



Legal Aid  
Agency

# Guidance on the Remuneration of Expert Witnesses

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## Version History

Version:	Date	Reason
1	April 2013	Initial release
2	November 2013	Update to include: <ul style="list-style-type: none"> <li>• New rates from 2 December 2013</li> <li>• Updated information on where to send prior authority applications</li> </ul>
3	September 2014	Update to include: <ul style="list-style-type: none"> <li>• Expert activity time guidelines</li> <li>• Expert witness standards</li> <li>• ISWs, PAMs assessments, psychotherapists, and translation</li> <li>• Payment of experts bills and pre LAR expert invoices</li> </ul>
4	April 2015	Update to include: <ul style="list-style-type: none"> <li>• Experts on foreign law</li> <li>• Communicating with clients at Court</li> <li>• Transcripts</li> <li>• Translation</li> </ul>
5	April 2019	Change to paragraph 6.29

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## Annexes

Annex 1 –Expert rates on cases started on/after 2<sup>nd</sup> December 2013.

Annex 2 - Expert rates on cases started between 1<sup>st</sup> April 2013 and 1<sup>st</sup> December 2013.

Annex 3 – Expert rates on cases started between 3<sup>rd</sup> October 2011 and 31<sup>st</sup> March 2013.

## 1. Overview

- 1.1. The Civil Legal Aid (Remuneration) (Amendment) Regulations 2013 and the Criminal Legal Aid (Remuneration) (Amendment) Regulations 2013 (the Remuneration Regulations) introduced new rates for most types of expert.
- 1.2. The rates in the Remuneration Regulations (as amended) apply to all work undertaken by experts in all civil, family and crime work with a case start date or representation order date of on or after **2<sup>nd</sup> December 2013**.
- 1.3. A list of the applicable rates from 2<sup>nd</sup> December 2013 is included in **Annex 1**. Rates for work on cases started prior to that date are set out in **Annexes 2 and 3**.

## 2. How the rates work

- 2.1. The Legal Aid Agency (LAA) cannot pay fees or rates in excess of those listed in the Remuneration Regulations unless we have granted prior authority to exceed the fees or rates. This will be in exceptional circumstances.
- 2.2. Exceptional circumstances are defined in the Remuneration Regulations and are where the expert's evidence is key to the client's case and either—
  - a) **the complexity of the material is such that an expert with a high level of seniority is required; or**
  - b) **the material is of such a specialised and unusual nature that only very few experts are available to provide the necessary evidence.**
- 2.3. Where a rate set out in the Remuneration Regulations has been exceeded and no authority to exceed the rates has previously been granted the LAA will disallow any fees exceeding the maximum rates.
- 2.4. Payments on account for experts' fees will be rejected if they exceed the codified rate unless a prior authority has been granted.
- 2.5. When making a decision on higher rates the LAA will consider the total costs of the work sought and the speed at which the work has to be completed. Some examples of where higher payments have been granted are set out below:
  - Paediatricians where the children who were subject to care proceedings had an unusual genetic disorder;
  - Paediatric endocrinologists, paediatric ophthalmologists and paediatric neuro-radiologists where there was no other suitably qualified expert available;
  - Interpreters where there was a scarcity of interpreters due to an unusual language or dialect; and
  - Sexual abuse cases where there is a scarcity of risk assessments experts with exceptional expertise to deal with serious sexual offenders.

### ***Experts not listed in the Remuneration Regulations***

- 2.6. Where an expert is not listed in the Remuneration Regulations the LAA or the Court will assess these costs on an individual basis.
- 2.7. In these cases, when considering the rate at which to fund the expert service, the LAA:
  - a) **must have regard to the rates set out in the Remuneration Regulations;**
  - and**
  - b) **may require a number of quotes for provision of the relevant service to be submitted to the LAA.**

### **3. Cases opened before 2<sup>nd</sup> December 2013**

- 3.1. Rates for certain types of expert have been in place since October 2011 following the consultations on the Community Legal Service (Funding) (Amendment No2) Order 2011 and the Criminal Defence Service (Funding) (Amendment) Order 2011.
- 3.2. The rates in those Funding Orders apply to all civil, family and crime work with a start date or representation order date **after 3<sup>rd</sup> October 2011 but before 1<sup>st</sup> April 2013**. Attention, however, is also drawn to the transitional provisions in the Legal Aid Sentencing and Punishment of Offenders Act 2012 (Consequential, Transitional and Saving Provisions) Regulations 2013.
- 3.3. The Civil Legal Aid (Remuneration) Regulations 2013 and the Criminal Legal Aid (Remuneration) Regulations 2013, introduced changes to some of the existing rates, including removing the London/non-London rate differentials for some expert types, as well as a higher rate for surveyors working in housing disrepair matters.
- 3.4. The rates in those Remuneration Regulations apply to all civil, family and crime work with a start date or representation order date **after 1<sup>st</sup> April 2013 but before 2<sup>nd</sup> December 2013**. Attention is drawn, however, to the transitional provisions that will apply, which are contained in Part 2 of the Civil Legal Aid (Remuneration) (Amendment) Regulations 2013.
- 3.5. A list of the applicable rates for cases started between 1<sup>st</sup> April 2013 and 1<sup>st</sup> December 2013 is enclosed at **Annex 2**.
- 3.6. A list of the applicable rates for cases started between 3<sup>rd</sup> October 2011 and 31<sup>st</sup> March 2013 is enclosed at **Annex 3**.
- 3.7. The provisions outlined in sections 2, 4, 5, 6 and 7 of this guidance, which apply to post-December 2013 cases, also apply to these cases.

3.8. The information required on experts' invoices on these cases are set out in Paragraphs 9.3 to 9.5.

3.9.

## 4. Prior Authority in Family cases

### ***When should you apply for prior authority to incur costs of an expert service?***

4.1. You **must** always apply for prior authority where you seek to incur costs of an expert service at higher rates than those set out in the Remuneration Regulations for that service.

