays are not included) and then relisted provider will get a full event at relisted date and nothing for the vacated days.
- If a main hearing is vacated more than 5 working days (Saturdays, Sundays and Bank and Public Holidays are not included) in advance and is relisted provider will get the full event at the time it actually takes place and nothing for the vacated days.
- If a main hearing is vacated more than 5 working days (Saturdays, Sundays and Bank and Public Holidays are not included) in advance and is not relisted there is no payment.

9. What happens if the main hearing under runs or over runs and passes 10 day threshold?

It is recognised that the level of preparation undertaken by solicitors and advocates is proportionate to the projected number of hearing days. For this reason, we will not automatically apply a change in the pricing model for a case where the 'main hearing' exceeds 10 days, or falls below 10 days, solely due to an under-run or overrun at the final hearing stage.

If a main hearing (fact finding or disposal hearing) in a case under-runs or overruns from the planned duration, causing the total number of 'main hearing' dates to exceed or fall under the 10 day threshold unexpectedly, we will remunerate both solicitor and counsel at rates based on the planned length (with the appropriate under- and overruns).

Please note, as per Section 5 and 8, the planned main hearing length will be that reported when the case was notified as a High Cost Family, or subsequently revised by judicial direction over 5 working days (Saturdays, Sundays and Bank and Public Holidays are not included) before it takes place. This revision could take place over 5 working days (Saturdays, Sundays and Bank and Public Holidays are not included) before the fact finding or disposal hearing. The planned length of hearings will be evidenced by court order or judicial directions made in advance including judicial emails. This will be treated as the planned hearing length for the purpose of calculating the 10 day threshold.

10. How are Advocates treated?

The LAA offers the following methods of payments to Advocates. Solicitors can use either the advocacy model or the standard model. Refer to Annex B for details on all rates payable.

	External Advocate (Barrister or Solicitor Advocate)	Internal Advocate (Solicitor Advocate)
10 main hearing days and under	FAS	£1157 or £707 plus FAS
11 main hearing days and over	FAS or CCFS	£1157 or £707 plus FAS

The LAA offers a single method of payment for an External Advocate in addition to FAS.

The LAA offers two methods of payment where an In-House Advocate undertakes an element of the advocacy.

Providers can only use the in-house solicitor advocate model if the in-house solicitor advocate has covered at least one of the events themselves. Assuming this model is used the following rates are applied:

- a. For the events that are covered by counsel or external solicitor, the litigating solicitor rate is £707 and counsel/external solicitor advocate will claim under FAS; subject to the table at the end of this document, which sets out what can be claimed as over runs, under runs should the main hearing in the case exceed 10 days or conclude before a High Court Judge.
- b. For the events that are covered by the in-house solicitor advocate, the rate is either £707 + FAS or £1,157. However, the solicitor advocate must choose which rate to claim on the submission of the final CCFS Form but that rate must then apply to the whole claim. It is not possible to claim one event at £1,157 and another at £707 +FAS.

If additional interim hearings are listed then the agreed costs are simply increased by the relevant number multiplied by the event fee. In respect of the main hearings it needs to be recognised that preparation is front loaded and therefore if a main hearing under or overruns the amended events attract the under-run or overrun fees.

11. What about pre-contract costs for solicitors?

Adopting the Care Case Fee Scheme will have a retrospective effect on a solicitor's costs to date, and pre-contract work will be re-calculated and remunerated with reference to this scheme, rather than hourly rates. In relation to hearings that have already taken place prior to registration, under runs will not apply.

12. What about pre-contract costs for previous solicitors instructed before a case was High Cost?

Any costs incurred by a previously instructed firm should be reported based on the actual costs incurred in the appropriate section of the CCFS Form. If the previous solicitor agrees to payment under the Care Case Fee Scheme, these costs can be included in the Form in accordance with the Care Case Fee Scheme. If the previous solicitor has not agreed to payment under the Care Case Fee Scheme their costs should be based on the fees scheme under which work was undertaken – whether fixed fee or hourly rate - and submitted separately.

