



Legal Aid
Agency

VHCC - Prison Law/ Judicial Review October 2017 v2

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1	01.04.2013	First release
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1. Overview

The Special Cases Unit of the Legal Aid Agency is responsible for managing civil cases where costs either exceed or are likely to exceed £25,000. We also fund a large proportion of the high profile, complex and leading cases against government including cases involving Judicial Reviews involving prisoners against Prison Governors, The Parole Board and the Secretary of state for Justice.

The Unit is tasked with assessing legal risk and balancing robust financial stewardship with funding cases that involve novel law, significant human rights claims, terrorist issues or significant wider public interest. The decisions we make can place us in the middle of the debate between access to justice to individuals and unpopular causes such as prisoner rights

2. The Team

The Actions Against the Police/ Judicial Review team is part of the Exceptional and Complex Cases Team and is based in Brighton. The team now manages all prison law judicial review cases and a large proportion of legally aided actions against the police cases nationally. Much of this work is not high cost.

In the last few years we have made regular visits to individual firms to discuss our requirements. We aim to develop good relationships with all franchised firms, to be approachable and to develop ways of working with you that cut bureaucracy and the time you need to spend obtaining funding so you can get on with running your cases in the way you want to with as little interference as possible.

3. Our approach – Prison Law Judicial Review

Judicial review applications involving Prisoners should now all be sent directly to the team. We aim to simplify the procedure by clearly defining what we require from you and where possible agree costs in advance. Please note that costs should be agreed in advance with the team whether or not a VHCC contract is in place. We aim to move away from bespoke cost limitations in all but the most unique and novel cases. We do not necessarily take issue with your estimates, as we accept that different cases take differing amounts of time, but in order to speed up our responses to you and provide a more consistent approach to the way cases are funded we intend to impose realistic cost limitations at a standard level on the majority of straightforward cases and only engage with you in more complex cases requiring different levels of work and remuneration

We believe that this will offer you the following advantages:

- You will offer you a clear and consistent price in advance and you will be aware of the work covered.
- Cost and risk assessment becomes easier for both the LAA and solicitors.

- You are aware of the information the team requires from you.
- You save time- there is no need to produce a detailed costs schedule and the volume of correspondence with us is reduced.
- Claiming costs will be quicker and easier.
- All firms will be offered the same price for similar cases.
- Budget management should be devolved to the conducting solicitor with less micro management by the LAA.

We do not believe, as specialists in your area, that automatic reliance on counsel early on in the case is always necessary prior to the issue of proceedings.

Therefore, should counsel's opinion be required in a novel case, you should apply for investigative representation initially. There should be no need for you to obtain Counsel's advice under the Legal Help scheme.

4. Stages and Costs

Instructions from client and pre-action protocol stage will generally be completed under legal help unless the case is novel or legally complex.

In the vast majority of cases, if the case is strong enough in terms of prospects of success the following maximum cost limitations will be authorised.

1. Investigative Representation in novel and complex judicial review cases: Counsel's opinion and pre-action protocol - £1,350

Please provide the following information/documentation to ensure that it can be dealt with promptly:

1. Statement of case-please provide details of the circumstances and the grounds of challenge and clear details of the benefit to the client.
2. Copy of the decision being challenged.

2. Full Representation: Paper application for permission - £2,250

It is not considered that automatic input from counsel is required at this stage unless we specifically request it

Please provide the following information/documentation to ensure that it can be dealt with promptly:

1. Updated statement of case.
2. Copy of the pre-action protocol correspondence (please note that this is a requirement of Full Representation that a letter before action is served on the defendant, save in some exceptional circumstances)
3. Clear assessment of merits.
4. Estimate of costs to settlement and trial.
6. If you are relying on the principals of overwhelming importance to the client, significant wider public interest and/or significant human rights issues, please

provide a full explanation ensuring consideration of the appropriate definitions within the Lord Chancellors Guidance under Section 4 of LASPO.

