

SHERIFFDOM OF GLASGOW & STRATHKELVIN AT GLASGOW
DC & DF & JT

Taxation of Legal Aid Advice & Assistance Accounts in relation to:

[REDACTED] Advice & Assistance Reference Number 2725959912

[REDACTED] Advice & Assistance Reference Number 3906786513

[REDACTED] Advice & Assistance Reference Number 27259559912

Submitted by Jacqueline Doyle & Co. Solicitors, Glasgow

Glasgow 5 June 2014. Having resumed consideration of the diet of taxation held on 24 January 2014 when Ms Doyle, Solicitor, Glasgow appeared alongwith Mr [REDACTED] Law Accountant and [REDACTED] Solicitor appeared on behalf of the Scottish Legal Aid Board, and having also considered the copy letter dated 14 April 2014 from SLAB to J Doyle & Co, e-mail correspondence dated 24 April 2014 from J Doyle & Co to the Auditor and e-mail correspondence dated 29 April 2014 from SLAB to the Auditor, I hereby tax the respective accounts for:

[REDACTED] at £ 604.75

[REDACTED] at £248.66

[REDACTED] at £653.85



J Hamilton

Interim Auditor of Court, Glasgow

Note by the Interim Auditor of Court.

Case 1 [REDACTED] – LARN 2725959912

The 1st disputed matter before me related to the fee sought for 26 October 2012 – Perusing the Schedule of Evidence – The fee sought by the agent was £102.00 and the SLAB offer was £51.00.

[REDACTED] advised that for many years there had been a practice whereby agents used a formula for a perusal charge of 1 hour for every 40 sheets. This was a practice discouraged by SLAB and [REDACTED] wanted to ensure this was not a handy method by which to establish payment.

[REDACTED] suggested that the Schedule of Evidence contained standard documentation. He added that initially the documentation looked a challenge to peruse but there were parts of it which could be readily glanced over. The forms were pro-forma in nature and consisted in large parts of “tick boxes”. He also commented that the agents would be familiar with these forms etc. which would reduce the overall time taken to peruse the documentation.

[REDACTED] added that the SLAB accounts team had considered the perusal time allowed at 1 hour to be entirely reasonable although in hindsight they thought that offer was generous.

Mrs Doyle advised that the application form ESA50 03/11 which was completed by their client would not have been seen by agent until this time. It was necessary for them to carefully read over this information to ensure their appeal letter along with the grounds of appeal was in line with the content of that information.

Mrs Doyle then went on to explain the next part of the documentation ESA85 Medical Report Form, which related to a question and answer session followed by a short medical examination. This part of the report referred to the client's condition, symptoms and history. It was vital that this information was read as well as the information provided on a typical day in the life of the client. The information provided by the client and the Registered Nurse's analysis again required to be carefully perused.

Mrs Doyle also commented that although comments might be repeated within the documentation, they related to different strands of the evidence therefore it was necessary to read this and apply it to the appropriate descriptor.

EMA

Mrs Doyle also mentioned the importance of perusing the medical examination findings which all had to be considered. Thereafter there was the scoring mechanism applied to the various descriptors in relation to the physical, mental etc. assessments. This was not simply a case of skirting through this information. It was necessary to consider and analyse it. It was necessary to establish what information or evidence was required to challenge the content of the report.

Mrs Doyle added that although the time recorded note on file relating to this matter was for 2 hours, the content of the note was a relatively short description of the work undertaken. Mrs Doyle maintained that in her view the fee sought here was entirely reasonable.

Auditor's decision:

In my view, it is important and necessary for the agent to scrutinise thoroughly the content of the documentation since the information extracted will assist in forming the basis of the appeal grounds. I also accept the time involved in considering the medical examination and scoring mechanism referred to above. Having said that, I am not convinced that it would take 2 hours despite what was narrated to me by Mrs Doyle. I am of the view that 1 hour and 30 minutes would be sufficient. Accordingly, I will allow a fee of £76.50.

