

CLA 47 :

TITLE : COSTS ASSESSMENT

DECISION NUMBER:	CLA 47
DATE:	OCTOBER 2007
OFFICE REFERENCE NUMBER:	CA4/ASL/130227

POINT OF PRINCIPLE

After the conclusion of the matter, each firm which has carried out work which would ordinarily be payable by the Legal Aid Fund has a right to make a claim and have the costs assessed on the basis of whatever papers and evidence can be made available in support of the claim. The LSC will exercise appropriate discretion in relation to that assessment

Guidance

This Point of Principle was made with express reference to contractual costs. The principle is not limited to circumstances where the firm to whom the matter transferred has ceased trading. However, it will be necessary for the firm claiming to provide a full explanation of the circumstances and provide sufficient information so that the LSC can be sure no costs are paid twice, either from the Fund or on an inter partes basis. There will be no automatic presumption that costs will be disallowed in full, simply because a full copy file has not been retained by the transferring provider. However, providers should remember that assessment of costs can only be based on the evidence that it is before the assessor, and that, since assessments against the Legal Aid and Community Legal Service Fund are carried out on a standard basis, any doubt in relation to an item of costs is to be resolved in favour of the LSC as paying party. Further, a presumption that costs are as stated in the new provider's claim for costs will arise where that claim covers the period where the original provider had conduct of the matter and the new provider has certified that the form covers the claims of all providers who have acted. A presumption that the first provider's claim is covered by inters partes costs will arise where the new provider certifies that the matter has been concluded with no claim for costs against the Fund.