

## Fee Scheme for Appointed Advocates Undertaking Cross-Examination in Family and Civil Proceedings

1. We propose a fixed fee scheme in Family and Civil Proceedings based on the current Legal Aid **Family Advocacy Scheme (FAS) final hearing day fees with a 25% uplift for the first day of advocacy, with preliminary hearings paid separately, plus an advocates' bundle bolt-on for some cases**. This document sets out the detail of the revised proposal and includes where this differs from the initial family proposal with text *in italics*.

### Scheme structure

2. The total fee for the case would be made up of the following components:

<p style="text-align: center;"><b>Base fees for attendance at preliminary hearings</b> (a fixed fee per hearing, dependent on case type and level of judge, with a higher fee for hearings over 60 mins)</p> <p style="text-align: center;">+</p> <p style="text-align: center;"><b>Base fees for the hearing with cross-examination</b> (by a fixed fee per day, dependent on case type and level of judge, where the first day is uplifted by 25%)</p> <p style="text-align: center;">+</p> <p style="text-align: center;"><b>Court bundle bolt-on</b> (once per hearing, when applicable)</p>
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3. The **base fees** would follow the same structure as in FAS, however they will not cover the same activities. A base fee would be paid where an appointed advocate attends a relevant hearing: both preliminary hearings and the hearing involving cross-examination:
  - a) **Preliminary hearings** will be paid using the same structure and values as FAS hearing units (a different fee for hearings under or over 60 mins). These are expected to be case management hearings but may include other situations e.g. ground rules hearings. ***This differs from the initial family fee proposal because the initial family preliminary hearing was included as part of the base fee for the hearing with cross-examination, while subsequent preliminary hearings would have been paid by a bolt-on. Procedurally, this also means payment for preliminary hearings can be made immediately after the hearing to assist with cash flow instead of claiming payment for the whole case at the end.***
  - b) **The hearing with cross-examination** will be paid by final hearing fees (paid per day of attendance at the hearing) where the first day's fee is uplifted by 25% and subsequent days are at the same value as FAS. ***This is the same as the initial family proposal, except the second and onward day no longer attract the 25% uplift.***
4. For this cross-examination scheme, the total paid by all the applicable fees on a case would cover:
  - a) **Preparation** (conference with the party, preparing lines of questioning, reading the advocate's bundle).
  - b) **Attendance** (attendance at hearing(s) and, in the case of the hearing with cross-examination, any other activities performed on the day(s) of the hearing(s)).
5. The **advocate's bundle bolt-on** would be paid in cases where the advocate's bundle is larger than 350 pages and will be paid once per hearing with cross-examination. ***This is the same as the initial family proposal.***

## Scheme rates

6. The value of the preliminary hearings fees is shown in the following table. All timings shown below last from the time that the hearing is listed at court to start to the time the hearing concludes. Note that we are not expecting any preliminary hearings to last more than 2.5 hours, but in this case additional HU2 (Hearing Unit) fees will be paid for each subsequent 2.5 hour period of attendance.

Case type	Level of judge		
	Magistrate	Circuit or district judge	High court judge
<b>Private family (children)</b>			
<i>HU1 (Under one hour)</i>	£62.69	£68.94	£82.76
<i>HU2 (1 to 2.5 hours)</i>	£156.74	£172.40	£206.87
<b>Protective injunction</b>			
<i>HU1 (Under one hour)</i>	£81.50	£81.50	£81.50
<i>HU2 (1 to 2.5 hours)</i>	£203.76	£203.76	£203.76
<b>Financial remedy</b>			
<i>HU1 (Under one hour)</i>	£63.18	£63.18	£75.83
<i>HU2 (1 to 2.5 hours)</i>	£157.95	£157.95	£189.54
<b>Public family (care)</b>			
<i>HU1 (Under one hour)</i>	£86.72	£95.40	£114.48
<i>HU2 (1 to 2.5 hours)</i>	£216.81	£238.46	£286.16
<b>Public family (other)</b>			
<i>HU1 (Under one hour)</i>	£75.83	£83.39	£100.01
<i>HU2 (1 to 2.5 hours)</i>	£189.59	£208.53	£250.20
<b>Civil cases</b>			
<i>HU1 (Under one hour)</i>	N/A	£63.18	£75.83
<i>HU2 (1 to 2.5 hours)</i>	N/A	£157.95	£189.54

7. The hearing with cross-examination attracts a higher per day fee for the first day from the subsequent days for each hearing.

