



Terms and Conditions for the retention of Counsel (Barristers)

(as amended with effect from 1st March 2019)

INTRODUCTION

1. The Civil Legal Aid Act, 1995 (“the Act”) provides that the Legal Aid Board (“the Board”) may establish and maintain a panel of barristers who are willing to provide legal aid and advice on such terms as the Board may, with the consent of the Minister for Justice and Equality and the Minister for Public Expenditure and Reform, determine. Subject to the provisions of the Act, any eligible barrister who is prepared to comply with such terms and conditions shall be entitled to have his or her name entered on the said Panel.

OPERATIVE DATE

2. The operative date for these provisions shall be the 1st day of August 2012. These provisions shall apply to all authorisations in relation to the retention of counsel granted after the operative date. Authorisations granted prior to the 1st day of August 2012 shall not be affected and shall continue to be governed by the arrangements previously in place.

PANEL OF BARRISTERS

3. Any barrister wishing to be considered, in accordance with the provisions of these terms and conditions, to have his or her name placed on the Panel must apply in writing to the Board on the form prescribed by the Board.
4. Any barrister wishing to apply to be placed on the Panel must be admitted to practice by the Chief Justice of Ireland. They must have professional indemnity insurance that is adequate for the purpose of the services provided. The Board requires that the minimum cover for any one case is €1m. The Board may revise this amount from time to time.
5. Barristers on the Panel must comply with the tax clearance procedures specified in the Department of Finance Circular 43/06 entitled ‘Tax clearance Procedures-Public Sector Contracts’ or any such circular amending or replacing that circular.

6. The Panel shall be in place for a period of three years from the 1st day of August 2012 or such other date or period as the Board may determine.
7. Barristers on the Panel must have access to e-mail facilities and must have IT software that is compatible with Microsoft Office software in order to ensure the effective and efficient administration of the Scheme.

SCOPE AND OPERATION OF THE PANEL

8. The Panel shall be maintained in alphabetical order on a national basis and shall comprise the names of all barristers whose applications for placement have been accepted by the Board. For ease of reference the Panel may be maintained in the form of separate lists of barristers on the Panel who are willing to provide services in each County. Barristers may choose to provide services in as many Counties as they wish.
9. Every barrister who has been accepted for membership of the Panel will be allocated a supplier number which must be quoted on all correspondence.
10. A barrister from the Panel may be retained where the Board has authorised the retention of counsel for proceedings in the District Court, the Circuit Court, the High Court, the Central Criminal Court, the Court of Appeal, the Supreme Court, the European Court of Justice, the Refugee Appeals Tribunal, the Coroner's Court and such other Court or Tribunal as may be determined by the Board from time to time. The Board may also authorise counsel for the purpose of furnishing an Opinion on a matter.
11. The Board authorises the retention of counsel on a case by case basis. A letter of authorisation or a legal aid certificate containing the authority to retain counsel will be furnished with each brief.
12. The Board acknowledges that the primary responsibility for ensuring clarity in relation to the extent of a barrister's retainer in each individual case lies with the instructing solicitor. In order to avoid any uncertainty or lack of clarity in relation to the extent of the services which the Board has authorised, a barrister should satisfy themselves in relation to the extent of the services authorised. This authority may be determined by reference to a relevant legal aid certificate, and/or any amendments thereto, or written authority. As noted above, a copy of this authority should accompany the instructions to counsel and, if this is not done, counsel should request a copy of same prior to providing any services.
13. The Board will be responsible for fees, costs or expenses incurred where they have been approved in writing in advance. The Board will not be responsible for any fees, costs or expenses in the absence of such prior approval.

QUALITY SERVICE

14. The Board acknowledges that the conduct of barristers is regulated by the Bar Council and it notes that barristers are expected to provide a service in keeping with the General Council of the Bar of Ireland's Code of Conduct and Disciplinary Code that are issued from time to time by the Bar Council.
15. The Board is committed to the provision of a quality legal service to its clients and as part of this commitment has developed best practice guidelines for the provision of legal services in relation to certain matters. On foot of those guidelines it is expected that barristers will furnish draft pleadings, opinions and other documents within a maximum period of six weeks of being briefed / requested to do so.
16. As part of its commitment to ensuring that its clients receive a quality service, the Board reviews a number of solicitor files of legally aided clients. In the event that a file review identifies issues of concern or delay on the part of the barrister, the Board may inspect other solicitor files of legally aided clients where that barrister was engaged by the Board. Any concerns identified will be brought to the attention of the barrister.

