

## 'Finance' work

'Finance' work refers to:

- All claims for costs on certificated matters
- Statutory charge decisions
- Payments on account
- Family Graduated Fees
- Costs appeals
- Refunds

The finance team in the designated Processing Centre deal with the work listed above.

### Claim's for Costs on certificated matters

#### *How do I claim?*

Make an application on either a **CLA/CLAIM1** or **CLA/CLAIM2** form. Which form to use and what pages to complete depends on the circumstances of the case as follows:

#### ***Detailed assessed by the court***

If your costs exceed £2500 and proceedings have commenced the bill must be assessed by the court before submission to the LSC for payment.

Complete a Claim1 and submit along with copy bill of costs and certificate of detailed assessment. There is no need to complete page 4 of the claim form

#### ***Assessed by LSC***

If proceedings have not commenced, the costs are less than £2500, or the case concluded in the Magistrates Court (FPC) then the commission must assess the bill.

Complete a Claim 1 form, including page 4 giving details of all work done. This is assessed on a reasonableness basis.

#### ***Costs recovered from the other side***

Where there has been a cost award, and part or all of those costs have been recovered, complete a Claim 2 form. Looks similar to Claim 1, but allows you to show the amount of costs recovered and the balance of any fees claimed from the LSC. Same rules apply as above regarding detailed assessment if the remaining costs exceed £2500 etc.

#### ***Where can I find more information?***

The Civil Bills Assessment Manual found on the LSC website.

## Statutory charge

### ***What is the statutory charge and what is it for?***

The money or property clients get with the help of public funding will be used first to repay legal costs to the Legal Services Commission and clients will receive anything left over. For example, if clients recovered £10,000 and the cost of your client's case was £2,000 your client would have to repay £2,000 to the Legal Services Commission and your client would be left with £8,000.

Solicitors cannot pay money out to clients until the statutory charge has been dealt with.

The statutory charge prevents a funded client making a profit at the expense of the CLS fund and is a deterrent against escalating costs.

### ***When would the charge apply?***

The charge would apply under the following circumstances:

|                           |  |
|---------------------------|--|
| Recovery                  | Property is recovered if the funded client successfully obtains property i.e. There is a net gain  |
| Preservation              | Property is preserved if the funded client successfully fends off a claim against them.  |
| Property in issue         | The charge only arises if the property recovered or preserved was in issue in the proceedings.<br>To be in issue the property must be the subject matter of the proceedings for which funding was granted. |
| Possession in issue       | The statutory charge can apply to property where possession is at issue, even if the ownership is not in dispute.  |
| Compromise or settlement  | A court order is not necessary to give rise to the charge.   |
| Subject matter of dispute | Where Income and capital are disregarded for means assessment purposes as subject matter of dispute and the asset is retained the charge will probably arise.  |
| Property                  | The charge arises regardless of the nature of the property (ie house, car, jewellery etc)  |

### ***What happens if a certificate is discharged or revoked before the conclusion of a matter/case?***

Where a certificate has been revoked or discharged and the proceedings continue to a successful conclusion the charge arises.

***Can The Charge be waived or exempted?***

There is no discretion to waive the Statutory Charge, however in certain circumstances property/money may be exempted, ie Periodical Payments.

***What are the solicitor's responsibilities?***

An immediate report is required of any settlement.

Any monies received by a solicitor must be paid into the fund pending a charge decision.

***Some examples of statutory charge scenarios:***

**In this case, 'we' are the wife, the property is in joint names, and the equity is £20,000.**

1. We propose property is transferred to us. The husband immediately agrees.

***Answer*** – no dispute, no charge.

2. We propose property is transferred to us. The husband does not agree, he wants to keep half. The Court Orders the transfer.

***Answer*** – recovers disputed half. Charge value £10,000.

3. We propose property is transferred to us. The husband does not agree, he wants the whole property. The Court orders the transfer.

***Answer*** – we recover his disputed half share and preserve our disputed half. Charge value £20,000.

4. We propose the property is transferred to us. The husband does not agree. He wants £6000 for his interest. The Court orders the transfer, husband gets nothing.

***Answer*** – The extent of the dispute is the £6000, we recover this.

5. It is always agreed that each party is to have half of the house. We propose the property is transferred to us but husband is to have a charge for 50% of the equity. The husband does not agree and wants his share now. The Court order mirrors our original proposals.

***Answer*** – We have stopped the property from being sold and have preserved possession. Charge value £10,000

6. We propose the house is transferred to us. The husband does not agree, he wants a lump sum for his interest of £10000. The Court Orders the transfer and a lump sum award of £3000. to the husband.

**Answer** – *the extent of the dispute is £10000. We pay £3000 and recover the balance of £7000.*

***Where can I find further information?***

- Volume 1 of the LSC Manual
- LSC leaflet: Paying back the LSC – The Statutory Charge

## Payments on account

### ***What is a payment on account?***

A payment on account is an interim payment during ongoing proceedings. The Regulations make provision for payments on account of disbursement sthroughout the life of a case and creates payment “windows” for payment of Profit Costs.

### ***What do I need to know?***

- The request should be not less than £30, although a number of disbursements can be consolidated.
- They can be disbursements incurred and to be incurred.
- **Payment On Account Of Profit Costs.** Only 2 payments can be made within any 12 month rolling period, and you only receive 75% of the amount incurred.
- The system adjusts the request amount to reflect previous payments.

### ***What do I need to do?***

- We require a form CLS CLAIM4 in order to generate payment

### ***Where can I find further information?***

The LSC Manual

## Family Graduated Fees (FGF)

### ***When do FGF apply?***

FGF apply to barristers in independent practice who undertake family work under funding certificates granted on or after 1 May 2000. The graduated fees vary with the nature of the proceedings and a number of factors designed to reflect their complexity. Provision is also made for an additional fee to be payable in proceedings involving an exceptional amount of preparation.

### ***What do suppliers have to do?***

- You must advise Counsel of Discharge /Revocation of the Certificate - they are subject to rules for late submission.
- You must include Counsel Fees in the final Bill irrespective of Counsel's payment. Your Fees will not be paid until Counsel Fees are paid.

### ***Where can I find further information?***

General Civil Contract (LSC Manual)

## Cost appeals

### ***What are cost appeals?***

Cost Appeals apply when suppliers disagree with the provisional assessment of their cost claims by the regional office.

### ***How do I appeal?***

Appeals should be made on an App10 form to the regional office. Each claim is reconsidered by the caseworker upon receipt of an appeal. If they decide not to alter the initial decision, the appeal will be heard by an Independent Costs Assessor

### ***What if the Independent Assessor upholds the original decision?***

There is no right of appeal from the decision of an independent assessor, however the appellant, LSC or indeed the Assessor themselves can apply at any time to have a "point of principle" certified at any stage. This is an application to the commission's legal director and if guidance is warranted to clarify any matter, refer the matter to the costs appeals committee.

### **Late submission of costs**

#### ***What constitutes 'late submission'?***

There are time limits for submission of costs to the LSC. Costs must be submitted within 3 months of the matter closing.

***What happens when costs are submitted late?***

This is a matter recorded against a firm and forms part of the monitoring carried out and feeding into the Key Performance Indicators. The ultimate sanction could be service of a contract notice.