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STATUTORY INSTRUMENTS

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**2007 No. 3169**

**LEGAL SERVICES COMMISSION,  
ENGLAND AND WALES**

**The Community Legal Service (Funding) (Counsel in  
Family Proceedings) (Amendment No.2) Order 2007**

*Made - - - - 7th November 2007*  
*Laid before Parliament 7th November 2007*  
*Coming into force - - 30th November 2007*

The Lord Chancellor makes this Order in exercise of the power conferred (1) by section 6(4) 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, commencement and interpretation**

1.—(1) This Order may be cited as the Community Legal Service (Funding) (Counsel in Family Proceedings) (Amendment No. 2) Order 2007 and comes into force on 30th November 2007.

(2) In this Order a reference to an article by number alone is a reference to the article so numbered in the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001(3).

**Amendments to the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001**

2. The Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001 is amended as follows.

3. In article 2—

(a) for the definition of “Advocates Meeting”, substitute —

““Advocates Meeting” means an Advocates Meeting held in accordance with paragraph 4.5 or 5.2 of the Children Act Protocol or stage 2 or 3 of the Draft Public

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(1) The powers were transferred from the Lord Chancellor 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. 2001/1077; relevant amending S.I.s are 2003/2590, 2005/184, 2005/2114, 2005/3504, 2006/2364 and 2007/2443.

- Law Outline but does not include communication between the advocates under paragraph 5.2 or stage 2 or 3 other than such a meeting;”;
- (b) in the definition of “Case Management Conference”, after “Protocol” insert—  
“or stage 2 of the Draft Public Law Outline;”;
- (c) after the definition of “counsel”, insert—  
““Draft Public Law Outline” means the protocol for the judicial case management of public law Children Act 1989(4) cases, issued for consultation(5) on 21st June 2007 by the President of the Family Division;”;
- (d) after the definition of “Independent Funding Adjudicator”, insert—  
““Issues Resolution Hearing” means an Issues Resolution Hearing held in accordance with stage 3 of the Draft Public Law Outline;”.
4. In article 2C(1)(b), after “Conference” insert “, Issues Resolution Hearing”.
5. For article 2E(1)(b) substitute—  
“(b) in care proceedings, where the same counsel attends either—  
(i) under the Children Act Protocol, both the Pre-Hearing Review and the main hearing on behalf of a client, the Pre-Hearing Review; or  
(ii) under the Draft Public Law Outline, both the Issues Resolution Hearing and the main hearing on behalf of a client, the Issues Resolution Hearing.”.
6. In article 8—  
(a) in paragraph (1)(aa), after “Protocol” insert “or stage 2 or 3 of the Draft Public Law Outline”;
- (b) in paragraph (1)(b), omit from “and for the purposes” to “Review”;
- (c) after paragraph (1)(b), insert—  
“(c) In this paragraph, ‘hearing’ shall, in care proceedings, include—  
(i) a Case Management Conference;  
(ii) a Pre-Hearing Review; or  
(iii) an Issues Resolution Hearing.”;
- (d) in paragraph (2A), in each place where it appears, after “Conference”, insert “, Issues Resolution Hearing”;
- (e) for paragraph (3)(d) substitute—  
“(d) where, in care proceedings, the same counsel attends —  
(i) under the Children Act Protocol, both the Pre-Hearing Review and the main hearing on behalf of a client; or  
(ii) under the Draft Public Law Outline, both the Issues Resolution Hearing and the main hearing on behalf of a client,  
a function F5 primary hearing fee must be paid in respect of either the Pre-Hearing Review or the Issues Resolution Hearing and the main hearing must be paid at the secondary hearing unit rate.”.

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(4) 1989 c.41.

(5) A copy is available by contacting Her Majesty’s Court Service at [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk).

Signed by authority of the Lord Chancellor

7th November 2007

*Hunt*  
Parliamentary Under Secretary of State  
Ministry of Justice

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001 (“the 2001 Order”) which sets out the systems for the payment of graduated fees for counsel for work in family proceedings. The 2001 Order also prescribes how and when claims for payment are to be made, and appeals and review of payments.

This Order makes changes to include reference to the Draft Public Law Outline, which is being piloted as part of a proposal that it will replace the existing protocol for the judicial case management of certain public law cases concerning children.

An impact assessment has not been made for this instrument, as it has no significant impact on the costs of businesses, charities or voluntary bodies.