There can be difficulties in respect of agreeing case plans and paying bills where there has been a change of instructed solicitor. The following circumstances typically occur and the LAA will act as set out:

- a. If the case was already High Cost at the time of transfer to a new firm, then the newly instructed solicitor will provide a CCFS Form or Full Case Plan for their work. The previous solicitor will be responsible for agreeing their CCFS Form or Full Case Plan. Payments will be made independently to each firm. The newly instructed solicitor is not required to provide any costs information from the previous solicitor, however they must confirm all hearings/events to date.
- b. If the case became High Cost after the transfer and the newly instructed solicitor uses CCFS, they can obtain and include the costs from the previous solicitor within the CCFS Form. However, the newly instructed solicitor does not have to obtain the costs information from the previous solicitor or include any of their costs in the CCFS Form, although they must confirm the number of hearings to date. If the newly instructed solicitor is not including the previous solicitor's costs then this must be communicated to the previous solicitor. The previous solicitor can either use CCFS or claim under the usual non-High Cost provisions (fixed fee/hourly rate) for their work undertaken.
- c. If the case becomes High Cost after transfer and the newly instructed solicitor seeks to use the Full Case Plan method, then they must use their best endeavours to obtain relevant costs information from the previous solicitor up to the date of transfer. If that information is not reasonably provided to the newly instructed solicitor then that previous solicitor's costs will be limited to the costs limitation on the certificate at the time of transfer. If the newly instructed solicitor does not seek to or cannot use any of the costs within the costs limitation at the time of transfer for the pre-contract costs, then the newly instructed solicitor can proceed to have their case plan approved in the absence of a response from the previous solicitor and the LAA will deal with each solicitor's costs separately.
- d. If the circumstances set out in (c) above apply but the newly instructed solicitor seeks to use some of the costs within the costs limitation of the certificate at the time of transfer then it will be necessary for both solicitor's full costs to be known before a final case plan can be approved and any claim for payment can be submitted.

13. Are the fees for all Advocates involved in the case converted?

If the projected length of the 'main hearing' exceeds 10 days, each Advocate may choose to either adopt the Care Case Fee Scheme or continue to claim through the usual FAS procedures and regulations. This choice must be made prior to submission of the case plan or when accepting instructions on the case if later. It should be noted that an in-house Solicitor Advocate can still use CCFS if there are less than 11 main hearings.

Where Counsel's fees were within the FAS model and the Advocate has elected to use the Care Case Fee Scheme on the basis of a 'main hearing' listed to exceed 10 days, the Advocate can choose to leave their claimed costs to date as FAS fees or transfer them to CCFS. For an inhouse Solicitor Advocate, any costs paid on hourly rates will be converted to CCFS for all costs if that scheme is adopted. This includes costs before the case was registered as high cost.

Where counsel is instructed prior to registration and is not subsequently retained in the proceedings and has been paid under FAS, those fees do not need to be converted to events (but may be if counsel so chooses) nor is a signed Counsel Acceptance Form required.

Advocate's claims under the FAS model should be reported separately from counsel's event-based claims in the appropriate hearings section of the CCFS Form. Counsel Fees under FAS should be included in Section G of the CCFS Form.

Counsel should be aware that as set out in Section 9, if the planned main hearing reduces in length by judicial direction more than 5 working days (Saturdays, Sundays and Bank and Public Holidays are not included) in advance of the hearing below the 10 day threshold, their fees will revert to the Family Advocacy Scheme.

14. Disbursements and Experts Fees

The HCF Team will deal with the CCFS Form.

Disbursements and experts' fees should be included on the relevant pages in the case plan with the actual costs if known. You should include estimates of Experts Fees where they are not known or finalised.

For experts, if you are seeking hourly rates in excess of the codified rates you must apply for a Prior Authority to the usual prior authority team (and not to the HCF team). For all issues with regards to experts' fees please refer to the guidance published in the LAA's "[Guidance on the Remuneration of Experts Witnesses](#)".

