

# High Costs Cases in Care and Family Matters

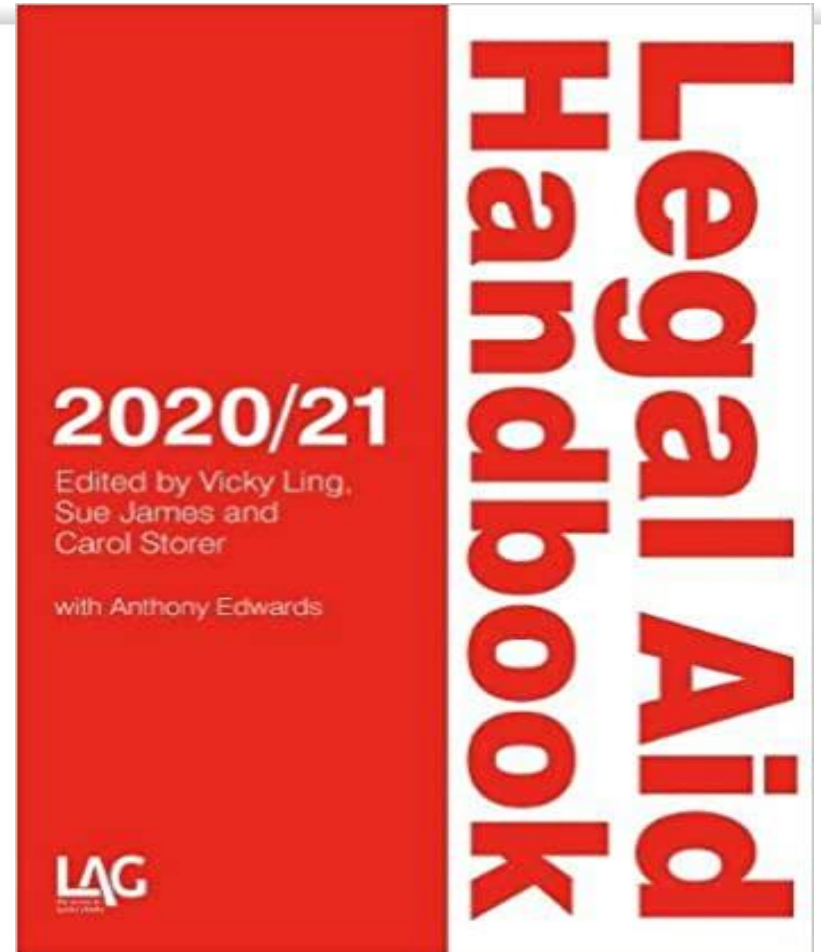
24 February 2021



Shaun Williams – John M Hayes - Assistant Regional Manager

[shaun.williams@johnmhayes.co.uk](mailto:shaun.williams@johnmhayes.co.uk)

# Introduction



# What will be covered?

- What is a high costs case?
- Different types of high costs cases/types of plans
- How to maximise your costs/avoid common pitfalls
- Useful hints and tips



# When is your case 'high costs'?

- A case can become high costs when the costs are anticipated to exceed £25,000.
- 10 day main hearing not a determining factor
- You are unable to register as high costs after a case has concluded.
- Be aware of the differences between CCFS plans and hourly rates plans.

# Types of Case Plan

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- 1) Care Case Fee Scheme ('CCFS') – previously know as events plans.
  
- 2) Traditional Fully Detailed Hourly Rates

# Care Case Fee Scheme (CCFS)

➤ What cases does it apply to?

The CCFS scheme applies to all Section 31 cases registered as high costs with the LAA.

# 'Events' – What are they?

- For Solicitors they are advocates meetings and hearing dates only (whether for 5 minutes or a full day).
- Not experts meetings.
- Only allowed 1 event per day – avoid arranging advocates meetings on the same day as hearings if at all possible!
- The events scheme will apply retrospectively for all events from the beginning of the case.