4.2 In all other cases prior authority is not mandatory. Prior authority may be submitted whenever:

- The item of costs (which may consist of an expert fee or other disbursement) is either unusual in nature or is unusually large (paragraph 5.25 of the 2010 Standard Civil Contract specification; paragraph 5.11 of the 2013 Standard Civil Contract specification); or
- There are no codified rates set out in the Remuneration Regulations for a particular expert service.

### ***When is an item of costs considered unusual or unusually large?***

4.3. An item of costs is considered unusually large where it is greater than £5,000 per funded client or where the hours requested are in excess of those set out in Table 1 below.

4.4. In private law cases anything other than an equal apportionment of costs between the parties will be considered unusual and you can apply for prior authority.

4.5. In public law cases an unequal apportionment of costs will not always be unusual. For example a party may be an intervenor in a case and have limited involvement and it would not be appropriate for them to bear an equal share of an expert report. Another example is where there may be several children involved in proceedings with different fathers and there is an issue only in relation to one child. Again unequal apportionment will be appropriate.

4.6. Rules on apportionment of expert costs more generally can be found in the document "Guidance on authorities and legal aid for cases in courts outside England and Wales which can be found here: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/357087/legal-aid-narrative-guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/357087/legal-aid-narrative-guidance.pdf)". Whether costs should be apportioned will depend on the specific facts of the case.

- 4.7. The figures set out in Table 1 below are intended to provide a benchmark of an “unusual” number of hours to assist you make a decision on whether to apply for prior authority.
- 4.8. This does not mean that there is a cap on work that can be done and that hours in excess of these will be refused. It means that prior authority may be sought where an expert’s time is expected to exceed these benchmarks and that detailed reasons justifying the greater number of hours will be required. Prior authority for an amount of work based on the known relevant facts of a case at a particular time. Providers are always able to seek to justify on assessment/taxation why a greater number of hours were required
- 4.9. These numbers are a guideline and we would not expect experts to take this number of hours in every case. The time claimed by an expert will remain subject to assessment based on the individual circumstances of the case.
- 4.10. Prior authority should not be sought where the expert is to be paid at the hourly rates set out in the Remuneration Regulations and the hours quoted by the expert are no more than the hours set out in Table 1 below.
- 4.11. The hours set out in Table 1 differ from those in Tables 2, 3, 4 and 5 below because they show different things. The hours in Table 1 are the threshold above which prior authority should be applied for. The hours in Tables 2, 3, 4 and 5 set out the average number of hours we would expect for particular pieces of work.

<b><i>Table 1 – Number of hours above which prior authority should be applied for</i></b>			
<b>Expert Type</b>	<b>One individual to be assessed</b>	<b>Two individuals to be assessed</b>	<b>More than 2 individuals to be assessed</b>
Psychologist (inc Child Psychologist)	25	35	45
Child Psychiatrist	25	35	45
Psychiatrist	15	25	35
Independent Social Workers	30	40	50
Parenting (PAMS) assessments	37 (one parent)	52 (two parents)	-
Paediatrician	15	25	30
Radiologist	10	-	-

- 4.12. These benchmarks include all aspects of expert service provision including the assessment of individuals and preparation of a report. They do not include travel time or time spent in relation to court attendance, for which prior authority would not normally be necessary and which should instead be justified on final assessment. The benchmark hours also exclude time spent in relation to experts meetings or the preparation of addendum reports.

4.13. For the purposes of Table 1 above each child should be treated as a separate individual. Note that this is a different approach than taken to calculating the fees under FAS where children are treated as a single party.

***What happens where there are no rates set out in the Remuneration Regulations for a particular expert service?***

4.14. Prior authority is not mandatory. Where there are no rates set out in the Remuneration Regulations prior authority may be sought and 3 alternative quotes (or an explanation why it has not been possible to obtain 3 quotes) should be provided to the LAA. The quotes will need to include details of both the hourly rate and total number of hours quoted. You must also include a copy of the Court Order and the expert's CV.

4.15. In agreeing an hourly rate the LAA will have regard to the rates set out in the Remuneration Regulations and as a starting point will look at the most comparable expert type rate if applicable. The LAA will take into account all the circumstances of the case including the total costs of the work being done and any evidence supplied by the provider to decide on the appropriate rate for each case.

***What happens if I do not have prior authority for unusual hours?***

4.16. The amounts claimed for the provision of expert services must be justified on detailed assessment by the Court or assessment by the LAA in the normal way. Details of the work must include:

- A breakdown of the hours spent on the case with a justification of why the hours are necessary;
- A breakdown of the work done on the different aspects of the case e.g. assessment of clients, writing report, interviewing other relevant parties;
- Details of the expert/s and evidence of their qualifications, skills and expertise e.g. a CV; and
- A copy of the Court Order.

***Joint instruction of experts***

4.17. Where there is joint instruction of an expert for a number of parties, one provider can apply for a prior authority as a Lead Body. The costs will be apportioned across the number of certificates and a letter of authority issued under each certificate. Currently if all parties are NOT on CCMS a joint application can be made for all, however if some parties are on CCMS and some are not, then those not on CCMS can use the APP 8a but those on CCMS will have to make a separate application for prior authority.



- 4.18. An increase to the costs limit can only be requested by the Lead Body submitting the application for prior authority. It is the responsibility of individual providers to ensure they have sufficient costs cover under their certificates.
- 4.19. If Prior authorities are part granted, the Lead Body will be responsible for communicating the reasons to the other parties who will only receive the part granted authority for the reduced amount.

