



Legal Aid
Agency

Providing access to justice through working with others
to achieve excellence in the delivery of legal aid

Contingency Payment - Providers Guide

Contingency Procedures - Civil Representation

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Contingency Arrangements

This document contains details of how the average payment contingency arrangement works and how to claim these payments.

Principles

1. The average payments scheme is intended to be a contingency payment made to legal aid providers and counsel to aid cashflow during a period of system outage whilst the Legal Aid Agency is unable to assess claims in the normal way due to the ongoing Portal outage caused by criminal activity.
2. The scheme is not intended to replace final payments or Payments on Account and is not an assessment of costs as laid out under the Civil Contract. The payments made are done so on an interim basis to be replaced with final payments in accordance with the requirements of the Contract upon the point the LAA is able to consider case specific payments.
3. As the payments made are not for specific cases, but intended to reflect what would otherwise have been paid that week. Money paid out is not client money and can be paid in to office accounts in line with Solicitors Regulation Authority (SRA) guidelines. More information on this point is available on The Law Society's website here:

[Legal Aid Agency data breach: information for members | The Law Society](#)

Contingency Payments

4. Under these arrangements providers and counsel may opt to receive a contingency payment.
5. You may not wish to receive a contingency payment. It is therefore necessary to opt in each week to receive a payment whilst the system is unavailable. LAA will review the need for providers to opt in weekly as part of a wider review of the scheme at the end of June 2025.
6. LAA will recoup contingency payments made under these arrangements once system access is restored, or is otherwise able to consider case specific payments, and payment balances made.

Important

Payment under these contingency arrangements are not final payments. These payments are not made under a specific case reference and do not replace the need to submit a bill on the system once available. Consideration should be given as to whether contingency is right for your circumstances.

If you opt in, you will be required to keep records of claims which were due to be submitted during the outage and must provide these if requested. You should not opt in if you do not have sufficient claims to justify the weekly contingency payment.

Opting In

7. The process to opt into contingency and accept a contingency payment is entirely voluntary.
8. To opt in to receive a contingency payment for the week you must email CivilClaimBC@justice.gov.uk , attaching a signed declaration for each account, available on the link below.
9. All opt-ins should be submitted by 12 noon on Monday of each week the contingency process remains open. Any opt-in is valid for that week's payment only, which means you must actively opt in each week you are seeking payment.
10. You must include the name of the provider firm/counsel and provider/counsel account number. Please ensure the account number is typed correctly. If it cannot be verified, payment cannot be made.
11. Your email must be sent from an official office account so that it can be verified.
12. A declaration form must also be signed by your compliance officer or clerk for counsel and included with your request for average payments.
13. Chambers may include multiple accounts in a single declaration. However, it will help LAA administer the payment if you can advise in your email how many accounts you are requesting to opt-in for.
14. The declaration can be found here:

[Opt-In Contingency Declaration 2025](#)

Copy of Declaration Wording from Opt-in Form:

I confirm that I understand any contingency payment made will be recouped after a set time has passed with system access restored (or case specific payments resumed), and the firm has bills in our work in progress which will cover the contingency payment and they are available for audit if requested.

By signing this declaration I confirm on behalf of XXX that:

1. We agree to participate in the “Contingency Payment” scheme as described in the “Contingency Payment Providers Guide” published on our website at [Contingency Payment - Providers Guide](#);
2. We agree and acknowledge Contingency Payments are not a final payment of a Claim under any contract held between us and the LAA and represent an interim payment;
3. We confirm that, had the Online System as described in our contract with the LAA been operational, Claims submitted for this period would have equalled or exceeded the Contingency Payment applied for, and records are available to be reviewed by the LAA to substantiate this application;
4. We acknowledge and agree that, on notification that the Contingency Payment scheme will cease and the Online System becomes available (or case specific payments become possible), we shall submit Claims relating to this Contingency Payment in accordance with the requirements of the contract held between us and the LAA;
5. We acknowledge and agree that following closure of the Contingency Payment scheme, payments made under it will be recouped which shall be at a time when we have had the opportunity to submit a Claim for payment in accordance with the requirements of the contract between us and the LAA; and
6. We acknowledge and agree that operation of the Contingency Payment scheme does not extinguish or waive either parties contractual rights including but not limited to the LAA’s right to Assess claims or undertake Audit activity as defined by the contract between us and the LAA.