# How much money will I get paid?

This will depend on:

- Whether there is a Single Advocate or authority for 2/Leading Counsel.
- Whether the Solicitor or Counsel undertakes the advocacy.
- Whether the 'main hearing' is more or less than 10 days.
- The level of the Judge.



## Annex B: Fees payable under the Care Case Fee Scheme

The Solicitor must claim their fees using either: (i) Standard Model or (iii) Advocacy Model (in red) and apply this throughout the case. Counsel must claim their fees using (ii) Counsel Fees (in blue). These fees apply to both solicitors Standard Model and Advocate Model.

| (i) Standard                      |                                    | Solicitor |          |         |
|-----------------------------------|------------------------------------|-----------|----------|---------|
| JUDGE                             | Under 11 main hearings or over 10? | EVENT     | UNDERRUN | OVERRUN |
| DJ/CJ                             | Under                              | £774      | £463.50  | £310.50 |
| DJ/CJ                             | Over                               | £531      | £319.50  | £211.50 |
| High Court Judge<br>FC/High Court | Under                              | £1053     | £630     | £423    |
| High Court Judge<br>FC/High Court | Over                               | £801      | £481.50  | £319.50 |

| (ii) Counsel Fees |          |         |
|-------------------|----------|---------|
| EVENT             | UNDERRUN | OVERRUN |
| FAS               | NA       | FAS     |
| £981              | £391.50  | £589.50 |
| FAS               | NA       | FAS     |
| £1026             | £409.50  | £616.50 |

When using the advocacy model (see table below), the solicitor must use either the set amount or FAS alternative option and apply this throughout the case. Solicitor is paid either the litigator or the advocacy event fee depending on whether they were the advocate for that particular hearing.

| (iii) Advocacy                    |                                    | Solicitor Litigator |          |         | Solicitor Advocate      |                        |                 |
|-----------------------------------|------------------------------------|---------------------|----------|---------|-------------------------|------------------------|-----------------|
| JUDGE                             | Under 11 main hearings or over 10? | EVENT               | UNDERRUN | OVERRUN | EVENT                   | UNDERRUN               | OVERRUN         |
| DJ/CJ                             | Under                              | £707                | £425     | £285    | £1157 or;<br>£707 + FAS | £695 or;<br>£285 + FAS | £465 or;<br>FAS |
| DJ/CJ                             | Over                               | £504                | £305     | £200    | £1157 or;<br>£707 + FAS | £695 or;<br>£285 + FAS | £465 or;<br>FAS |
| High Court Judge<br>FC/High Court | Under                              | £961                | £575     | £385    | £1157 or;<br>£707 + FAS | £795 or;<br>£385 + FAS | £530 or;<br>FAS |
| High Court Judge<br>FC/High Court | Over                               | £760                | £455     | £305    | £1157 or;<br>£707 + FAS | £795 or;<br>£385 + FAS | £530 or;<br>FAS |

# How to register as High Costs/What to think about

- ❑ 'Case Enquiry' in CCMS
- ❑ Use the LAA registration template – sets out costs to date/future hearings/estimated future costs (total needs to be over £25,000!)
- ❑ **IMPORTANT:** At this stage, question if you would prefer to be on an hourly rates case plan as it must be raised at the point of registration.
- ❑ Criteria 1) 30%+ more beneficial 2) 'Exceptional'.

# Once registered....

Since June 2019, for CCFS the LAA introduced a scheme whereby you can apply for a funding limit increase to:

- £32,500 or;
- £60,000 in 2 Counsel/QC matters

This is **without** the need to submit a CCFS plan.

So, if your total case plan comes to less than the above amounts, there is **no benefit** in submitting a plan to the LAA.

# CCFS Plans: The Process & Options

- Once registered, there are no timescales on when to submit your plan, save for final plan being required 3 months after conclusion of the case – no penalties.
- Or, preparing an interim case plan to date and send this to the LAA for approval. Once approved, you can amend your funding limit to the approved amount and claim a **100% POA of events to date**.

