



Immigration contract changes

Interim CLR fees

The 2c fees came into force on the 8th June 2020 for online procedure cases. However, the MoJ has decided to revoke those fees following litigation. Instead, the MoJ have announced that an interim fee will be payable for CLR in immigration and asylum matters while an evidence base is built up to inform the value of a new fixed fee.

Under the new interim fee, hourly rates will be paid for the preparation of the case and Advocacy Services will be paid as fixed fees. This change will come into force on 7th October.

The online procedure hourly rates are set out in [table 8\(ca\) of the Remuneration Regulations](#) and the fixed fees for online procedure advocacy services are set out in [table 4\(ca\)](#).

Hourly rates

Hourly rates will be claimable for the types of work listed in paragraphs 8.84 of the specification. This includes any additional/front-loaded work required under the online procedure, irrespective of who undertakes it. The following are therefore covered by hourly rates:

- drafting and lodging an appeal, including drafting and submitting an Appeal Skeleton Argument (whether through the online system or if directed another way by the Tribunal e.g. email submission of the ASA);
- preparation of an appeal including the appeal bundle;
- consideration of determination and advice to the Client about the determination and carrying out of any necessary work;
- re-applying the merits criteria as set out in the Merits Regulations for an appeal to the Upper Tribunal;
- where the appeal to the First Tier Tribunal is dismissed and an appeal to the Upper Tribunal is not being pursued, explaining the consequences of the decision and carrying out any necessary work;
- where the appeal is allowed, explaining the consequences of the decision including rights and entitlements; and,
- any post appeal advice and assistance that does not constitute a separate Matter Start.

The costs associated with the above activities should be entered into the Profit Costs or Counsel Fee fields in CWA.

Any non-advocacy travel will be claimable under the hourly rates for Preparation and Attendance and should therefore be included in the relevant profit costs field.

Advocacy Services

Any costs associated with Advocacy Services are included within the relevant fixed fee and cannot be claimed through hourly rates.

The fee for advocacy services includes advocacy and travel and waiting. Any other activities, such as attending on the client or conferences, are payable by hourly rates.

Immigration Contract

The Immigration Specification of the Civil Contract has been updated to take account of this change. You can view the updated Contract [here](#).

Eligibility

The table below sets out which fees are claimable:

Closed and billed cases before 8 June 2020	Closed and billed cases which have claimed the stage 2c fee	Open and unbilled cases where CLR has been granted pre-7 October 2020	Cases where CLR has been granted from 7 October 2020
These cases were unaffected by the introduction of the stage 2c fee, and are not eligible for claim amendments.	These cases are eligible for a claim amendment to be paid using online procedure hourly rates, should practitioners wish.	These cases will be able to claim either the stage 2c fee (& additional payments for advocacy services) or online procedure hourly rates (& additional payments for online procedure advocacy services) for the duration of the case; whichever is the most beneficial to practitioners.	These cases will be remunerated by online procedure hourly rates.

How to claim

Please make sure costs are apportioned correctly in CWA between those activities which are remunerated at hourly rates and those which are paid at a fixed fee. Please make sure you have read the explanation above on the distinction between Preparatory and Attendance work and Advocacy Services.

Hourly rates

We have created two new matter type 1 codes on CWA. They are:

- IACD: 'Asylum – Interim CLR rates (hourly rates with fixed fee for advocacy services)'
- IMCD: 'Immigration – Interim CLR rates (hourly rates with fixed fee for advocacy services)'

These codes are now live on CWA.

As noted above, the costs associated with preparation and attendance should be entered in the 'Profit Costs excluding VAT' field or 'Counsel Fee excluding VAT' field in CWA.

Any non-advocacy travel will be claimable under the hourly rates for Preparation and Attendance and should therefore be included in the 'Profit Costs excluding VAT' field. The costs of travel should also be entered in the 'Travel and Waiting Costs excl VAT' field. Please note that this field is used for administrative purposes only and does not generate a payment on CWA.

Advocacy Services

The fixed fees for Advocacy Services can be claimed in the same way as previously on CWA - by entering the number of each type of additional fee claimed e.g. 1x Adjourned hearing and Y in the Substantive Hearing field if two hearings are attended. No advocacy related costs, irrespective of who they are carried out by, should be reported in either the Profit Costs or Counsel Costs fields.