### ***Where to submit requests for prior authority***

- 4.20. Requests for prior authority under the Remuneration Regulations for family and the other civil categories should be submitted to the following office:

Legal Aid Agency,  
Unit B8,  
Berkley Way,  
Viking Business Park, Jarrow, South Tyneside,  
NE31 1SF  
DX 742350 JARROW 2

Alternatively you can email: [CivilPriorAuthorityRequests@legalaid.gsi.gov.uk](mailto:CivilPriorAuthorityRequests@legalaid.gsi.gov.uk)

- 4.21. Urgent applications in family cases should be emailed to the team. Please set out in the email why the matter is urgent and the required timescales for a response. Urgent applications will usually be determined within 48 hours. The email address: [CivilPriorAuthorityRequests@legalaid.gsi.gov.uk](mailto:CivilPriorAuthorityRequests@legalaid.gsi.gov.uk).

- 4.22. Please note that there are exceptions to this process for the following types of work and you should continue to send this work to the respective offices detailed below:

- **High Cost Civil Team** – 3rd Floor, Invicta House, Trafalgar Square, Brighton BN1 3RE, DX 2752 Brighton
- **Immigration** – Immigration & Asylum (6.42), High Cost Civil team, 102 Petty France, London SW1H 9AJ, DX 161440 Westminster 8
- **Mental Health** – 6<sup>th</sup> Floor, The Capital, Union Street, Liverpool L3 9AF, DX 745810 Liverpool 35

## **5. Associated Expert Costs**

- 5.1 You are reminded that LAA contracts contain additional provisions on expert witness funding which

- Exclude experts' cancellation fees from the scope of funding other than where the notice of cancellation was given to the expert less than 72 hours before the relevant hearing or appointment;

- Exclude experts' administration costs from the scope of public funding;
- Cap the remuneration rates for travel time to £40 per hour;
- Cap the mileage rates to the current guidance for solicitor travel, currently 45p per mile; and
- Ensure that the fees paid by the LAA for Independent Social Work do not exceed those paid by the Children and Family Court Advisory Support Service (Cafcass) for such services.

## 6. Specific expert remuneration arrangements

### **Expert Activity Time Guidelines**

6.1. The tables below provide an indication of typical hours generally allowed by LAA caseworkers, broken down by activity, for some of the expert types in Table 1 above. These are provided simply as a guideline to assist providers when completing applications for prior authority. This does not mean that hours in excess of these will be refused, and nor should it be taken that these hours will be allowed in every case. Decisions will continue to be made on the individual circumstances of the case. The observation of contact refers observation of a single adult. Where or example where both parents are being assessed separately then there would be 2 separate observations.

<b>Table 2 – Benchmark work breakdown for psychological services</b>	
<b>Activity</b>	<b>Typical time spent</b>
Reading	5 hours
Attending adult	5 hours
Attending child	3 hours
Psychological adult testing	3 hours
Psychological child testing	1.5 hours
Observing contact (where appropriate) per parent	3 hours
Reporting	10 hours (basic, increasing with number of parties)
Addendum report (inc expert meetings, answering questions from judge, and considering transcripts)	5 hours

<b>Table 3 – Benchmark work breakdown for adult psychiatric services</b>	
<b>Activity</b>	<b>Typical time spent</b>
Reading	5 hours
Attending Adult	5 hours
Report	10 hours
Addendum report (inc expert meetings, answering questions from judge, and considering transcripts)	5 hours

<b>Table 4 – Benchmark work breakdown for child psychiatric services</b>	
<b>Activity</b>	<b>Typical time spent</b>
Reading	5 hours
Attending Child	3 hours
Report	10 hours
Addendum report (inc expert meetings, answering questions from judge, and considering transcripts)	5 hours

<b>Table 5 – Benchmark work breakdown for ISW services</b>	
<b>Activity</b>	<b>Typical time spent</b>
Reading	5 hours
Attending per adult	5 hours
Attending per child	3 hours
Observing contact	3 hours
Attending professionals	2 hours
Attending others	1 hours
Reporting	10 hours

### **Independent Social Workers**

- 6.2. Independent social workers (ISWs) are not listed in the Remuneration Regulations, and they are instead paid in accordance with paragraph 7.183 of the Standard Civil Contract in line with the rates payable by Cafcass for this work.
- 6.3. In 2014 Cafcass introduced a national rate of £33 per hour. Accordingly, the LAA will allow claims for this rate in relation to ISW instructions that take place on/after 1 April 2014 regardless of the date that the certificate was issued. Those instructions that took place prior to 1 April 2014 will continue to be remunerated at the previous rates, namely £30 p/h outside of London and £33 inside of London depending on where the case takes place.
- 6.4. ISW travel will be paid on the same basis as other experts i.e. at 2/3<sup>rd</sup>s of the ISW hourly rate. Mileage will be paid at 45p per mile as per section 5 above. Alternatively, reasonable public transport fares may be claimed.

### **Parent Assessments (PAMS)**

- 6.5. If the ISW is undertaking a PAMS assessment ordered by the court the published times for an assessment will be applied for payment.

**Table 6 – Benchmark work breakdown for PAMS Assessments**

PAMS Tools	Time Spent	Time Spent
	1 Parent	2 Parents
Initial Screening tool	0.5 hours	1 hour
IST - Enter data		
I need help	0.5	1.5
INH - Enter data		
Parent Questionnaire	1	2
Knowledge cartoons	1.5	3
KC scoring	1	1.5
Parent booklet	1.5	3
PB scoring	1	1.5
Worksheets enter data	1	1.5
Worksheets scoring	2	4
Report Writing	14	18
Interviews and writing time	13	15
<b>TOTAL</b>	<b>37 hours</b>	<b>52 hours</b>

### ***Sexual Abuse Risk Assessment Experts***

- 6.6. The Ministry of Justice (MoJ) and the LAA have published guidance on how expert services identified as specialist risk assessments will be paid. The guidance highlights the factors that may arise in a case which would point to it being appropriate to pay the risk assessment rate.
- 6.7. Factors that may typically point to the expert service being that of a specialist risk assessment expert include where:
- a. The court order specifies that a risk assessment is required; and
  - b. The work to be done is over and above that requiring independent social work expertise, for example where:
    - There is a substantiated criminal allegation relevant to the case in the immediate background of the case (such as a conviction or pending proceedings for a sex offence); and
    - A finding of sexual abuse relevant to the case has been made by a court

And

- c. the report is specifically required to address the risk posed as a result of the above factors.