Calculating the Average Payment

15. LAA will calculate your contingency payment. This will be for an average week.
16. The average payment is based on a 3-month simple average and includes POA, bills, disbursements and VAT. The average payment is set based on payments made between February and April 2025, so will not roll over to include May. The LAA will keep this figure under review to ensure it remains appropriate through the life of the scheme.
17. If you have not received details of your average payment, providers can confirm this by contacting their Contract Manager.
18. Counsel may contact CivilClaimBC@justice.gov.uk to confirm the amount of the average payment. You must include counsel’s name and the account number.
19. If you have opted in but decide you do not wish to receive a contingency payment, please contact CivilClaimBC@justice.gov.uk as soon as possible so that this may be cancelled.

Payment

20. Payment under these contingency arrangements will be received on:

- Week 1: Wednesday 4 June
- Week 2: Friday 13 June
- Week 3: Monday 23 June
- Week 4: Monday 30 June

21. Payments will then revert to the normal Monday schedule for following weeks.

22. Contingency payments will be for a single average week payment.

Important

LAA may not pay a contingency payment where the account is on hold, in debt, or where a claim has not been claimed on the account over the last 3 months.

23. The contingency payment transaction will appear on the BACs statement as 'CR_CON_BILL'.

Recoupment

24. Generally, when the LAA is in a position to consider case specific payments, the process of recouping the contingency payment will be started by the LAA once 2 weeks have passed. This means for two weeks there will be no recoupments, then the LAA will start to recoup a quarter of an average week's payment each week until the full amount has been recouped. The average week's payment will be calculated as the total value of contingency payments received by the provider/barrister divided by the number of weeks in which they received a payment. Recoupments will be done via a Debit Note transaction.

Example:

- 1) For instance, if you claim £40,000 in contingency payments over 4 weeks at £10,000 per week, the payments will start to be recouped 2 weeks after normal usage is restored. LAA would then stagger recoupments of the payments, recouping £2,500 per week until the total amount is recouped.
- 2) If you claim £50,000 in contingency payments over 5 weeks at £10,000 per week, but the outage lasts 7 weeks, the payments will start to be recouped 2 weeks after normal usage is restored. LAA would then stagger recoupments of the payments, recouping £2,500 per week for 20 weeks to reflect 5 weeks of opting in.

25. The Debit Note will appear on any PSOA as a negative balance titled 'Debit Note' for the original amount received.
26. If the Debit Note does put an account into a debt position, a PSOA will not be automatically generated. LAA will send a PSOA to any firm who received contingency payments and then subsequently found their account in debt immediately after the Debit Note is applied.
27. Alternatively, the PSOA may be requested via PaymentInformation@justice.gov.uk if not received.

Data Retention

28. Records will be retained in line with the LAA's published Retention Schedule:

[Legal Aid Agency Privacy Notice - GOV.UK](#)

FAQ

Question	Answer
Are contingency payments mandatory or can I opt out?	You can opt out of receiving a contingency payment. You do not need to take any further action should you wish to opt out.
Does this apply to counsel or is it just available for providers?	It applies to both counsel and solicitors.
Does this replace the normal billing process?	No, a contingency payment is not made against a specific case and will be recouped. You should bill as normal once the portal is available.
How do I account for expert costs?	The average payment scheme fee is calculated on all payments made, including those to experts, that a provider would otherwise have received in any given week. This means that you can use the average payment to cover any expert's costs that are due in that week. However, it is not intended to replace any POA to cover any specific costs, so we do not recommend you post any part of the average payment scheme to a client account to avoid a complex reconciliation process upon the LAA becoming able to consider case specific payments. In the event you have a specific expert fee that you believe will make your average weekly payment unviable, you can discuss this with your contract manager to see if the escalation process would be more appropriate.

<p>What if I haven't made any claims under the account recently?</p>	<p>The contingency payment is based on a 3-month average. An account will not be eligible if a claim has not been paid over the last 3 months.</p>
<p>What do I do if I don't receive an email confirming the amount payable?</p>	<p>Please escalate to your contract manger to discuss options available.</p> <p>Counsel can contact CivilClaimBC@justice.gov.uk.</p>
<p>Can I claim more than the proposed contingency payment?</p>	<p>The contingency payment is based on an average week. Providers may raise any concerns regarding the calculation of this with their Contract Manager.</p> <p>Counsel can contact CivilClaimBC@justice.gov.uk.</p>
<p>If a request for a higher payment is agreed, can I claim the average payment on top?</p>	<p>No, the higher payment would be agreed in place of that week's average payment.</p> <p>Where it is identified that a provider has requested both an average payment and a higher payment, the average payment will be removed from the payment list.</p>
<p>What if I have already submitted an opt-in form but then realise I need a higher payment?</p>	<p>If you have already submitted an average payment request, please make this clear when you submit the claim for the higher payment so we can remove the average payment.</p> <p>The escalation contingency form must be received before the weekly deadline of 12 noon on a Monday.</p>
<p>What if a higher payment has been agreed but I change my mind and would like to claim the average payment?</p>	<p>If you have changed your mind, please make it clear in your email that this payment should replace the escalated payment previously agreed when</p>