15. Final Assessment Streamlining Tool - FAST

On 1 December 2016 the HCF Team introduced a new way of managing CCFS submissions to make the process of issuing High Cost contracts quicker and more efficient and reduce delay for our providers.

To streamline the contract negotiation process, the HCF Team seek to agree the majority of Interim CCFS Form submissions (cases that have not concluded) without supporting documentation. This should result in the agreement of high cost contracts more speedily. It also recognises that the predicted courses of cases often change resulting in a change to the pricing model, meaning that it is more sensible to scrutinise the CCFS Form at the end of the case when all orders, fee notes and vouchers are available. At the conclusion of the case, Providers should submit their Final CCFS Form accompanied by a checklist of required information to enable a final contract value to be fixed.

Providers should ensure that their CCFS Form is clearly marked as an Interim or Final CCFS Form. It should be noted that as from 3rd June 2019 Interim CCFS Forms are only required where the case has not concluded, and the predicted costs are likely to exceed £32,500.

Interim CCFS Forms should have all the relevant pages fully completed as far as is possible to allow the LAA to review it without seeking additional information. Please see FAST interim CCFS form completion checklist for details of what level of detail is required to avoid unnecessary queries and delay in agreeing your contract.

Final CCFS Forms should be submitted no later than 3 months after the case concludes. The CCFS Form should contain only actual events and costs. It should be accompanied by the FAST final CCFS form completion checklist and must be accompanied by all requisite supporting documents. Both checklists are available on our website (see Annex A below).

16. How to bill?

All cases under CCMS must be billed within CCMS.

The final CCFS Form must be agreed and the contract signed and submitted to the LAA together with a signed Counsel Acceptance Form for each counsel before payment can be made. A signed Counsel Acceptance Form will not be required where counsel has undertaken work prior to registration of the case as high cost, has been paid and has not undertaken further work.

On cases being run on paper you must ensure that the Final CCFS Form is signed and you have completed your outcome codes.

On cases being run on CCMS you must submit your outcomes on CCMS in the normal way. You must then submit your bill.

17. Interim Payments

Interim payments can be made on request for all costs and counsel's fees to date once a High Cost Case Contract has been signed and lodged with the LAA. Further payments can be claimed either when six months have elapsed or six events have occurred since the last payment was made, whichever is earlier. Payments will be made by way of 100% payment on account of the number of events to date. Claims should be made as set out in the CCMS quick guides.

For Counsel fees specifically, please note, as long as funds are available, you may continue to claim FAS payments until you are able to bill your events, or indeed apply via CCMS for a Payment on Account but the system will limit any such request to 75%.

On billing all disbursements and experts' fees will be subject to assessment by the costs assessment team which is completely separate from the HCF team. Any pre-existing grant of prior authority will be taken into account.

Annex A: Contact Information

Providers should contact the team through CCMS wherever possible

HCF Family Team

LAA South Tyneside

North Regional Office & Business Delivery Centre

Berkley Way

Viking Business Park

NE31 1SF

DX: 742350 Jarrow 2

highcostfamily@justice.gov.uk

Website: <https://www.gov.uk/guidance/civil-high-cost-cases-family>

Annex B: Fees payable under the Care Case Fee Scheme

The Solicitor must claim their fees using either: (i) Standard Model or (iii) Advocacy Model (in red) and apply this throughout the case. Counsel must claim their fees using (ii) Counsel Fees (in blue). These fees apply to both solicitors Standard Model and Advocate Model.