The 2nd disputed matter before me related to the fee sought for 17 December 2012 – Attendance with client, going through descriptors with her. – The fee sought by the agent was £19.05 and the SLAB offer was £6.35.

██████████ submitted that this information appeared to duplicate information provided at earlier meetings in particular the meeting held on 11 December 2012. It therefore appeared, at least in part, to be unnecessary and did not satisfy the statutory tests of taxation of “work actually, necessarily and reasonably done in connection with the matter upon which advice and assistance was given, due regard being had to economy”. ██████████ further submitted that the unqualified person who had attended that meeting provided advice which was contrary to Section 6 of the Act and Regulation 8 of the Advice and Assistance Regulations.

Mrs Doyle indicated that to some extent, it was agreed that advice had been given by an unqualified person. However this was only in relation to the letter received from the doctor. The client had now advised that she rarely saw that doctor and was providing that information to the unqualified person. That person was in turn saying she would write to the other doctor. Mrs Doyle submitted that this new information was vital as it might be another ground of appeal.

OA

██████████ referred to the meeting held on 4 October 2012 with the client where it was noted "... Client commences by advising that it is ordinarily ██████████ who she sees."

Auditor's decision

I am satisfied that the terms of Section 6 and Regulation 8 referred to above apply here. In addition, the content of the note of the meeting held on 4 October 2012 demonstrates that this information was available for the matter to be raised at that time. Accordingly I will allow a fee of £6.35.

The 3rd and 4th disputed matters before me related to the fees sought for 21 December 2012 and 22 April 2013– Letters to client – The fee sought by the agent in each matter was £7.25 and the SLAB offer in both was £2.90.

The first letter advised the client that the agent had now written to the Tribunals Service seeking a full written decision, statement of reason and a note of the proceedings. The client was also advised of the timescale this would take and that if the client hadn't heard anything within that period then they should get in touch with them so that a reminder letter could be sent to the Tribunals Service.

The second letter referred to receipt of a copy of the decision notice from the Tribunals Service regarding the appeal, noting the refusal of the appeal and enclosing a copy of same for information. It then advised that the agent had written to the Tribunals Service asking for a full written decision, statement of reason and a note of the proceedings. The client was also advised of the timescale this would take and that if the client hadn't heard anything within that period then they should get in touch with them so that a reminder letter could be sent to the Tribunals Service.

██████████ submitted that the content of the letters was virtually identical to others sent to clients across a broad number of cases. It was suggested that the only elements unique to the client was on some occasions the date of the Tribunal decision although that did not apply on all letters. Mr Haggarty further submitted the letters were of a pro forma nature and was in line with decisions made by a number of Auditors of Court in relation to such matters.

Mrs Doyle submitted that it was not simply a case of substituting a date for the Tribunal hearing. The client had lost her appeal and the letter was to advise that a letter had been written to the Tribunal Service to request the aforementioned information. Mrs Doyle maintained that legal advice was provided namely, to let the client know the next stage – the timescale and what to do next if a response from the Tribunal Service had not been received.

██████████ submitted that he could not see any legal advice contained in this correspondence. In his view, the letter simply advised that documentation had been sought, the timescale for same and if not received they will would again.

Auditor's decision

I am of the view that neither correspondence warrants a full letter fee. I don't accept that they contain any legal advice and should be treated as a full letter. Accordingly I will allow a fee of £2.90 in respect of each letter.

The 5th disputed matter before me related to the fees sought for 22 March 2013 – Letter to client – The fee sought by the agent was £7.25 and the SLAB offer was £2.90.

This letter to the client, enclosed the formal decision and directions notice received from the Tribunal Service which confirmed that the previous Tribunal decision of 20 Dec 2012 was to be set aside and a further appeal date to be fixed in due course. The client was also advised that she would be contacted if there was something further to report and if she had any queries not to hesitate to contact agent.

██████████ submitted his position in the same terms as narrated at matters 4 and 5 above. Similarly, Mrs Doyle rehearsed her responses as narrated at 4 and 5 above.

