



Legal Aid
Agency

High cost family

Correspondence hints and tips

Claimable Routine Correspondence

This is general guidance on what the LAA (Legal Aid Agency) would expect to find claimed as correspondence. Though we would not expect to find certain items claimed, this does not mean that they cannot be justified. A provider should draw attention to any factors on which they particularly rely to justify the level of correspondence sought. In high cost cases this should be set out within the narrative of the case plan.

LAA Assessments

Each case is considered on its own merits. The volume of correspondence can vary significantly between claims based on non-exhaustive factors such as level of support the client reasonably requires or length of delays at court. Where you believe one of these factors is in play, it is important that you provide justification. This is especially important when the main driving factors of the case such as the number of hearings, experts instructed, and number of parties are low. Another consideration is the time frame within which the work is undertaken. All assessments of correspondence are assessed in line with sections 1.3 and 1.4 of the cost assessment guidance. Where the amount of costs is to be assessed the high cost team will only allow costs which are proportionate to the matters in issue.

Conversational correspondence

The routine correspondence guidance was created when the bulk of communication between parties was via posted letters. Email is now the prevailing method of communication. Emails can often go back and forth within a short period and sometimes may be more conversational. On other occasions emails may be detailed and require

considerable preparation time, or time may pass between exchanges. Therefore, it is important to establish whether the email exchange is akin to a single telephone conversation or more like an exchange of letters.

If there are multiple messages back and forth on an individual issue with little or no time lag akin to SMS / WhatsApp messages, these should generally be considered as a single item and claimed in a similar way to a phone call or timed attendance if the conversation is lengthy. This can be justified on file but should not be claimed as both a timed attendance and routine correspondence.

If, on the other hand, there are lengthier or substantive exchanges or gaps between replies or more measured consideration is needed during the exchange, the likelihood is that claiming as routine letters would be more appropriate.

When considering conversational correspondence, the provider should be asking themselves what is reasonable and proportionate. For example, if you have 10 emails out within 10 minutes on the same issue, is it reasonable to claim the equivalent of 60 minutes in timed attendance? Or would it be more appropriate to treat it as a timed attendance for actual time spent?

Thank you / acknowledgements

Only items that are case progressive should be claimed. Items claimed for pleasantries or acknowledgements should not ordinarily be claimed. It may however be accepted as reasonable where the fee earner has considered the letter appropriate in the circumstances of a particular client and this is noted on file.

Automated responses

Automated responses should not be claimed unless they are progressive to a case. Automated responses from the court can be claimed where they are relaying new information that impacts the case (for example, about delays at the court or the need to send an email to an alternative email), but should generally not be claimed where they are duplicated. If an out of office is received and an email needs to be forwarded onto the correct person, only one item should be claimed.

Multiple messages on the same day

If the client is sending multiple messages on the same day with attachments due to the file size, it would be reasonable to claim this as one item in a similar way to as if a letter was posted. Consideration of the attachments could be charged as non-routine.

Internal communication

Internal communication between fee earners within a firm are not claimable.

Non-routine letters

When an item is claimed as a non-routine work this is not also claimable as a routine item when sending.

LAA published guidance as of 17 January 2023

[Costs Assessment Guidance 2018 - Version 4- February 2021__clean_.pdf](#)
([publishing.service.gov.uk](#))

Letters, Calls and emails Letters

2.17 In respect of claims for letters out appearing on the file there are in principle three possibilities on assessment:

- (a) that no payment is allowed;
- (b) the item fee from the Remuneration Regulations is allowed (routine letters out);
- (c) preparation time is allowed at the appropriate hourly rate from the schedules (non-routine letters).

Subject to the following paragraphs, the default position would be the item fee (b)

2.18 A letter may be disallowed where as an item of costs it was unreasonably incurred. The most likely examples of this are:

- (a) Letters that duplicate information already provided or communication that has already occurred. However, unless overall costs have been held to be disproportionate, the test is one of whether it was reasonable in all the circumstances to send the letter, not whether the letter was strictly necessary to progress the case. For example, a letter simply confirming an appointment that has already been made may be disallowed if it is sent on a routine administrative basis by a non fee earner, but it may be accepted as reasonable where the fee earner has considered the letter appropriate in the circumstances of a particular client.
- (b) Multiple letters sent unreasonably. A letter should generally be disallowed if its content could reasonably have been included in another letter that was sent on the same day. Clearly, that will not be the case if a second letter is drafted following a significant change of circumstance on that day (or otherwise after dictation of the first letter), or where an open and a without prejudice letter are sent at the same time to another party. It may in any event be reasonable to have separate letters to deal with different matters for the sake of clarity. This will be particularly important in family cases where it will be good practice for practitioners to deal with different aspects of the case (e.g. divorce, Children Act, financial proceedings, injunction) in separate letters.
- (c) Letters arising from the oversight of the fee-earner. That would include a letter enclosing a document that the fee-earner had previously forgotten to send or

otherwise to address a matter that should have been dealt with previously. Otherwise, however, covering letters enclosing documents are allowable.