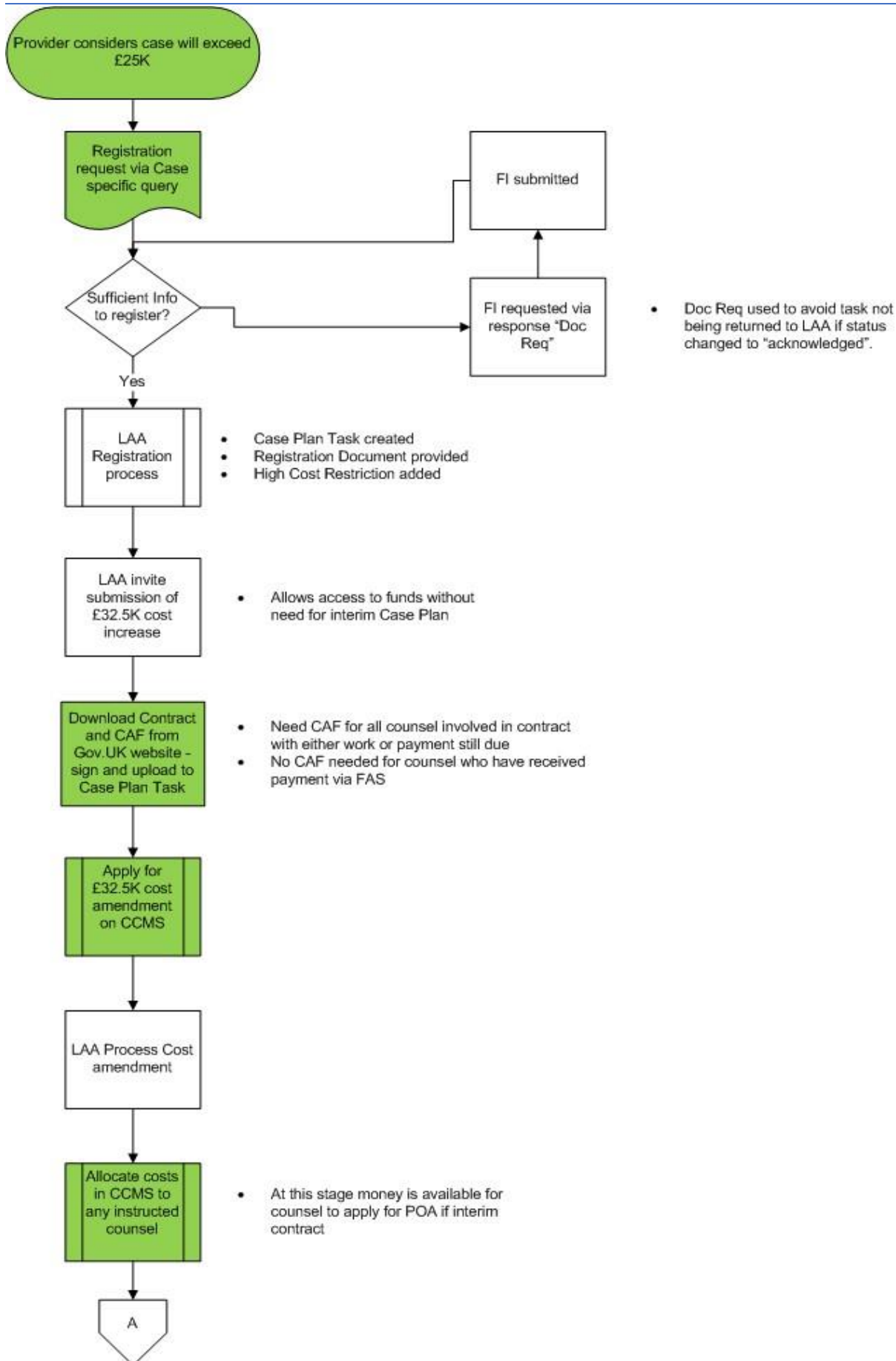
(i) Standard		Solicitor		
JUDGE	Under 11 main hearings or over 10?	EVENT	UNDERRUN	OVERRUN
DJ/CJ	Under	£774	£463.50	£310.50
DJ/CJ	Over	£531	£319.50	£211.50
High Court Judge FC/High Court	Under	£1053	£630	£423
High Court Judge FC/High Court	Over	£801	£481.50	£319.50