Auditor's decision

My view in this matter is the same as the preceding dispute. Accordingly I will allow a fee of £2.90.

The 6th disputed matter before me related to the fees sought for 22 May 2013 – Perusal of Tribunal Services' full statement of reasons and decision of 3 May 2013. – The fee sought by the agent was £25.50 and the SLAB offer was £12.75.

Parties agreed that I should consider the documentation relating to this matter and to decide on an appropriate fee.

Auditor's decision

As mentioned in the agent's perusal attendance note for this document, numbers 1-6 deal with Preliminary points and thereafter numbers 1 -9 deal with points under the heading of Findings in Fact. Having considered the documentation, I am of the view that 15 minutes is a fair and reasonable period of time to peruse the whole statement of reasons for decision.

Accordingly, I will allow a fee of £12.75.

The 1st disputed matter before me related to the fee sought for 13 June 2013 – Perusing the Schedule of Evidence – The fee sought by the agent was £153.00 and the SLAB offer was £76.50.

[REDACTED] rehearsed his arguments in line with those submitted in the earlier case of [REDACTED]. He advised that he had perused this documentation and in his view although it was bulkier than that contained in the [REDACTED] case, it wasn't so intense. It took him around 15 minutes to read its content and he couldn't imagine how it could take 3 hours.

Mrs Doyle submitted this Schedule was a different type of document and disagreed that it was less onerous than the one dealt in the [REDACTED] case. This matter was not about working but rather it focused on assistance with mobility and personal care. In this matter, the client's mobility allowances had been withdrawn. The documentation here explained why the mobility allowance had been removed and also why a lesser amount of care allowance than previously allowed had been awarded. It was necessary to peruse the documentation in detail to establish if the DWP had been justified in their decision. It was also necessary to peruse both the application forms submitted by the client to establish what differences there were from the first application considered in 2008 to the one submitted in 2013. Neither of these applications had been prepared by the agent and both required to be perused. The latter application appeared to be less informative compared to the former and it was necessary to analyse these differences.

[REDACTED] submitted that ultimately the issue here was one of perusal of documentation and in his view it was not necessary to read the information with the same intensity as the previous schedule.

Auditor's decision

My comments in the [REDACTED] case apply equally in this matter. I am satisfied there was additional documentation to peruse however I am not persuaded that 3 hours perusal is appropriate. I am of the view that 2 hours is fair and reasonable for the work involved in this matter. Accordingly, I will allow a fee of £102.00.

The 2nd disputed matter before me was related to a combined number of items of work for the period 18 June 2013 to 24 July 2013 inclusive. This related to:

18 June - Letter to client	- £7.25
- Perusal of medical report	- £12.75
19 June - Framing AA/INC non template	- £7.25
20 June - Formal letter to client	- £2.90
24 July - Letter to client	- £7.25

The combined fee sought by the agent was £37.40 and no offer was submitted by SLAB.

██████████ referred to the entry of 14 June 2013 contained in the account details document submitted by the agent. This referred to a "telephone call from ██████████ at the Arran Centre. She advised that we had requested a report for our client from her. Further to her recent meeting with our client he has advised her that he no longer wishes to proceed with his appeal and therefore she is not willing to prepare a report at this stage. Advising her that we would need clarification from our client and we would keep her informed as to whether or not a report would be necessary."

██████████ submitted that despite that call and the very clear indication that the client had expressed the view to the medical practitioner, the agents continued to undertake work without contacting the client to ascertain his position. ██████████ submitted that would have been the proper course of action to take but that it appeared that no such attempt was made.

Mrs Doyle submitted that this information had come from a 3rd party. Further the information couldn't be relied upon that the client no longer wished to proceed with the appeal.

Whilst there was a gap between the telephone call received on 14 June until 20 June, during which time there had been a typing backlog in the agent's office, nothing had been done to progress the appeal. Whilst it was acknowledged there had been a delay, it had not been costly to the Board.

