STATUTORY INSTRUMENTS

2010 No. 1109

LEGAL SERVICES COMMISSION, ENGLAND AND WALES

The Community Legal Service (Funding) (Amendment No. 2) Order 2010

Made - - - -	*28th March 2010*
Laid before Parliament	*31st March 2010*
Coming into force - -	*14th October 2010*

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 6(4) and 25(8A) of the Access to Justice Act 1999(**a**).

He has consulted the General Council of the Bar and the Law Society in accordance with section 25(2) of that Act and has had regard to the matters specified in section 25(3) of that Act.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Community Legal Service (Funding) (Amendment No. 2) Order 2010 and comes into force on 14th October 2010.

(2) In this Order "the 2007 Order" means the Community Legal Service (Funding) Order 2007(**b**) and words and phrases used in this Order have the same meaning as in the 2007 Order.

Amendments to the 2007 Order

2. The 2007 Order is amended as follows.

3. In article 3(1)—

(a) after the definition of "the 2007 Act" insert—

""2010 Standard Civil Contract" means the contract between the Commission and a provider for the provision of funded services, including the contract for signature, the standard terms, the schedules and the specifications(**c**);

"advocates' meeting" means an advocates' meeting held under stage 2 or 3 of the Public Law Outline;

"advocacy services" means work done—

(i) by an advocate at a court hearing;

(**a**) 1999 c. 22. The reference in section 6 to the Lord Chancellor was changed to the Secretary of State by S.I. 2003/1887 and changed back to the Lord Chancellor by S.I. 2005/3429. Section 25(8A) was inserted by section 153 of the Coroners and Justice Act 2009 (c. 25).
(**b**) S.I. 2007/2441, amended by S.I. 2008/1328, 2008/2704, 2009/2468 and 2010/95.
(**c**) Published by the Commission on 26th March 2010 and available on its website at www.legalservices.gov.uk.

(ii) by an advocate, as such, in connection with an advocates' meeting;

(iii) by counsel in connection with a conference, and

(iv) by counsel in connection with an opinion;

and fees and rates for advocacy services include remuneration for preparatory work, travelling (except where an exceptional travel fee is payable under Schedule 2) and waiting in relation to those services;

"child abduction proceedings" means proceedings within section 11.13 of Part 1 of the Funding Code or a dispute about legal rights and duties which would fall within that section if the level of service provided were to be extended to Legal Representation;";

(b) after the definition of "Commission" insert—

""counsel" means—

a barrister in independent practice; and

a solicitor or Fellow of the Institute of Legal Executives who does not work in a partnership and who does not hold a 2010 Standard Civil Contract;";

(c) after the definition of "Mental Health Proceedings" insert—

""Public Law Outline" means the outline set out in the table following paragraph 10 of the Practice Direction, Public Law Proceedings: Guide to Case Management, April 2010, given by the President of the Family Division;";

(d) omit the definition of "Unified Contract".

4. In article 3(2)—

(a) after ""Family Help (Lower)"" insert ""Family Help (Higher)", "Investigative Help"";

(b) for ""and "Legal Representation"" substitute ""Legal Representation" and "Full Representation"".

5.—(1) In article 5(2), in each place where it appears, for "the Schedule to this Order" substitute "Schedule 1".

(2) For the Schedule to the 2007 Order substitute Schedule 1 as set out in Schedule 1 to this Order.

6.—(1) After article 5 insert—

"Family advocacy scheme

5A.—(1) In proceedings to which this article applies, the Commission must fund advocacy services as part of the Community Legal Service in accordance with—

(a) the fees and rates set out in Schedule 2; and

(b) the provisions of the 2010 Standard Civil Contract.

(2) This article applies to advocacy services in family proceedings except for services provided—

(a) to any party in child abduction proceedings;

(b) in proceedings under the Inheritance (Provision for Family and Dependants) Act 1975(**a**);

(c) in proceedings under the Trusts of Land and Appointment of Trustees Act 1996(**b**);

(d) in proceedings under Part 4A of the Family Law Act 1996(**c**);

(**a**) 1975 c. 63.
(**b**) 1996 c. 47.
(**c**) 1996 c. 27. Part 4A was inserted by section 1 of the Forced Marriage (Civil Protection) Act 2007 (c. 20).

