

THE FAMILY ADVOCACY SCHEME Information for Judiciary- updated – May 2012

What is the Family Advocacy Scheme?

The Family Advocacy Scheme (FAS) is a new fee schemes that pays fixed fees to counsel and solicitors for advocacy. It will apply to applications for certificates made after 9 May 2011. For certificates issued prior to this date the previous payment regimes will apply ie Family Graduated Fee Scheme for counsel where appropriate and hourly rates for solicitor advocates.

What fees will be payable under the new Scheme?

Under the FAS all advocates are paid the same fee for advocacy regardless of the professional status of the advocate. The fee is paid to the representative carrying out the advocacy.

The fee payable will depend on the type of case, whether the hearing is an interim hearing or a final hearing and how long the hearing lasts. Certain uplifts (or bolt-ons) may also be claimed where certain conditions are met.

I have been asked to sign an Advocates' Attendance form. What is this?

In order to claim the appropriate fee for the hearing an Advocates' Attendance Form will need to be completed by the advocate for certain hearings for which they are claiming payment. This replaces the previous SIPs form that was completed by counsel in some cases in the County Court and High Court. The Advocate will need to complete the time at which the hearing was listed (or the time that the advocate was directed to attend, if earlier), the time the hearing completed, the type of hearing and whether the case was settled. The advocate will also need indicate whether bolt-ons are being claimed.

Do I need to sign the form?

The form will need to be certified by the Judge, Magistrate or Legal Adviser undertaking the hearing. Any bolt-ons which are being certified should be initialled by the Judge, Magistrate or Legal Adviser. Advocates have been told to make sure that they bring a copy of the form to the court as they cannot expect that the court office will be able to provide copies of these forms. Nor can they expect that the court will retrospectively certify such forms if they forget to have this done at the hearing itself. Advocates are not required to have the form sealed by the Court. They have been told that the Court will not retain copies of the signed forms on the Court file.

The Court is verifying the time that the advocate left the courtroom at the end of the hearing and not the total time claimed by the advocate. The advocate will need to account fully for their time on their claim to the LSC including whether, for example, there were any lunch adjournments. This would not be apparent on the form and is for the advocate to justify in their claim.

What should I certify if the Advocate has been dealing with another case (whether in another courtroom or not) between the listed start time and the conclusion of the case before me?

You should certify the time the case was listed and the time the advocate leaves the hearing upon the hearing being finalised. It may be, therefore, that the advocate will need to apply for certification in two cases even though these may have overlapped or been listed during the same time periods. In these circumstances you should treat each case separately ie the start time will be the time that the case was listed and the conclusion will be when the advocate leaves the court on that particular case.

Is the form required in all cases?

The form will be required at every interim and final hearing which is longer than one hour (ie from the time listed to the time that the advocate leaves the court) and at any hearing where bolt-ons are being claimed. However, there are some types of cases, for example, forced marriage applications, child abduction cases and cases where the advocate is representing the child in the proceedings where the FAS will not apply. In these cases no Advocates Attendance Form will be required.

Where can I find further information?

The Advocates' Attendance Form has on the reverse guidance notes which give details about the bolt-ons which may be claimed and some of the terms used. If a Judge, Magistrate has any queries they should firstly refer to these notes. If more detailed guidance on the scheme is needed this can be found on the LSC website at www.legalservices.gov.uk/civil/guidance_fees_funding.asp. Any further queries should be directed to family@legalservices.gsi.gov.uk for assistance.