

# Claim 5A Completion Guidance

## General Hints and Tips

### Rates Calculator

- Please use our online rates calculator to check you are claiming the correct rate

### Copy Claim

- We will accept a copy claim providing you confirm on your claim form that you retain the original on file or have mislaid the original

### Copies of the order

- Unofficial copies of court orders are acceptable where sealed by the court/certified by the judge

### Version of Form

- Please make sure you use the correct version of the form - the current version is Version 5 August 2015

### Correct Certificate

- Please make sure your claim details the correct certificate number

### Multiple Clients

- If counsel represented multiple clients please detail their certificate references

### Signed & Dated

- Please make sure you sign and date the claim form

### Limit the Number of Lines on your claim

- **We recommend that you submit several small claims rather than one large one:**
  - Such individual claims are less likely to be rejected because they exceed the cost limitation.
  - If a single error is identified we will also be able to make payment for the other claims whilst rejecting only the one containing the error.

### Additional Guidance

- The electronic handbook
- The Cost Assessment Guidance (2013), Appendix 2
- Both these documents are available at <https://www.gov.uk/funding-and-costs-assessment-for-civil-and-crime-matters>

# 1

## Rates

### Have you claimed the correct rates?

Is the rate correct based on certificate date?

- Different rates apply depending on the date of the client's application for legal aid. Please check with your instructing solicitor and see the 'Key Dates' panel below.

Are you claiming the correct category of case?

- Please check that the work counsel was instructed to undertake matches the work described by the certificate.
- Guidance on the categories is available in Costs Assessment Guidance (2013) Appendix 2, 10-13.
- Where work covers more than one category only one fee is payable per activity. Counsel should choose which fee to claim.

Are you claiming the correct hearing/activity type?

- Further guidance is available in Costs Assessment Guidance (2013) Appendix 2, 14-15.
- Please pay particular attention to the definitions of final hearings at 14.9-11 and 15.8-10.

Are you claiming the correct fee for the court/judge?

- This should be supported by the advocates attendance form and the supporting documents should validate the court/judge level.
- Non hearing activities should be claimed at the level of court established by the associated hearing.

	Hearing prior to 22/04/2014	Hearing on/after 22/04/2014
<b>Are you claiming the correct fee for judge/court level?</b>	Fee payable based on court where the case was listed unless heard by a more senior judge sitting as such	Fee payable is based on the level of judge hearing the case
	Family Proceedings Court	Lay Justice/Legal Advisor/Justices Clerk
	County Court	District Judge/Circuit Judge
	High Court	High Court/Section 9 Judge

#### Key Dates:

- 09/05/2011 – Introduction of FAS scheme for certificates applied for on/after this date
- 01/02/2012 – 10% rate reduction for certificates applied for on/after that date
- 22/04/2014 – Fee payable based on who heard the case rather than the level of court the case was listed in for all hearings on/after this date

**Please remember to use the rates calculator.**

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## **Brief**

**Have you provided a brief or letter of instruction including all the information we require for each hearing or activity claimed?**

**For each hearing we require**

- The hearing or activity date
- The type of hearing (for example, 'Directions' or'Final Hearing')
- The type of application (for example, 'care application')
- The time the court ordered the advocates to attend (if prior to the listing time)

**How can this information be evidenced?**

- Brief
- Letter of instruction
- Order listing hearing
- Advocates attendance form
- Full details provided on the claim form

**Standard Brief**

- A Standard brief detailing our minimum requirements is provided in the electronic handbook

If there are discrepancies between the work you claim and the brief and supporting documents please explain the reason for this on Claim 5A p2 or in a covering letter and include any additional documentation available to support your claim.

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## **Final Hearing**

**Are you claiming for a final hearing?**

**Evidence of listing**

- Have you provided a court order, brief, or letter of instruction confirming that the hearing was listed as a Final Hearing, Finding of Fact hearing, IRH, or the main hearing at which the court intended to determine whether a final order should be made?

**Was the hearing effective as a final hearing?**

- Please provide a copy of the order made at the hearing, the advocate's note, or a detailed description of the hearing confirming that the hearing was effective as a final hearing
- Where the hearing was not effective this should be claimed as an interim hearing
- Where the hearing was listed with the intention that this would be dealt with under a consent order, or was otherwise not effective or contested, this should be claimed as an interim hearing

Additional Guidance	
What hearings can be claimed as final?	6.4 Electronic Handbook
Was the hearing effective?	6.4 Electronic Handbook
Should this be claimed as an interim hearing?	FAS Guidance 15.8 6.4 Electronic Handbook
Written Submissions and Reading days	6.3 Electronic Handbook

### Written Submissions

An additional final hearing day for drafting written submissions can only be claimed where the hearing is listed with a day specifically set aside for this purpose. The order should be provided to confirm this.

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## Scope

Is this work within the scope of your certificate?

Does the certificate cover the work undertaken?

- Please check your certificate to make sure that it covers the work counsel was instructed to undertake.
- Have you included the correct instructing solicitor on page 1 of your Claim 5A? Please check your certificate for details.

Do the attachments confirm the work is in scope?

- Do your supporting documents contain sufficient detail to confirm that the work falls within the scope of the certificate?
- If they describe applications or activities other than those specified by the certificate (for example, a contact application on a care certificate, or a final hearing on a FHH certificate) please explain - or ask your instructing solicitor for an explanation of - how this falls within the scope of the certificate.