CWA Guidance

[The Guidance for reporting Controlled Work & Controlled Work matters has been updated to reflect the changes to CWA.](#)

Q&A

Q: How will this change affect Cost Limits?

A: For new matters that move into CLR after the change to the scheme has taken effect, these will be subject to the CLR hourly rates limit for profit costs and disbursements only (£1,600 for asylum etc.) For new matters that move into CLR after the change to the scheme should work under the standard mixed CLR hourly rates limit for PC and disbursements (£1,600 for asylum etc). Once this limit is approached/reached a CW3 for a costs increase should be submitted as usual.

For matter starts that are already open under CLR when the scheme changes but are under the relevant contractual limit, providers should apply that limit and work up until that amount. Again upon reaching or approaching the same a CW3 application should be made to increase costs.

Finally, for matter starts under CLR that are already open, and are above the standard contractual cost limits at the point the scheme changes, costs should stand as they are, so they wouldn't require a retrospective cost increase application. However, a CW3 for future costs required on the case should be submitted in order that a new costs limit can be specified.

Q: How will this change affect the self-grant scheme?

A: The self-grant scheme will continue as normal. As before, any firms that are involved with the self-grant scheme they can grant profit costs of up to £3,000 without requiring a CW3.

Q: How will this change affect Escaped Fees?

A: Matters which fall under these interim CLR rates will not be eligible to escape the fee as preparation costs of the case are remunerated at hourly rates. Advocacy services are paid at the fixed fee rate

Q: How will Counsel be affected?

A: As before, it is up to providers to decide if they wish to instruct Counsel and how costs will be apportioned. Any preparatory work done by either providers or Counsel will be paid at hourly rates (see [table 8\(ca\) of the Remuneration Regulations](#)). Advocacy services will be remunerated by fixed fees (see [table 4\(ca\)](#)). Please make sure these costs are recorded correctly in CWA.

Early billing for Legal Help

In asylum cases, providers will now be able to bill for Legal Help matters after the matter has been fully prepared i.e. the asylum claim has been lodged, the client has been interviewed (where required) and all submissions have been made and acknowledged by the Home Office. Currently, providers would have to wait until the Home Office has made a decision before billing.

Changes will also be made to fresh claims under the Standard Fee Scheme. Previously, only matters claiming through Hourly Rates could stage claim following the submission of a fresh claim/further application for asylum. However, fresh claims under Standard Fee Scheme can now be stage claimed following the submission of the fresh claim.

Eligibility

This early billing feature is applicable to asylum cases under Legal Help. This change will affect both matters under the Standard Fee Scheme and Hourly Rates.

Furthermore, as noted above, fresh claims submitted under the Standard Fee Scheme can now be billed at the same earlier stage as claims made under Hourly Rates.

How to claim

If you wish to bill a legal help matter early, you should bill as you normally would do on CWA when you have met the conditions to bill early (see above). You should use the 'double dash' outcome code.

You may need to make a claim amendment after the matter is finally concluded to update the outcome code and report additional profit costs and disbursements incurred.

UT remittals stage claim

Matters that reach the Upper Tribunal will now be able to bill after they have received the decision from the Upper Tribunal that the matter is being remitted matter back to the First-tier Tribunal for reconsideration of the issue. Please note that this only applies to controlled work matters and not certificated matters.

This change allows providers to claim the costs they had incurred in between the First-tier Tribunal's original decision and the Upper Tribunal's decision to remit rather than wait until the end of the case. They can then claim the remaining costs associated with the remittal at the conclusion of the matter. This work is paid under hourly rates.

This would allow firms to bill the case at 4 points throughout the lifetime of the case rather than the existing 3 stages. See the new billings points below:

1. Legal Help: after initial decision of Home Office
2. Controlled Legal Representation: after 1st tier tribunal/appeal against initial decision of Home Office
3. Upper Tribunal: costs up until point of remittal
4. Costs associated with dealing with the remittal back to the First-tier Tribunal

How to claim

Providers are now able to bill on CWA at the point at which the matter is remitted back to the First-tier Tribunal (point 3 above).

Any costs associated with the remittal back to the First-tier Tribunal can be billed when that matter is completed as normal. Please be sure that this final claim reflects just the costs associated with the remittal and does not include the Upper Tribunal costs.

You should use MT2 code IRAR when billing for the Upper Tribunal and MT2 code IREM when billing for the remittal

Contact

If you have any further questions, please contact john.cooksey1@justice.gov.uk.