

“Events” model pricing for high cost family cases involving two counsel managed by the Special Cases Unit

Events based case plans

What is the “Events” pricing model?

This is a pricing model used by the Special Cases Unit based on analysis of bills subject to court assessment. It is a simplified method of predicting counsel's fees and solicitor's profit costs. It has been used by SCU since 2003. It has been used explicitly with counsel's fees and most chambers are familiar with it and apply it regularly. It has not often been used explicitly with solicitor's profit costs because there is a much wider solicitor base and most solicitors only manage cases with SCU rarely. There have however been an increasing number of cases where it has been used successfully with solicitors and as it is a much simpler method of pricing and billing cases we wish to encourage a wider use of the model amongst solicitors. We have therefore prepared more detailed guidance as to how the model works and developed a new model case plan which is also used for billing purposes therefore avoiding the current complex detailed case plan and complex and detailed bills.

We anticipate that the time spent on case planning and billing in a case involving three or four stages would be reduced from 20 hours to 5 hours on average. It will also of course reduce the amount of time the Commission spends assessing case plans and bills and thereby improve speed of response times.

When is the model used?

It is used in exceptionally complex care proceedings where authority for Queen's and Junior counsel has been given and is applied to both counsel's fees and solicitor's profit costs. These cases are managed by the Special Cases Unit based in Docklands London and the Cardiff office. It is not used by the South Tyneside high cost family team who manage the single (non QC) cases. It may however be possible to manage the more complex of such cases under the “Events” model and interested practitioners should contact the SCU in Docklands to discuss that. It can also be used in the more complex non care family proceedings particularly those which follow a fact-finding and welfare process similar to care such as sometimes happens in private law proceedings. It is not however applied to non-care cases which follow a distinctly different process such as most private law, ancillary relief and Child Abduction cases. However the large majority of cases managed by SCU are complex care cases with QC.

The “Events” model is only applied to counsel's fees where the main hearing exceeds ten days and the Family Graduated Fee Scheme is disapplied. Where a case escapes the FGF scheme the events model is applied to all counsel's fees throughout the lifetime of the case. It applies to profit costs in all cases even where counsel's fees are still subject to the FGF scheme.

How does it work and how much do I get paid?

Put at its simplest a fixed amount is applied to all relevant events to achieve a cumulative price which is for all work undertaken throughout the case.

The event price for solicitor is £1,230, for junior counsel £1,320 and for Queen's Counsel £2,310. These figures are based on our analysis of court assessed bills and on the broad

average hours, rates and enhancements allowed. These cases were all exceptionally complex involving Queen's and junior counsel with main hearings of on average 15 days.

What is an event?

For solicitor – an event is any hearing day (be it a five minute directions hearing or day 14 of a fact-finding hearing) and advocates meetings as envisaged by the PLO.

For Counsel – it is any hearing day, advocates meetings and a limited number of substantive client conferences.

Advocates meetings – the original events scheme predated the PLO and the creation of advocates meetings. At the time it was understood that the purpose of such meetings was to try and narrow the issues before the court and reduce hearing times. The PLO also envisaged one advocates meeting in the run up to the PHR/IRH and one in the run up to the main hearing. There would therefore be two or three such meetings. It was on that basis that it was agreed to apply an event fee to advocates meetings as it would in effect be costs neutral.

Subsequently however the number of advocates meetings appearing in case plans has proliferated and it is not apparent that the number and lengths of hearing has reduced we will therefore only agree an event fee for advocates meetings as originally envisaged i.e. one before the PHR/IRH and one before the main hearing. If the main hearing is split then we would agree an event for an advocates meeting before each party of the main hearing. Other advocates meetings even if ordered by the court will not attract an event fee and the costs of attending them is absorbed into the cumulative price arising from all other agreed events.

Experts meetings – do not attract an event fee but again are covered by the cumulative price arising from other agreed events.

Substantive client conferences – this covers substantive conferences with the client, usually half a day with solicitor and counsel. Again it is envisaged these would normally occur in the run up to substantive hearings. It does not cover conferences in the absence of the client, telephone conferences or conferences between lawyers. Again it is likely there would normally be two or three such conferences.

Preparation – all solicitor and counsel preparation is included in the cumulative price arising from agreed events. No single item of preparation attracts an event fee.

Only one event per day – Where two events occur on the same day such as conferences and hearings or advocates meetings and hearings, we will only allow one event per day.

Example (all figures ex VAT) – Solicitor, throughout the lifetime of a certificate, undertakes nine interim hearings, two advocates meetings, one PHR, a ten day fact-finding/threshold hearing and a five day disposal/welfare hearing. Total 27 events at £1,230 per event making £33,210 for all work under the certificate. Junior counsel in the same case undertakes 6 interim hearings, one advocates meeting, one PHR, the ten day fact-finding/threshold hearing, the five day disposal/welfare hearing and two substantive client conferences. Total 25 events at £1,320 per event making £33,000 for all work under the certificate. In the same case Queen's Counsel undertakes one PHR, one substantive client conference and the ten day fact-finding/threshold hearing. Total 12 events at £2,310 per event making £27,720 for all work under the certificate.