Mrs Doyle conceded that the fee sought for the formal letter of 20 June was no longer being sought. However in all the circumstances, the timescales here were reasonable to allow the remainder of the fees sought.

Auditor's decision

I am of the view that following receipt of the telephone call from the medical practitioner that no further work should have been undertaken until the agent had contacted the client to confirm the position. Accordingly, I will not allow any fees sought during the period 18 June – 24 July 2013 except to allow a formal letter fee which should have been sent to the client following the aforementioned telephone call. Accordingly, I will allow a fee of £2.90.

The 1st disputed matter before me related to the fee sought for 13 June 2012 – Perusing the Schedule of Evidence – The fee sought by the agent was £140.25 and the SLAB offer was £76.50.

[REDACTED] submitted that his comments were in the same terms as those presented in the [REDACTED] case.

Mrs Doyle submitted similar comments to those put forward by her in the [REDACTED] case. In addition, she submitted that a letter of Appeal had been prepared, there had been more narrative in the Schedule and had been more onerous to read. Copies of the GP print-outs had also been made available for perusal, whereas that had not been the position in the first case. The DWP decision was longer than in the first case. There had also been a narrative of telephone calls between the DWP and the client to peruse and the client's medical history was lengthier to peruse.

[REDACTED] submitted that in relation to the perusal of documentation emphasis should also be given to the consideration aspect of this task.

[REDACTED] submitted that there were occasions where it was necessary to read detailed reports and similarly occasions where it was not so necessary.

Auditor's decision

As in the previous cases of [REDACTED] my comments apply equally in this case. I am also satisfied that the documentation perused and considered here was more than that in the Colletta case. However I am not persuaded that 2 hours and 45 minutes is appropriate. I am of the view that 2 hours is fair and reasonable for the work involved in this matter. Accordingly, I will allow a fee of £102.00.

The 2nd disputed matter before me related to the fee sought for 9 July 2013 – Telephone call with Tribunals Service – The fee sought by the agent was £2.90 and no offer had been made by SLAB.

Following on discussion by parties, it was agreed that this fee should be allowed.

Auditor's decision

In view of the aforementioned comments, I will allow a fee of £2.90.

The 3rd disputed matter before me related to the fee sought for 9 July 2013 – attendance with client – The fee sought by the agent was £19.05 and the SLAB offer was £6.35.

Following on discussion by parties, it was agreed that 30 minutes be allowed for the meeting and the fee of £12.70 allowed.

Auditor's decision

In view of the aforementioned comments, I will allow a fee of £12.70.

The 4th disputed matter before me related to the fee sought for 9 July 2013 – Letter to the Tribunals Service – The fee sought by the agent was £21.75 and no offer was made by SLAB.

Following on discussion by parties, it was agreed that a 2 page letter be allowed and the fee of £14.50 allowed.

Auditor's decision

In view of the aforementioned comments, I will allow a fee of £14.50.

SOLICITOR REFERRAL – DIET OF TAXATION x 3

Assisted Persons Name & A&A Reference:

1. [REDACTED] 2725959912;
2. [REDACTED] 3906786513;
3. [REDACTED] 3917134313;

Solicitors Name : Jacqueline Doyle & Co

Date of Taxation & Location: Auditor Glasgow Sheriff Court – 23 January 2014 @ 2:30pm

Type of Case : Advice & Assistance Accounts – Benefits Review/Appeal

1. Nature of Dispute:

The cases lodged for taxation represent a very small sample of accounts submitted by the firm Jacqueline Doyle & Co that are currently the subject of negotiation. Although the value of the sums in dispute of the accounts lodged for taxation are, in real terms, fairly small it is significant when we extrapolate this across the remainder of their cases. They make available substantial numbers of advice and assistance for matters which do not on the face of it require much, if any, legal assistance.

The Firm also use welfare benefits officers to assist in these cases. Whilst that may be entirely appropriate it does appear, as if, those staff members are providing advice to clients and that is contrary to Regulation 8 of the Advice and Assistance (Scotland) Regulations 1996. It also appears, as if, they are “representing” clients at the Tribunal hearings although not charging for this work activity.

