



Legal Aid
Agency

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The Family Advocacy Scheme

Information for Judiciary

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1. Introduction to FAS

This guidance is intended to be used by the judiciary to aid understanding of how advocates should evidence fees payable to them under the Family Advocacy Scheme (FAS) to claim from Legal Aid Agency (LAA). Previously this would have been done using an Advocates Attendance Form (Form EX506) but can now be done using recitals contained within the order for the hearing being claimed.

This document is not intended to be a comprehensive guide to FAS. Instead, further details can be found in:

- The Family Specification to the Standard Civil Contract (paragraphs 7.100–7.158) for the contractual basis for any payments, available here: [Family Specification \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60481/family-specification-to-the-standard-civil-contract.pdf)
- The Civil Finance Electronic Handbook (chapter 6) for operational guidance on how to apply the scheme, available here: [Civil Finance Electronic Handbook \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60482/civil-finance-electronic-handbook.pdf)

1.1. What is the Family Advocacy Scheme?

The Family Advocacy Scheme (FAS) is a graduated fee scheme that pays fixed fees to counsel and solicitors for advocacy. It applies to applications for family legal aid certificates made on or after 9 May 2011.

For certificates issued prior to this date, the previous payment regimes will apply: the Family Graduated Fee (FGF) Scheme for counsel (where appropriate) and hourly rates for solicitor advocates.

1.2. What fees are payable under FAS?

Under 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 and are verified by the Court.

2. Evidencing a Fee Under FAS

In order to claim the appropriate fee for the hearing, the advocate must submit supporting evidence with their claim. This should be a court order that contains information that allows Legal Aid Agency (LAA) to verify the claim being made by the advocate.

2.1. Court Order Wording

FAS Funding Recitals:

LAA billing information

(for interim hearings paid under FAS)

1. The court records the following information for the purposes of legal aid:
 - a. hearing date: *[date]*;
 - b. advocates: *[insert names]*;
 - c. the hearing was before [Magistrates] / [a judge of District / Circuit Judge level] / [a Judge of High Court level];
 - d. the case type is [care proceedings] / [other public law children];
 - e. the case was listed for an [interim hearing] / [issues resolution hearing, at which the case settled];
 - f. the hearing started at *[time]* and ended at *[time]*;
 - g. the length of the lunch adjournment was [60 minutes] / [0 minutes – the advocates worked through lunch];
 - h. the total length of the hearing was *[insert hours and minutes]*;
 - i. *[[name of advocate(s)] [is] / [are] entitled to a bolt on because they are representing a client who is facing allegations that they have caused significant harm to a child which have been made or adopted by the local authority and are a live issue in proceedings;]*

- j. *[[name of advocate(s)] [is] / [are] entitled to a bolt on because they are representing a person who has difficulty in giving instructions or understanding advice;]*
- k. *[all advocates are entitled to a bolt on because an independent expert witness was cross-examined and substantially challenged by a party at the hearing;]*
- l. *[the advocates' bundle page count is [between 351 and 700 pages] / [over 700 pages];] and*
- m. *an advocates meeting occurred on [date] attended by [names of advocates].*

(the start time is the time advocates were ordered to attend. the end time is the time the advocates left the hearing plus any time allowed thereafter to agree the order – usually 1 hour. If the interim hearing starts on one day and concludes on another day add the appropriate dates before each time, and set out the times the case was adjourned overnight.)

(for hearings paid as a final hearing under FAS)

2. The court records the following information for the purposes of legal aid:

- a. advocates: *[insert names];*
- b. the hearing was before *[Magistrates] / [a judge of District / Circuit Judge level] / [a Judge of High Court level];*
- c. the case type is *[care proceedings] / [other public law children];*
- d. the case was listed for *[a finding of fact hearing] / [a final hearing];*
- e. the sitting days were *[dates];*
- f. *[the court also directed that the advocates did not need to addend on [date] which was put aside for them to draft written submissions;]*
- g. the total number of sitting days is *[number] (include any day for written submissions);*

- h. *[[name of advocate(s)] [is] / [are] entitled to a bolt on because they are representing a client who is facing allegations that they have caused significant harm to a child which have been made or adopted by the local authority and are a live issue in proceedings;]*
- i. *[[name of advocate(s)] [is] / [are] entitled to a bolt on because they are representing a person who has difficulty in giving instructions or understanding advice;]*
- j. *[all advocates are entitled to a bolt on because an independent expert witness was cross-examined and substantially challenged by a party at the hearing;]*
- k. *[the advocates' bundle page count is [between 351 and 700 pages] / [between 701 and 1400 pages] / [over 1400 pages];] and*
- l. *an advocates meeting occurred on [date] attended by [names of advocates].*

By using the suggested wording for any FAS recitals in the order, you can help the advocate avoid delays in payments. Adding additional wording to the recitals may delay payment to the advocate.