Case type	Day 1			Further days		
	Magistrate	Circuit or district judge	High court judge	Magistrate	Circuit or district judge	High court judge
Private family (children)	£496.30	£545.91	£655.09	£397.04	£436.73	£524.07
Protective injunction	£451.46	£451.46	£451.46	£361.17	£361.17	£361.17
Financial remedy	£554.63	£554.63	£665.55	£443.70	£443.70	£532.44
Public family (care)	£632.81	£696.10	£835.31	£506.25	£556.88	£668.25
Public family (other)	£580.39	£638.44	£766.13	£464.31	£510.75	£612.90
Civil cases	N/A	£554.63	£665.55	N/A	£443.70	£532.44

8. The advocates' bundle bolt-on depends on the number of pages of the court bundle. This bolt-on would follow the same rules as the equivalent bolt-on in FAS.

<b>Number of bundle pages</b>		
<b>351-700</b>	<b>701-1,400</b>	<b>over 1,400</b>
£159.30	£239.40	£318.60

9. Disbursements will not be paid under this scheme.

### **Scheme Rules**

10. In addition to setting out the fees to be paid, a fee scheme must also include the rules by which these fees can be claimed. Our intention is to make claiming as simple as possible, and to minimise the checks that have to be undertaken. We propose the following claim rules, based on two different types of claims:

- a) **Completed hearing claims** – these will be payable after a preliminary hearing or a hearing where cross-examination has taken place, and the claim will cover the base fee(s) and bolt-on (where applicable, for the hearing with cross-examination only). The evidence required for this will be based on the existing EX506 forms<sup>1</sup>, stamped by a court official, or else whatever new process for FAS which is implemented.
- b) **Cancelled hearing claims** – these will be payable in line with existing FAS, where a hearing is listed, and at least 30 minutes of preparation work is undertaken, but the hearing does not take place. The fee is either a hearing unit 1 fee or half of a single day fee, for preliminary hearings and hearings with cross-examination respectively. Bolt-ons will not be payable with this claim type. The evidence required for this will be based on court listings, and evidence of 30 minutes preparation work.

*Wasted preparation claims will no longer be part of the scheme as the preliminary hearing fee should provide earlier payment in most cases where work is being done on a case.*

11. In addition, claims must be made within three months of the time the work has concluded.

### **Example fees**

12. By way of illustration of what an advocate may receive on a case, under the revised scheme:

- a) A private family children case, before a circuit judge, which has a single case management hearing lasting 30 mins (£68.94) and a hearing with cross-examination lasting one day (£545.91) would be paid a total of £614.85. We expect this to be the situation most frequently claimed. *This is an increase from £545.91 under the initial family proposal.*
- b) The same case where it is required for the advocate to spend two days at the hearing with cross-examination will be paid £1,051.58 (as above plus £436.73 for day 2). *Under the initial family proposal this would have been paid £1,091.82, which represents a small decrease. If the preliminary hearing had lasted over 60 mins then the new scheme would pay £1,155.04 compared to £1,091.82 under the previous scheme.*
- c) For a protective injunction case where the advocate spends a part day at court to perform cross-examination, with no preliminary hearings, then £451.46 can be claimed. *This is the same as under the initial family proposal.*

<sup>1</sup> <https://www.gov.uk/government/publications/apply-for-bolt-on-payments-and-advocates-bundle-payments-form-ex506>

- d) For a complex family financial remedy or any civil case, before a district judge, where the advocate is required to attend the hearing with cross-examination for three days (first day £554.63 and two subsequent days (£443.70), and which has had a 3 hour case management hearing (two units of £157.95) and a 30 mins ground rules hearing (£63.18), and where the bundle is 900 pages long (£239.40), then £2,060.51 would be paid in total. *Under the previous family proposal, a financial remedy case with these hearings and advocates' bundle bolt-on would have received £1,966.47.*