6.8. The guidance also clarifies that in considering claims where independent social work services are provided in non-family matters the LAA will have regard to the rates set out in the Remuneration Regulations. Where there is no comparable rate in the Regulations - for example for a social worker providing social work services - the LAA will have regard to the comparable rates for independent social work services in family matters introduced in 2011 (see section 5 above).

The full guidance can be found at:

<http://www.justice.gov.uk/legal-aid/funding/using-experts>

6.9. There are experts in sexual abuse who have been approved by the LAA for specific rates should the case cover such allegations. They will be able to confirm their rates by reference to letters from the LAA, which should be attached to prior authority application.

### ***Psychotherapists***

6.10. In making an assessment of an expert cost or on any application for prior authority, the LAA will make decisions in accordance with paragraph 4.24 of the Standard Civil Contract Specification, which states that any costs in relation to treatment, therapy or training cannot be claimed from the LAA.

6.11. Therefore, when considering requests for psychotherapists the Agency would need to confirm the qualifications of the expert and whether the work undertaken was in relation to an assessment of parents/children or was in relation to therapy, treatment or training.

### ***Surveyors in Housing Disrepair Matters***

6.12. Providers seeking to instruct surveyors in disrepair matters opened before 1 April 2013 and which involve more complexity than a routine property valuation must submit a prior authority application to the LAA for approval of the surveyor (housing disrepair) rates set out in the Remuneration Regulations.

### ***Drug and Alcohol Testing***

6.13. It is not necessary to apply for prior authority for drug and alcohol tests provided that the tests carried out reflect what has been directed in the Court Order.

6.14. The main reason for refusing requested costs for drug and alcohol tests are:

- The length of time the testing should cover. The standard period of testing is 3 months and a longer period will only be allowed if specified in the Court Order.

- The type of analysis/testing required e.g. is it an Overview/Standard testing basis or on a Month-by-month/Segmented testing basis. Month-by-month/Segmented testing is a more costly method of testing and funding on this basis will be refused unless specified in the Court Order. If the Court Order specifies the types of drugs that should be tested then funding will only be agreed to test these specific drugs.
- When the Court Order orders alcohol testing it should state whether this is for hair, blood or liver function tests. Funding will only be provided for the tests specified in the Court Order.

6.15. Scram X bracelets for alcohol testing may be claimed if this has been ordered by the court and the testing does not form part of therapy or a support programme.

### ***DNA Testing***

6.16. The Remuneration Regulations include DNA testing rates set on a 'per test' basis, plus a separate fee for report drafting. Payment above the rates set out in the Remuneration Regulations cannot be authorised unless a prior authority has been granted by the LAA.

6.17. A test comprises of father and child (plus mother if required). The amount would increase for each additional child tested, usually around £133.

6.18. If there are a number of alleged fathers, each father and child/children tested would constitute a separate test.

6.19. Where a sample collection fee has been charged a fee of £50 would be considered reasonable.

### ***Translation***

6.20. It will not usually be necessary to apply for prior authority for translation where the rate charged is below £100 per 1,000 words (or the equivalent folio rate of £7-20p).

6.21. The LAA will not fund the costs of translating documents relied upon by the local authority before the issue of proceedings, such as letters before proceedings. Such documents should be drafted in a way that can be understood by the recipient so, if translation is necessary, the costs of such translation should be borne by the relevant local authority.

6.22. It is likely that not all the documents in the case will need to be translated but only those which enable the client to understand, for example, the central essence of the local authority's case.

### ***Transcripts of judgement***

- 6.23 In some cases it will be appropriate for the legally aided party to pay for a copy of a transcript of the judgment or to contribute with other parties to such a cost. This may be where the client requires it for a possible appeal, or where the judgment and any findings are to be provided to an expert to consider in the preparation of any report or there has been a finding of fact hearing and the judgement is required as evidence later in the case.
- 6.24. Where fees are incurred after the conclusion of the proceedings in other circumstances this would need to be justified as it may not be considered a reasonable expense. A copy of the court order requesting the transcription should be provided as well as reasons why it is necessary
- 6.25. There are no codified rates for transcription fees and therefore any assessment will be based on
- 1) Whether it was reasonable to incur the costs, based on the specific circumstances of each case and;
  - 2) If the costs are reasonable and proportionate.

### ***London / Non-London experts***

- 6.26. The Remuneration Regulations set out that there are different rates for certain types of experts working inside and outside of London.
- 6.27. The location of the expert will be the determining factor as to whether London or non-London rates or fees apply. London rates will apply where the expert is based within a London Borough and where applicable the location of the expert's registered office will be used to determine which rate will apply. Where an expert works from or has a number of different office locations, the office closest to the provider will determine which rates apply.

### ***Communicating with the client***

- 6.28. The LAA will not fund the use of witness intermediaries either for a hearing or for communication with providers as this does not form part of Legal Representation. Where an intermediary is required for **a hearing** an application could be made to HMCTS where appropriate.

### **Interpreters**

- 6.29. The HMCTS position on interpreters is set out in their guidance (<https://intranet.justice.gov.uk/documents/2016/10/hmcts-language-services-guidance.pdf>). Where a client is eligible for legal aid and requires an interpreter then their solicitor will secure an interpreter on their behalf. The interpreter will be available at the court to translate what the solicitor and client say to each other. This will usually involve discussions outside of the court room. It may be

appropriate for the legally aided interpreter to be in court during the hearing, e.g. a solicitor want to give instructions to their client in court or to discuss issues that have been raised in court at any point during the hearing. Attendance and waiting at a hearing can be claimed at the codified rate for interpreters.

### ***Foreign law***

6.30 Where the court requires advice on foreign law to enable them to make an order in England and Wales e.g. an opinion on the validity of a marriage this is in scope under section 32 of LASPO. However, if once the order was made in the UK and the client wanted to obtain mirror orders overseas, this would be out of scope under section 32.

