



PRACTICE NOTE

Claiming travel costs as a public authority or professional deputy

Summary

The Court of Protection updated its practice direction on fixed costs in the court on 1 April 2017. The update is to practice direction B to part 19 of the Court of Protection Rules, which sets out:

- **fixed costs** that solicitors and public authorities acting in Court of Protection proceedings may claim
- **fixed amounts of payment** that solicitors and public authority office holders acting as a deputy may claim

Although the practice direction is aimed primarily at solicitors and public authority deputies, the court may direct that it also applies to other professionals acting as deputies, including accountants, case managers and people working for not-for-profit organisations.

Paragraph 21 of the practice direction introduces a new provision, to allow public authorities and other third sector deputies to claim a fixed amount for travel costs. This practice note advises deputies on how the Office of the Public Guardian (OPG) will supervise claims for costs under this paragraph.

Scope of this practice note

This is a general guide only, setting out the Public Guardian's interpretation of what counts as a reasonable claim under the court's new provision. Note that only the Court of Protection can determine what costs and payment are allowable.

Deputies should make an application to the court if they disagree with anything in this guidance or if they want to claim for something not covered in practice direction B. Similarly, deputies must act in line with the provisions for costs in the court order appointing them.

Deputies' responsibilities over costs

OPG expects deputies to make reasoned decisions about claiming costs, balancing carefully what travel is necessary and in the interests of the client (the person on whose behalf they are acting) with the need to keep costs and charges to a minimum.

The Public Guardian may make an application to the Court of Protection for directions if he considers that a deputy's claim for travel costs is unreasonable.

What should travel costs cover?

The court's practice direction says deputies can claim travel costs at a rate of £40 for each hour spent travelling, regardless of the pay or position in the organisation of the person travelling.

Deputies can only claim costs for travel they undertake to carry out their duties. OPG considers claims for costs unrelated to the deputyship (for example, journeys to carry out care reviews or any other statutory functions) unreasonable.

OPG expects most claims to relate to visits to the client or their property, but deputies can also claim if they have to

travel for other reasons related to the deputyship (for example, to attend a meeting or to accompany the client to an appointment with a bank).

When the deputy claims travel costs for more than one visit to the client a year, they need to explain why in their annual report.

Deputies can't claim for travel costs they incur before the date of the order appointing them as deputy. Paragraph 16 of the practice direction only provides for fixed rates of remuneration for work up to and including the date of the order.

Travel costs for more than one member of staff

The hourly travel rate may only be claimed for more than one member of staff where it's strictly necessary for the case. For example, a risk assessment may have shown that staff need to 'double up' for health and safety reasons.

Deputies need to justify claims for more than one member of staff in their annual report.

How to calculate travel costs

Deputies should calculate travel time from their work base to the meeting location and for the return journey. If the travel time is shorter (for example, because of travelling from home) then they should claim the lower amount. If travel time is longer because of travelling from home, then deputies should deduct normal home-to-office travel time from the claim.

To avoid claims for small units, OPG suggests deputies round time up or down to the nearest 15 minutes they spent travelling.

Where all journeys are for the same client, then deputies should total all the time spent travelling and charge the client at the hourly rate.

Where deputies travel to the same location for more than one client (for example, to visit them in a care home), then they should share out the travel time equally between those clients.

When deputies undertake multiple

journeys to different locations for multiple clients, then OPG suggests they follow the approach set out in this example:

If a single deputy undertook journeys in isolation to different clients, the travel times might be:

- Client A – 1 hour return journey
- Client B – 2 hours return journey
- Client C – 2 hours return journey
- Client D – 2 hours return journey
- Client E – 1 hour return journey

The total time for journeys in isolation would be 8 hours.

However, a deputy might apportion time for multiple clients based upon an actual journey time of 2 hours travelling to different locations like this:

- Client A – 15 minutes

- Client B – 30 minutes
- Client C – 30 minutes
- Client D – 30 minutes

- Client E – 15 minutes

This is a consistent and transparent way of charging clients a fair proportion for travel costs.

For further advice:

Email: customerservices@publicguardian.gsi.gov.uk

Phone: 0300 456 0300

Web: www.gov.uk/opg

Office address:

Office of the Public Guardian

PO Box 16185

Birmingham B2 2WH