EXCLUSION/REMOVAL/WITHDRAWAL FROM THE PANEL

17. The Board is responsible for maintaining the panel of barristers and it reserves the right to suspend or remove a barrister from the panel where it considers it appropriate to do so. It acknowledges that the Bar Council is the regulatory body for barristers and it does not seek to interfere with the regulatory aspect in any way. The Director of Civil Legal Aid may suspend or remove a barrister from the Panel if it is considered that:-
 - (a) the barrister's conduct when providing or selected to provide legal services or his or her professional conduct generally render him or her unsuitable, in the opinion of the Board, to provide such services; or
 - (b) the barrister has failed to comply with these Terms and Conditions; or
 - (c) the barrister has not participated in the Scheme to a satisfactory level, including but not confined to his/her refusal on a regular basis to accept a legally aided person as a client or to give a client appropriate legal advice or aid.
18. If the Director of Civil Legal Aid decides to suspend or remove a barrister from the Panel, the barrister will be notified in writing of the grounds for the decision. The barrister may, within a period of one month from the date of such notification, appeal in writing the decision to the Board's Chief Executive setting out the grounds of appeal in full.

The Chief Executive may restore the barrister if satisfied that a case for restoration to the Panel is made out. Any appeal does not operate to delay or negate the suspension or removal of the solicitor from the Panel, unless the Director of Civil Legal Aid or the Chief Executive determines otherwise.

19. Barristers who wish to withdraw from the Panel must inform the Board, in writing, of their intention to withdraw. Barristers shall give one month's notice of intention to withdraw from the Panel. Barristers who withdraw from the Panel should complete all outstanding cases that have been referred to them. In the event that they are unable to do so they should pass the case to another barrister and agree the division of the fee payable (ref paragraph 29).

COMPLAINTS

Section 31(4) of the Act provides that:

“ Where a person to whom the Board has decided to grant legal aid or advice has -

.....

(b) accepted the nomination of a barrister pursuant to subsection (2) or been granted the services of a barrister pursuant to an application under subsection (3),

the person may apply to the Board to have the services of that solicitor or barrister dispensed with and the services of another solicitor of the Board or solicitor from the solicitors' panel or, as may be appropriate, barrister from the barristers' panel obtained in the matter and where the Board considers it reasonable in all the circumstances, it may consent to the application.

20. If a client makes a complaint to a law centre about the performance of a barrister and it is not possible to address the complaint to the client's satisfaction, the client shall be requested to put the complaint in writing. A copy of the complaint shall be forwarded to the barrister for his / her observations. The Board shall consider the complaint in accordance with its complaints procedure and also in accordance with the terms and conditions contained herein.

FEES AND CLAIMS FOR PAYMENT

21. A barrister shall be paid a fee in respect of any case which they undertake under the Act. Such fee shall be calculated in accordance with the provisions of the First Schedule hereto.
22. Upon completion of a matter, a claim form (in an approved format) shall be completed and signed by the barrister and furnished to the instructing law centre for approval / certification and forwarding to the

Board. A case shall be deemed to be completed at the end of the full hearing.

23. In cases that are exceptionally time consuming and lengthy the Board may consider paying an interim fee to a barrister.
24. If a solicitor is not in a position to certify the claim form as presented, he or shall return it to the barrister with a view to addressing the issue of concern. An incomplete or uncertified application for the payment of a fee cannot be processed.
25. No fee shall be payable in respect of a case where the brief is withdrawn by the Board prior to any work being carried out by the barrister. If the brief is withdrawn by the Board after the institution of proceedings and prior to the case being set down for trial, half the case fee shall be payable unless the legal aid certificate / authorisation is limited to a certain piece of work, e.g, drafting a court pleading, in which case the specific fee shall apply. However, if the case is settled with the assistance of the barrister the full case fee shall be payable.
26. Travelling expenses shall be payable to a barrister at 50% of the highest travelling rate payable to civil servants and shall be subject to the same conditions as apply to civil servants. Travelling expenses shall be allowable only in respect of travelling expenses actually and necessarily incurred in attending sittings of courts. No travelling expenses shall be payable in respect of a Dublin-based barrister for attending courts in the Dublin area. Travel expenses shall only be payable if the Board considers that the barrister is practising within his or her normal Circuit(s).
27. Fees due under these arrangements shall be paid in accordance with the Prompt Payments legislation on receipt of a properly completed claim form.
28. In exceptional cases a special fee shall be agreed between the Board and the barrister prior to the case being undertaken by him or her. This will only arise in cases of anticipated unusual length, difficulty and / or legal complexity.
29. Should work be carried out by more than one barrister, the relevant case fee shall be divided between them in such manner as may be agreed by the barristers or, in default of agreement, as may be determined by the Board.
30. In matters not covered by the provisions of the First Schedule hereto an appropriate fee shall be agreed between the Board and the barrister prior to the matter being undertaken by him or her.

