

### Costs of proceedings - England and Wales

This page provides you with indicative information about the costs of justice proceedings in England and Wales. It discusses topics including the fees of legal professionals, legal aid, mediation and fixed costs, such as court fees. For a more in-depth analysis on the costs of proceedings, please consult the following case studies:

[Family law - Divorce](#)

[Family law – custody of the children](#)

[Family law – alimony](#)

[Commercial law – contract](#)

[Commercial law – responsibility](#)



#### Where can I find information on costs of proceedings?

##### Available website on cost information

Information about the process and [costs](#) of court proceedings in England and Wales can be found on [GOV.UK](#), the website of the UK Government. GOV.UK provides you with easy access to government information and specific information on court fees in England and Wales (rather than all the different costs of proceedings). The website offers you information about the different court fees charged in the courts in England and Wales and whether you have to pay them. Information on the legislation or laws relating to court fees is also available.

#### Where can I find information on the average length of time that different procedures take?

There is no average length of time as each defended case is different. The court involved may be able to suggest the approximate duration of certain types of cases.

#### Where can I find information on the average aggregate cost for a particular proceeding?

There is no average available as each defended case is different. A solicitor experienced in a particular type of proceeding may be able to give you a range of costs.

#### Value Added Tax

**Lawyers' Costs:** VAT will ordinarily be charged on solicitors and barristers' costs and certain disbursements at a rate of 20 percent. VAT registration in the UK is compulsory if certain revenue thresholds are met. See the website of [HM Revenue & Customs](#) for more information.

**Court Fees:** VAT does not apply to court fees.

#### Legal Professionals' Fees

## Regulative framework governing fees of legal professionals

### Solicitors

The [Solicitors' Code of Conduct](#) requires solicitors to give clients the best possible information about their costs (rule 2.03). Specifically, rule 2.03 sets out **a duty to inform clients of their charging rates and when payments will be anticipated**, together with advice as to their funding options, including **entitlement to public funding**. Solicitors are also required to advise clients on their potential liability to pay a third party's costs. These provisions apply equally to registered European lawyers practising in England and Wales, and to law firms of solicitors and other lawyers and non-lawyers which are regulated by the Solicitors Regulation Authority. Initial letters of advice to clients must also include the client's objectives, options and the issues in the case (under rule 2.02 of the code).

Once a bill of costs is finalised, solicitors' fees can be assessed both by the Legal Complaints Service, and by taxing officers in the courts. The Solicitors' (Non-Contentious Business) Remuneration Order 2009 requires that solicitors' costs must be fair and reasonable, taking into account all the circumstances of the case where the work does not involve court proceedings. In the event that a disputed bill of costs relates to work not involving court proceedings, it is possible for the Legal Complaints Service to assess whether the bill is fair and reasonable. Such an assessment will determine what would have been a fair and reasonable amount if the bill is considered excessive. Any agreement on fees associated with work and involving court proceedings – also known as **"contentious business"** – is subject to statutory requirements under the Solicitors Act 1974 and may be subject to assessment by the court.

### Barristers

Fees charged by barristers are largely negotiated and agreed in advance of any work being undertaken; therefore, **less prescriptive regulation is required**. The Code of Conduct of the Bar of England and Wales sets out the principles that apply to barristers in respect of **fees and remuneration for self-employed barristers**. The code establishes that **self-employed barristers may charge for any work** undertaken on any basis **permitted by law and not involving the payment of a wage or salary**. Further provision is made in relation to work undertaken by a self-employed barrister on behalf of another. Any irregularities with regard to costs may be investigated by the **Bar Standards Board** and could potentially result in disciplinary action.

### Bailiffs

To use the County Court or Family Court bailiff to recover monies the creditor must pay a fee to the court. Details of the fees charged by the court are contained in leaflet **EX50 Civil and Family Court fees**. Any fee paid by the creditor will be added to the debt and paid by the debtor.