2.19 For a claim for a non-routine letter to be allowed the time spent must be justified by the substance of the letter. The length of the letter will not itself be determinative of this. A letter of more than one page may be allowed at only the standard rate where, having regard to all the circumstances, including the substantive content of the letter, it was not reasonable for more than 6 minutes to be spent on its preparation. That may particularly be the case where the substance of the letter consists mostly of quotation from another document. Conversely, it may be reasonable to claim more than one unit for a single page letter or less; a concise letter may well take longer to prepare than a verbose letter with the same substantive content, and is likely to be more effective for the client. The letter must not be charged both as a routine letter and also as a time charge

2.20 Where details are inserted into a standard format letter, the letter will be payable as a routine or non-routine letter rate on the same principles as detailed in paragraph 2.19 above, having regard to the contents inserted into the standard template.

2.21 When considering the claim as a whole, the assessor should look at the nature of the proceedings and time spent with the client and/or witness(es) to see if the numbers of letters claimed are reasonable. If a large number of letters have been written, but there is no information on the face of the claim to justify the number claimed, the assessor should look at the file.

2.22 A claim for routine letters received can be made in family cases/matters but not in other civil proceedings. In both civil family and non-family proceedings a claim may be made for consideration of non-routine letters received at the hourly rate for the time reasonably expended, but not in addition to a claim for a routine letter in.

[Civil Finance Electronic Handbook \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)

2.5 Letters and Telephone Calls

Correspondence	Paper	CCMS	Comment
E-mail	Standard letter	Standard letter	These would have to have content, and not merely administrative. These will not be paid in addition to a letter. Additional time may be claimed if lengthy/complex but will need to be evidenced
Text message chain / WhatsApp message chain, etc.	Standard phone call	Standard phone call	CAG 2.30: Text messages may be claimed as short telephone calls or attendances paid at the hourly rate for the time reasonably incurred, under the same principles applying to telephone calls

			On these same principles a WhatsApp message may be claimed as short telephone calls or attendances paid at the hourly rate for the time reasonably incurred, under the same principles applying to telephone calls
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[Costs Assessment Guidance 2018 - Version 4- February 2021 clean .pdf \(publishing.service.gov.uk\)](#)

The approach to assessment

1.3. Many of the basic principles governing assessments are contained in the Civil Procedure Rules introduced in April 1999 and the Civil Procedure (Amendment) Rules 2013 which provide the general framework for dealing with costs, including the courts' discretion in the making of costs orders, the form and process of detailed assessment, and the basis, and criteria for quantification of costs. In particular, all assessments of Contract Work as payable by the Agency are to be carried out on the standard basis subject to the provisions of the Specification, the Regulations and this Guidance (see Paragraph 6.9 of the Specification).

CPR 44.3(2) states that:

“Where the amount of costs is to be assessed on the standard basis, the court will—

(a) only allow costs which are proportionate to the matters in issue. Costs which are disproportionate in amount may be disallowed or reduced even if they were reasonably or necessarily incurred; and (

b) resolve any doubt which it may have as to whether costs were reasonably and proportionately incurred or were reasonable and proportionate in amount in favour of the paying party.”

Under CPR 44.4:

“(1) The court will have regard to all the circumstances in deciding whether costs were—

(a) if it is assessing costs on the standard basis—

(i) proportionately and reasonably incurred; or

(ii) proportionate and reasonable in amount, or

(b) if it is assessing costs on the indemnity basis—

(i) unreasonably incurred; or

(ii) unreasonable in amount.

(2) In particular, the court will give effect to any orders which have already been made.

(3) The court will also have regard to—

(a) the conduct of all the parties, including in particular—

(i) conduct before, as well as during, the proceedings; and

(ii) the efforts made, if any, before and during the proceedings in order to try to resolve the dispute;

(b) the amount or value of any money or property involved;

(c) the importance of the matter to all the parties;

(d) the particular complexity of the matter or the difficulty or novelty of the questions raised;

(e) the skill, effort, specialised knowledge and responsibility involved;

(f) the time spent on the case;

(g) the place where and the circumstances in which work or any part of it was done; and

(h) the receiving party's last approved or agreed budget."

1.4 The assessment of costs payable under legal aid should operate on the same principles whether the assessment is carried out by a costs officer of the court or by an assessor of the Agency, the object in all cases should be to achieve a fair assessment of the costs due to the provider under the Contract. The question of whether costs are reasonable and/or proportionate is to be resolved on an objective basis having regard to all relevant circumstances, and particularly the matters listed in CPR 44.4(3). It should not be influenced by the Lord Chancellor also being the paying party, beyond the fact that resolution of genuine doubts are to be resolved in the Lord Chancellor's favour under CPR 44.3 (2)(b).