



Legal Aid  
Agency

**GUIDANCE ON COMPLETING  
FORM CIVAPP8A  
April 2013 v1**

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1	01/04/13	01/04/13	Case Management

## Version History

Version:	Date	Reason
1	01/04/13	First release

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## 1. Overview

- This guidance is to be used for requests for prior authority on applications signed on or after the 3<sup>rd</sup> October 2011. Requests for prior authority under the new provisions will be dealt with by the offices specified in Annex 1.
- **Prior authority should only be requested in limited circumstances. If standard rates and hours are requested an application should NOT be submitted.**
- When submitting joint requests for different parties to the proceedings:
  - a) If at least one of the certificates is handled by the Special Cases Unit requests should be submitted to SCU.
  - b) If at least one of the certificates is handled by the Very High Cost Cases unit requests should be submitted to VHCC.
  - c) Where all certificates are handled at Regional Office level requests should be submitted to the Cardiff Office.
- **If your request is genuinely urgent please clearly mark the front of the form**

## 2. Increasing the fixed fee/rate

- The LAA may increase the fixed fees or rates if it considers it reasonable to do so due to exceptional circumstances as set out in the Civil Legal Aid (Remuneration) Regulations 2013. There are some rates e.g. fees for Independent Social Work in family cases that cannot be increased.
- Exceptional circumstances 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.
- If none of the criteria apply to your request you do not need authority from the LAA, the cost of the expert should be justified on assessment or taxation.

## 3. Page 3

- 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.
- Where applicable the location of the expert's registered office will be used to determine which rate will apply.

- Where an expert is a consultant to a number of different hospitals, or has offices in more than one location, the proximity of those offices to the instructing provider will be taken into account in deciding the appropriate rates. For instance, the London rate will be applicable where the expert's nearest office to the provider is in London.
- Where an individual expert has been instructed through an umbrella organisation or agency the location of the individual expert will be the determining factor as to whether London or non-London rates or fees apply and not the location of the organisation that provides the expert.
- Solicitors must have regard to the purpose and importance of the expert witness service to the case, and the extent to which there is a choice of alternative expert. For instance, if the expert is based some distance from the client's home and the client is required to attend a meeting with the expert (or vice versa), justification should be provided as to why a local expert should not or could not be instructed.

#### **4. Pages 4 and 5**

- Where an expert is not listed in the Schedule or it is considered there are exceptional circumstances justifying enhanced rates or the expenditure is unusual in nature or unusually large, at least three quotes, for the provision of the relevant service should be submitted with the request for prior authority. In addition, the quotes will need to include details of both the hourly rate and total number of hours to be claimed.
- 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. Where a Lead Body is applying for an extension to the costs limit they can only apply for an extension to their own certificate and not those of the other parties.
- If the authority request is for more than one expert multiple relevant sections of the form can be completed.

#### **5. Page 6**

- This form can be used to apply for costs extensions associated with the additional expert evidence. However any extensions in respect of scope and general costs extensions should be submitted on the existing CIVAPP 8 and sent to the Regional offices currently processing the work.

- Please enclose all necessary documents needed to enable the LAA to consider your application – this includes Court Orders, experts' quotes, experts CV (particularly for risk assessments) and previous part grants.
- ✓ **REMEMBER TO SIGN AND DATE THE FORM.**

## 6. Page 7

- Applications are no longer part granted and therefore your contact details need not be included. If new or additional information or further justification can be provided to support the granting of a refused application, this should be resubmitted for review as a fresh application.
- The Standard Civil Contract 2012 removed the right of appeal against a refusal of prior authority in family cases with effect from the 1<sup>st</sup> February 2012. In other categories the right of appeal was removed with the introduction of the 2010 Standard Civil Contracts in November 2010.

### Annexes

- a. Annex 1 – where to submit work

## ANNEX 1

*Requests for prior authorities under the new provisions will be dealt with by the following offices:*

<p><b>Civil/Family/Care</b> LAA Marland House Central Square Cardiff CF10 1PF</p> <p>DX 33006 CARDIFF</p> <p>E-Mail: <a href="mailto:CivilPriorAuthorityRequests@legalaid.gsi.gov.uk">CivilPriorAuthorityRequests@legalaid.gsi.gov.uk</a></p>	<p><b>Family Very High Cost Cases</b> VHCC LAA Berkley Way, Viking Business Park Jarrow NE31 1SF</p> <p>DX 742650 JARROW2</p>
<p><b>Immigration</b> LAA 102 Petty France London S1H 9AJ</p> <p>DX 328 LONDON</p>	<p><b>Clinical Negligence</b> Special Cases Unit 3<sup>rd</sup> &amp; 4<sup>th</sup> Floor Invicta House, Trafalgar Place, Brighton. BN1 4FR</p> <p>DX 97310 BRIGHTON1</p>
<p><b>Mental Health</b> LAA 2<sup>nd</sup> Floor Cavern Court, 8, Matthew Street, Liverpool L2 6RE</p> <p>DX 14208 LIVERPOOL1</p>	<p><b>Special Cases Unit</b> At London, Brighton or Cardiff: refer to case manager.</p>

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