High Court Enforcement Officers are entitled to charge fees and add them to the money you owe. For writs executed under the Taking Control of Goods Regulations 2013 the fee scale is set out in the Taking Control of Goods (Fees) Regulations 2014. Fees are recoverable on a fixed basis for each stage, but in certain situations an additional fee is recoverable as a percentage of the sum to be recovered. These circumstances are set out in Regulation 7 of the Taking Control of Goods (Fees) Regulations 2014.

For possession or other types of writs the fee scale is set out in the High Court Enforcement Officers Regulations 2004 but not all of the fees are fixed and in some instances the HCEO can charge 'reasonable expenses'.

Certificated enforcement agents are entitled to charge fees and add them to the money you owe as set out in the Taking Control of Goods (Fees) Regulations 2014.

### Administration of Oaths

The Lord Chancellor is required to prescribe, by statutory instrument, the amount legal professionals charge for administering oaths. This level is currently set at £5 per affidavit or affirmation and £2 per exhibit.

### Cost sources

#### Where can I find information on legal fees in England & Wales?

Information on court fees can be found on the website of [Her Majesty's Courts and Tribunals Service](#), however, you will also need information on other cost sources, such as legal representation. The [Law Society](#) and the [Bar Council](#) may be helpful in finding a legal representative, although they do not hold information on the costs of legal representation as this will depend on many individual factors of the particular case concerned. If cross-border litigation is involved, there are normally two sets of lawyers' fees, those where the party initiating the litigation is, and those where litigation takes place.

### Fixed costs

## **Fixed costs in civil proceedings**

### **Fixed costs for litigants in civil proceedings**

Information on court fees can be found on the website of [Her Majesty's Courts and Tribunals Service](#). These fees are in addition to the costs of legal representation.

### **Stage of the civil proceeding where fixed costs must be paid**

Court fees must be paid at the start of any process at which court fees are due; any other fees and fixed costs are usually paid once the proceedings have finished.

## **Fixed costs in criminal proceedings**

### **Fixed costs for litigants in criminal proceedings**

An accused person may be entitled to legal aid to defend criminal proceedings if he or she qualifies. More details on legal aid and qualifications can be found below. Where the accused person is not receiving legal aid, the costs are agreed between an individual and his or her legal representative.

### **Stage of the criminal proceeding where fixed costs must be paid**

Witness expenses or expert fees must normally be paid at the conclusion of the case.

## **Fixed costs in constitutional proceedings**

### **Fixed costs for litigants in constitutional proceedings**

Court fees depend on the type of proceedings concerned and the tier (status) of the court where proceedings were commenced. Other costs, such as those for legal representation, also need to be considered.

### **Stage of the constitutional proceeding where fixed costs must be paid**

Court fees must be paid at the start of any process for which court fees are due; any other fees/fixed costs are usually paid once the proceedings have finished.

## **Experts' fees**

In civil proceedings for claims of under £10000, experts' costs are capped at £750, but in all other cases the judge has the discretion to allow what she or he feels is appropriate. Courts are required to consider using only a single joint expert instead of one for each party. Further information can be found on the website of [Her Majesty's Courts and Tribunals Service](#)

## **Translators' and interpreters' fees**

Interpreters in the majority of cases in the civil courts are booked and paid for centrally. Certain criteria have to be met for an interpreter to be funded centrally. The case must be either a committal hearing (to decide if the case should be heard in a higher court), a family case involving children, or a domestic violence case (including forced marriage). If the case is not covered by one of these criteria, an interpreter will still be funded if this is the only way the litigant can understand proceedings, and if she or he cannot get public funding, cannot afford to fund an interpreter privately and has no friend or family member able to assist. The fees are set down in the terms and conditions of booking. The fee can vary greatly from case to case, depending on the length of the hearing, the distance and time taken to travel to and from the court, and the means by which the interpreter travels. The terms and conditions are strictly applied to all claims to ensure no overpayment is made.