What happens if the number of agreed events changes?

A case plan is agreed on the basis of the current known listing. If additional interim hearings are listed then the agreed costs are simply increased by the relevant number times the event fee. In respect of main hearings it needs to be recognised that preparation is front loaded and

therefore if a main hearing under or overruns the agreed price is adjusted up or down by a refresher rate which for junior counsel is £800 for Queen's Counsel £1,500 and for Solicitor £500.

Example – taking the example above if there were two additional review hearings listed and the fact-finding hearing over ran by three days but the disposal hearing under ran by two days. For solicitor the effect is an additional two events at £1,230 each plus three over run fees at £500 each minus two under run fees at £500 each making a net result of an additional £2,960 which with the previously agreed £33,210 makes an amended total of £36,170. For junior counsel the effect is an additional two events at £1,320 each plus three over run fees at £800 minus two under run fees of £800 each making a net result of an additional £6,400 which with the previously agreed £33,000 makes an amended total of £39,400. For Queen's Counsel the effect is three over run fees at £1,500 making a net result of an additional £4,500 which with the previously agreed £25,410 makes an amended total of £29,910.

Judge's reading days – Where a case is listed for a certain length but the first day or two are set aside as Judge's reading days, we will treat these as underrun days on the basis the legal team is not required to be at court.

How are solicitor advocates treated?

Where we have or would have granted authority to instruct Queen's and Junior Counsel but the solicitor takes on the role of the second advocate (having undertaken all the advocacy to date and undertaking the advocacy after Queen's Counsel's involvement ceases) the event price for such a solicitor advocate is £2,000 whilst Queen's counsel remains at £2,310. The refresher rate for solicitor advocate in these circumstances would be £1,250.

What if we instruct a leading junior rather than Queen's Counsel?

Where we have or would have granted authority to instruct Queen's and Junior Counsel but the lead counsel role is undertaken by an experienced junior the event price for such a leading junior would be £1,850 and the refresher rate would be £1,150

What happens with two junior counsel?

If authority has been granted for two juniors because of volume of work and timeframe (rather than complexity) then the event fee of £1,320 would apply to each counsel but we would agree to apportion the combined £2,640 differently if counsel felt that was appropriate.

How is case planning simpler?

With this guidance you should have a copy of the newly designed case plan. This still requires case information about the circumstances of the case and current state of the case but the cost section is reduced to a single table with a chronological list of all "events" and who attended or is anticipated to attend. The costs summary is then simply the number of events times the event fee.

The case plan is based on the existing timetable and will only need updating if additional events or stages in proceedings are subsequently listed. It is not envisaged that minor changes would need a full amendment and we would encourage updating by telephone or e-mail.

Once the case plan is agreed it will still be necessary to sign a High Cost Case Contract and Barrister Acceptance Form which enable the SCU to assess the costs at conclusion of the case.

Disbursements

These should be included on an additional page in the case plan as accurately as is known at the time and best estimates where actual amounts are not yet known. In respect of unusual disbursement either as to type or amount, including substantial experts fees, additional information should be provided as to how the fees have been calculated including hourly rates, preparation time, appearance fees etc. much as you would for a prior authority application.

Payment on account of disbursements can be claimed as and when.

How is billing simpler?

Whilst it is still necessary to complete pages one, two and seven of a CLAIM1 the agreed case plan becomes the schedule to the CLAIM1 with the declaration at the end of the case plan being signed to confirm the events anticipated actually took place. No need for bill's of costs and no need for multiple page 4s and 5s in the CLAIM1.

We anticipate all steps in the case planning and billing process to be easily undertaken by solicitor alone.

Interim payments

Interim payments can be made for all costs and counsel's fees to date on agreement of a case plan and setting up of a High Cost Case Contract and thereafter after any main hearings or after each 6 month period and would be by way of 100% on account of the number of events incurred to date. Claims should be made on form CLS POA1.

What about exceptional cases?

It must be remembered that the cases that informed this model were only the most exceptional cases which warrant authority for Queen's Counsel. Whilst every case has it's own unique set of facts and circumstances they all amount to the most exceptional of cases and we would not expect to deviate from or disapply this model in the majority of such cases.

Are all cases managed in this way?

The events pricing model has been based on costings in exceptionally complex care proceedings involving Queen's and Junior counsel. It may not be appropriate to manage cases which follow a distinctly different timetable and process using the fees in the current model for example simpler single counsel cases, child abduction act cases and most private law cases. However firms who undertake a significant number of such high cost cases and would be interested in using this model should contact David Carter in the Special Cases Unit to discuss whether it would be possible to devise a more tailored event fee scheme to any class of high cost family cases.

For those cases where it is not appropriate to apply this model then the current detailed case plan and detailed billing process is applied.

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