

**2003 No. 512**

**LEGAL AID AND ADVICE**

**The Legal Aid for Youth Conferences (Costs) Rules  
(Northern Ireland) 2003**

*Made - - - - - 1st December 2003*

*Coming into operation 26th December 2003*

*To be laid before Parliament*

**ARRANGEMENT OF RULES**

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**SCHEDULES**

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The Lord Chancellor, in exercise of the powers conferred by Article 36(3) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981<sup>(a)</sup>, and now vested in him<sup>(b)</sup>, after consultation with the Lord Chief Justice, the Attorney General, the Crown Court Rules Committee, the County Court Rules Committee and the Magistrates' Courts Rules Committee and with the approval of the Treasury, hereby makes the following Rules:

**Citation and commencement**

**1.** These Rules may be cited as the Legal Aid for Youth Conferences (Costs) Rules (Northern Ireland) 2003 and shall come into operation on 26th December 2003.

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<sup>(a)</sup> S.I. 1981/228 (N.I. 8)

<sup>(b)</sup> S.I. 1982/159

## **Interpretation**

**2.** In these Rules –

“the Commission” means the Northern Ireland Legal Services Commission;

“costs” means the fees payable to a solicitor or counsel under Article 36(1) of the Order;

“counsel” means counsel assigned under a criminal aid certificate;

“court-ordered youth conference” has the meaning given by Article 33A(5) of the Criminal Justice (Children) (Northern Ireland) Order 1998<sup>(a)</sup>;

“diversionary youth conference” has the meaning given by Article 10A(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998;

“fee-earner” means a solicitor or any clerk who regularly does work for which it is appropriate to make a direct charge to the client;

“meeting” has the meaning given by Article 3A(1) and (2) of the Criminal Justice (Children) (Northern Ireland) Order 1998;

“the Order” means the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981;

“solicitor” means a solicitor assigned under a criminal aid certificate;

“youth conference” has the meaning given by Article 3A(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998;

“youth conference co-ordinator” has the meaning given by Article 3A(3) of the Criminal Justice (Children) (Northern Ireland) Order 1998.

## **General**

**3.—(1)** Costs in respect of work done in relation to a diversionary youth conference under a criminal aid certificate granted under Article 28A of the Order, or in relation to attendance at a court-ordered youth conference under a criminal aid certificate granted under Articles 28, 29 or 30 of the Order, shall be paid by way of standard fees determined by the Commission in accordance with these Rules.

(2) Any costs payable to a solicitor or counsel under these Rules in relation to attendance at a court-ordered youth conference shall be paid together with those costs which are payable to that solicitor or counsel under rule 10 of the Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992<sup>(b)</sup> in respect of the court proceedings for the offence in question.

## **Claims for costs by solicitors**

**4.—(1)** Subject to rule 9, no claim by a solicitor for costs in respect of work done under a criminal aid certificate in respect of a youth conference shall be entertained unless the solicitor submits it within three months of the conclusion of the proceedings to which the criminal aid certificate relates.

(2) Subject to paragraph (3), a claim for costs shall be submitted to the Commission in such form and manner as the Lord Chancellor may direct and shall be accompanied by the criminal aid certificate.

(3) A claim shall state the dates on which the youth conference took place, the time taken where appropriate, the sums claimed and whether the work was done for more than one assisted person.

(4) Where there are any special circumstances which should be drawn to the attention of the Commission, the solicitor shall specify them.

(5) The solicitor shall supply such further particulars, information and documents as the Commission may require.

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(a) S.I. 1998/1504 (N.I. 9); Article 33A was inserted by section 59 of the Justice (Northern Ireland) Act 2002 (c. 26), Article 10A was inserted by section 58 of that Act and Article 3A was inserted by section 57 of that Act

(b) S.R. 1992 No. 314, to which there are amendments not relevant to these Rules

### **Determination of solicitors' fees**

5.—(1) The Commission shall consider the claim, any further particulars, information or documents submitted by the solicitor under rule 4 and any other relevant information, including such information which it may have received from the youth conference co-ordinator regarding the duration and participants at the youth conference.