(e) in defended proceedings for divorce or judicial separation or for dissolution of a civil partnership or the legal separation of civil partners;

(f) in proceedings for nullity of marriage or annulment of a civil partnership;

(g) in applications for a parental order under the Human Fertilisation and Embryology Act 2008(**a**);

(h) in proceedings under the inherent jurisdiction of the High Court in relation to children;

(i) where the advocate separately represents a child in proceedings other than proceedings which are specified proceedings within the meaning of section 41(6) of the Children Act 1989(**b**) or are heard together with such specified proceedings;

(j) in proceedings in the Court of Appeal or the Supreme Court;

(k) in a final appeal (as defined in the 2010 Standard Civil Contract);

(l) by Queen's Counsel acting as such under a prior authority given by the Commission;

(m) under an individual case contract for a high cost case issued under rule A3 of Part 2 of the Funding Code.

Disbursements

5B. Nothing in this Order prevents the Commission from paying reasonable disbursements.".

(2) Schedule 2, which contains the Schedule referred to in article 5A(1), inserted by paragraph (1), has effect.

7. Where—

(a) an application for funded services is made before 14th October 2010; or

(b) a client is in receipt of Investigative Help and Family Help (Higher) before 14th October 2010 and the funded services are extended on or after that date to include Full Representation; or

(c) a certificate issued under the Funding Code covers funded services which were applied for before 14th October 2010 (whether or not the scope of the certificate is extended on or after that date),

the 2007 Order continues to have effect as if this Order had not been made.

Revocation of the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001

8.—(1) Subject to paragraph (2), the Community Legal Service (Funding) (Counsel in Family Proceedings) Order 2001(**c**) is revoked.

(2) That Order continues to have effect where—

(a) an application for funded services is made before 14th October 2010; or

(b) a client is in receipt of Investigative Help and Family Help (Higher) before 14th October 2010 and the funded services are extended on or after that date to include Full Representation; or

(c) a certificate issued under the funding code covers funded services which were applied for before 14th October 2010 (whether or not the scope of the certificate is extended on or after that date).

(**a**) 2008 c. 22.
(**b**) 1989 c. 41. Section 41(6) was amended by section 122(1)(a) of the Adoption and Children Act 2002 (c. 38).
(**c**) S.I. 2001/1077, amended by S.I. 2003/2590. 2005/184, 2006/2364, 2007/2443, 2007/3169 and 2008/666.

Signed by authority of the Lord Chancellor

Bach
Parliamentary Under Secretary of State
28th March 2010 Ministry of Justice

SCHEDULE 1

Article 5

The following Schedule is substituted for the Schedule to the 2007 Order.

"SCHEDULE 1

Article 5

Fees and Hourly Rates

Words and expressions used in this Schedule have the same meaning as in the 2010 Standard Civil Contract. The fees and rates in this Schedule are exclusive of value added tax.

Part 1 - Civil Standard and Graduated Fees

1 - Legal Help and Help at Court

Table 1

The fees in this Table for Housing do not apply to the Housing Possession Court Duty Scheme – see Table 6.

Category	Schedule Authorisation Fixed fee	*Schedule Authorisation Exceptional Thresholds*	Tolerance Fixed Fee	*Tolerance Exceptional Thresholds*
Actions against the Police	£266	£798	£154	£462
Clinical Negligence	£217	£651	-	-
Community Care	£296	£888	£179	£537
Consumer General Contract	£177	£531	£149	£447
Debt	£200	£600	£123	£369
Education	£302	£906	£152	£456
Employment	£230	£690	£150	£450
Housing	£174	£522	£138	£414
Miscellaneous	£88	£264	-	-
Personal Injury	£226	£678	£154	£462
Public Law	£288	£864	£207	£621
Welfare Benefits	£167	£501	£136	£408

2 - Family Public Law

Table 2 (a): Legal Help

National

£147

Table 2(b): Family Help (Lower) – section 31 Children Act 1989 Care or Supervision Proceedings only

National
£405

Table 2(c): Legal Representation - section 31 Children Act 1989 Care or Supervision Proceedings only