The Firm also seem to be unwilling to accept what we consider to be long standing taxation practices particularly on matters such as “pro forma” letters where we already have a number of supporting taxation decision from auditors including the auditor (albeit previous one) of Glasgow Sheriff Court.

2. Fees allowable to solicitors

Solicitors are entitled to payment in terms of regulation 17 of the Advice and Assistance (Scotland) Regulations 1996.

17. (1) Subject to paragraph (2) below, fees and outlays allowable to the solicitor upon any assessment or taxation mentioned in regulations 18 and 19 in respect of advice or assistance shall, and shall only, be –

(a) fees for work actually, necessarily and reasonably done in connection with the matter upon which advice and assistance was given, due regard being had to economy,

calculated, in the case of assistance by way of representation, in accordance with the table of fees in Part I of Schedule 3 and, in any other case, in accordance with the table of fees in Part II of Schedule 3; and

(b) outlays actually, necessarily and reasonably incurred in connection with that matter, due regard being had to economy, provided that, without prejudice to any other claims for outlays, there shall not be allowed to a solicitor outlays representing posts and incidents.

(2) The fees and outlays allowable to the solicitor under paragraph (1) above shall not exceed the limit applicable under section 10 of the Act as read with regulation 12.

3. Board Guidance

The Civil Legal Assistance Handbook Part III, paragraph 1.22-1.24 deals with steps that a solicitor and unqualified assistant can and cannot do under advice and assistance.

Part V paragraph 6.20 sets out the basis on how the Board will deal with pro-forma style letters.

1.22 Who may provide advice and assistance?

1.23 Who is “the solicitor”?

Regulation 8 states:

“A solicitor shall give advice and assistance in pursuance of Part II of the Act only if he has satisfied himself that the client is eligible to receive advice and assistance under the provisions of the Act and of these Regulations”.

It must be the solicitor who is personally satisfied in terms of regulation 8 that the client is eligible to receive advice and assistance, who gives that advice and assistance. However, you can entrust certain aspects of the work to another solicitor in terms of section 31(2) of the Act. A grant of advice and assistance cannot be transferred to another solicitor except in certain specific circumstances (see paragraphs 2.22 and 2.23).

1.24 Second year trainees and unqualified members of staff

Section 6 of the Act makes it clear that only a solicitor (or counsel) can provide advice and assistance. A second year trainee who has been admitted as a solicitor and has a practising certificate can grant advice and assistance and carry out all subsequent work as the solicitor. People who are not solicitors cannot provide advice and assistance to a client.

Someone who is unqualified, including first year trainees, or second year trainees who have not been admitted as solicitors, can only carry out tasks delegated to them by a solicitor and are paid at the lower rate. A non-qualified member of the solicitor's staff

may, however, carry out preliminary work to help the solicitor when they consider the application (see paragraphs 1.32 to 1.37).

1.32 Preparatory work that a non-qualified person may do

Only a solicitor who is entitled to undertake legal work in his or her own name can grant advice and assistance.

Any non-qualified person who is interviewing an applicant for advice and assistance must refer to these notes for guidance.

1.33 What non-qualified staff may and may not do

A person who is not a solicitor

must

- refer to the Keycard, including the notes for guidance for solicitors, as well as these notes when completing online advice and assistance application
- refer any questions in the financial section of the form which need the exercise of discretion (for example, whether income or capital can be disregarded) to a solicitor
- refer all matters relating to the subject matter of the advice to be given to a solicitor
- when interviewing the client, specifically ask the questions set out in paragraph 1.34

may

- get information from the client which will enable the solicitor to carry out the financial assessment, including vouching such as payslips
- take brief details of the problem, which will allow the solicitor to formulate the subject matter of advice and assistance

must not

- provide the client with any advice in connection with the subject matter of advice and assistance (emphasis added)**
- decide whether ABWOR is to be given – this is for the solicitor to decide
- take the decision about eligibility.