(2) Subject to paragraph (1), the Commission shall allow fees for work allowed by it under this rule in accordance with Schedule 1.

### **Claims for fees by counsel**

6.—(1) Subject to rule 9, no claim by counsel for fees for work done under a criminal aid certificate in respect of a youth conference shall be entertained unless counsel submits it within three months of the conclusion of the proceedings to which the criminal aid certificate relates.

(2) Subject to paragraph (3), a claim for fees shall be submitted to the Commission in such form and manner as the Lord Chancellor may direct.

(3) A claim shall state the dates on which the youth conference took place, the time taken where appropriate, the sums claimed and whether the work was done for more than one assisted person.

(4) Where there are any special circumstances which should be drawn to the attention of the Commission, counsel shall specify them.

(5) Counsel shall supply such further particulars, information and documents as the Commission may require.

### **Determination of counsel's fees**

7.—(1) The Commission shall consider the claim, any further particulars, information or documents submitted by counsel under rule 6 and any other relevant information, including such information which it may have received from the youth conference co-ordinator regarding the duration and participants at the youth conference.

(2) Subject to paragraph (1), the Commission shall allow fees for work allowed by it under this rule in accordance with Schedule 2.

### **Payment of costs**

8.—(1) Having determined the costs payable to a solicitor or counsel in accordance with these Rules, the Commission shall, subject to rule 3(2), notify the solicitor or counsel of the costs so determined and authorise payment accordingly.

(2) Where the costs payable under paragraph (1) are increased as a result of a review pursuant to these Rules, the Commission shall, subject to rule 3(2), authorise payment of the increase.

(3) Any payment in respect of counsel's fees determined under rule 7 shall be paid to counsel direct.

### **Time limits**

9.—(1) Subject to paragraph (2), the time limit within which a solicitor's or counsel's claim is required to be submitted under rule 4(1) or rule 6(1) may, for good reason, be extended by the Commission.

(2) Where a solicitor or counsel without good reason has failed (or, if an extension were not granted, would fail) to comply with a time limit referred to in paragraph (1), the Commission may, in exceptional circumstances, extend the time limit and shall consider whether it is reasonable in the circumstances to reduce the costs; provided that costs shall not be reduced unless the solicitor or counsel has been allowed reasonable opportunity to show cause orally or in writing why the costs should not be reduced.

Signed by authority of the Lord Chancellor

*Lord Filkin*

Parliamentary Under-Secretary of State, Department for Constitutional Affairs

Dated 1st December 2003

We approve

*Nick Ainger*

*John Heppell*

Two of the Lord's Commissioners of Her Majesty's Treasury

Dated 4th December 2003

**Solicitors' Fees**

STANDARD FEES FOR YOUTH CONFERENCES

**Allowance of standard fees**

- 1.—(1) The Commission shall allow the standard fee for the youth conference which has been claimed by a solicitor (together with the appropriate standard fee for travelling and waiting) unless –
- (a) where the principal standard fee has been claimed, the conference lasted no more than one hour in which case the lower standard fee shall be allowed, or
  - (b) where a fee in excess of the principal standard fee has been claimed, in which case (if the conference lasted in excess of two hours) an additional fee of £44.75 per hour shall be allowed.
- (2) A solicitor who has been allowed a lower fee than that claimed may –
- (a) accept the lower fee, or
  - (b) request the Commission in writing to review its decision.
- (3) Where the Commission is requested to review its decision under sub-paragraph (2)(b), the Commission shall either –
- (a) allow the fee claimed; or
  - (b) request the solicitor to provide a detailed claim in the form directed by the Commission, and then redetermine the solicitor's fees.
- (4) Where a solicitor fails to make a request under sub-paragraph (2)(b) or to supply a detailed claim for the purpose of sub-paragraph (3)(b) within 6 weeks of the decision to allow the lower fee or the request to supply a detailed claim, whichever is the later, the decision to allow the lower fee shall be deemed to be confirmed.

