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STATUTORY INSTRUMENTS

2007 No. 2441

LEGAL SERVICES COMMISSION, ENGLAND AND WALES

The Community Legal Service (Funding) Order 2007

Made - - - -	*9th August 2007*
Laid before Parliament	*17th August 2007*
Coming into force - -	*1st October 2007*

The Lord Chancellor makes the following Order in exercise of the powers conferred (**1**) by sections 6(4) and 19 of the Access to Justice Act 1999(**2**). The Lord Chancellor has consulted the General Council of the Bar and the Law Society in accordance with section 25(2) of that Act and has had regard to the matters specified in section 25(3) of that Act.

Citation and commencement

1.—(1) This Order may be cited as the Community Legal Service (Funding) Order 2007.

(2) This Order comes into force on 1st October 2007, save that Parts 5 and 8(c) of the Schedule to this Order come into force on 1st January 2008.

Revocation and savings

2.—(1) Subject to paragraph (2), the Community Legal Service (Funding) Order 2000(**3**) is revoked.

(2) The Order mentioned in paragraph (1) continues to have effect in relation to—

(a) applications for funded services made before 1st October 2007;

(b) applications for funded services where—

(i) a client is in receipt of General Family Help; and

(ii) the funded services are extended to include Legal Representation after 1st October 2007.

(**1**) The powers were transferred to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003 S.I.2003/1887 and were transferred back the Lord Chancellor by the Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 S.I.2005/3429.

(**2**) 1999 c.22.

(**3**) S.I. 2000/627; amended by S.I. 2000/1541, 2001/831, 2001/2996, 2003/651, 2003/851, 2004/597, 2004/2900, 2005/571, 2005/2114, 2005/3504 and 2006/2366.

Interpretation

3.—(1) In this Order—

"the Act" means the Access to Justice Act 1999;

"Commission" means the Legal Services Commission established under section 1 of the Act;

"family proceedings" means proceedings, other than proceedings for judicial review, which arise out of family relationships, and includes proceedings in which the welfare of children is determined, and includes all proceedings under one or more of the following—

(a) the Matrimonial Causes Act 1973(**4**);

(b) the Adoption Act 1976(**5**);

(c) the Domestic Proceedings and Magistrates' Courts Act 1978(**6**);

(d) Part III of the Matrimonial and Family Proceedings Act 1984(**7**);

(e) Parts I to V of the Children Act 1989(**8**);

(f) Part IV of the Family Law Act 1996(**9**);

(g) the Adoption and Children Act 2002(**10**);

(h) the Civil Partnership Act 2004(**11**); and

(i) the inherent jurisdiction of the High Court in relation to children,

but excludes proceedings under the Inheritance (Provision for Family and Dependants) Act 1975(**12**) and the Trusts of Land and Appointment of Trustees Act 1996(**13**);

"funded services" means services which are provided directly to a client and funded for that client by the Commission as part of the Community Legal Service under sections 4 to 11 of the Act;

"Funding Code" means the code approved under section 9 of the Act;

"group litigation" means litigation of a number of claims which give rise to common or related issues of fact or law;

"supplier" means a party to the Unified Contract other than the Commission;

"Unified Contract" means the contract between the Commission and a supplier for the provision of funded services which consists of the contract document, the schedule, the contract standard terms and the specification(**14**).

(2) References to the levels of service "General Family Help", "Family Help (Lower)", "Legal Help", "Help at Court" and "Legal Representation" shall be construed as references to the receipt or provision of those levels of service granted in accordance with the Funding Code.

Funding of Services – direct payments

4. The Commission may only fund services under section 6(3)(b) or (e) of the Act where authorisation for such funding has been given in an individual case under section 6(8)(b) of the Act.

(**4**) 1973 c.18.
(**5**) 1976 c.36.
(**6**) 1978 c.22.
(**7**) 1984 c.42.
(**8**) 1989 c.41.
(**9**) 1996 c.27.
(**10**) 2002 c.38.
(**11**) 2004 c.33.
(**12**) 1976 c.63.
(**13**) 1996 c.47.
(**14**) Published by the Commission in 2007 and available on its website at www.legalservices.gov.uk/civil/unified_contract.asp.

Remuneration under contracts

5.—(1) Paragraph (2) applies to contracts which have been awarded otherwise than—

(a) after competitive tendering as to price has taken place;

(b) in relation to a particular case (including group litigation or potential group litigation);

(c) as part of any pilot which provides for remuneration by way of one or more standard fees; or

(d) as part of the Community Legal Advice Centres and Community Legal Advice Networks set up by the Commission.