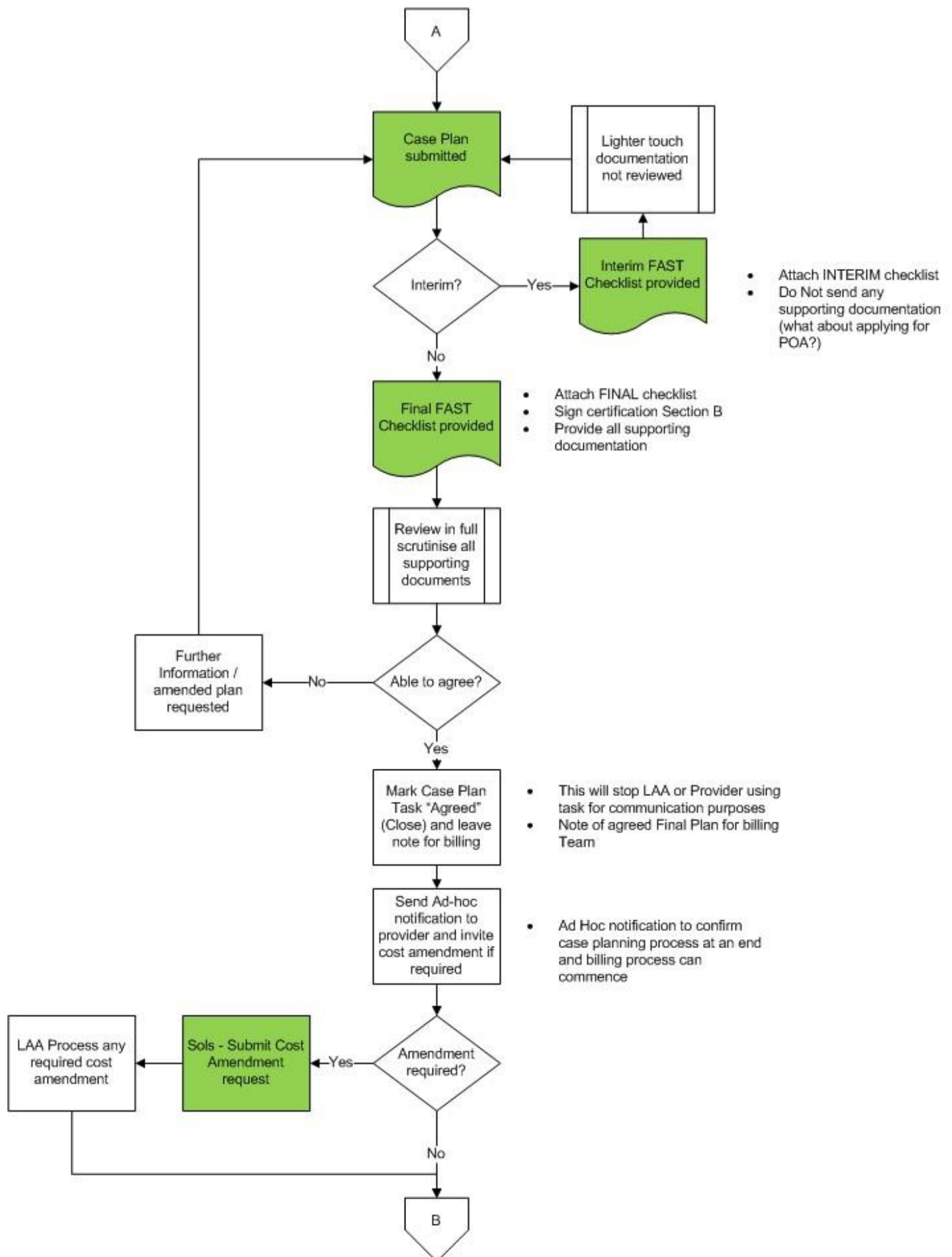
(ii) Counsel Fees		
EVENT	UNDERRUN	OVERRUN
FAS	NA	FAS
£981	£391.50	£589.50
FAS	NA	FAS
£1026	£409.50	£616.50

When using the advocacy model (see table below), the solicitor must use either the set amount or FAS alternative option and apply this throughout the case. Solicitor is paid either the litigator or the advocacy event fee depending on whether they were the advocate for that particular hearing.

