



ST. MARY'S
CHAMBERS

FAMILY LAW

Tricky Bits and Handy Hints

The Fiddly Bits of Family Legal Aid Fees

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Family Law Specialists

The New Normal

Post pandemic issues

- Cancelled hearings – remember to claim them
- Fewer remote hearings – remember to claim travel where applicable
- Exceptional travel expenses
 - Continuity of counsel from remote hearings
 - Lack of counsel
- AA/FAS Forms – no desire from any stakeholders to return to AA forms



Care or Other Public Law

Care and Supervision

- Only the making of the care or supervision order is within s31 Children Act and therefore claimable at “care rates”. This will include related proceedings made within the care proceedings (i.e. Residence, contact, CAO) that are heard together within the care proceedings or in which an order is sought as an alternative.

Other Public Law – Part IV & V Children Act 1989 and S.25 Children Act 1989

- Adoption
- Child Assessment Order
- Contact with a child in Care
- Discharge/Vary a Care or Supervision Order
- Emergency Protection Order (EPO)
- Education Supervision Order
- Placement Proceedings
- Recovery of a Child
- Secure Accommodation Order



Advocates Meetings

FAS

- Provided that the advocates meeting is held **as directed by the court** and in accordance with the PLO there is no limit to the number of these fees that may be claimed.

VHCC – Single Counsel

- Any day that the judge orders **in advance** for an advocates meeting will be treated as an event

VHCC – Two Counsel

- The LAA will agree an event fee for only two advocates meetings, that the judge orders in advance, for each counsel and solicitor.
- If the main hearing is split then we will agree up to a further two event fees for each solicitor and counsel for advocates meetings in the welfare/disposal stage.
- **Other advocates meetings even if ordered by the court will not attract an event fee.**



Advocates Meetings - Examples

Example 1

- A case becomes VHCC – Single Counsel after six advocates meetings have taken place.
- The fees are recalculated at events rates and a 100% POA claimed.
- Three of the advocates meetings were ordered retrospectively and so can't be claimed.
- Counsel has been overpaid £2,943.

Example 2

- A case was VHCC – Single Counsel but becomes Two Counsel and eight advocates meetings have taken place.
- A POA of 100% was claimed and paid at Single Counsel rates.
- Only two advocates meetings are claimable.
- Counsel has been overpaid £5,886.



Written Submissions

FAS

- A fee could be claimed, **where the judge has directed** that the advocates do not attend **on a day which is put aside** for them to draft submissions.

VHCC – Single Counsel

- If, in line with the Family Advocacy Scheme, the judge sets aside one of those days for written submissions to be prepared, that day will continue to attract an event fee **for the advocate providing the written submissions.**

VHCC – Two Counsel

- If during a lengthy hearing (**in excess of ten days**) the judge sets aside a day of court time for written submissions to be prepared, that day will continue to attract an event fee for the individual, who prepares the written submissions. **Only one event fee will be permitted for the individual, who prepares the written submissions.**



Final or Interim

General

- The final hearing is the “hearing intended to determine and conclude the case”
- If the case is listed as a final hearing but for some reason is adjourned or postponed before the court has considered the substantive issues, the hearing will not be considered a final hearing
- A directions hearing that concludes the case does not make the hearing a “final hearing”.

IRH in Care Proceedings

- If a case concludes at the Issues Resolution Hearing (IRH) held under the Public Law Outline (PLO) and does not proceed any further, the IRH can be claimed as a final hearing.



Fact Finding and Final Hearings

General

- Both paid at final hearing rates in FAS.
- Both considered part of the main hearing for calculating length of hearing in VHCC.

Public Funding Certificate Scope

- Where a certificate does not cover a final hearing, it will normally cover a fact finding hearing.
- More common in Private Law Children where scope of certificate may exclude cover at a final hearing.



FAS or Events

Main Hearing must be 11 Days or more

- Fact finding and final hearing combined planned length
- Judgment counts as part of main hearing
- Does not include:
 - IRH/PHR
 - Reading days
 - Written submissions
 - Underruns prior to VHCC registration

If the planned main hearing length reduces below 11 days by judicial order more than 5 working days before the start of the hearing then FAS applies.



FAS or Events - Examples

10 Day Fact Finding and 3 Day Final Hearing

- Day 1 of Fact Finding is listed as reading day – runs for 9 days plus 1 day for written submissions
- 3 Day Final reduced to 1 day at IRH listed two weeks before final starts.
- Total main hearing length is 10 days so FAS applies

8 Day Fact Finding and 5 Day Final Hearing

- Case registered as VHCC after the Fact Finding
- Fact Finding listed for 8 days but only runs for 5 days
- Final hearing runs 5 days
- Total main hearing length is 10 days so FAS applies



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