



Ministry
of Justice

Guidance for Counsel

High Cost Payment on Account Scenarios

Background

Currently when Counsel have claimed a High Cost 100% Payment on Account (POA) they must then submit a Final Bill on CCMS to close out their side of the case. CCMS will only recoup Counsel POA however when a Final Bill has been paid to the Solicitor. This has led to issues with double payments to Counsel.

We want to avoid Counsel being paid 100% POA and a Final Payment whilst ensuring we don't cause a large recoupment in Counsel's account by paying Solicitors Final Bill without Counsel being fully paid.

What and when to claim

Scenario 1

Counsel has an agreed events contract. Fees for pre-contract work claimed and paid under FAS.

Counsel now wishes to claim their fees as a 100% POA for the total contract figure at events.

Action:

- since we have already paid FAS; Counsel should claim the 100% POA for the remaining fees outstanding after deducting the FAS payments made
- for example; Counsel has a contract for £15000. FAS payments already made for £8000; Counsel claims POA for only £7000
- when it comes to final billing; Counsel submits a bill again for the balance left outstanding and does so only when the Solicitors final bill is submitted to avoid being double paid. Any bills submitted where the Solicitor's final claim cannot be paid at the same time will be rejected with a non-KPI code

Scenario 2

Counsel has an agreed events contract and full fees will be at events. No FAS has been paid previously.

Counsel now wishes to claim 100% POA.

Action:

- counsel claims 100% POA for their full fees
- counsel then waits till the Solicitor final claim has been submitted to claim the final costs
- any final claims from Counsel will be rejected with non-KPI code to avoid any potential duplicate payments if the Solicitor final bill isn't able to be paid

Scenario 3

Counsel has agreed contract at FAS rates throughout.

Counsel wishes to claim their remaining fees under FAS.

Action:

- with the new default cost limit of £32,500; Counsel can be allocated costs by the Solicitor and claim their remaining FAS payments at any time

Scenario 4

King's Counsel Fees have been agreed at FGF Rates but not as part of an events case contract.

Counsel wishes to claim a POA for their work.

Action:

- Counsel can claim 75% for their work as per the relevant quick guide which can be found here:
https://ccmstraining.justice.gov.uk/_data/assets/pdf_file/0012/8022/Advocate-100-POAs.pdf
- counsel should only submit their final claim for the total fees when the Solicitor final bill has been submitted. Any final Counsel claims submitted which cannot be processed at the same time as the Solicitor final will be rejected with a non-KPI code to avoid 150% payments

Scenario 5

Counsel has an agreed contract figure at events and a final CCFS plan has been agreed.

Counsel does not wish to claim a 100% POA but want to bill their final fees.

Action:

- counsel once allocated can bill their final fees if the final CCFS plan has been agreed
- since no POA has been claimed we can pay in line with the contract and have no issues with duplicate payments and reconciliation