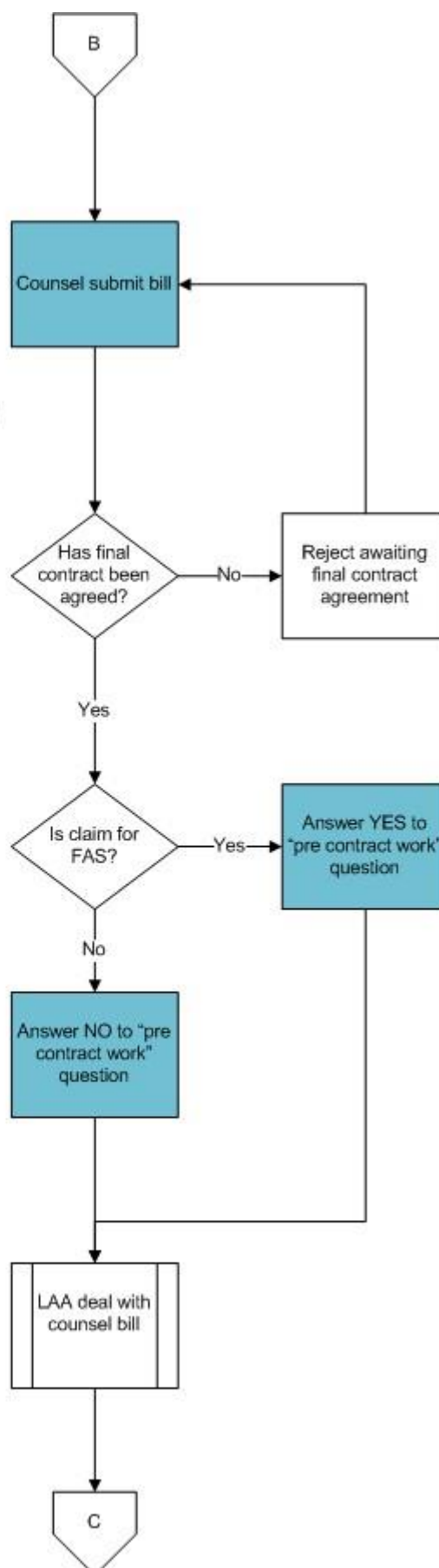
(iii) Advocacy		Solicitor Litigator			Solicitor Advocate		
JUDGE	Under 11 main hearings or over 10?	EVENT	UNDERRUN	OVERRUN	EVENT	UNDERRUN	OVERRUN
DJ/CJ	Under	£707	£425	£285	£1157 or; £707 + FAS	£695 or; £285 + FAS	£465 or; FAS
DJ/CJ	Over	£504	£305	£200	£1157 or; £707 + FAS	£695 or; £285 + FAS	£465 or; FAS
High Court Judge FC/High Court	Under	£961	£575	£385	£1157 or; £707 + FAS	£795 or; £385 + FAS	£530 or; FAS
High Court Judge FC/High Court	Over	£760	£455	£305	£1157 or; £707 + FAS	£795 or; £385 + FAS	£530 or; FAS

Annex C – CCMS Process





- See Counsel Bill Checklist
- Counsel fees allowed under the Family Advocacy Scheme (FAS) are claimed as normal.
- Counsel may have costs agreed as a mixture of FAS and events and any case planning agreement is binding.
- Counsel costs may be claimed as FAS throughout the life of the certificate with a final claim submitted at the agreed events rate
- Counsel costs allocations are controlled by the last acting solicitor on the certificate and an allocation should be checked against the final agreement.
- Solicitor allocation does not take precedence over contract agreement
- Counsel may submit a final bill for the full number of events **in addition** to previous FAS submissions. The final submission will always be subject to assessment or adjustment to ensure the final agreement is adhered to.
- Counsel may claim a single line for all events of the same rate however a valid fee note should also be provided to allow for reconciliation.
- Any Counsel travel claim should be justified via the usual manner i.e. mileage by a start and end point, public transport by ticket or receipt and receipts or invoices for hotel stays.
- Counsel bill submissions can be assessed at any time after their costs are fully agreed under a final case plan.
- **All** Counsel claims must be processed prior to submission of solicitor's final claim.