What Does the Advocate Need to Do?

The advocates should make sure the draft order contains all the necessary information.

What Does the Court Need to Do?

The Court doesn't need to take any specific steps beyond confirming they are happy with the content and issuing the order.

By doing this, the Court is verifying the length of the hearing being claimed by the advocates, and that the requirements for any of the uplifts or bolt-ons claimed are met.

For detailed information on bolt-ons, please refer to chapter 4 of this document:
[**Bolt-ons and Uplifts**](#)

2.2. Amendments

Where verification of an amendment is requested retrospectively, verification of such is at the Court's discretion.

LAA will accept amendments to orders under the slip rule where the amendment is to evidence a fee.

3. Calculating Fees

3.1. Interim Hearings

Interim hearings are payable as a graduated fee depending on the length of the hearing. The times allowed are based on:

Start

The time starts when the hearing has been listed to start but can include time directed for early attendance by the court. For example, hearing starts at 10am, but the Court has directed advocates attend at 9am. The early attendance should be recorded as the hearing start time, unless the advocate attended at a later time.

Where no time is listed due to an emergency hearing, when in person the start time will be when the papers were issued. If the application is issued and the hearing is not until the next day the hearing time for that day will end when the advocate is informed of this and will start again at the time that they are told to attend for the following day.

For an emergency remote hearing, the start time will be when the advocate is put on notice.

End

The end of the hearing is usually when the hearing is concluded. However, the court has discretion to allow additional time to agree a draft order. This is normally 1 hour. The end time recorded should include the time to agree the draft order.

Adjournments

Any break for lunch, or other adjournment, is discounted from the total time used to calculate the payable fee. Adjournments can be included, however, if they include time for discussions.

Overnight adjournments do not create an entitlement to an additional fee in an interim hearing and fees should be calculated as one continuous time. For example, a Case Management Conference that started at 11am then adjourned at 5pm on day 1, then resumed at 9am and concluded at 11am on day two would be calculated as one hearing of 8 hours and not one hearing of 6 hours and one hearing of 2 hours.

3.2. Final Hearings

The Family Specification to the Civil Contract confirms:

7.129 A Final Hearing is any hearing which the court has listed for the purpose of making a final determination, either of the whole case or of all issues relating to an Aspect of the case (Domestic Abuse, Children or Finance) ... There can only be one Final Hearing per Aspect and a hearing listed only to determine particular facts or issues is not a Final Hearing. A hearing listed with a view to the issues being dealt with under a consent order, or which is otherwise not expected to be effective or contested, is not a Final Hearing. Any hearing which is not a Final Hearing is an Interim Hearing.

7.130 The following hearings are also deemed to be Final Hearings for the purposes of the FAS only:

(a) in public law proceedings, if a case is concluded at an Issues Resolution Hearing and therefore does not proceed further, the Issues Resolution Hearing will be treated as a Final Hearing;

(b) ...in Private Law Children proceedings, a hearing listed for the purpose of findings of fact pursuant to the 'Practice Direction: Residence and Contact Orders: Domestic Violence and Harm' issued by the President of the Family Division on 14 January 2009.

7.131 If a Final Hearing is listed for a split hearing in a Public Law matter with certain issues being heard and/or determined in advance of other issues, this must be claimed as a Final Hearing, rather than as an Interim Hearing plus a Final Hearing.

7.132 It is possible for more than one Final Hearing fee to be claimed under a single Certificate. In particular this can occur where a Final Hearing has taken place but subsequent enforcement proceedings are listed at first instance. Provided the enforcement issues are listed to be finally determined at the further hearing, an additional Final Hearing fee may be justified.

3.3. Advocates' Meetings

In Public Law cases, where the Court directs an advocates' meeting under the Public Law Outline, advocates may claim an Advocates' Meeting Fee. The Court does not need to issue evidence, but LAA will expect a copy of the order directing the meeting is submitted when claiming. If the meeting was not directed by the Court, it is not claimable under FAS.