31. In the event of a client obtaining an award of costs against a non-legally aided person, the barrister shall be entitled to be paid such sums as may be recovered, on a party and party basis, from the non-legally aided person, if greater than the case fee.

GENERAL

32. Nothing in these Terms and Conditions shall give rise to, or be construed as giving rise to, a relationship of employer and employee between the Legal Aid Board and any barrister on the Panel.

SCHEDULE ONE

Fees for Services: THE CENTRAL CRIMINAL COURT, HIGH COURT, COURT OF APPEAL, AND THE SUPREME COURT (exclusive of VAT)	Fee Junior Counsel	Fee Senior Counsel
Representation on foot of Section 4A of the Criminal Law (Rape) Act 1981 Case Fee:- to cover all work carried out by counsel in regard to the case to include as appropriate, consultations and court appearances, including any interim applications. Refresher:- an additional sum of €450.00 shall be payable by way of refresher in respect of each second or subsequent day of a hearing. In order for a refresher to be payable a matter must be listed for hearing and must involve evidence or legal submissions in excess of thirty minutes. Refreshers will not be payable in relation to mention dates or where matters are adjourned for the purpose of dealing with ancillary issues.	€800 €450	
All other High Court, Court of Appeal, and Supreme Court proceedings Case Fee:- to cover all work carried out by him or her in relation to the case including as appropriate, consultations, drafting or settling of pleadings, preparatory work, settlement negotiations and court appearances including any mention dates and any interim or post hearing applications. Refresher:- an additional sum shall be payable by way of refresher in respect of each second or subsequent day of a hearing. The refresher fee payable to junior counsel shall be in the sum of €1,000 <u>save in the event that both Junior and Senior Counsel are retained</u> in which case the refresher fee payable shall be €300 per day for Junior Counsel (payable in the event that Junior Counsel is in attendance in court). In the case of a matter before the Supreme Court, a full refresher will be paid to both counsel if both counsel advocate before the Court. If Junior Counsel does not advocate before the Court the lower fee shall be payable. In order for a refresher to be payable a matter must be at hearing and listed for further hearing and must involve legal submissions and / or evidence in excess of thirty minutes. Refreshers will not generally be payable in relation to mention dates or where matters are adjourned for the purpose of dealing with ancillary issues e.g, costs, or issues incidental to the substantive Order made, for example the practical arrangements for the return of a child on foot of an Order made in child abduction proceedings. If	€2,135 €1,000 €300	€3,150 €1,350

more than half an hour's court time is involved in addressing the issue the Board may pay an additional sum of €105 to Junior Counsel and €150 to Senior Counsel. A refresher fee shall be payable in the event that a court requires written submissions to be made in relation to the substantive issue(s) in the case. The full refresher fee shall be payable to both Junior and Senior Counsel in this event. No fee shall be generally payable in the event that the submissions relate to an ancillary event e.g, costs, however the Board may pay an additional fee of €105 to junior counsel and / or €150 to senior counsel in the event that the submission is extensive.		
Taking judgement:- an additional sum shall be payable for taking judgement (a refresher shall not be payable in these circumstances).	€150	€200
Re-entry / enforcement:- If, following the completion of a case, and authorisation / legal aid certificate is granted for an application to enforce the order or orders made therein or to re-enter the matter for other reasons, the fee payable on such application shall be at the refresher rate.		
General: - Where the Board determines that counsel should be paid for Court work in the superior courts by reference to a set number of hours the hourly rate. The case fee payable in respect of an appeal from the Circuit Court to the High Court shall be that applicable to a case in the Circuit Court.	€105	€150