Only a solicitor entitled to undertake legal aid work can grant advice and assistance. That solicitor must also carry out the assessment of whether a client qualifies financially.

6.20 Pro-forma/template letters to the client

Pro-forma letters are letters used on a regular basis tailored to reflect a client's circumstances. To the extent that these letters can be seen to be of the same/similar content they will be chargeable at the formal rate, per page. The higher rate per page will apply only to any individually composed element of the letter that reflects the client's own particular circumstances outwith the standard content.

Pro-forma letters should be adopted where possible, especially where you are undertaking the same type of work for a large number of clients. If you choose to write an individually composed letter to a client where this is not necessary and a pro-forma letter could be used – for example, to explain the law as it affects them or the application of a legal test that has to be satisfied – we may restrict the fee to a charge that we consider reasonable in the context of the advice.

4. Disputed Accounts & Entries

Case No1:

Client Name	
Reference	2725959912
Subject Matter	Benefits Review/Appeal
Authorised Expenditure	£800.00
Account Claim	£652.35
Paid/Offered/Agreed	£579.95
Sum in dispute	£72.40

Disputed entries:-

26 October 2013 - Attendance perusing schedule of evidence - please see attached. **Time engaged 2 hours.**

Charge	SLAB offer	Sum in dispute
£102.00	£51.00	£51.00

Reason for abatement – The “schedule of evidence” contains standard documentation which include amongst other papers the reasons for the refusal of the benefits application. Bear in mind that this is a Firm that “specialise” in such appeals and will be familiar with both the content of the files and procedures involved. Whilst it is recognized that it may be necessary to review the entire file of papers our view is that they should have a sound understanding of the factors which the Tribunal are likely to find persuasive in any appeal and be able to extract that information by focusing on key sections of the “evidence” taken into consideration and “decision” to refuse. The forms are pro-forma in nature and consist in large parts of “tick boxes” which may or may not be entirely relevant. As such much of this is likely to require little more than a cursory glance. In total around 40 sheets have been considered. The charge allowed is therefore considered to be entirely reasonable and perhaps in hindsight generous. A copy of the documents perused are enclosed.

17 December 2012 - Attendance with client going through the descriptors with her. I also reviewed the letter from [REDACTED] which I don't feel supports the appeal and don't think it should be lodged. I informed the client of this and she agreed. She said that she has very rarely seen [REDACTED] and her doctor is [REDACTED]. She is going to approach [REDACTED] tomorrow morning about a letter of support for this appeal. The last time apparently [REDACTED] stated that client could be a danger to herself if she was placed in the work group or in the workplace because of epilepsy. **Time engaged 45 minutes.**

Charge	SLAB offer	Sum in dispute
£19.05	£6.35	£12.70

Reason for abatement – There are a number of reasons why this entry has been restricted.

- The information appears to duplicate information provided at earlier meetings, in particular, the meeting 6 days previously with the solicitor. It therefore appears at least in part to be unnecessary and does not satisfy the statutory tests of taxation of "work actually, necessarily and reasonably done in connection with the matter upon which advice and assistance was given, due regard being had to economy".***
- It also appears that the unqualified person is providing advice which is contrary to Section 6 of the Act and Regulation 8 of the Advice and Assistance Regulations. An unqualified person cannot give advice as covered by our guidance in paragraph 1.33 of the Civil legal Assistance Handbook.***

21 December 2012 - Letter to client advising we have written to the Tribunals Service asking for a full written decision, statement of reasons and a note of proceedings. Advising client we will be in touch when we have a response. Advising this may take four to eight weeks. Advising client that if no response has been forthcoming within that timescale client should get in touch with us and we can send a reminder letter to the Tribunals Service.

Charge	SLAB offer	Sum in dispute
£7.25	£2.90	£4.35

22 April 2013 - Letter to client advising we have written to the Tribunals Service asking for a full written decision, statement of reasons and a note of proceedings. Advising client we will be in touch when we have a response. Advising this may take four to eight weeks. Advising client that if no response has been forthcoming within that timescale client should get in touch with us and we can send a reminder letter to the Tribunals Service.