Cost Limitations

- Can payment be made within the cost limitation of the certificate?
- If the current limit would prevent payment please contact your instructing solicitor before the submission of your claim to allow them to apply to extend the limitation

**Where there are discrepancies between the work undertaken and the limitations on the certificate (including cost limitations) your instructing solicitor should be able to assist you.**

If you claim exceptional travel, or any travel or accommodation costs, this must be justified on the claim form with reference to the following:

#### You are the local bar

- Where you are the closest bar to the court you should confirm that you are the local bar

#### The local bar is unable to cover all work

- Where there is a small bar or chambers more local to the court but unable to cover all the work

#### Continuity of counsel is required

- Where instruction is required to preserve continuity of counsel you should explain why it was important to that particular case/hearing/activity
- There is an expectation that counsel would have been instructed recently or regularly for the requirement for continuity to be justified

#### Specialist area of law

- Where counsel has been instructed as a specialist in an area of law relevant to the case you should explain counsel's specialism and why it was necessary for a specialist counsel to be instructed in the case

Mileage claims should match the journey between chambers and the court - any discrepancy should be justified

Mileages can be checked using the court finder

Where taxi or overnight accommodation has been claimed you must explain why this was necessary and cost effective

Local Travel costs (within 10 miles of the court) will generally not be paid on certificates issued on/after 01/09/2014

Vouchers must be provided for travel costs of £20 or more (including VAT)

**7, 22**

## Is this a Family Advocacy Scheme Case?

Dates

- The family advocacy scheme applies to family cases where the application was made on/after 09/05/11
- Applications prior to that date fall within the FGF scheme and should be claimed on a claim 5

Is it within scope of the scheme?

- Are the advocacy services excluded from the FAS scheme? (Details on this can be found in s5.1 Appendix 2 Cost Assessment Guidance 2013)
- Where the advocacy services are excluded these should be claimed at hourly rates (see s 5.5 and 5.6 Appendix 2 Cost Assessment Guidance 2013)

Does the hearing include non FAS related work?

- Where a single hearing contains substantial work that is outside the scope of the scheme then payment will be as though the hearing is outside the scheme and paid at hourly rates

Is this a high cost case?

- Unless the proceedings are excluded from FAS you should generally claim under FAS unless counsel chooses to claim under the events model/Care Cases Fees Scheme
- If the application falls under a high cost civil or special cases unit contract all counsel fees should be claimed as specified by the contract. If claiming FAS please provide evidence that payment under FAS has been agreed under the contract - this may be through the contract or letter from the solicitors

Is this appeal work?

- Appeals against an interim order/finding heard in the FPC, County or High Court are included within FAS. Your supporting documents or hearing note should confirm this
- Work in relation to an appeal against a final order or an appeal heard in the court of appeal or supreme court is excluded from FAS and should be claimed at hourly rates within the solicitors bill

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## Is the Advocates Attendance Form attached?

Have you included the advocates attendance form?

- This is required for all hearings (except hearing unit one without bolt ons or hearings attended by the advocate by video or telephone conference)
- All forms must be either sealed by the court or initialled by the judge/legal advisor/court clerk
- All bolt on payments must be individually sealed by the court or initialled by the judge/legal advisor/court clerk
- Any amendments which impact the fee claimed must be sealed by the court or initialled by the judge

**12, 13, 19, 20, 21**

## Hearing Times

In addition please see section 2 for details of evidence requirements for each hearing

### Lunch Breaks

- Have you detailed any lunch breaks taken?
- If counsel was at court for a considerable period of time please specify any lunch break or confirm "no lunch break taken"
- If this is not provided we will assume that a 60 minute lunch has been taken

### Interim hearing heard over more than one day

- Where an interim hearing takes place over more than one day the hearing fee should be calculated by reference to the total length of the hearing rather than individual days
- For each day please confirm the listing time, end time, and any lunch adjournments

### Unlisted emergency hearing

- If you are claiming for an unlisted emergency hearing please provide details of the time the papers were issued at court and an explanation of the circumstances
- Where the hearing did not take place please provide details on the time the advocate was stood down

### Telephone Hearing

- Please provide details of the time that the telephone call/video conference was first attempted and the time it was concluded
- We will require a note of the hearing detailing the issues discussed

### Cancelled hearing

- Different fees apply depending on when the hearing was cancelled and the type of hearing. Please see s14.15 and 15.7 of Appendix 2 of the Cost Assessment Guidance
- We require details of time spent in preparation by counsel
- Details of time spent at court and time counsel was informed of the cancellation

**14, 20**

## Bolt on Payments

### Claims for a court/advocates bundle

- Each court/advocates bundle must be sealed by the court or initialled by the judge/legal advisor on part B of the AAF
- Bundles will only be paid where they are within the maximum number claimable for the activity and category of case; and appropriate to the hearing/activity type. (Please see Electronic Handbook 6.9)

### Early Settlement

- Where early settlement payments are being claimed a copy of the order must be provided

15, 16, 17

## Advocates Meetings, Conferences and Opinions

### Advocates meeting

- Where more than two advocates meetings have been claimed a copy of the order listing the advocates meeting must be provided
- You should provide a copy of the advocate's attendance note
- Where you are claiming for an interim hearing on the same date we require the meeting start and finish times

### Conference

- We require a copy of counsel's brief, the letter of instruction, or the conference note
- Where you are claiming for an interim hearing on the same date we require the conference start and finish times

### Opinion or written submission

- We require a copy of the opinion/written submission and the letter or instructions to counsel
- Please note the preparation already included in any associated advocacy fee at s14.2 and s14.11, Appendix 2, Costs Assessment Guidance 2013. See also item 3 above