(2) Any contract for the provision of funded services under section 6(3) of the Act—

(a) will provide for payment by the Commission at the fees and hourly rates set out in the Schedule to this Order; and

(b) may provide for a percentage enhancement to the hourly rates set out in the Schedule to this Order, provided that the percentage enhancement must not exceed—

(i) 200% for non family proceedings in the High Court, Court of Appeal or House of Lords; and

(ii) 100% for all other proceedings.

6. Where under section 6(3) of the Act the Commission enters a contract that provides for the court to assess remuneration payable by the Commission, the court must assess the remuneration in accordance with the contract.

Foreign law

7. The Commission may fund Legal Help relating to the preparation of applications for transmission under the provision of the European Agreement on the Transmission of Applications for Legal Aid and under Council Directive 2003/8/EC of 27th January 2003(**15**).

Signed by authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under-Secretary of State
Ministry of Justice

9th August 2007

(**15**) O.J. No. L 26, 31.1.2003, p.41, as corrected by a corrigendum published on 7th February 2003 (O.J. No. L 32, 7.2.2003, p.15).

SCHEDULE Article 5

Words and expressions used in this Schedule have the same meaning as in the Unified Contract. The fees and rates in this Schedule are exclusive of value added tax.

Civil Standard and Graduated Fees

Part 1 Legal Help and Help at Court

Table 1

The fees in this Table for Housing do not apply for the Housing Possession Duty Scheme – see Part 6.

Category	Under Specialist Quality Mark Fixed fee	*Under Specialist Quality Mark Exceptional Thresholds*	Tolerance Fixed Fee	*Tolerance Exceptional Thresholds*
Actions Against the Police	£261	£783	£151	£453
Clinical Negligence	£213	£639	£-	£-
Community Care	£290	£870	£175	£525
Consumer General Contract	£174	£522	£146	£438
Debt	£196	£588	£121	£363
Education	£296	£888	£149	£447
Employment	£225	£675	£147	£441
Housing	£171	£513	£135	£405
Miscellaneous	£86	£258	£-	£-
Personal Injury	£204	£612	£-	£-
Public Law	£282	£846	£203	£609
Welfare Benefits	£164	£492	£133	£399

Part 2 Family Public Law

Table 2 (a) Legal Help

National
£144

Table 2(b) Family Help (Lower) – section 31 Children Act 1989(16) Care Proceedings Only

National
£347

(16) 1989 c.41.

Table 2(c) Legal Representation section 31 Children Act 1989 Care Proceedings only

Party	Court	*Number of Clients*	Midlands	*North*	London and South	*Wales*
Child	Other	1	£2,405	£1,972	£2,761	£2,695
Child	Other	2+	£3,608	£2,958	£4,142	£4,043
Child	High	1	£3,199	£2,623	£3,672	£3,584
Child	High	2+	£4,799	£3,935	£5,508	£5,376
Joined Party	Other	-	£1,276	£986	£1,482	£1,606
Joined Party	High	-	£1,697	£1,311	£1,971	£2,136
Parent	Other	1	£3,156	£2,621	£3,589	£3,250
Parent	Other	2	£3,945	£3,276	£4,486	£4,063
Parent	High	1	£4,197	£3,486	£4,773	£4,323
Parent	High	2	£5,246	£4,358	£5,966	£5,404

Part 3 Family Private Law

Table 3 (a) Legal Help

National
£94

Table 3 (b) Legal Help Divorce Petition Only

National
£159

Table 3 (c) Family Help (Lower) Children

	Fee	*Settlement Fee*
London	£256	£153
Non – London	£221	£132

Table 3 (d) Family Help (Lower) Finance

	Fee	*Settlement Fee*
London	£268	£161
Non – London	£231	£139

Part 4 Immigration and Asylum

Table 4 (a) Immigration and asylum scheme graduated fees

	Stage 1 (Legal Help)	*Stage 2a (CLR)*	Stage 2b (CLR)

Asylum Graduated Fee	£450	£240	£600
Immigration Graduated Fee	£255	£240	£480

Table 4 (b) Additional payment for immigration and asylum cases

Activity	Additional Payment
Representation at the Home Office interview (asylum and immigration cases within scope)	£290
Representation at oral Case Management Review Hearing	£175
Representation at telephone Case Management Review Hearing	£95
Representation at substantive Asylum and Immigration Tribunal hearing	£320 Asylum £250 Immigration
Additional hearing: part heard or re- list	£170 Asylum £170 Immigration
All disbursements (interpreter and translators, expert reports, travel expenses)	Separate payment outside of Graduated Fee Scheme, subject to cost thresholds