Fees for services THE CIRCUIT COURT (exclusive of VAT)	Fee Junior Counsel	Fee Senior Counsel
All court proceedings Case Fee:- where counsel is briefed prior to the institution of proceedings to cover all work carried out by him or her in regard to the case to include as appropriate, consultations, drafting or settling of pleadings, preparatory work, interim applications, case progression hearings, settlement negotiations and court appearances. Where counsel is briefed after the Notice of Trial has been served or the matter has been given a hearing date, the case fee (€750) shall cover all work carried out by him or her in regard to the case to include as appropriate, consultations, preparatory work, further interim applications, settlement negotiations and court appearances. An additional sum shall be payable in respect of each interim or interlocutory application on foot of section 35 of the Family Law Act 1995 or section 37 of the Family Law (Divorce) Act 1996. A similar additional sum may be payable for other interim or interlocutory applications subject to them being approved in advance on foot of the legal aid certificate granted to the client. No additional fee shall be payable in respect of an application for judgement in default. Refresher:- An additional sum shall be payable by way of refresher in respect of each second or subsequent day of a hearing, or part thereof. The refresher fee payable to junior counsel shall be in the sum of €400 <u>save in the event that both Junior and Senior Counsel are retained</u> in which case the refresher fee payable shall be €300 per day for Junior Counsel (payable in the event that Junior Counsel is in attendance in court). In order for a refresher to be payable a matter must be at hearing and listed for further hearing and must involve legal submissions and / or evidence in excess of thirty minutes. Refreshers will not generally be payable in relation to mention dates or where matters are adjourned for the purpose of dealing with ancillary issues e.g, costs, or issues incidental to the substantive Order made however the Board may pay an additional fee of €76 to junior counsel and / or €114 to senior counsel in the event that the submission is extensive. Taking judgement:- An additional sum shall be payable for taking judgement (a refresher shall not be payable in these circumstances).	€1,145 €750 €200 €400 €150	€1,650 €650 €200

Re-entry / enforcement:- If following the completion of a case legal aid is granted for an application to enforce the order or orders made therein or to re-enter the matter for other reasons, the fee payable on such application shall be at the rate of a refresher. General : -Where the Board determines that counsel should be paid for Court work in the superior courts by reference to a set number of hours work the hourly rate. The case fee payable in respect of an appeal from the District Court to the Circuit Court shall be that applicable to a case in the District Court.	€76	€114
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Fees for services THE DISTRICT COURT	Fee Junior Counsel	Fee Senior Counsel
Proceedings on foot of Parts III and IV of the Child Care Act 1991 Case fee:- to cover all work carried out by him or her in regard to the case to include as appropriate, consultations, preparatory work, settlement negotiations and/or court appearances incidental to the full hearing. An additional sum of €150 shall be payable in respect of each application for an interim care order, where the solicitor considers that it is necessary for the barrister to attend. A fee equivalent to the refresher fee shall be payable in respect of the first application for an interim care order. Refresher:- an additional sum shall be payable by way of refresher in respect of each second or subsequent day of a hearing, or part thereof. The refresher fee payable to junior counsel shall be in the sum of €400 <u>save in the event that both Junior and Senior Counsel are retained</u> in which case the refresher fee payable shall be €300 per day for Junior Counsel (payable in the event that Junior Counsel is in attendance in court). In order for a refresher to be payable a matter must be listed for hearing and must involve legal submissions and / or evidence in excess of thirty minutes. Refreshers will not be payable in relation to mention dates or where matters are adjourned for the purpose of dealing with ancillary issues or issues incidental to the substantive Order made. A refresher will be payable in respect of a review of a full care order(s) i.e, if final orders are already in place and the matter is listed for review. A refresher will also be payable in respect of any other review (consequent upon a care order being made) subject to the matter involving legal submissions and / or evidence in excess of thirty minutes. Taking judgement:- an additional sum shall be payable for taking judgement. (a refresher shall not be payable in these circumstances).	€750 €150 (€400) €400 €150	€1,050 €500 €200
Private family law proceedings – District Court Case fee:- in respect of Junior Counsel for private family law matters in the District Court shall be in accordance with the below. The fees shall cover all work carried out by him or her in regard to the case to include as appropriate, consultations, preparatory work,		

settlement negotiations and/or court appearances. No additional sums shall be payable either in relation to interim applications or in relation to second or subsequent days of hearing.		
a) Maintenance only	€339	
b) Guardianship only	€339	
c) Custody and or access only	€339	
d) Domestic violence only	€339	
e) Custody and/or access and guardianship	€339	
f) Maintenance and custody/ and or access /and/or guardianship	€423	
g) Domestic violence and maintenance	€423	
h) Domestic violence and custody/ and or access /and / or guardianship	€423	
i) Maintenance and Domestic violence and custody / and or access /and/or guardianship	€508	
Other civil proceedings		
Case fee:- shall cover all work carried out by him or her in regard to the case to include as appropriate, consultations, preparatory work, interim applications, settlement negotiations and/or court appearances incidental to the full hearing.	€508	
Refresher:- An additional fee shall be payable by way of refresher in respect of each second or subsequent day of a hearing, or part thereof. In order for a refresher to be payable a matter must be listed for hearing or must involve legal submissions and / or evidence in excess of thirty minutes. Refreshers will not be payable in relation to mention dates or where matters are adjourned for the purpose of dealing with ancillary issues e.g, costs, or issues incidental to the substantive Order made.	€400	
General: -Where the Board determines that counsel should be paid for District Court work by reference to a set number of hours work the hourly rate.	€76	€114