# QC/2 Counsel CCFS plan (2 Counsel Model)

- Where prior authority has been granted for QC, 2 Juniors or for a Solicitor Advocate to appear with QC or Junior, the LAA will assume that costs exceed £25,000 and that a case plan will be submitted. If you believe costs will be less than £25,000, notify the LAA within 14 days.
- Usually more complex, higher event fees and some slightly different rules (details to follow).

# Traditional Hourly Rates Plans:

- Utilised for all non-care high costs matters and the 'exceptional' care matters (30%+ more beneficial than events).
- Different type of document
- 28 day time limit
- All should to be agreed in advance by the LAA in stages to the certain landmarks, usually a hearing (in theory anyway!).
- Line by line assessment.
- No more FAS, all advocacy/preparation/travel recoverable at hourly rates

# CCFS vs Hourly Rates: A discussion

## CCFS:

- Generally, CCFS more lucrative when costs compared.
- CCFS more certainty?
- CCFS – less strict timescales/less admin/no penalties.
- CCFS – document generally more straightforward.
- CCFS – more knowledge/expertise required?

# CCFS vs Hourly Rates: A discussion

## Hourly Rates:

- Hourly Rates – able to recover bill drafting costs.
- Is the 30%+ a reality? Costs assessed/potentially reduced.
- Funding limit on certificate – important!
- Protracted negotiations/timescales.
- Tight deadlines and harsh penalties.
- Onus on fee earner to accurately predict future costs/fees.
- Exceed agreed amounts – costs limited.



# Useful Hints & Tips (and some quirks in rules!)

## General CCFS:

- ✓ Advocates meetings – just as important as hearings, but just ensure they are court directed. Since Covid-19 these are more frequent.
- ✓ No need to make lots of small amendments – update after substantial hearings to maximise POAs.
- ✓ Apply for your 100% POA after lengthy hearing taken place.
- ✓ Be aware of overruns and underruns on main hearings.
- ✓ Be aware of changes to event fees depending on main hearing length.
- ✓ Ensure you are aware of LAA's Expert Remuneration Guideline rates – prior authority.
- ✓ Interim plans waved through ('light touch') – Final plans avoid rejections with FAST checklist

# Useful Hints & Tips (and some quirks in rules!)

## In 2 Counsel plans:

- ✓ If other parties have a QC, apply for one as well! Event fee increases substantially – doubles in some cases. BUT, check the extent of cover (eg up to conclusion of fact finding only).
- ✓ Advocates meetings – limited to 2 meetings for each Counsel/Solicitor – 2 more if main hearing split.
- ✓ The Solicitor **must attend** the advocates meeting to receive the event fee.
- ✓ Non-attended event £900 vs attended event £1107 – send junior fee earner or paralegal for additional £207 per day?

# Useful Hints & Tips (and some quirks in rules!)

## Hourly Rates Plans:

- ✓ If registered as high costs and matter likely to conclude in coming weeks, request to submit claims in lieu.
- ✓ Do not register unless your current funding limit covers your costs to date – increase limit first and then register.
- ✓ Keep on top of these plans – plan in advance to avoid penalties. LAA's laid back approach to CCFS plans does not apply here!
- ✓ Do not accept LAA's broad brush approach to stage offers

# Questions??

My email: [Shaun.Williams@johnmhayes.co.uk](mailto:Shaun.Williams@johnmhayes.co.uk)



T: 0370 300 3780  
[www.johnmhayes.co.uk](http://www.johnmhayes.co.uk)

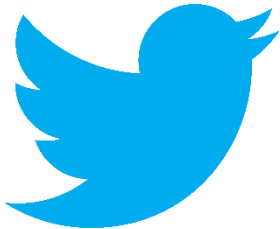
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T: 0370 300 3780  
[www.johnmhayes.co.uk](http://www.johnmhayes.co.uk)