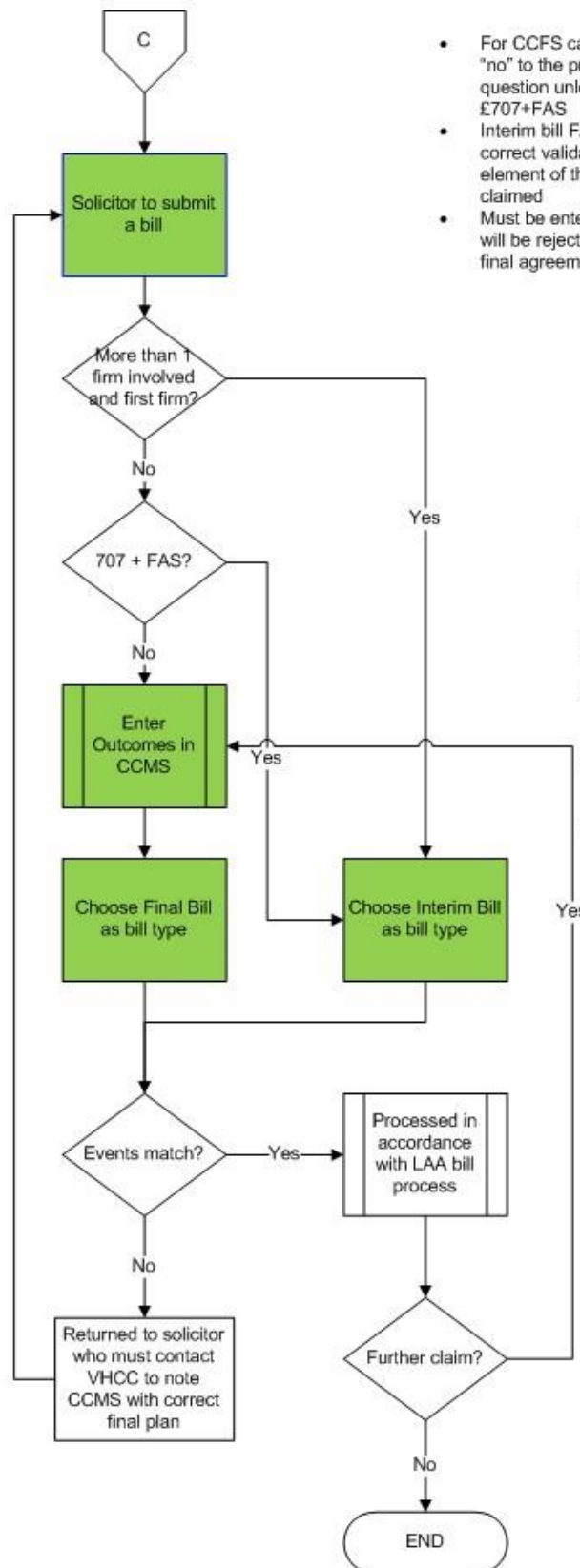


- If the event based Work Types are not available to providers either:
 - You answered yes to the pre contract question
 - The LAA have not identified the case as High Cost (added the High Cost restriction)
- Disbursements and experts' fees should be included on the relevant pages in the case plan and bill with the actual costs.
- Experts are paid in accordance with codified expert rates unless prior authority has been granted.
- Allowable expert rates are dependent upon the certificate date of issue.
- Specific rates are contained in the relevant Civil Legal Aid (Remuneration) Regulations which can be located within <http://www.legislation.gov.uk/> or within the dedicated Expert witnesses in legal aid cases guide found here <https://www.gov.uk/guidance/expert-witnesses-in-legal-aid-cases>
- **Only at this stage are Counsel's POA's recouped in CCMS**

- At the end of the case solicitor provides a final bill containing the actual events
- Evidence in support of events required (add detail)
- Upload document guidance (to be added)
- The LAA will assess the submission and pay the provider in accordance with the scheme **based on the final CCFS plan**.
- Providers should submit their bill with the **final CCFS Plan attached** accompanied by all orders, counsel fee notes and vouchers where applicable.
- Solicitors should provide their final submission only when **all Counsel** costs have been paid.
- Only the **last acting firm** should provide a final bill submission.
- Where outcomes have been provided by the last acting firm then this removes the option for previous firms to submit an interim bill.