#### *Additional advice in connection with immigration law in a foreign jurisdiction*

6.31. Although it relates specifically to immigration advice given in connection with a family matter some of the principles may have wider application.

6.32. Advice on foreign legislation should only be provided by an individual with the relevant expert knowledge of the immigration law in that specific jurisdiction. Expert advice on immigration law in a foreign jurisdiction can be provided by:

- (a) a legal practitioner who is qualified to practice in this jurisdiction who has verifiable expertise in the immigration law of the country concerned (including those who are also qualified to practice in the country concerned). In this case remuneration will depend on the nature of the provider:
  - i. another solicitor firm would be remunerated by way of standard hourly rates (under table 10(b) of Schedule 1 to the civil remuneration regulations); and
  - ii. counsel would be remunerated by way of standard hourly rates (under Schedule 2 to the civil remuneration regulations);
- (b) a legal practitioner not qualified to practice in this jurisdiction but in another jurisdiction who is a Court ordered expert in the immigration law of the country concerned would be paid as an expert. As there are no codified rates you need to apply for prior authority. The LAA would then use its discretion under paragraph 3 of Schedule 5 of the civil remuneration regulations to determine the most appropriate rate to pay and may use the current rates in Schedule 2 as the comparator; or,
- (c) an individual who is not a legal practitioner but who is a Court ordered expert in the immigration law of the country concerned would be paid as an expert. As there are no codified rates you need to apply for prior authority. The LAA would then use its discretion under paragraph 3 of Schedule 5 of the civil remuneration regulations to determine the most appropriate rate to pay and may use the current rates in Schedule 2 as the comparator.

#### *Additional advice in connection with immigration law in England and Wales*



- 6.33 Advice on domestic (E&W) legislation can be provided by either another solicitor or another firm with relevant expertise or Counsel.
- 6.34 Where the advice is provided by a solicitor remuneration would depend upon the nature of the proceedings. In private law cases it would form part of the work captured by the fixed fee payable (under table 3 (f) of Schedule 1 to the civil remuneration regulations); and in public law cases, it would form part the work captured by the fixed representation fee payable (under table 2(c) of Schedule 1 to the civil remuneration regulations).
- 6.35 As with any work legitimately done under those fees, it would count towards the calculation of whether the case reaches the escape threshold. Where the threshold is exceeded then hourly rates would be payable for the whole of the work, including the additional immigration advice (under tables 9(a) or (b) to Schedule 1 the civil remuneration regulations, as appropriate). However, if threshold is not reached no additional payment would be made.
- 6.36. Where the advice is provided by Counsel this would be paid as an opinion and would be remunerated at the fixed fee rate of £105.00 as specified in tables 1(a), 1(b), 2(a) or 2(c) of Schedule 3 to the civil remuneration regulations, as relevant.

## **7. Expert standards in family matters involving disputes about children**

- 7.1 Subject to any order made by the court, the LAA will only pay for expert witnesses in family matters relating to children where those experts comply with any standards as may be specified from time to time in any Practice Direction supplementing the Family Procedure Rules.
- 7.2. The standards apply to care and supervision proceedings, adoption proceedings and those private law cases relating to child arrangement orders that remain within the scope of legal aid.
- 7.3 Once expert standards are introduced in any Practice Direction supplementing the Family Procedure Rules they will apply to all expert instructions that take place on/after that date regardless of the date that the certificate was issued.
- 7.4 Responsibility for compliance with the standards in the Practice Directions rests with individual experts.
- 7.5 Providers must be able to demonstrate to the LAA that they are satisfied that the expert meets the standards. The expert's CV and their signed 'statement of truth' will be sufficient for these purposes. When requesting funding for expert costs providers will need to confirm that the expert meets the standards.

- 7.6 If a court directs that an individual expert who does not meet the standards should be used the solicitor may wish to apply to the LAA for prior authority for the expert's costs. The prior authority application should be accompanied by a copy of the court order as well as the expert's CV.

## **8 Payment on Account for Experts**

- 8.1 It is advised that Solicitors consider any claims submitted against the above guidance. This will avoid unnecessary recoupments from over payment of PoAs.

## **9 Payment of Experts Bills**

- 9.1 The LAA will assess experts' fees when paying the final bills. The fees will be considered for reasonableness in light of the court directions and the work undertaken.
- 9.2 In order to assist it would be beneficial for CLAIM1 and CLAIM1A schedule of disbursements and experts being claimed to be linked to the associated documents. We would ask for each invoice scheduled on Page 6 to be numbered (line 1, 2, 3 etc) and the associated documents to ordered and attached in number order:
- a. The invoices showing the hours and hourly rates (numbered 1, 2, 3 etc).
  - b. The court order relating to the invoice.
  - c. If relevant, the parties over which the fees are being apportioned.
  - d. A copy of a letter from the LAA granting authority to incur an expert cost.

### ***Pre December 2013 experts invoices***

- 9.3 We recognise that experts instructed prior to the December 2013 reforms did not necessarily quote their hourly rate.
- 9.4 For these cases, the provisions for assessment require that we are satisfied that work arising is reasonable to be undertaken, reasonable in time expended and reasonable in hourly rate. For those disbursements that arise from a 'fixed fee' structure where the invoice pre-dates fixed rates our caseworkers will require an understanding of those costs. The invoice must contain details of:
- the identity or status of the third part instructed; and
  - an indication of the amount charged; and
  - details of the case/client.
- 9.5 The absence of any of this information may not substantiate that the costs are 'properly incurred' or that they are 'properly chargeable to a client'. As such any additional information a provider is able to supply to place that work in context is

necessary to allow an informed judgement and to prevent costs being reduced on assessment.

