

FEES AND POLICIES: CLAIMANT PERSONAL INJURY AND CLINICAL NEGLIGENCE

April 2022

RECEIPT OF INSTRUCTIONS

1. Save as otherwise agreed in writing, all instructions are accepted in accordance with the Bar Council's Standard Contractual Terms for the Supply of Legal Services by Barristers to Authorised Persons 2012.
2. You should ensure that any instructions are clearly marked with the type of funding which is proposed (e.g. privately funded, insurance-funded, CFA etc). Instructions shall not be deemed to have been accepted until the method of funding has been agreed.

CONDITIONAL FEE ARRANGEMENTS

3. Members of Chambers are prepared in principle to undertake cases subject to Conditional Fee Agreements. Unless different terms have been negotiated, our CFAs will be based on the current APIL-PIBA model. The APIL-PIBA 9 form can be found on the PIBA website.

BRIEF FEES

4. In fast track cases, standard rates will apply unless otherwise agreed.
5. In multi-track and small claims cases, wherever possible, we will agree fees with you after delivery of the brief and prior to the hearing based upon the following criteria:
 - i. Seniority/expertise of counsel instructed;
 - ii. Complexity of the case;
 - iii. Value and/or importance of the claim;
 - iv. Preparation time;
 - v. Length of hearing including conference on the hearing date;
 - vi. Any expenses such as hotel or travel.

COSTS BUDGETING IN MULTI-TRACK CASES

6. Counsel or counsel's clerks must be consulted about the likely amount of counsel's fees before any estimate of costs or costs budget is filed or served in the proceedings. Counsel or counsel's clerks must be provided with a copy of any such estimate or budget.
7. In the event of a significant change in circumstances which may mean that any approved budget no longer appears adequate, it is your responsibility:

- a. To inform counsel or counsel's clerk at the earliest opportunity;
 - b. To seek revised estimates covering any additional work likely to be required from counsel, for which inadequate provision has been made in the existing budget;
 - c. To apply to the Court for the budget to be revised.
8. You are requested to provide counsel's clerk with copies of all relevant costs management documents relating to counsel's fees, including Precedent H, Precedent R, the Approved Budget, any subsequent revisions to the budget, and any correspondence or communications regarding counsel's fees.

CONFERENCE FEES

9. You may wish to agree with us an hourly rate, a fixed fee or a capped fee for preparation time and length of conference in advance of the conference. The hourly rate will be based upon criteria (i), (ii) and (iii) as set out in paragraph 5 above. Otherwise, fees for conferences will be assessed after the conference has taken place based upon criteria (i) to (vi) set out in paragraph 5 above.

PAPERWORK FEES

10. You may wish to agree with us an hourly rate, a fixed fee or a capped fee for preparation time and length of conference in advance of the conference. The hourly rate will be based upon criteria (i), (ii) and (iii) as set out in paragraph 5 above. Otherwise, fees for conferences will be assessed after the conference has taken place based upon criteria (i) to (iv) set out in paragraph 5 above.

ABATED BRIEF FEES IN MULTI-TRACK CASES

11. The brief must be delivered 28 days prior to the date of trial (including trial of a preliminary issue) and the brief shall be deemed delivered 28 days before the trial for the purpose of counsel's entitlement to a brief fee.
12. In the event of settlement or vacation/adjournment after deemed delivery of the brief but before the completion of the trial, the brief fee will be payable subject to a negotiated abatement, depending on the proximity of the trial and the amount of preparation undertaken. In all cases where counsel has been booked for trial, the abated fee will be not less than 50% of the brief fee.

ABATED BRIEF FEES IN FAST TRACK AND SMALL CLAIM CASES

13. The brief must be delivered 5 working days prior to the date of trial and the brief shall be deemed delivered 5 working days before the trial for the purpose of counsel's entitlement to a brief fee.
14. In the event of settlement or vacation/adjournment after deemed delivery of the brief but before the completion of the trial, the brief fee will be payable subject to a negotiated abatement.

15. If the case settles or is vacated/adjourned before 10am on the working day before the trial date, the abated fee will not be less than 50% of the brief fee.

16. If the case settles or is vacated/adjourned after 10am on the working day before the trial date, the abated fee will be 100% of the brief fee.

FEE NOTES

17. On completion of our work on a matter, all briefs, instructions or other material will be returned to you and with them an up-to-date fee note. Our fee notes record the services (hearing/conference/paperwork) for which the charge is made together with the dates thereof. In addition, where appropriate, the fee note will note the value of the case, importance of the case to the client, preparation time, length of conference, length of hearing and any expenses (at cost) incurred.

18. In the event of a brief fee not being agreed prior to the hearing (for example, where we are unable to make contact with the instructing solicitor), a proposed fee will be provided. If the suggested fee is not acceptable to you, you are requested to make contact with us within 7 days to discuss a mutually acceptable fee.

19. You must ensure that up to date fee notes are obtained before a costs bill is drawn up at any stage, and a claim for counsel's fees must be included in any such costs bill.

PAYMENT OF FEES

20. Unless we have agreed to the contrary, we request our fees to be settled within the timescale prescribed within our contractual terms. We adhere to the Bar Council's Code of Practice in respect of progressing payment of our fees.

21. Counsel's clerks must be informed in good time of any challenge made to counsel's normal fees or success fees and of the date, place and time of any detailed costs assessment the Client or Opponent has taken out pursuant to the Civil Procedure Rules.

22. You are requested at the earliest opportunity to provide copies to counsel or counsel's clerk of any correspondence or Points of Dispute in which counsel's fees are challenged.

23. Counsel or counsel's clerks must be provided with the opportunity to make written or oral representations in support of counsel's fees and/or in response to any challenge to such fees, and such representations must be provided to the challenging party and the assessing judge.

24. You must not accept any offer from the Client or Opponent to pay counsel's fees at a lower sum than claimed without counsel's express consent.