



Legal Aid
Agency

HCF - Payments to Counsel in Family Cases April 2022 v.5

Version History

Version:	Issue date:	Last review date:	Owned by:
5	08/06/2022	01/04/2022	High Cost Family Team

Version History

Version:	Date	Reason
1	01/04/2013	First release
2	01/04/2014	Amended to reflect team name change and scheme rebranding
3	01/10/2015	Amended to include CCFS changes
4	01/08/2017	Reviewed – No updates required
5	08/06/2022	Updated to reflect change in team name and branding

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1. Overview

This document sets out the different payment arrangements that may apply to counsel in family cases following the introduction of the Family Advocacy Scheme (FAS) on 9 May 2011.

2. Family Advocacy Scheme (FAS) – key dates

The key date is the date on which the application was made and counsel should check this date when accepting an instruction so they are aware of which fee scheme and rates will apply;

- Applications made prior to 9 May 2011 FGF scheme will apply
- Applications made on or after 9 May 2011 FAS will apply.
- Applications made on or after 1 February 2012 FAS will apply (different rates)

For exemptions and further information on FAS, please refer to the electronic handbook; https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/433164/le-gal-aid-electronic-handbook.pdf

And the Costs Assessment Guidance;

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/427309/le-gal-aid-costs-assessment-guidance-2013-2014.pdf

3. High Cost Family Cases (HCF) - Single advocate

- A case is only considered to be high cost, if the costs are anticipated to exceed £25,000 at their current rates. Only the instructing solicitor can register the case as high cost but this must be agreed by the South Tyneside team.
- These cases are managed by the High Cost Family Team in South Tyneside. In agreeing the costs of these cases the team will have reference to the rates that would have been paid under FAS (if applicable). For High Cost care cases, they may consider the fees paid under the Care Case Fee Scheme where events are paid per hearing. The proposed fees payable under the Care Case Fee Scheme are set out at table 2. For cases excluded from FAS, such as some cases involving representing a child in private law, Appeals, Wardship etc, the hourly rate from 3rd October 2011 is £112.50 or £135 if in the high court or with over 10 years call to the bar. However from the 2nd December 2013, solicitor rates apply.

Table 2 – fees payable under the Care Case Fee Scheme. For what constitutes an event, please refer to the CCFS Information Pack. It is the level of court that a case concludes that determines the event price up to the 22nd April 2014 when it became the level of judge such as a high court judge acting as a high court judge;

Court/Judge	Number of main hearings	Event	Under run	Overrun
Lower	<= 10 days	FAS	FAS	FAS
Lower	> 10 days	£981	£391.50	£589.50
High	<= 10 days	FAS	FAS	FAS
High	> 10 days	£1026	£409.50	£616.50

4. High Cost Family (HCF) – KC and two Counsel

Prior authority

- Prior authority must be sought by an instructing solicitor before King’s Counsel (KC) or more than one counsel can be used. This is set out in paragraph 6.61(d) of the 2010 and 2012 Standard Civil Contracts (General Specification) which states:
 - You may not Claim for the fees of King’s Counsel or more than one Counsel unless you have obtained prior authority to instruct King’s Counsel or more than one Counsel under Paragraph 5.25. For the avoidance of doubt, prior authority to instruct a King’s Counsel is required only where King’s Counsel will act as such but not where King’s Counsel choose to act and be paid only at junior Counsel rates; and
 - KCs are excluded from the FAS. Payments to KCs for work that would generally fall within the FAS for other Counsel should be remunerated with reference to the rates that would have been paid under the FGFS as set out in the Community Legal Service (Funding) (Counsel in Family Proceedings) (Amendment) Order 2009). For applications made after 01/02/12 these are then reduced by 10%
 - Where a KC is instructed the case would normally be handled under a contract. In these contracts it is appropriate that a led junior on the same case is paid with reference to the same fee scheme. So the FGF scheme would be applied to both counsel. Similarly, for simplicity in cases where two junior counsel are instructed under a high cost, the FGF scheme would be applied to both junior counsel and again where the funding application is made after 01/02/12 these rates are then reduced by 10%.
 - Where a case would have escaped the FGF scheme because of the 10-day escape clause, the Care Case Fee Scheme will continue to be applied. The fees payable under the Care Case Fee Scheme for LASPO Act cases are set out in Table 3 below.
 - Table 3 – Fees payable under the HCC model of the Care Case Fee Scheme the bracketed figure is for certificates issues pre-February 2012 under the Access to Justice Act and the Unified Contract with a main hearing over 10 days.

Type of Authority		King's Counsel	Senior Junior	Junior Counsel
KC & JC (Complexity)	Event	£2,079 (£2,310)		£1,188 (£1,320)
	Refresher	£1,350 (£1,500)		£720 (£800)
Two JC (Volume of work)	Event			£1,188 (£1,320)
	Refresher			£720 (£800)
KC & Sol Adv (Where KC & JC would have been granted)	Event	£2,079 (£2,310)		
	Refresher	£1,350 (£1,500)		
Senior JC & JC (Where KC & JC would have been granted)	Event		£1,655 (£1,850)	£1,188 (£1,320)
	Refresher		£1,035 (£1,150)	£720 (£800)

In HCC cases, should the case be exceptional in its circumstances and the LAA agree that it is appropriate to fund on an hourly rate basis, the hourly rates would be those underlying the events model. (Figures in brackets are for certificates issued pre-February 2012 under the Access to Justice Act and Unified Contract).

King's Counsel	£150/hr (£165/hr)
Senior Junior	£120/hr (£135/hr)
Led Junior	£100/hr (£110/hr)

Payments in the Court of Appeal and Supreme Court.

These are paid on hourly rates basis under HCC cases. Under contract the LAA intend to apply the hourly rates set for civil (non-family) cases in the Remuneration Regulations Schedule 4 as the work is equivalent.

Court of Appeal

King's Counsel	£180/hr
Leading Senior	£157-50/hr
Led Junior	£112-50/hr
Noter / Pupil / 2 nd Led Junior	£36/hr

Supreme Court

King's Counsel	£225/hr
Leading Senior	£180/hr
Led Junior	£112-50/hr
Noter / Pupil / 2 nd Led Junior	£36/hr