Party	Court	*Number of Clients*	Midlands	*North*	London and South	*Wales*
Child	Other	1	£2,165	£1,775	£2,485	£2,426
Child	Other	2 or more	£3,247	£2,662	£3,728	£3,639
Child	High	1	£2,879	£2,361	£3,305	£3,226
Child	High	2 or more	£4,319	£3,542	£4,957	£4,838
Joined Party	Other	-	£1,148	£887	£1,334	£1,445
Joined Party	High	-	£1,527	£1,180	£1,774	£1,922
Parent	Other	1	£2,840	£2,359	£3,230	£2,925
Parent	Other	2	£3,551	£2,948	£4,037	£3,657
Parent	High	1	£3,777	£3,137	£4,296	£3,891
Parent	High	2	£4,721	£3,922	£5,369	£4,864

3 - Family Private Law

Table 3 (a): Legal Help

National
£96

Table 3 (b): Legal Help - Divorce Petition only

National
£162

Table 3 (c): Family Help (Lower) - Children

	Fee	*Settlement Fee*
London	£256	£153
Non-London	£221	£132

Table 3 (d): Family Help (Lower) - Finance

	Fee	*Settlement Fee*
London	£268	£161
Non-London	£231	£139

Table 3 (e): Higher Standard Fee Schemes – Children

	Court	Family Help (Higher) Standard fee	Legal Representation Standard Fee
London	Other	£471	£335
	High Court	£565	£402
Non-London	Other	£392	£279

	High Court	£471	£335

Table 3 (f): Higher Standard Fee Schemes – Finance

	Court	Family Help (Higher) Standard Fee	Family Help (Higher) Settlement Fee	Legal Representation Standard Fee
London	Other	£523	£105	£416
	High Court	£628	£125	£499
Non-London	Other	£436	£87	£346
	High Court	£523	£105	£416

Table 3 (g): Higher Standard Fee Schemes – Domestic Abuse Proceedings

	Court	*Legal Representation Standard Fee*
London	Other	£675
	High Court	£810
Non-London	Other	£563
	High Court	£675

4 - Immigration

Table 4 (a): Immigration standard fees

	Stage 1 (Legal Help)	*Stage 2a (Controlled Legal Representation)*	Stage 2b (Controlled Legal Representation)
Asylum	£459	£252	£630
Immigration Non-asylum	£260	£252	£504

Table 4 (b) Additional payment – Home Office interview

Representation at Home Office interview	£296

Table 4 (c): Additional payments – advocacy services

	Additional Payment
Oral Case Management Review Hearing	£184
Telephone Case Management Review Hearing	£100
Representation at a substantive hearing in the Immigration and Asylum Chamber of the First-tier Tribunal	£336 Asylum, £263 Immigration
Additional day substantive hearing	£179 Asylum, £179 Immigration

Table 4 (d): Immigration removal centres standard fees (for exclusive schedule holders only)

On-site surgery – advising five or more clients	£400
On-site surgery – advising four clients or fewer	£200
Fast-track standby payment	£37.80

5 - Mental Health

Table 5 (a): Basic Fees

	Basic Fees
Mental Health – non-Tribunal	£281
Level 1 (Mental Health Proceedings)	£143
Level 2 (Mental Health Proceedings)	£357
Level 3 (Mental Health Proceedings)	£327

Table 5 (b): Additional Fees

	Additional Fees
Adjourned Hearing Fee	£130
Remote Travel payment Level 1 (Mental Health Proceedings)	£77
Remote Travel payment: Mental Health – non-Tribunal, Level 2 (Mental Health Proceedings), Level 3 (Mental Health Proceedings)	£153

6 - Housing Possession Court Duty Scheme

Table 6: Standard Fee

London	£84
Non-London	£79.50

Part 2 - Hourly Rates – Controlled Work

7 - Legal Help, Help at Court and Family Help (Lower)

Table 7 (a): Immigration exceptional cases, Mental Health, Actions against the Police etc., Public Law, Education and Community Care

Activity	London Rate	*Non-London Rate*
Preparation, attendance and advocacy	£58.50 per hour	£53.60 per hour
Travel and waiting time	£30.90 per hour	£30.00 per hour
Routine letters out and telephone calls	£4.50 per item	£4.20 per item