Fees for services INTERNATIONAL PROTECTION APPEALS TRIBUNAL	Fee Junior Counsel	Fee Senior Counsel
International protection appeals Case fee :- in respect of a matter before the International Protection Appeals Tribunal where Junior Counsel drafts the Notice of Appeal and attends the hearing. The fee shall cover all work carried out by him or her in regard to the case to include as appropriate, research, drafting the Notice of Appeal, consultations, preparatory work and Tribunal appearances. No additional sums shall be payable either in relation to interim applications or in relation to second or subsequent days of hearing. Case fee:- in respect of a matter before the International Protection Appeals Tribunal where Junior Counsel drafts the Notice of Appeal but is not required to attend the Tribunal. The fee shall cover all work carried out by him or her in regard to the case to include as appropriate, research, drafting the Notice of Appeal (Form 2), consultations and preparatory work. International protection appeals Case fee:- in respect a matter before the International Protection Appeals Tribunal where Junior Counsel does not draft the Notice of Appeal but attends the hearing. The fee shall cover all work carried out by him or her in regard to the case to include as appropriate, consultations, preparatory work and Tribunal appearances. No additional sums shall be payable either in relation to interim applications or in relation to second or subsequent days of hearing. General:- Where the Board determines that counsel should be paid for International Protection Appeals Tribunal work by reference to a set number of hours work the hourly rate payable shall be as advised.	€385 €195 €210 €76	

FEES FOR NON-COURT WORK	<i>Hourly Fee Junior Counsel</i>	<i>Hourly Fee Senior Counsel</i>
The Board may authorise a fee to advise on a particular issue. Such a fee shall be calculated on an hourly rate and the authorisation will grant a certain number of hours. The hourly rate shall be €76 for Junior Counsel and €114 for Senior Counsel unless the Board determines that the matter is one that is being litigated in the Superior Courts or would be likely to be litigated in the High Court were proceedings to be instituted in which case the higher hourly rate shall apply.	€76 (€105)	€114 (€150)

Addendum - Fees for Services - Proceedings under section 115A of the Personal Insolvency Act 2012 (as amended) operational 1st March 2019

Fees for services PERSONAL INSOLVENCY	Fee junior counsel	Fee senior counsel
PIA application / appeal to the Court – first instance hearing at Court:- case fee to cover all work carried out by him or her in regard to the case to include as appropriate, consultations, negotiations, legal submissions, preparatory work, and/or court appearances incidental to and including the full hearing.	Circuit Court €1,145 High Court €2,135	Circuit Court €1,650 High Court €3,150
Where Counsel acts for a second debtor whose PIA is “interlocking” with that of another debtor, Counsel shall not be eligible to claim a second full fee, however an additional fee shall be claimable.	Circuit Court €115 High Court €214	Circuit Court €165 High Court €315
PIA application / appeal to the Court: Case fee where the case is at first instance and where there is no Notice of Objection lodged to cover all work carried out by him or her in regard to the case to include as appropriate, consultations, preparatory work, legal submissions, and/or court appearances.	Circuit Court €763 High Court €1,423	Circuit Court €1,110 High Court €2,100
Where Counsel acts for a second debtor whose PIA is “interlocking” with that of another debtor, and where there is no Notice of Objection lodged in either application, Counsel shall not be eligible to claim a second full fee, however an additional fee shall be claimable.	Circuit Court €76 High Court €142	Circuit Court €110 High Court €210
General terms applicable to personal insolvency work The fee for any appeal shall be the fee applicable in the court where proceedings were instituted. Refreshers shall not be payable in any proceedings under section 115A of the Personal Insolvency Act 2012. The fees for “interlocking” PIAs are provided for on the basis that both applications are heard together before the same sitting of the Court. It is open to Counsel, via their instructing solicitor, to make a case to the Board as to why a full fee might be claimable. The Board will only consider paying a full fee where it is shown to the Board’s satisfaction that there will be a substantially different case will be presented on behalf of each debtor or where the applications will be listed before different sittings of the Court.		

**Addendum –
Fees pursuant to scheme of legal services in respect of certain inquests**

Revised scheme for Inquest cases effective from the 18th August 2016 which includes the engaging of counsel.

The daily rates for Junior and Senior Counsel are €685 and €1,027 respectively.

The number of refreshers that are automatically approved is limited to 10 and any additional will require prior approval from the Board.

INQUESTS	Fee Junior Counsel	Fee Senior Counsel
All work carried out in regard to the inquest to include as appropriate consultations, preparatory work, and/or court appearances (including mention dates)	€685	€1,027