



12 November 2025

Dear Family Judges,

Re: Legal Aid Family Fees

There is currently, as we know you appreciate, considerable pressure on those members of the bar (and solicitors) who practise in publicly funded family work.

We are writing to you on behalf of the FLBA to set out some basic features of the schemes which remunerate work under a public funding certificate. We do so in order to correct some misapprehensions that appear to have arisen. This is entirely understandable given the number of different schemes currently in operation and their complexity.

We hope you will find this letter informative in particular in identifying areas of work which are, in the main, not remunerated under the current fee scheme structures. It has been kept brief, deliberately, but if you have any questions please do email admin@flba.co.uk and ask.

Thank you for taking the time to read it.

FAS

The Family Advocacy Scheme (FAS) is the vehicle under which the vast majority of publicly funded advocates are paid.

FAS applies to most children cases (private law and public law), FLA injunctions and financial remedy work for solicitors and junior counsel.

FAS was introduced in 2011 to replace FGF (the Family Graduated Fee scheme). At the time it represented a significant cut in the rates then payable. In 2012 those rates were subject to a further 10% “austerity” cut. There has been no increase (including any inflation-based increase) in the rates at all since 2011. £100 in 2011 is now worth £67.

In addition to the “austerity” cut and the impact of inflation:

1. The scheme fails to acknowledge expertise, experience or complexity producing a largely flat rate for each type of hearing.
2. Bundle payments make no allowance for increasingly large volumes of papers. They do not reflect the time taken to read the additional material. They can only be claimed for two interim hearings per case and the first day only of a final hearing.
3. Bundle payments do not sufficiently reflect the complex (and huge volume of) evidence now commonly encountered, such as digital forensic material or body worn camera footage.
4. No additional fee is payable if a case should settle. So, if a five-day hearing concludes on the first day, the only payment due is for the first day of the hearing. This fee includes all preparation.
5. If a hearing is vacated at short notice, the fees paid are very small, for an interim hearing less than £50.

6. In private law cases, there is provision for only one conference, and it is poorly remunerated. In public law cases there is only provision for two conferences and they too are poorly remunerated.
7. There is no 'bolt on' payable in private law or FLA cases for representing a person who has difficulty in providing instructions. In public law cases this is only paid where verified by an expert psychiatric or psychological report. There is no 'bolt on' where the other party is unrepresented, despite the additional work almost always involved.
8. The significant harm 'bolt on' in public law cases is much more narrowly drawn than under FGF.

The following work is ***completely unremunerated*** under FAS:

1. Preparation (over the bare minimum, and that as envisaged in 2011).
2. Drafting skeleton arguments, position statements or any other documents in preparation for a hearing.
3. Drafting threshold responses.
4. Drafting questions to experts.
5. Pre-drafting questions for vulnerable witnesses.
6. Drafting written submissions (unless a day is set aside for their preparation in an order).
7. Agreeing notes of judgments and anonymising judgments.
8. Drafting of orders (whilst hearing time for an interim hearing can be extended to account for this, this does not apply to final or fact-finding hearings).
9. Reading / watching digital or video material and listening to recordings.
10. In private law cases there is no fee payable for advocates' meetings.
11. In private law cases there is no settlement fee payable where agreement is reached at the DRA, unless the certificate has already been extended to cover the final hearing (which almost never happens until after the DRA).
12. There is no conference fee at all for Family Law Act cases.

It is important to add that in a case where an advocate is asked to draft or deal with any of the above, and then they are not able to attend the hearing in question, the complete absence of remuneration for that work is further exacerbated by the lack of any hearing fee.

'EVENTS' CASES

The circumstances in which 'events' are paid mostly arise where there is a certificate for two counsel and a) the case is listed for 11 days or more, b) the case actually runs for 11 days or more.

Events are paid at a flat rate and are only paid a) for court hearings, b) for up to 2 advocates meetings (4 if there is a split fact finding and welfare hearing) and c) for up to 2 conferences (4 if there is a split fact finding and welfare hearing). In certain limited circumstances it will be possible for one counsel to claim an event for drafting written submissions.

There is no "brief fee". There is no additional fee for preparation, however long that might take in these very complex cases.

There is no fee payable for undertaking any other work, including the work listed above as unremunerated under FAS.

The rates were set in 2001. In 2012 those rates were subject to a further 10% “austerity” cut. There has been no increase (including any inflation-based increase) in the rates at all since 2001. £100 in 2001 is now worth £52.

It will be plain that legal aid rates have fallen well below those paid to counsel on a private basis. They have fallen behind the rates paid by the government for other publicly funded work, such as through the GLD.

As you will be aware, the legal aid system is currently in crisis, with the cyber attack in April having closed the CCMS portal so that barristers cannot bill or be paid for undertaking any work. The contingency payment system is administratively complex and is doing no more than (mostly) keeping our heads above water. CCMS will not be restored until late November and we envisage significant problems once 7 months of claims are attempted to be loaded onto the system.

We recognise the pressures the system is under. Nevertheless, we ask judges to keep the above in mind when listing cases and when making directions, in particular when directing counsel to undertake work for which no remuneration is available.



James Roberts KC Chair
and
Leslie Samuels KC Vice Chair
On behalf of the FLBA