Table 7 (b): Family and Housing (except as in Table 7 (c)) and Employment

Activity	London Rate	*Non-London Rate*
Preparation, attendance and advocacy	£54.15 per hour	£51.05 per hour
Travel and waiting time	£28.60 per hour	£28.60 per hour
Routine letters out and telephone calls	£4.20 per item	£4.05 per item

Table 7 (c): Legal Help or Help at Court provided in relation to a review under section 202 of the Housing Act 1996(a) and to a defendant to a possession claim in the county court; Family Help (Lower) and related Legal Help in relation to care or supervision proceedings under section 31 of the Children Act 1989

Activity	London Rate	*Non-London Rate*
Preparation, attendance and advocacy	£62.40 per hour	£58.40 per hour
Travel and waiting time	£30.90 per hour	£30.05 per hour
Routine letters out and telephone calls	£4.50 per item	£4.20 per item

Table 7 (d): Immigration hourly rates cases

Activity	London Rate	*Non-London Rate*
Preparation, attendance and advocacy	£57.35 per hour	£52.55 per hour
Travel and waiting time	£30.30 per hour	£29.45 per hour
Routine letters out and telephone calls	£4.40 per item	£4.10 per item

Table 7 (e): All other categories and all tolerance work

Activity	London Rate	*Non-London Rate*
Preparation, attendance and advocacy	£51.70 per hour	£48.75 per hour
Travel and waiting time	£27.35 per hour	£27.35 per hour
Routine letters out and telephone calls	£4.00 per item	£3.85 per item

8 - Controlled Legal Representation

Table 8 (a): Immigration – exceptional cases

Activity	London Rate	*Non-London Rate*
Preparation and attendance	£64.25 per hour	£60.10 per hour
Travel and waiting time	£31.80 per hour	£30.90 per hour
Routine letters out and telephone calls	£4.60 per item	£4.30 per item
Advocacy	£73.10 per hour	£73.10 per hour

Table 8 (b): Immigration – Upper Tribunal cases where permission granted to client (non-Fast-track)

(**a**) 1996 c.52.

Activity	London Rate	*Non-London Rate*
Preparation and attendance	£82.62 per hour	£77.29 per hour
Travel and waiting time	£40.91 per hour	£39.76 per hour
Routine letters out and telephone calls	£5.94 per item	£5.54 per item
Advocacy	£93.96 per hour	£93.96 per hour

Table 8 (c): Immigration – other hourly rates cases

Activity	London Rate	*Non-London Rate*
Preparation and attendance	£61.20 per hour	£57.25 per hour
Travel and waiting time	£30.30 per hour	£29.45 per hour
Routine letters out and telephone calls	£4.40 per item	£4.10 per item
Advocacy	£69.60 per hour	£69.60 per hour

Table 8 (d): Representation in Mental Health proceedings

Activity	London Rate	*Non London Rate*
Preparation and attendance	£64.25 per hour	£60.10 per hour
Travel and waiting time	£31.80 per hour	£30.90 per hour
Letters and telephone calls	£4.60 per item	£4.30 per item
Advocacy	£73.10 per hour	£73.10 per hour
Attending tribunal with counsel	£34.20 per hour	£34.20 per hour

Part 3 - Hourly Rates – Licensed Work

9 - Family Prescribed Rates

Table 9 (a): Care Proceedings

Activity	Higher Courts	*County court and family proceedings court*
Writing routine letters	£4.70 per item	£4.10 per item
Receiving routine letters	£2.35 per item	£2.05 per item
Routine telephone calls	£4.70 per item	£4.10 per item
Preparation and attendance	£77.85 per hour (London Rate) £73.15 per hour (non-London Rate)	£68.20 per hour (London Rate) £64.90 per hour (non-London Rate)
Attending at court or conference with counsel	£41.25 per hour	£36.30 per hour
Advocacy	£77.85 per hour (London Rate) £73.15 per hour (non-London Rate)	£71.50 per hour
Travelling and waiting time	£35.75 per hour	£32.45 per hour