Part 5 Mental Health

Table 5 (a) Basic Fees

	Basic Fees
Non Mental Health Review Tribunal	£275
Level 1 (MHRT)	£140
Level 2 (MHRT)	£340
Level 3 (MHRT)	£311

Table 5 (b) Additional Fee

Activity	Additional Fees
Adjourned Hearing Fee	£124
Remote Travel payment Level 1 (Mental Health Review Tribunal)	£75
Remote Travel payment Non MHRT, Level 2 (MHRT) Level 3 (MHRT)	£150

Part 6 Housing Possession Duty Scheme

Table 6: Standard Fee

	Fee
London	£84

Non London	£79.50

Hourly Rates – Controlled Work

Part 7 Legal Help, Help at Court and Family Help (Lower)

Table 7 (a) Immigration, Mental Health, Actions Against the Police, Public Law, Education and Community Care

Activity	London Rate	*Non London Rate*
Preparation, attendance and advocacy	£57.35 per hour	£52.55 per hour
Travel and Waiting time	£30.30 per hour	£29.45 per hour
Routine letters out and telephone calls	£4.40 per item	£4.10 per item

Table 7 (b) Family and Housing (except as in Table 7(c)) and Employment

Activity	London Rate	*Non London Rate*
Preparation, attendance and waiting	£53.10 per hour	£50.05 per hour
Travel and Waiting time	£28.05 per hour	£28.05 per hour
Routine letters out and telephone calls	£4.10 per item	£3.95 per item

Table 7 (c): Legal Help or Help at Court provided in relation to a review under section 202 of the Housing Act 1996(17) and to a defendant to a possession claim in the county court; Family Help (Lower) and related Legal Help in relation to care proceedings under section 31 of the Children Act 1989.

Activity	London Rate	*Non London Rate*
Preparation, attendance and waiting	£61.20 per hour	£57.25 per hour
Travel and Waiting time	£30.30 per hour	£29.45 per hour
Routine letters out and telephone calls	£4.40 per item	£4.10 per item

Table 7 (d): All other categories and all tolerance work

Activity	London Rate	*Non London Rate*
Preparation, attendance and waiting	£50.70 per hour	£47.80 per hour
Travel and Waiting time	£26.80 per hour	£26.80 per hour

(17) 1996 c.52.

Routine letters out and telephone calls	£3.90 per item	£3.75 per item

Part 8 Controlled Legal Representation

Table 8(a): Immigration – All Matters not subject to an Order under section 103D Nationality, Immigration and Asylum Act 2002(18)

Activity	London Rate	*Non London Rate*
Preparation and attendance	£61.20 per hour	£57.25 per hour
Travel and Waiting time	£30.30 per hour	£29.45 per hour
Routine letters out and telephone calls	£4.40 per item	£4.10 per item
Advocacy	£69.60 per hour	£69.60 per hour

Table 8 (b): Immigration – Applications under section 103A Nationality, Immigration and Asylum Act 2002 where an Order under section 103D has been granted

Activity	London Rate	*Non London Rate*
Preparation and attendance	£82.62 per hour	£77.29 per hour
Travel and Waiting time	£40.91 per hour	£39.76 per hour
Routine letters out and telephone calls	£5.94 per item	£5.54 per item
Advocacy	£93.96 per hour	£93.96 per hour

Table 8 (c): Representation at Mental Health Review Tribunal

Activity	London Rate	*Non London Rate*
Preparation	£61.20 per hour	£57.25 per hour
Travel and Waiting time	£30.30 per hour	£29.45 per hour
Letters and telephone calls	£4.40 per item	£4.10 per item
Advocacy	£69.60 per hour	£69.60 per hour
Attending tribunal with counsel	£32.55 per hour	£32.55 per hour

Hourly Rates – Licensed Work

Part 9 Family Prescribed Rates

Table 9 (a): Care Proceedings

Activity	Higher Courts	*County court and magistrates' court*

(18) 2002.c.41.