3. Full Representation: Oral application for permission - £4,500 (Using Counsel)

You will need to apply to the team for this stage if the Paper Application is refused. Please provide the following information/documentation to ensure that it can be dealt with promptly:

1. Updated statement of case.
2. Judge's refusal reasons, if applicable.
3. Clear assessment of merits with reasons.
4. Estimate of costs to settlement and trial.

4. Full representation: Paper Application and final hearing of a relatively straightforward Judicial Review- up to £7,500 (Using Counsel)

Please provide the following information/documentation to ensure that it can be dealt with promptly:

1. Permission decision.
2. Any other relevant documentation.
3. Clear assessment of merits with reasons.
4. Estimate of costs to settlement and trial.

5. Full representation: Oral application for permission and final hearing of a relatively straightforward judicial review – Up to £10,000 (Using Counsel)

Please provide the following information/documentation to ensure that it can be dealt with promptly:

1. Permission decision.
2. Any other relevant documentation.
3. Clear assessment of merits with reasons.
4. Estimate of costs to settlement and trial.

6. Full representation: for a more complex judicial review with one counsel – up to £15,000.

Please provide the following information/documentation to ensure that it can be dealt with promptly:

1. Permission decision.
2. Any other relevant documentation.
3. Clear assessment of merits with reasons.
4. Estimate of costs to settlement and trial.

In the vast majority of cases, if an initial cost limitation of £2,250 has been authorised for a paper application for permission (which has then been refused) and the case is still considered strong enough in terms of prospects of success a total cost limitation of £4,500 will typically be authorised to cover the renewed oral application for permission. However detailed compelling reasons must be given as to why you consider the refusal decision was wrong.

7. Significant Wider Public Interest

If you are relying on the principals of overwhelming importance to the client, significant wider public interest and/or significant human rights issues, please provide a full explanation ensuring consideration of the appropriate definitions within Lord Chancellors Guidance under Section 4 of LASPO .

8. Leading Counsel

Leading counsel in addition to junior counsel will be authorised if you can show that the law is genuinely novel/complex. It is important that you clearly demonstrate that the use of 2 counsel is cost effective and not involve duplication of work.

Please note that if you are requesting higher amounts please provide full details outlining the complexities and or/exceptional nature of the challenge.

9. Hourly Rates

For cases begun after the 3rd October 2011 the payment rates are set out in the Civil Legal Aid (Remuneration) Regulations 2013. The Very High Cost Contract “risk rates”- applicable when costs under the certificate reach £25,000, are unchanged.

Costs up to £25,000:

Solicitor Preparation:	£108 p/h (prescribed preparation rate including enhancement of approximately 50%)
Leading Counsel:	£180p/h
Senior Junior acting alone:	£135p/h Pre 02/12/13
Junior with Leader:	£112.50p/h Pre 02/12/13
Counsel post 02/12/13:	
County Court, High Court or Upper Tribunal:	£71.55p/h (London Rate) £67.50 p/h (Non-London Rate) for preparation and attendance, plus enhancement as appropriate (See Regs)
Court of Appeal and Supreme Court: Led Junior: Leading Senior Counsel in Court of Appeal: Leading Counsel:	£112.50 p/h £157.50p/h (Preparation and attendance) £180 p/h

Costs Over £25,000–VHCC contract “risk rates”:

Solicitor	£70
Senior Counsel (inc. senior junior acting alone)	£90
Junior counsel	£50

Medical Experts:

See MOJ Codified rates (The Civil Legal Aid (Remuneration) Regulations pre 02/12/13 as amended post 02/12/13.

10. Claims for Payment

Claim Forms (Claim 1s, POA 1s and finance queries) should be sent to the following address:

**Legal Aid Agency
Business Delivery South
Tyneside DX742350 Jarrow 2
Tel: 0300 200 2020**

Please note that cases funded by Regional Offices will continue to be assessed in the usual way.

Simplified Claims for Payment:

Where you have agreed costs limits with the Legal Aid Agency using the Funding Checklist please submit the following:

- Claim 1
- This Funding Checklist
- Time recording sheets for each stage
- Counsel’s fee notes
- Disbursement vouchers

If the Checklist is answered in full and the costs limitations agreed there is no need to provide a separate case plan or detailed costs schedule.