Charge	SLAB offer	Sum in dispute
£7.25	£2.90	£4.35

21 December 2012 & 22 April 2013 reason for abatement – The content of these letters is virtually identical to others sent to clients across a broad number of cases. The only elements unique to the client is on some occasions the date of the Tribunal decision – although that does not apply in all letters. The letter is of a pro-forma nature and in line with the decisions of the auditors of Aberdeen, Glasgow and Livingston is restricted to formal letter rate of £2.90. In addition, the letter does not require any legal expertise or any legal thought and accordingly the formal rate is appropriate.

Case No.2:

Client Name	
Reference	3906786513
Subject Matter	Benefits Review/Appeal
Authorised Expenditure	£1,100.00

Account Claim	£334.16
Paid/Offered/Agreed	£220.26
Sum in dispute	£113.90

Disputed entries:-

13 June 2013 - Attendance perusing schedule of evidence - please see attached. **Time engaged 3 hours.**

Charge	SLAB offer	Sum in dispute
£153.00	£76.50	£76.50

Reason for abatement s – In line with reasons outlined in case 1 above. 116 sheets perused. A copy of the documents perused are enclosed.

18 June – 24 July 2013

Charge	SLAB offer	Sum in dispute
£37.40	£0.00	£37.40

Reason for abatements – During the telephone conversation of 14 June 2013 the following was discussed “Telephone call from [REDACTED] at the Arran Centre. She advised that we had requested a report for our client from her. Further to her recent meeting with our client he has advised her that he no longer wishes to proceed with his appeal and therefore she is not willing to prepare the report at this stage. Advising her that we would need clarification from our client and we would keep her informed as to whether or not a report from her would be necessary”.

Despite that call and the very clear indication that the client has expressed the view to a medical practitioner the solicitors nevertheless continued to undertake work without contacting the client to establish whether this was indeed his intentions. We are of the view that the client ought to have been invited to clarify his position. There does not appear to have been any attempt to do so. Indeed the next letter to the client was to invite him to discuss matters further following the completion of the review of the schedule of evidence. To compound matters they then applied for an increase in authorised expenditure notwithstanding that they were now in possession of information which indicated that the client did not wish to proceed – a fact that was later confirmed by the client.

Douglas, an additional letter/telephone call could have been allowed here following the telephone call 14 June 2013, to make contact with the client to establish his intentions but it would only have been for £2.90. This would reduce the £37.40 abatement to £34.50.

Case No.3:

Client Name	
Reference	3917134313
Subject Matter	Benefits Review/Appeal
Authorised Expenditure	£900.00

Account Claim	£705.70
Paid/Offered	£604.60
Sum in dispute	£101.10

Disputed entries:-

13 June 2013 - Attendance perusing schedule of evidence - please see attached. Time engaged 2 hours 45 minutes.

Charge	SLAB offer	Sum in dispute
£140.25	£76.50	£63.75

Reason for abatement s – In line with reasons outlined in case 1 above. 103 sheets perused. A copy of the documents perused are enclosed.

9 July 2013 - Attendance on telephone with Tribunals Service explaining the position.

Charge	SLAB offer	Sum in dispute
£2.90	£0.00	£2.90

Reason for abatement – This call was undertaken during the meeting of 9 July (same day with the unqualified person) and as such appears to be duplication. In addition and more importantly we do not consider this to be legal advice and assistance.

Arranging a taxi is administrative in nature and A&A surely should not be allowed for work of this nature.

9 July 2013 - Attendance with client who came in today to discuss his ESA Appeal which is due to take place on the 16th July 2013. I went through the appeal papers with the client and discussing Tribunal procedures. This client has got mobility problems. He also has cognitive problems. He was assaulted many years ago and sometimes he has to answer questions slowly to people. In any event I phoned the Tribunals Service to request permission for a taxi and they obviously asked to speak to the client themselves. However, the client was having some difficulty keeping up with the questions that were being asked and he has a slow speech. The person then asked to speak to me and they said that we would need to send in a fax requesting a taxi because they were not picking up the clients vocabulary very good because was not clear on his date of birth or address, etc. I think this is a terrible thing to say. In any event we will need to send in a fax.