	<p>sending the opt-in form. We will then remove the previously agreed payment.</p> <p>The opt-in declaration for average payment must be received before the weekly deadline of 12 noon on a Monday.</p>
Can I claim less than the average payment if I did not intend to claim costs for the week equal to or above the average payment?	Yes, if you wish to claim less than the average payment, please confirm in your email opting in that you wish to claim less and include the amount you wish to claim instead.
Will LAA reduce my claim for contingency payment below the average payment?	No, but LAA may refuse payment where your account is on hold, in debt, or where an average cannot be calculated.
Will LAA reject any claim for contingency payment?	Yes, for instance, where account details cannot be verified, the email has not been sent from an official office account, the signed declaration has not been provided, or a payment cannot be made.
Can I pay back the contingency payments more quickly?	If you wish to pay back your contingency payments sooner than the timescale above, please email CivilClaimBC@justice.gov.uk and we will discuss this with you.
Is the 3-month average payment calculation rolling, and if so, won't the payments reduce?	The calculation is based on a simple average based on the last three months (Feb- Apr 2025), rather than a rolling average. We will keep under periodic review whether that is still the appropriate calculation, with an aim to pay providers appropriately, and will of course consult representative bodies as we do so.

<p>Does the average payment amount include VAT?</p>	<p>The figure paid has been calculated based on VAT within the totals at whatever rate VAT was paid, it is not worked out as a separate figure and added on. The total will be recouped once the contingency period is over and replaced by claims that will have VAT paid in the normal way.</p>
<p>If a provider or counsel has a debt on their account but intended to claim a large bill during this period, can they claim a contingency payment?</p>	<p>There is an escalation process for this scenario. Providers should contact their contract manager to discuss this. Counsel would need to please e-mail the contingency e-mail address CivilClaimBC@justice.gov.uk and we will provide details to allow us to agree appropriate payment, which would net off any existing debts as would happen under usual payment conditions.</p>
<p>Is there a way to get the notifications on the contingency payments sent to chambers in bulk?</p>	<p>Where clerks need details of the payment values of all Counsel in their Chambers, if they please email CivilClaimBC@justice.gov.uk requesting the details we will provide them in one e-mail. Once payments are made the usual notifications and remittance advice will go out as normal.</p>
<p>Who should sign the form on behalf of counsel/chambers/barrister/sole practitioners?</p>	<p>In this instance, we will accept the form signed by counsel, a clerk, barrister, the sole practitioner or someone with authority to sign on their behalf.</p>
<p>What if the Compliance Officer for Finance and Administration (COFA) is not available to sign the opt-in declaration?</p>	<p>Providers should contact their contract manager to confirm that the COFA is not available to sign the declaration and agree a signature from an alternative suitable person in their absence, such as the Compliance Officer for Legal Practice (COLP), Partner or Director.</p>

How long will contingency run?	We will run until further notice and keep the process under review. When changes to the scheme are made, we will send communications out to clarify.
Do I have to keep records of the work I had intended to claim, for instance, file evidence, drafted claims and work in progress reports?	Yes, this is the case for all payments made under this contingency process. Although we do not require you to submit them with your opt-in form, we do require you hold the records and make them available for audit upon request by the LAA.
How will any case reconciliation be processed once recoupment starts?	<p>There is no case reconciliation required, as we are not paying for named cases.</p> <p>However, if an account is in debt, any payments, such as escalation payments, will reduce this accordingly.</p> <p>However, escalation payments will start to be recouped as per the contingency recoupment arrangements.</p>
Can I still send my claims to the court for assessment	<p>Sending your claims to court for assessment remains at your discretion.</p> <p>The LAA currently has no method to make a payment against a specific case, so even with a court assessment we cannot make a specific payment and would direct you to the average payment scheme or escalation process as appropriate.</p>



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