Table 9 (b): Other Family Proceedings

Activity	Higher Courts	*County court and family proceedings court*
Writing routine letters	£7.05 per item	£6.00 per item
Receiving routine letters	£3.50 per item	£3.00 per item
Routine telephone calls	£7.05 per item	£6.00 per item

Preparation and attendance	£78.40 per hour (London Rate) £73.05 per hour (non-London Rate)	£66.00 per hour (London Rate) £61.00 per hour (non-London Rate)
Attending at court or conference with counsel	£41.25 per hour	£36.00 per hour
Advocacy	£78.40 per hour (London Rate) £73.05 per hour (non-London Rate)	£66.00 per hour (London Rate) £63.00 per hour (non-London Rate)
Travelling and waiting time	£35.75 per hour	£32.00 per hour (London Rate) £31.00 per hour (non-London Rate)

10 - Non Family Prescribed Rates

Table 10 (a): Higher Courts, county courts and magistrates' courts for work carried out with Schedule authorisation

Activity	Higher Courts	*County court and magistrates' court*
Writing routine letters	£7.50 per item	£6.60 per item
Routine telephone calls	£4.15 per item	£3.65 per item
Preparation and attendance	£79.50 per hour (London Rate) £75.00 per hour (non-London Rate)	£70.00 per hour (London Rate) £66.00 per hour (non-London Rate)
Attending at court or conference with counsel	£37.00 per hour	£32.50 per hour
Advocacy	£75.00 per hour	£66.00 per hour
Travelling and waiting time	£33.25 per hour	£29.20 per hour

Table 10 (b): Higher Courts, county court and magistrates' court for work not carried out with Schedule authorisation

Activity	Higher Courts	*County court and magistrates' court*
Writing routine letters	£7.40 per item	£6.50 per item
Routine telephone calls	£4.10 per item	£3.60 per item
Preparation and attendance	£78.50 per hour (London Rate) £74.00 per hour (non-London Rate)	£69.00 per hour (London Rate) £65.00 per hour (non-London Rate)
Attending at court or conference with counsel	£36.40 per hour	£32.00 per hour
Advocacy	£74.00 per hour	£65.00 per hour
Travelling and waiting time	£32.70 per hour	£28.75 per hour

Table 10 (c) First-tier Tribunal

Activity	London Rate	*Non-London Rate*
Preparation and attendance	£61.20 per hour	£57.25 per hour
Routine letters out and telephone calls	£4.40 per item	£4.10 per item
Advocacy	£69.60 per hour	£69.60 per hour
Attending tribunal or conference with counsel	£32.55 per hour	£32.55 per hour
Travelling and waiting time	£30.30 per hour	£29.45 per hour

Part 4 – Family Mediation Fees

11- Family Mediation

Table 11 (a): Willingness Test

Willingness Test
£25

Table 11 (b): Assessment Meetings

Activity	
Assessment alone	£87
Assessment separate	£87
Assessment together	£130

Table 11 (c): Mediation Fees

Category of Work	Single Session	*Multi Session*	Agreed Proposal
All Issues Sole Mediation	£168	£756	£252
All Issues Co-Mediation	£230	£1,064	£252
Property and Finance Sole Mediation	£168	£588	£189
Property and Finance Co-Mediation	£230	£834	£189
Child Sole Mediation	£168	£462	£126
Child Co-Mediation	£230	£647	£126”

SCHEDULE 2

Article 6

The following Schedule is inserted as Schedule 2 to the 2007 Order.

“SCHEDULE 2

Article 5A

Family Advocacy Scheme

Words and expressions used in this Schedule have the same meaning as in the 2010 Standard Civil Contract. The fees and rates in this Schedule are exclusive of value added tax.