- For CCFS cases always answer "no" to the pre contract work question unless you are using £707+FAS
- Interim bill FAS only required for correct validation of the FAS element of the contract being claimed
- Must be entered first or events bill will be rejected as does not match final agreement reached

- The final Bill option is only available to solicitors when all proceedings status is set to "outcome"
- Any outstanding amendment will stop the outcome option being available in CCMS
- Input outcomes for **all** proceedings
- If you submit outcomes you will not be able to access the Case Plan task
- If you submit outcomes you will not be able to submit an amendment request for a cost increase
- Only the LAA can "remove" outcomes but they will need to be re-entered by current acting solicitors
- Submitting outcomes removes the interim bill option from CCMS



Annex D: CCMS Process for CCFS cases

1. Provider - considers case will exceed £25K
2. Provider - registration request via Case Specific Query
 - a. If insufficient information provided a request for further information will be sent
3. LAA - registration process
 - a. Case Plan Task created
 - b. Information document
 - c. High Cost Restriction applied
 - d. Invite £32.5K cost amendment
4. Provider – Downloads High Cost contract from Gov.UK website and submits via case plan task
5. Provider – Make application for £32.5K cost increase
 - a. Allows access to funds without need for interim case plan
6. LAA – Grants £32.5K cost amendment
7. Provider –
 - a. Allocate Costs in CCMS to any counsel involved
 - b. Provider / counsel able to apply for POA
8. Provider - Case Plan submitted via Case Plan Task (marked interim or final)
9. Provider- Interim plan submitted (lighter touch)
 - a. Use interim plan checklist
 - b. Do not send supporting documents
10. Provider - Final Plan submitted (full review)
 - a. Use Final Plan checklist
 - b. Send all supporting documents
 - c. Still a required step if only interim contract exists
11. LAA / Provider - Any negotiation or further information via Case Plan Task
12. Provider – Apply for Cost Amendment if necessary
13. LAA – process Cost Amendment
14. Provider –
 - a. Allocate Costs in CCMS to any counsel involved
 - b. Provider / counsel able to apply for POA
15. Provider – Submit “Final” Case Plan to show how case concluded
 - a. Amend any events to over / underrun etc
16. LAA – Agree final case plan
 - a. Final note on CCMS which billing team access to validate claim(s) when submitted
17. LAA – Case Plan Task marked as “Case Plan Agreed”
 - a. Note this removes access to task for LAA and Provider
18. LAA – Ad Hoc notification of final agreement sent to provider
19. Counsel – able to submit claim(s)
 - a. Once final plan agreed payment made by bill (not POA) to counsel
 - b. Please note - Recoupment of POAs paid only occur after Provider Final Bill processed
 - c. For Info - A claim for events requires a High Cost Restriction on CCMS (undertaken by LAA)
 - d. For Info - Claim for FAS requires answer “yes” to pre contract cost question 20. Provider - in a position to bill?
 - a. If £707 + FAS?

i. enter an interim bill ii. answer “yes” to
pre contract question iii. Claim FAS
elements only

21. Provider - submits outcomes in CCMS

- a. Enables “Final Bill” option in CCMS
- b. For Info contact LAA Billing team via

22. Provider - enters final bill

- a. Can be entered as “Summary” level bill ie minimal line entry as long as it can be reconciled by LAA against final Case Plan and contract agreement.
- b. Disbursements must be entered line by line separately
- c. If unable to reconcile will be rejected by LAA billing team not HCF team (not affect KPI)

23. LAA - Bill processed

24. END