



Legal Aid
Agency



Ministry
of Justice

Guidance on Remuneration Rates for Expert Services Determined as Risk Assessments

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1	October 2012	Initial release
2	November 2013	Update for Civil Legal Aid (Remuneration) (Amendment) Regulations 2013

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1. Overview

1. The purpose of this guidance is to assist Legal Aid Agency (LAA) caseworkers in determining whether expert services are specialist risk assessments as opposed to independent social work services and to give guidance on remuneration for independent social work services in non family cases:
 - a. Section 2 provides guidance on the factors in family cases that may point to expert services being of a type provided by a risk assessment expert; and
 - b. Section 3 provides guidance on the approach to take when considering remuneration for services provided by social workers in non-family cases.

2. Risk assessments in family cases

2. The rate for specialist risk assessment expert services is set at £50.40 per hour in the table at Schedule 5 to the Civil Legal Aid (Remuneration) Regulations 2013 (as amended) (the Remuneration Regulations). This rate will apply when an expert with a social work qualification is providing risk assessment services and may be increased where the criteria at paragraph 2(2) of Schedule 5 of the Remuneration Regulations are satisfied and the Lord Chancellor considers it reasonable to do so.
3. The hourly rate for independent social work services (the type of expert service most commonly required to be provided by a social worker in family proceedings) is currently set at £33 per hour for cases in London and £30 for cases elsewhere. The Standard Civil Contract does not allow these rates to be increased under any circumstances.
4. The LAA therefore needs to determine whether the social worker is providing independent social work services (the type of expert service most commonly required to be provided by a social worker in family proceedings) or whether they are providing specialist risk assessment expert services.
5. Accordingly, the remuneration that is paid to experts with a social work qualification providing expert services in family cases will depend on the individual circumstances of each case. Caseworkers will need to examine the nature of the work being done in each case in order to determine whether the expert service being provided is in fact that of a specialist risk assessment expert (where the starting point (subject to the ability increase in exceptional cases) will be the risk assessment rate of £50.40) or whether the expert is providing independent social work services, the type of expert service most commonly required to be provided by a social worker in family proceedings (where £30 or £33 (for cases in London) will be the appropriate rate).
6. The following combination of factors could point to the expert service being provided being that of a specialist risk assessment expert:

- a) court order in the proceedings specifies that a 'risk assessment' is required; and
- b) work that is being done is over and above that requiring independent social work expertise. In considering this caseworkers will need to look at the nature of the services being provided. For example, the following circumstances may require the expert service provided to be treated as a risk assessment:
 - 1) There is a substantiated criminal allegation relevant to the proceedings in the immediate background of the case (e.g. a conviction for a sex offence or pending proceedings for this case; and
 - 2) A finding of sexual abuse relevant to the case has been made by a court;

and

- c) report is specifically required to address the risk posed as a result of the above factors.
7. All the above types of factors would need to be present in order to justify remunerating the expert services provided at the risk assessment rate.
 8. Where it is agreed that the expert services provided should be remunerated at the rate specified for a specialist risk assessor and the provider seeks more than £50.40 an hour, they will need to provide sufficient information to explain why the expert report satisfies the requirements set out in paragraph 2(2) of Schedule 5 of the Remuneration Regulations. Where the LAA considers that a higher rate is not justified, clear reasons must be given.

3. Risk assessments in family cases

9. The changes to the funding of independent social workers were introduced in family cases on 9 May 2011 following the consultation *Family Legal Aid Funding from 2010*. However, no specific codified rate existed for remunerating social workers providing social work services in non-family cases. Therefore, where social work services are provided by a social worker in a non-family case (e.g. mental health, education, immigration), they must be remunerated in accordance with the requirements of paragraph 3 of Schedule 5 to the Remuneration Regulations.
10. These require the LAA to have regard to rates in the table in Schedule 5 of the Remuneration Regulations and in practice this means that the LAA will look at the most comparable rate. Where, as in the case of a social worker providing social work services, there are no comparable rates in Schedule 5, the rates are at large and the LAA must justify why any rates that are claimed are not reasonable. In such cases, caseworkers should use the £33 per hour London and £30 per hour non-London rates (being that specified for independent social work services in family proceedings in the 2013 Standard Civil Contract) as the starting point taking into account all the circumstances of the case and any evidence supplied by the provider to decide on the correct rate for each case.