



Legal Aid  
Agency

Working with others to achieve excellence in the delivery of legal aid

# Direct Access guidance

## Claiming back costs if you instruct a barrister under the Direct Access scheme in the Crown Court

June 2020



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# Introduction

If you have instructed a barrister under the Direct Access scheme and the following apply:

- you are acquitted or
- your case is discontinued and
- you were refused legal aid due to financial ineligibility

the court may make an Order for your legal costs and personal expenses to be reimbursed from Central Funds.

## What you can claim for

Under a Defendant's Costs Order (DCO) you can claim the following:

- the costs of your barrister preparing your case
- your travel expenses and subsistence costs in relation to the proceedings

You cannot claim for:

- your time spent in preparing your case
- any costs charged by your barrister for completing the claim form on your behalf
- loss of earnings

# Submitting a claim

To claim your legal costs, download the most up to date version of the claim form 5913a from the GOV.UK website:

<https://www.gov.uk/government/publications/apply-for-costs-from-central-funds-direct-public-access-5913a>

You must submit your claim within 3 months of the conclusion of proceedings

Send your claim to:

Criminal Cases Unit  
7th Floor  
Piccadilly Gate  
Store Street  
Manchester  
M1 2WD

## Your personal expenses

You must submit your claim for your personal expenses, for example, travel and anything other than legal costs, direct to the court dealing with your case – do not send your claim to us. You should contact the court for advice on how to claim.

Your witnesses must also submit their claims for attending court direct to the court.

You must include:

- a copy of the contract between yourself and your barrister
- a copy of the notice refusing legal aid
- a copy of the Defendant's Cost Order made by the court
- a copy of your barrister's fee note (invoice) and work log

You should also provide a description of your case and any other information you wish us to consider. You can either provide this yourself in an accompanying letter or you can ask your barrister to provide this on your behalf.

Please be aware that if your barrister charges you for this you will not be able to claim it back as part of your costs.

## **Assistance attending court with your barrister**

If the court decides it was necessary for you to be accompanied to court, it can pay the costs of those who accompanied you. It will make an allowance for their attendance as if they had attended as a witness.

Such an order is made under Regulation 18(2) Part V of The Costs in Criminal Cases (General) Regulations 1986.

If you also required assistance to attend, for example, a conference with your barrister, then you should enclose a copy of the court's order with your claim. We will then be able to consider those costs.

## Assessment of costs

If your case commenced after 1 October 2012 and you applied for Legal Aid on or after 27 January 2014 and were refused due to financial ineligibility, we will assess your claim using the Rates and Scales Document under the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO). The date your case commenced will be the date the summons was issued.

Under these regulations the costs allowed cannot exceed the maximum fees and hourly rate payable under the legal aid regulations, unless the circumstances of the case are deemed exceptional.

Details of the amounts payable can be found within the Legal Costs Document 2 (Crown Court proceedings on indictment) at:

<https://www.gov.uk/guidance/claim-back-costs-from-cases-in-the-criminal-courts>

Go to the section titled 'How to claim back costs', where there is a link to the 'Legal Costs Document 2 (Crown Court proceedings on indictment)'.

The Criminal Cases Unit (CCU) have no authority to exceed the fees set out in the costs document unless it can be shown that your case is exceptional. Information in support of exceeding these fees should be provided by your barrister and accompany your claim.

## Requesting a review

You can apply for a redetermination of the assessment within 21 days of receiving our decision. You should include in your request any further information you wish us to consider.

If you remain dissatisfied, you can request formal written reasons for the decision within 21 days of receiving the redetermination.

Your barrister may assist you to make these requests but please be aware that any charge for this will not be covered by your Defendant's Costs Order.

Having received written reasons, you can appeal to a Costs Judge for a final decision. Please be aware that there is a cost involved in this process.

Guidance in relation to this process can be found at:

<https://www.gov.uk/courts-tribunals/senior-courts-costs-office><https://www.gov.uk/courts-tribunals/senior-courts-costs-office>



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