Time engaged 40 minutes.

Charge	SLAB offer	Sum in dispute
£19.05	£6.35	£12.70

Reason for abatement –A charge of 15 minutes has been allowed for explaining appeal procedure to the client. The remaining time has been abated as it appears to cover the benefits officer contacting the Tribunals service to arrange a taxi in light of his mobility problems. This is not reasonable advice and assistance in our view, is administrative in nature if anything and does not constitute “legal advice and assistance”.

9 July 2013 – 3 page Letter to Tribunals Service advising we act on behalf of the client in connection with an ESA Appeal Tribunal due to be heard on the 16th July 2013 at 10.30am. Advising our Welfare Rights & Benefits Advisor, [REDACTED] telephoned the Tribunals Service today to request permission for our client to take a taxi to the Tribunal due to his mobility and mental health problems. Advising the person from the Tribunals Service spoke to our client and asked him some questions. Advising it did not appear to [REDACTED] that he had difficulty answering these questions although he does slur his speech due to a previous brain injury and due to his cognitive problems he talks quite slowly. Advising he also has memory problems. Advising in any event, the person asked to speak to [REDACTED] again and informed him that we would require to fax in a request for our client to take a taxi to the Tribunal. Requesting they please note our organisation has never required to do this before. Advising we would therefore request that a taxi is sent to our clients house at approximately 9.30am. Advising the reason he requires a taxi is because he suffers from sciatica and has a walking stick for which he is attending physiotherapy. Advising he also has problems with his left hip and his leg gives way and he is waiting on further treatment. Advising he also has cognitive problems namely poor memory, slow reactions when being asked questions, etc (this had probably caused the mix up on the telephone today). Advising we enclose a mandate signed by our client authorising us to act on his behalf in relation to this taxi request.

Charge	SLAB offer	Sum in dispute
£21.75	£0.00	£21.75

Reason for abatement – As above. This letter is no more than requesting that a taxi be arranged for the client at the Tribunal hearing. In our view this is not a good charge to the Fund. The client has mobility and mental health problems but this is work that mental health support workers could assist with, if necessary or any citizens advice bureau it does not require legal advice and assistance and is not work relating to the actual technicalities of the Tribunal which is the "subject matter" on which advice and assistance is provided.

5. Previous Taxation Decisions or Similar Cases Which May Be Relevant:

Pro-Forma letters x 3 taxations

- **Appendix 1** - 10 December 2008 - [REDACTED] AA/8330491308 report by the Auditor Aberdeen Sheriff Court (where the auditor allowed lengthy letters which contained an element of generic narrative as part formal and part non formal).
- **Appendix 2** - 8 May 2012 - Various Cases report by the Auditor Glasgow Sheriff Court where the auditor applied the same rationale as above.
- **Appendix 3** - 8 August 2012 – [REDACTED] 1505263211 - report by Auditor Livingston Sheriff Court.

All of the above support the Boards approach.

6. Additional Appendixes

- **Appendix 4** – Accounts (online) which were submitted to the Board.
 - 4.1 - [REDACTED] printed account and copy papers perused in that case.
 - 4.2 - [REDACTED] printed account and copy papers perused in that case.
 - 4.3 - [REDACTED] printed account and copy papers perused in that case.
- **Appendix 5** – Copy Letter sent to this Firm 16 September 2013 setting out Boards position on number of taxation issues.

Douglas these accounts are online accounts and we require IS to print them in cases where we require a paper copy. When printed for some bizarre reason some of the entries alter from what we see online. For example, unqualified attendances appear before qualified entries on the same day even where the online accounts indicates otherwise. I don't think this makes a huge amount of difference to the issues in dispute but mention this in passing.

Referred by:



Date: 10 January 2014