## Annex 1

### Expert rates on cases started on/after 2<sup>nd</sup> December 2013

The Civil Legal Aid (Remuneration) (Amendment) Regulations 2013

#### Experts' fees and rates

<i>Expert</i>	<i>Non-London – Hourly rate unless stated to be a fixed fee</i>	<i>London – Hourly rate unless stated to be a fixed fee</i>
A&E consultant	£100.80	£108
Accident reconstruction	£72	£54.40
Accountant	£64	£64
Accountant (general staff)	£40	£40
Accountant (manager)	£86.40	£86.40
Accountant (partner)	£108	£115.20
Anaesthetist	£108	£108
Architect	£79.20	£72
Cardiologist	£115.20	£115.20
Cell telephone site analysis	£72	£72
Child psychiatrist	£108	£108
Child psychologist	£100.80	£100.80
Computer expert	£72	£72
Consultant engineer	£72	£54.40
Dentist	£93.60	£93.60
Dermatologist	£86.40	£86.40
Disability consultant	£54.40	£54.40
DNA (testing of sample)	£252 per test	£252 per test
DNA (preparation of report)	£72	£72
Doctor (GP)	£79.20	£72
Employment consultant	£54.40	£54.40
Enquiry agent	£25.60	£18.40
ENT surgeon	£100.80	£100.80
General surgeon	£108	£72
Geneticist	£86.40	£86.40
GP (records report)	£50.40 fixed fee	£72 fixed fee
Gynaecologist	£108	£72
Haematologist	£97.60	£72
Handwriting expert	£72	£72
Interpreter	£28	£25
Lip reader/Signer	£57.60	£32.80
Mediator	£100.80	£100.80
Medical consultant	£108	£72

Medical microbiologist	£108	£108
Meteorologist	£100.80	£144 fixed fee
Midwife	£72	£72
Neonatologist (non-clinical negligence-cerebral palsy case)	£108	£108
Neonatologist (clinical negligence-cerebral palsy case)	£180	£180
Neurologist (non-clinical negligence-cerebral palsy case)]	£122.40	£72
Neurologist (clinical negligence-cerebral palsy case)	£200	£200
Neuropsychiatrist	£126.40	£72
Neuroradiologist (non-clinical negligence-cerebral palsy cases)	£136.80	£136.80
Neuroradiologist (clinical negligence-cerebral palsy case)	£180	£180
Neurosurgeon	£136.80	£72
Nursing expert	£64.80	£64.80
Obstetrician	£108	£108
Occupational therapist	£54.40	£54.40
Oncologist	£112	£112
Orthopaedic surgeon	£115.20	£115.20
Paediatrician	£108	£72
Pathologist	£122.40	£432 fixed fee
Pharmacologist	£97.60	£97.60
Photographer	£25.60	£18.40
Physiotherapist	£64.80	£64.80
Plastic surgeon	£108	£108
Process server	£25.60	£18.40
Psychiatrist	£108	£108
Psychologist	£93.60	£93.60
Radiologist	£108	£108
Rheumatologist	£108	£108
Risk assessment expert	£50.40	£50.40
Speech therapist	£79.20	£79.20
Surveyor (housing disrepair)	£85	£115
Surveyor (non-housing disrepair)	£40	£40
Telecoms expert	£72	£72
Toxicologist	£108	£108
Urologist	£108	£108
Vet	£72	£72

Voice recognition

£93.60

£72

## The Criminal Legal Aid (Remuneration) (Amendment) Regulations 2013

### Experts' Fees and Rates

<i>Expert</i>	<i>Non-London – Hourly rate unless stated to be a fixed fee</i>	<i>London – Hourly rate unless stated to be a fixed fee</i>
A&E consultant	£100.80	£108
Accident reconstruction	£72	£54.40
Accountant	£64	£64
Accountant (general staff)	£40	£40
Accountant (manager)	£86.40	£86.40
Accountant (partner)	£115.20	£115.20
Anaesthetist	£108	£72
Architect	£79.20	£72
Back calculations	£144 fixed fee	£151.20 fixed fee
Benefit expert	£72	£72
Cardiologist	£115.20	£72
Cell telephone site analysis	£72	£72
Child psychiatrist	£108	£72
Child psychologist	£100.80	£72
Computer expert	£72	£72
Consultant engineer	£72	£54.40
Dentist	£93.60	£72
Dermatologist	£86.40	£72
Disability consultant	£54.40	£54.40
DNA (testing of sample)	£252 per test	£252 per test
DNA (preparation of report)	£72	£72
Doctor (GP)	£79.20	£72
Drug expert	£72	£72
Employment consultant	£54.40	£54.40
Enquiry agent	£25.60	£18.40
ENT surgeon	£100.80	£72
Facial Mapping	£108	£72
Fingerprint expert	£72	£37.60
Fire investigation	£72	£54.40
Firearm expert	£72	£72
Forensic scientist	£90.40	£72
General surgeon	£108	£72
Geneticist	£86.40	£72
GP (records report)	£50.40 fixed fee	£72 fixed fee
Gynaecologist	£108	£72
Haematologist	£97.60	£72
Handwriting expert	£72	£72
Interpreter	£28	£25

Lip reader/Signer	£57.60	£32.80
Mediator	£100.80	£100.80
Medical consultant	£108	£72
Medical microbiologist	£108	£72
Medical Report	£79.20	£72
Meteorologist	£100.80	£144 fixed fee
Midwife	£72	£72
Neonatologist	£108	£72
Neurologist	£122.40	£72
Neuropsychiatrist	£126.40	£72
Neuroradiologist	£136.80	£72
Neurosurgeon	£136.80	£72
Nursing expert	£64.80	£64.80
Obstetrician	£108	£72
Occupational therapist	£54.40	£54.40
Oncologist	£112	£72
Orthopaedic surgeon	£115.20	£72
Paediatrician	£108	£72
Pathologist	£122.40	£432 fixed fee
Pharmacologist	£97.60	£72
Photographer	£25.60	£18.40
Physiotherapist	£64.80	£64.80
Plastic surgeon	£108	£72
Process server	£25.60	£18.40
Psychiatrist	£108	£72
Psychologist	£93.60	£72
Radiologist	£108	£72
Rheumatologist	£108	£72
Risk assessment expert	£50.40	£50.40
Speech therapist	£79.20	£72
Surgeon	£108	£72
Surveyor	£40	£40
Telecoms expert	£72	£72
Toxicologist	£108	£72
Urologist	£108	£72
Vet	£72	£72
Voice recognition	£93.60	£72