3.4. Conference fees

A separate standard fee for a conference with the client may be claimed by counsel only (limited to two per case). The time used for the conference should not be included in any time used to calculate the fee payable under FAS. The court does not need to verify these fees; counsel should evidence the fee to LAA with their conference notes when claiming.

4. Bolt-ons and Uplifts

Any bolt-ons or uplifts that the advocate wishes to claim should be listed in the court order as being claimable.

In cases of client sensitivity, the bolt-ons can be anonymised (e.g. 'bolt-on 1' or 'bolt-on 2') and the advocate will be required to explain to LAA in a separate note the nature of the bolt-ons claimed.

4.1. Advocates' Bundles

Hearing Type	Bundle Size	Bolt-on Fee
Interim	351 to 700 pages	CB1
	701+ pages	CB2
Final	351 to 700 pages	CB1
	701 to 1,400 pages	CB2
	1,401+ pages	CB3

Advocates' Bundles can only be claimed on interim hearings where the hearing is either a Case Management Conference, an Issues Resolution Hearing, or otherwise a hearing which is listed for the hearing of contested evidence. Advocates' Bundles are not claimable in Domestic Abuse proceedings.

The court should verify on the advocates' evidence the size of the bundle where applicable by indicating the size of the bundle.

Where a bundle is not being claimed, the Court does not need to take any action.

LAA will enforce limits on claimable bundles; the Court does not need to keep count of the number claimed per case.

4.2. Uplifts

Uplift	May Be Claimed For
Client – allegations of significant harm	25% uplift of base fee payable, payable in Public Law or Private Law Children hearings
Client – lack of understanding	25% uplift of base fee payable, payable in Public Law hearings only

Early Resolution Fee	Bolt-on fee payable in Private Law Finance cases only where the case settles at the first appointment or Financial Dispute Resolution hearing
Expert's cross examination	Public Law (25% uplift) or Private Law Children (20% uplift) hearings

The court should verify on the advocates' evidence any uplift where applicable by indicating which uplift is claimed and which client it applies to.

In cases with client sensitivity issues, this can be anonymised and explained to LAA on claiming.

Bolt-ons and uplifts can only be applied in certain circumstances. Definitions of the terms used above and detailed information on when uplifts can be applied are available in the Family Specification to the Standard Civil Contract, available here: [Family Specification \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672222/family-specification-to-the-standard-civil-contract.pdf):

Allegations of Harm: 7.145–7.146

Lack of Understanding: 7.147

Early Resolution Fee: 7.152–7.153

Cross-examination of Experts: 7.156–7.158

4.3. Exceptional Travel Bolt-On

Where the advocate has travelled 25 miles or more from their office to attend court, an additional bolt-on is claimable.

This bolt-on should be justified by the advocate to LAA; the Court does not need to make any confirmation in this respect. Where travel is less than 25 miles, this should also be justified by the advocate and not recorded on the order.

4.4. Expert Wording

- The wording “deemed a necessary and proportionate charge on the respondents’ public funding certificates” does not affect the LAA’s ability to pay disbursements on assessment, and therefore is not required on the order. The rates in the [Guidance on Expert Witnesses](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672222/family-specification-to-the-standard-civil-contract.pdf) determine what can be paid by the LAA. Court Orders should still clearly detail the disbursement/expert instructed to confirm permission has been granted and enable assessment. Please see Chapter 10 for further information: [Civil Finance Electronic Handbook \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672222/family-specification-to-the-standard-civil-contract.pdf)

5. FAQ

Question	Answer
Is evidence (an Advocates Attendance Form or a court order) required in all cases?	Yes, some form of evidence is required for every hearing under FAS, although if the hearing was less than an hour long and no bolt-ons are claimed, LAA will accept a simple court order confirming there was a hearing on that date as evidence.
Are all Family cases paid under FAS?	No, certain cases are excluded from FAS and advocates are paid at hourly rates. No evidence from court verifying court hearings is required in these cases. They include, but are not limited to, Forced Marriage proceedings; where the client is a child in proceedings that are not specified under s41(6) Children Act 1989; and child abduction proceedings. The Court does not need to provide specific information in these cases.
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: 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.
Where can I find further information?	The LAA's Civil Finance Electronic Handbook (chapter 6) has extensive detailed guidance on the Family Advocacy Scheme. Further queries can be directed to ContactCivil@justice.gov.uk .

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