1- Public Law Advocacy Fees

Table 1 (a): Care or supervision proceedings under section 31 of the Children Act 1989 – graduated fees

Court	*Hearing unit 1 (up to 1 hour)*	*Hearing unit 2 (up to 2.5 hours)*	*Conference fee*	*Opinion fee*	*Advocates' meeting fee*	*Final hearing fee (per day)*
Family proceedings court	£96.35	£240.90	£141.90	£117.40	£142.40	£562.50

County court	£106.00	£264.95	£141.90	£117.40	£156.65	£618.75
High Court	£127.20	£317.95	£141.90	£117.40	£188.00	£742.50

Table 1 (b): Other public law cases – graduated fees

Court	*Hearing unit 1 (up to 1 hour*	*Hearing unit 2 (up to 2.5 hours)*	*Conference fee*	*Opinion fee*	*Advocates' meeting fee*	*Final hearing fee (per day)*
Family proceedings court	£84.25	£210.65	£141.90	£117.40	£142.40	£515.90
County court	£92.65	£231.70	£141.90	£117.40	£156.65	£567.50
High Court	£111.20	£278.00	£141.90	£117.40	£188.00	£681.00

Table 1 (c): Public law - bolt-on fees

Category	*Payable for*	*Fee*
Client – allegation of harm	Hearing	25% of hearing unit fee
Client – lack of understanding etc	Hearing	25% of hearing unit fee
Expert's cross-examination	Hearing	25% of hearing unit fee
Exceptional travel fee	Hearings, advocates' meetings and conferences	£35.60

Table 1 (d): Public law – court bundle payments

Hearing	*CB1 (350-700 pages)*	*CB2 (701-1400 pages)*	*CB3 (over 1400 pages)*
Interim hearing	£66.00	£99.00	-
Final hearing	£177.00	£266.00	£354.00

2 – Private Law Advocacy Fees

Table 2 (a): Private law children – graduated fees

Court	*Hearing unit 1 (up to 1 hour)*	*Hearing unit 2 (up to 2.5 hours)*	*Conference fee*	*Opinion fee*	*Final hearing (per day)*
Family proceedings court	£69.65	£174.15	£139.30	£104.50	£441.15
County court	£76.60	£191.55	£139.30	£104.50	£485.25
High Court	£91.95	£229.85	£139.30	£104.50	£582.30

Table 2 (b): Domestic abuse – graduated fees

Court	*Hearing unit 1 (up to 1 hour)*	*Hearing unit 2 (up to 2.5 hours)*	*Final hearing fee (per day)*

Family proceedings court, county court and High Court	£90.55	£226.40	£401.30

Table 2 (c): Private law finance – graduated fees

Court	*Hearing unit 1 (up to 1 hour)*	*Hearing unit 2 (up to 2.5 hours)*	*Family dispute resolution hearing unit 1*	*Family dispute resolution hearing unit 2*	*Early resolution fee*	*Conference fee*	*Opinion fee*	*Final hearing fee (per day)*
County court	£70.20	£175.50	£112.30	£280.80	£140.40	£140.40	£105.30	£493.00
High Court	£84.25	£210.60	£134.80	£336.95	£168.50	£140.40	£105.30	£591.60

Table 2 (d): Private law – bolt-on fees

Category	*Payable for*	*Fee*
Client – allegations of harm	Private law children hearing	25% of hearing unit fee
Expert's cross-examination	Private law children hearing	20% of hearing unit fee
Exceptional travel fee	Hearings and conferences	£35.60

Table 2 (e): Private law children and finance – court bundle payments

Hearing	*CB1 (350-700 pages)*	*CB2 (701-1400 pages)*	*CB3 (over 1400 pages)*
Interim hearing	£66.00	£99.00	-
Final hearing	£177.00	£266.00	£354.00"

EXPLANATORY NOTE

(This note is not part of the Order)

This Order imposes conditions on the funding of services as part of the Community Legal Service, by limiting the powers of the Legal Services Commission to pay remuneration under contract for the provision of funded services. The Order substitutes a new schedule which sets out revised remuneration fees and rates which will be payable for funded services. The Order also requires the Commission to pay remuneration for advocacy services in certain family proceedings at rates and fees set out in a second schedule and in accordance with the 2010 Standard Civil Contract issued by the Commission. As a consequence of this, the Order governing the payment of remuneration to counsel in family proceedings is revoked.

An impact assessment was published on 21st October 2009 by the Legal Services Commission as part of "Family Legal Aid Funding from 2010: a Consultation Response" and is available from the Commission at 4 Abbey Orchard Street, London SW1P 2BS or at www.legalservices.gov.uk.

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The Community Legal Service (Funding) (Amendment No. 2) Order 2010

£5.50

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