## Annex 2

### Expert rates on cases started between 1<sup>st</sup> April 2013 and 1<sup>st</sup> December 2013

The Civil Legal Aid (Remuneration) Regulations 2013

#### SCHEDULE 1

#### Experts' fees and rates

<i>Expert</i>	<i>Non-London - Hourly Rate unless stated to be a Fixed Fee</i>	<i>London - Hourly Rate unless stated to be a Fixed Fee</i>	<i>Comments</i>
A&E consultant	£126	£135	
Accident reconstruction	£90	£68	
Accountant	£50 - £135	£50 - £144	Partner £144, Manager £108, Accountant £80, General staff £50
Anaesthetist	£135	£135	
Architect	£99	£90	
Cardiologist	£144	£144	
Cell telephone site analysis	£90	£90	
Child psychiatrist	£135	£135	
Child psychologist	£126	£126	
Computer expert	£90	£90	
Consultant engineer	£90	£68	
Dentist	£117	£117	
Dermatologist	£108	£108	
Disability consultant	£68	£68	
DNA–testing of sample	£315 per test	£315 per test	
DNA–preparation of report	£90	£90	
Doctor (GP)	£99	£90	
Employment consultant	£68	£68	
Enquiry agent	£32	£23	
ENT surgeon	£126	£126	
General surgeon	£135	£90	
Geneticist	£108	£108	
GP (records report)	£63 fixed fee	£90 fixed fee	
Gynaecologist	£135	£90	
Haematologist	£122	£90	
Handwriting expert	£90	£90	

Interpreter	£32	£25
Lip reader/Signer	£72	£41
Mediator	£126	£126
Medical consultant	£135	£90
Medical microbiologist	£135	£135
Meteorologist	£126	£180 fixed fee
Midwife	£90	£90
Neonatologist	£135	£135
Neurologist	£153	£90
Neuropsychiatrist	£158	£90
Neuroradiologist	£171	£171
Neurosurgeon	£171	£90
Nursing expert	£81	£81
Obstetrician	£135	£135
Occupational therapist	£68	£68
Oncologist	£140	£140
Orthopaedic surgeon	£144	£144
Paediatrician	£135	£90
Pathologist	£153	£540 fixed fee
Pharmacologist	£122	£122
Photographer	£32	£23
Physiotherapist	£81	£81
Plastic surgeon	£135	£135
Process server	£32	£23
Psychiatrist	£135	£135
Psychologist	£117	£117
Radiologist	£135	£135
Rheumatologist	£135	£135
Risk assessment expert	£63	£63
Speech therapist	£99	£99
Surveyor (non housing-disrepair)	£50	£50
Surveyor (housing-disrepair)	£85	£115
Telecoms expert	£90	£90
Toxicologist	£135	£135
Urologist	£135	£135
Vet	£90	£90
Voice recognition	£117	£90

The Criminal Legal Aid (Remuneration) Regulations 2013

SCHEDULE 2

Experts' Fees and Rates

<i>Expert</i>	<i>Non-London Hourly Rate or Fixed Fee</i>	<i>London Hourly Rate or Fixed Fee</i>	<i>Comments</i>
A&E consultant	£126	£135	
Accident reconstruction	£90	£68	
Accountant	£50-144	£50-144	Partner £144; Manager £108; Accountant £80; General staff £50.
Anaesthetist	£135	£90	
Architect	£99	£90	
Back calculations	£180 fixed fee	£189 fixed fee	
Benefit expert	£90	£90	
Cardiologist	£144	£90	
Cell telephone site analysis	£90	£90	
Child psychiatrist	£135	£90	
Child psychologist	£126	£90	
Computer expert	£90	£90	
Consultant engineer	£90	£68	
Dentist	£117	£90	
Dermatologist	£108	£90	
Disability consultant	£68	£68	
DNA (per person) - testing of sample	£315 per test	£315 per test	
DNA (per person) – preparation of report	£90	£90	
Doctor (GP)	£99	£90	
Drug expert	£90	£90	
Employment consultant	£68	£68	
Enquiry agent	£32	£23	
ENT surgeon	£126	£90	
Facial mapping	£135	£90	
Fingerprint expert	£90	£47	
Fire investigation	£90	£68	
Firearm expert	£90	£90	
Forensic scientist	£113	£90	
General surgeon	£135	£90	
Geneticist	£108	£90	
GP (records report)	£63 fixed fee	£90 fixed fee	

Gynaecologist	£135	£90
Haematologist	£122	£90
Handwriting expert	£90	£90
Interpreter	£32	£25
Lip reader / Signer	£72	£41
Mediator	£126	£126
Medical consultant	£135	£90
Medical microbiologist	£135	£90
Medical report	£99	£90
Meteorologist	£126	£180 fixed fee
Midwife	£90	£90
Neonatologist	£135	£90
Neurologist	£153	£90
Neuropsychiatrist	£158	£90
Neuroradiologist	£171	£90
Neurosurgeon	£171	£90
Nursing expert	£81	£81
Obstetrician	£135	£90
Occupational therapist	£68	£68
Oncologist	£140	£90
Orthopaedic surgeon	£144	£90
Paediatrician	£135	£90
Pathologist	£153	£540 fixed fee
Pharmacologist	£122	£90
Photographer	£32	£23
Physiotherapist	£81	£81
Plastic surgeon	£135	£90
Process server	£32	£23
Psychiatrist	£135	£90
Psychologist	£117	£90
Radiologist	£135	£90
Rheumatologist	£135	£90
Risk assessment expert	£63	£63
Speech therapist	£99	£90
Surgeon	£135	£90
Surveyor	£50	£50
Telecoms expert	£90	£90
Toxicologist	£135	£90
Urologist	£135	£90
Vet	£90	£90
Voice recognition	£117	£90