Writing routine letters	£4.70 per item	£4.10 per item
Receiving routine letters	£2.35 per hour	£2.05 per item
Routine telephone calls	£4.70 per item	£4.10 per item
Preparation and attendance	£77.85 per hour (London Rate)	£68.20 per hour (London Rate)
	£73.15 per hour (Non London Rate)	£64.90 per hour (Non London Rate)
Attending at court or conference with counsel	£41.25 per hour	£36.30 per hour
Advocacy	£77.85 per hour (London Rate)	£71.50 per hour
	£73.15 per hour (Non London Rate)	
Travelling and waiting time	£35.75 per hour	£32.45 per hour

Table 9 (b): Other Family Proceedings

Activity	Higher Courts	*County court and magistrates' court*
Writing routine letters	£7.05 per item	£6.00 per item
Receiving routine letters	£3.50 per hour	£3.00 per item
Routine telephone calls	£7.05 per item	£6.00 per item
Preparation and attendance	£78.40 per hour (London Rate)	£66.00 per hour (London Rate)
	£73.05 per hour (Non London Rate)	£61.00 per hour (Non London Rate)
Attending at court or conference with counsel	£41.25 per hour	£36.00 per hour
Advocacy	£78.40 per hour (London Rate)	£66.00 per hour (London Rate)
	£73.05 per hour (Non London Rate)	£63.00 per hour (Non London Rate)
Travelling and waiting time	£35.75 per hour	£32.00 per hour(London Rate)
		£31.00 per hour (Non London Rate)

Part 10 Non Family Prescribed Rates

Table 10 (a): Higher Courts, county courts and magistrates' courts for work carried out within a Specialist Quality Mark Category

Activity	Higher Courts	*County court and magistrates' court*
Writing routine letters	£7.50 per item	£6.60 per item

Routine telephone calls	£4.15 per hour	£3.65 per item
Preparation and attendance	£79.50 per hour (London Rate)	£70.00 per hour (London Rate)
	£75.00 per hour (Non London Rate)	£66.00 per hour (Non London Rate)
Attending at court or conference with counsel	£37.00 per hour	£32.50 per hour
Advocacy	£75.00 per hour	£66.00 per hour
Travelling and waiting time	£33.25 per hour	£29.20 per hour

Table 10 (b): Higher Courts, county court and magistrates' court for work not carried out within a Specialist Quality Mark Category

Activity	Higher Courts	*County court and magistrates' court*
Writing routine letters	£7.40 per item	£6.50 per item
Routine telephone calls	£4.10 per hour	£3.60 per item
Preparation and attendance	£78.50 per hour (London Rate)	£69.00 per hour (London Rate)
	£74.00 per hour (Non London Rate)	£65.00 per hour (Non London Rate)
Attending at court or conference with counsel	£36.40 per hour	£32.00 per hour
Advocacy	£74.00 per hour	£65.00 per hour
Travelling and waiting time	£32.70 per hour	£28.75 per hour

Table 10 (c) Other Tribunals

Activity	London Rate	*Non London Rate*
Preparation and attendance	£61.20 per hour	£57.25 per hour
Routine letters out and telephone calls	£4.40 per item	£4.10 per item
Advocacy	£69.60 per hour	£69.60 per hour
Attending tribunal or conference with counsel	£32.55 per hour	£32.55 per hour
Travelling and waiting time	£30.30 per hour	£29.45 per hour

Part 11 Family Mediation

Family Mediation Fees

Table 11 (a): Willingness Test

Willingness Test

	£25

Table 11 (b): Assessment Meetings

Activity	
Assessment alone	£87
Assessment separate	£87
Assessment together	£130

Table 11 (c): Mediation Fees

Category of Work	Single Session	*Multi Session*	Agreed Proposal
All Issues Mediation Sole	£168	£756	£252
All Issues Mediation Co	£230	£1,064	£252
Property and Finance Sole	£168	£588	£189
Property and Finance Co	£230	£834	£189
Child Sole	£168	£462	£126
Child Co	£230	£647	£126

EXPLANATORY NOTE

(This note is not part of the Order)

This Order replaces the Community Legal Service (Funding) Order 2000.

This Order imposes conditions on the funding of services as part of the Community Legal Service, by limiting the powers of the Legal Services Commission to pay remuneration under contract for the provision of funded services.

This Order contains a new schedule which sets out revised remuneration rates which will be payable for funded services, thereby removing reliance on regulations made under the Legal Aid Act 1988. The fees and rates in the schedule are subject to the definitions contained in the Unified Contract, issued by the Legal Services Commission.

Impact assessments have been prepared and were included in the full Impact Assessments which accompanied the documents ‘Legal Aid Reform: The Way Ahead’, ‘Legal Aid Reform: Family and Family Mediation Fee Schemes for October 2007’, Legal Aid Reform: Final Immigration and Asylum Fee Schemes’ and ‘Legal Aid Reform: Mental Health Fixed Fees’. Copies of these are

available from Civil Legal Aid Strategy Division, Ministry of Justice, 54 Victoria Street, London, SW1E 6QW.