

Application to join the Legal Aid Review Panel 2020

EXERCISE B: INDEPENDENT FUNDING ADJUDICATOR (Crime) and/or INDEPENDENT COSTS ASSESSOR (Crime)

This exercise should be completed by candidates specialising in Crime applying for the role of Independent Funding Adjudicator (IFA) and/or Independent Costs Assessor (ICA); or for any of the Chair roles.

The exercise is not intended to test knowledge of a particular area of law but is seeking to assess the applicant's knowledge of the relevant Legal Aid regulations, contracts and the powers available to a panel member.

NOTE: You only need to respond to the questions which relate to the specialisms you have declared on the application form.

Question 1 – Investigations Class

On an INVC Police station attendance claim, a provider claims mileage of 45 miles (for a round trip), on a weekday during social hours, in February 2020. The Provider has used an agent to attend at the Police Station to represent the client on their behalf.

The provider's office is based in central Nottingham at NG1 2AS and Mansfield Police Station is at NG18 2HQ.

The LAA reduce the mileage to 30 miles for the round trip, based on the mileage between the Provider's office and the Police Station.

There is no justification on the provider's files of papers as to why the mileage is 45 miles. No justification is given in the provider's appeal against the assessment.

The LAA rely on the:

- 2017 Standard Crime Contract (SCC) specification rules 8.30, 8.31, 8.33, 8.34
- 2017 SCC Standard Terms section 3.3(b)(iii)
- Criminal Bills Assessment Manual (CBAM) January 2020 sections 6.7.7 and 6.7.8

Would you uphold the decision of the LAA? If not, on what basis? Please refer to the SCC and CBAM.

1

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Question 2 – Proceedings Class

On a PROK Magistrates Court claim, a Provider claims a disbursement for a Psychological report of £500 + VAT. There is no invoice on the file and the disbursement is disallowed on assessment.

The LAA rely on 2017 SCC specification 5.40, 8.30 – 8.33, CBAM 3.9.22, 9.2.7 and Point of Principle CRIMLA 5.

Would you uphold the decision of the LAA?

If not, on what basis? Please refer to the SCC and CBAM.

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Question 3 – Prison Law Class

On a PRIC Advocacy Assistance claim, the ‘Declaration and Grant’ section on the CRM3 was not signed by the Solicitor/Category supervisor and is blank.

The LAA disallowed all the costs claimed and rely on 2017 SCC 4.32, 4.33, 4.39 and 12.22.

Would you uphold the decision of the LAA?

If not, on what basis? Please refer to the SCC and CBAM.

3

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Question 4: CRM7s – Enhancement

The defendant is a 40-year-old man who has been charged with common assault. The defendant suffers from ADHD and other learning difficulties.

All attendances on the client were particularly lengthy as the acting solicitor had to spend extra time going through any evidence with him as the client struggled to concentrate and he found it difficult to grasp what was going on.

A 100% enhancement has been claimed across the board on all attendances, preparation, advocacy, standard rate letters and calls. On assessment, the LAA have allowed uplift on attendances with the client only.

Considering the above details provided by the solicitors on their CRM7 claim, would you allow or partially allow the enhancement, or would you uphold the LAA's decision?

Please provide justification for the decision you have reached.

4

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Question 5: CRM4s – Prior Authority

A CRM4 has been submitted by solicitors who wish to instruct a psychiatrist in a murder case. They require the psychiatrist to attend on the client, produce a report and to determine whether they are fit to plead. The expert is based in London and is requesting 21 hours for attendance and preparation at an hourly rate of £120 per hour, with 3 hours travel at £50 per hour to attend on the client in prison.

On assessment, the LAA have reduced to the preparation/attendance rate down to £72 per hour as the expert is London based in line with Schedule 1 of the Criminal Legal Aid (Remuneration) (Amendment) Regs. 2013. Travel has also been reduced to £40 per hour as per 5.49 of the 2017 Standard Crime Contract.

Taking into account the hourly rates, as set out in the Remuneration of 'Expert Witnesses' and guidance as per the Standard Crime Contract regarding travel, would you allow the Prior Authority?

5

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Question 6: CRM5 – Application for extension of upper limit

An application is being made to the CCRC as the client wishes to appeal his sentence as they believe it is manifestly excessive as they were only 16 years old at the time of the offence. This application has previously been to the Court of Appeal under the same grounds.

Would you grant it? Please provide justification for your decision.

6

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