There are no regulations governing translators' fees. The translator or translation company determines their own fees.

## **When does the losing party have to pay the winning party's costs?**

The general principle is that the loser pays, but the award of costs is entirely at the discretion of the judge. In deciding costs, the judge will take into account the conduct of the parties, the efforts made, if any, before and during the proceedings to try to resolve the dispute (including attempting alternative dispute resolution). These may include prescribed fixed costs, costs assessed by the trial judge with limits as to the amount (depending on the type and amount of award). Costs can also be dealt with as a separate issue in a 'detailed assessment of costs', normally used only in more complex cases where costs require closer examination.

Further information on the procedure can be found at the website of the [UK Ministry of Justice](#).

## **Where can I find information on mediation?**

Information on mediation, including some information on costs is available on a range of websites and links:

- [Alternative Dispute Resolution \(ADR\)](#)
- [Community Legal Advice](#)
- [National Mediation Helpline](#)
- [Mediation page on the website of Her Majesty's Courts and Tribunals Service](#)

Information on ADR for disputes following the breakdown of a family relationship is available on the website of the [Family Mediation Helpline](#) (which deals exclusively with family mediation) or by calling 0845 60 26 627 (from within the UK) and +441823 623650 (from outside the UK). The following websites also hold information about family mediation:

- [GOV.UK](#)
- [Advice Now](#)
- [Community Legal Advice](#)
- [Advice Guide - online help from Citizens Advice Bureau](#)
- [ADR Now](#)
- [Her Majesty's Courts and Tribunals Service](#)

Visitors to these sites may wish to use the search facility to search for 'family mediation'.

## Legal aid

### Applicable income threshold in the area of civil justice

People receiving certain income-related benefits (income support, income-based jobseekers allowance, income-related employment and support allowance and guarantee credit [for pensioners]) have '**passported' status** as legal aid clients. This means **they are automatically financially eligible for legal aid**. These four means-tested benefits are also known as 'subsistence' benefits, as they raise a client's income to the statutory minimum required to live on.

Otherwise, people in need of legal aid can obtain '**free, or non-contributory assistance**', if they have a gross monthly income of less than £2657, a monthly disposable income below £315 and disposable capital of £3000 or less. If their monthly disposable income is between £316 and £733, or their disposable capital falls between £3000 and £8000, they will be offered funding on the basis that they agree to pay contributions towards their legal costs.

In addition to qualifying financially, an applicant must also show that **he or she has reasonable grounds** for launching, defending or being a party to proceedings, and that it is reasonable, in the particular circumstances of the case, for legal aid to be granted. The Legal Aid Agency must consider, for example, whether the case has a reasonable chance of success, whether the benefits of litigation would outweigh the cost to public funds, and whether the applicant would gain any significant personal benefit from the proceeding, bearing in mind any liability to repay the costs if successful. These factors are similar to those that would influence a reasonable privately paying client when considering whether to become involved in proceedings.

### Applicable income threshold in the area of criminal justice for defendants

Legal Aid Guidance - [work out who qualifies for criminal legal aid](#)

Since October 2006, defendants appearing before the Magistrate's Court (the lower criminal court) in England and Wales have been subject to **a means test, which weights an applicant's income to reflect their family circumstances**: for example, the number of children. If the applicant's weighted gross annual income is less than £12,475, or if the applicant receives a specified welfare benefit or is under the age of 18, he or she will be financially eligible for legal aid representation. If the applicant's weighted annual income exceeds £22,325, he or she will be financially ineligible for legal aid representation. Where an applicant's adjusted income falls between the two thresholds, there will be a more detailed assessment of their disposable income. This calculation takes account of actual housing and child-care costs, and also includes a cost of living allowance. If the applicant's resulting disposable annual income does not exceed £3398, she or he will be financially eligible for legal aid representation.

