

GUIDANCE NOTES

PAYMENT ON ACCOUNT OF FEES –SOLICITOR’S NOTES – SLA/POA/3

Eligibility for stage payment

1. A solicitor acting for a person receiving civil legal aid may submit a claim for payment of sums to account of his fees necessarily and reasonably incurred where:
 - (a) a proof **or** debate has been allowed, or in a family case, involving a child welfare hearing, 6 months after the date of grant of civil legal aid **or** 12 months from the date of grant of civil legal aid, whichever is the earlier.
2. A second or subsequent claim may be made where:
 - (b) each subsequent 12 months after the initial report has been submitted.
3. Where the claim is being made under paragraph 1(a) above, the solicitor is only entitled to submit **one** claim at the earliest point in proceedings where a compulsory reporting stage is reached.
4. Where the claim is made in relation to a schedule 6 case it must be restricted to completed block fees only. Any partially completed blocks cannot be claimed. Claims in relation to schedule 5 cases shall be paid at 75% of the fees eligible for payment and earned during the period of claim.
5. The amount claimed should be calculated on the basis of fees only, excluding VAT. Outlays should be dealt with separately under the Board’s reimbursement scheme.
6. There must be a valid civil legal aid certificate in existence at the date of the claim.
7. The proceedings must not have concluded.
8. In the event that a compulsory report is not timeous, no payment to account shall be made. This, however, will not preclude payments to account at a later stage in the same proceedings where the solicitor does lodge a compulsory report timeously. Payment in respect of the work where a payment to account has been withheld will be paid at the conclusion of the proceedings on receipt of the solicitor’s final account. The Board reserves the right to challenge work carried out in circumstances where it would have considered suspending or terminating the certificate had the solicitor reported timeously.

Procedure for obtaining payment on account

1. The claim should be made on the Payment on account of fees form, coded SLA/POA/3.
2. The form enclosed, including the Claim and Certificate must be completed and sent to the address shown. In the event that insufficient space is contained on the form, a separate account should be submitted in support of the claim being made.

General

1. The intention of the stage payment scheme is to make payment to the solicitor as quickly as possible. In the time available, it will not be possible or appropriate to undertake the same sort of detailed scrutiny that is made when the full account (including advice and assistance) is submitted. If an interim payment is made, this does not imply that the payment is accepted as a valid charge under the civil legal aid certificate. If it is subsequently determined that any payment on account is not properly allowable, or is allowable in part only, the solicitor will be required to make any necessary repayment to the Legal Aid Fund.
2. The final civil account must contain a full and proper accounting of all work done and include interim fees paid previously.
3. In all cases it is a condition of a stage payment being made that in the event of the assisted person having recovered money under an award or agreement as to expenses, or having recovered or preserved money or other property in the proceedings or under a settlement, the solicitor must notify the Board of such within 28 days and ensure compliance with the conditions of section 17(2A) and (2B) of the Legal Aid (Scotland) Act 1986 and regulation 40 of the Civil Legal Aid (Scotland) Regulations 2002.
4. The account of expenses must contain a docquet, certified by the solicitor, providing details of all payments on account. This docquet will form an essential part of the final account payment procedure.
5. Printed copies of this form can be ordered from the Board's printer and electronic versions obtained on our website.