## Annex 3

### Expert rates on cases started between 3<sup>rd</sup> October 2011 and 31<sup>st</sup> March 2013

The Community Legal Service (Funding) (Amendment No.2) Order 2011

#### SCHEDULE 6

#### Experts' Fees and Rates

#### Section 1

#### Table

<i>Expert</i>	<i>Non- London Hourly Rate or fixed fee</i>	<i>London Hourly Rate or fixed fee</i>	<i>Comments</i>
A&E consultant	£126	£135	
Accident reconstruction	£90	£68	
Accountant	£50 - £135	£50 - £144	Partner £144, Manager £108, Accountant £80, General staff £50
Anaesthetist	£135	£135	
Architect	£99	£90	
Cardiologist	£144	£144	
Cell telephone site analysis	£90	£90	
Child psychiatrist	£135	£90	
Child psychologist	£126	£90	
Computer expert	£90	£90	
Consultant engineer	£90	£68	
Dentist	£117	£117	
Dermatologist	£108	£108	
Disability consultant	£68	£68	
DNA (per person) – testing of sample	£315 per test	£315 per test	
DNA (per person) – preparation of report	£90	£90	
Doctor (GP)	£99	£90	
Employment consultant	£68	£68	
Enquiry agent	£32	£23	
ENT surgeon	£126	£126	

General surgeon	£135	£90
Geneticist	£108	£108
GP (records report)	£63 fixed fee	£90 fixed fee
Gynaecologist	£135	£90
Haematologist	£122	£90
Handwriting expert	£90	£90
Interpreter	£32	£25
Lip reader / Signer	£72	£41
Mediator	£126	£126
Medical consultant	£135	£90
Medical microbiologist	£135	£135
Meteorologist	£126	£180 fixed fee
Midwife	£90	£90
Neonatologist	£135	£135
Neurologist	£153	£90
Neuropsychiatrist	£158	£90
Neuroradiologist	£171	£171
Neurosurgeon	£171	£90
Nursing expert	£81	£81
Obstetrician	£135	£135
Occupational therapist	£68	£68
Oncologist	£140	£140
Orthopaedic surgeon	£144	£144
Paediatrician	£135	£90
Pathologist	£153	£540 fixed fee
Pharmacologist	£122	£122
Photographer	£32	£23
Physiotherapist	£81	£81
Plastic surgeon	£135	£135
Process server	£32	£23
Psychiatrist	£135	£90
Psychologist	£117	£90
Radiologist	£135	£135
Rheumatologist	£135	£135
Risk assessment expert	£63	£63
Speech therapist	£99	£99
Surveyor	£50	£50
Telecoms expert	£90	£90
Toxicologist	£135	£135
Urologist	£135	£135
Vet	£90	£90
Voice recognition	£117	£90



The Criminal Defence Service (Funding) (Amendment) Order 2011

SCHEDULE 6

Experts' Fees and Rates

<i>Expert</i>	<i>Non-London Hourly Rate or fixed fee</i>	<i>London Hourly Rate or fixed fee</i>	<i>Comments</i>
A&E consultant	£126	£135	
Accident reconstruction	£90	£68	
Accountant	£50 - £144	£50 - £144	Partner £144, Manager £108, Accountant £80, General staff £50.
Anaesthetist	£135	£90	
Architect	£99	£90	
Back calculations	£180 fixed fee	£189 fixed fee	
Benefit expert	£90	£90	
Cardiologist	£144	£90	
Cell telephone site analysis	£90	£90	
Child psychiatrist	£135	£90	
Child psychologist	£126	£90	
Computer expert	£90	£90	
Consultant engineer	£90	£68	
Dentist	£117	£90	
Dermatologist	£108	£90	
Disability consultant	£68	£68	
DNA (per person) – testing of sample	£315 per test	£315 per test	
DNA (per person) – preparation of report	£90	£90	
Doctor (GP)	£99	£90	
Drug expert	£90	£90	
Employment consultant	£68	£68	
Enquiry agent	£32	£23	
ENT surgeon	£126	£90	
Facial mapping	£135	£90	



Fingerprint expert	£90	£47
Fire investigation	£90	£68
Firearm expert	£90	£90
Forensic scientist	£113	£90
General surgeon	£135	£90
Geneticist	£108	£90
GP (records report)	£63 fixed fee	£90 fixed fee
Gynaecologist	£135	£90
Haematologist	£122	£90
Handwriting expert	£90	£90
Interpreter	£32	£25
Lip reader / Signer	£72	£41
Mediator	£126	£126
Medical Consultant	£135	£90
Medical microbiologist	£135	£90
Medical Report	£99	£90
Meteorologist	£126	£180 fixed fee
Midwife	£90	£90
Neonatologist	£135	£90
Neurologist	£153	£90
Neuropsychiatrist	£158	£90
Neuroradiologist	£171	£90
Neurosurgeon	£171	£90
Nursing expert	£81	£81
Obstetrician	£135	£90
Occupational Therapist	£68	£68
Oncologist	£140	£90
Orthopaedic surgeon	£144	£90
Paediatrician	£135	£90
Pathologist	£153	£540 fixed fee
Pharmacologist	£122	£90
Photographer	£32	£23
Physiotherapist	£81	£81
Plastic surgeon	£135	£90
Process server	£32	£23
Psychiatrist	£135	£90
Psychologist	£117	£90
Radiologist	£135	£90
Rheumatologist	£135	£90
Risk assessment expert	£63	£63
Speech therapist	£99	£90

Surgeon	£135	£90
Surveyor	£50	£50
Telecoms expert	£90	£90
Toxicologist	£135	£90
Urologist	£135	£90
Vet	£90	£90
Voice recognition	£117	£90