Between January and June 2010, the Government phased in a means testing regime for defendants appearing before the Crown Court (the higher criminal court) in England and Wales. As at the magistrates' court, the Crown Court means test weights a defendant's income to reflect their family circumstances. If a Crown Court defendant's 'weighted' gross annual income is less than £12,475, they automatically qualify for free legal aid (as at the magistrates' court, individuals in receipt of specific welfare benefits or are under the age of 18 are automatically passported through the Crown Court means assessment). Those Crown Court

defendants whose weighted gross annual income exceeds £12,475 do qualify for criminal legal aid but may be liable to pay a contribution towards their legally aided defence costs from their income if a subsequent assessment of their disposable annual income exceeds £3,398 (since January 2014, any defendant whose disposable annual income exceeds £37,500 no longer qualifies for criminal legal aid, subject to a hardship review of their application).

If a Crown Court defendant is subsequently convicted, he or she may be liable to pay their outstanding legal aid costs from their capital assets. If a Crown Court defendant is subsequently acquitted, any income contributions paid towards their legal aid costs are refunded.

#### **Applicable income threshold in the area of criminal justice for victims**

Legal aid is not available to victims of crime. However, **emotional and practical support** is provided by staff and the Witness Service: for example, victims are offered separate waiting facilities. Vulnerable and intimidated witnesses are offered **special measures** under the **Youth Justice and Criminal Evidence Act 1999**, such as the option of giving evidence by video link from another location.

The Crown Prosecution Service has recently revised a pack entitled 'Information for the bereaved' for police family liaison officers to give to families bereaved by murder or manslaughter. The pack includes information and advice on the range of issues families may have to deal with, and tells them where they can get further help if, for example, they need legal advice about where a child should live, or with whom a child should have contact.

The provision of legal advice to families bereaved by murder or manslaughter was piloted as part of the victims' advocates scheme. Bereaved families were able to access up to 15 hours of free legal advice on social and personal matters arising from a death, but not directly related to a trial. The pilot was completed in April 2008 and we are now working on proposals to establish a service to provide legal advice across England and Wales, drawing on the experience of the pilot.

Additionally, the **Crown Prosecution Service** victim focus scheme ensures that families are given the option of a pre-trial meeting with the prosecution: to have the victim personal statement scheme explained, and the offer of a prosecutor to read out the families' statement before sentencing. After the trial, victims can be referred to the probation service victim contact scheme. The project will appoint a victim liaison officer to continue to keep the family informed as relevant (such as, the offender's sentence) and support the family in updating a victim personal statement for parole hearings if they wish to do so.

#### **Other conditions attached to the granting of legal aid for defendants**

Any individual applying for legal aid representation in the Magistrate's Court or the Crown Court in England and Wales must also pass the **'interests of justice' test**. This test takes into account factors such as whether being convicted of an alleged offence is likely to result in the defendant being imprisoned or losing his or her job, and whether the defendant is able to understand the proceedings and state her or his own case. If one or a combination of these factors applies to the defendant, he or she will generally be held to have satisfied the 'Interests of justice' test.

#### **Cost-free court proceedings**

In certain circumstances, an individual may not have to pay a court fee. He or she may be granted **full remission**, where the entire fee is non-payable, or **part remission**, where he or she makes a contribution to the fee. Further information on remission of court fees can be found on the [Her Majesty's Courts and Tribunals Service](#) website.

#### **Related Links**

[Legal Aid Agency](#), [Alternative Dispute Resolution \(ADR\)](#), [Community Legal Advice](#), [National Mediation helpline](#), [Mediation page at the website of Her Majesty's Courts and Tribunals Service](#), [Family Mediation Helpline](#), [Advice Now](#), [Community Legal Advice](#), [Advice Guide – online help from Citizens Advice](#), [ADR Now](#), [Her Majesty's Courts and Tribunals Service](#), [Solicitors' Code of Conduct](#), [HM Revenue & Customs](#), [Her Majesty's Courts and Tribunals Service](#) Her Majesty's Courts Service (bailiffs), [Ministry of Justice](#)

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