**Standard fees**

- 2.—(1) The classes of work for which standard fees shall be payable are those specified in sub-paragraph (2).
- (2) The classes of work specified for the purposes of sub-paragraph (1) are –
- (a) all preparation work (since the date of grant of the criminal aid certificate under Article 28A of the Order) and attendance at a diversionary youth conference;
  - (b) attendance at a court-ordered youth conference;
  - (c) travelling and waiting.
- (3) The standard fees payable under this Schedule are the fees specified in the Tables below.

TABLES

**Diversionary Youth Conferences  
(Preparation and Attendance)**

	<i>Lower standard fee — Conferences lasting up to and including one hour</i>	<i>Principal standard fee — Conferences lasting more than one hour but not exceeding two hours</i>	<i>Conferences lasting in excess of two hours</i>
Standard fee	£112	£180	£180 + £44.75 per hour for additional hours attended

**Court-ordered Youth Conferences**  
**(Attendance only)**

	<i>Lower standard fee — Conferences lasting up to and including one hour</i>	<i>Principal standard fee — Conferences lasting more than one hour but not exceeding two hours</i>	<i>Conferences lasting in excess of two hours</i>
Standard fee	£70	£112.50	£112.50 + £44.75 per hour for additional hours attended

**Travelling and Waiting**

Solicitor or fee-earner of equivalent experience	£24.75 per hour
An apprentice or a pupil to solicitor or fee-earner of equivalent experience	£12.50 per hour

(4) Subject to sub-paragraph (5), fees for attendance at a youth conference shall be paid as specified in the above Tables in respect of the period of time beginning 15 minutes before the case was listed for the first occasion and ending –

- (a) where the client was present at the youth conference, 15 minutes after the conference finally ended, or
- (b) where the client failed to attend, when the meeting ended on that day,

and, save in exceptional circumstances, shall not be payable during any luncheon adjournment.

(5) Where a solicitor attends a youth conference centre for the purposes of more than one case, the solicitor may claim the waiting fee in respect of the second or subsequent case only for the time actually spent waiting in addition to the time for which payment is made under sub-paragraph (4).

(6) Where a solicitor acts for more than one child, the Commission shall allow whichever of the appropriate standard fees is the greater and increase that fee by 20% for each additional child, but no percentage increase shall be made to the standard fee for travelling and waiting.

(7) Where a solicitor acts for a child in respect of more than one proceeding which is dealt with by way of a youth conference, the Commission shall allow whichever of the appropriate standard fees is the greater and increase that fee by 20% for each additional proceeding as the case may be.

**Review**

3. Irrespective of any dispute under paragraph 1 as to whether the principal standard fee should have been allowed instead of the lower standard fee, where a solicitor contends that the provisions of paragraph 2(6) or (7) have been incorrectly applied, he may, within 6 weeks of receipt of notification of the decision, make a written request setting out his reasons why the decision should be reviewed and, if the Commission confirms its decision, written reasons shall be given.

**SCHEDULE 2**

Rule 7

**Counsel's Fees**

**STANDARD FEES FOR YOUTH CONFERENCES**

**Allowance of standard fees**

1.—(1) The Commission shall allow the standard fee for the youth conference which has been claimed by counsel (together with the appropriate standard fee for travelling) unless –

- (a) where the principal standard fee has been claimed, the conference lasted no more than one hour in which case the lower standard fee shall be allowed, or
- (b) where a fee in excess of the principal standard fee has been claimed, in which case (if the conference lasted in excess of two hours) an additional fee of £29.25 per hour shall be allowed.
- (2) Counsel who has been allowed a lower fee than that claimed may –
- (a) accept the lower fee; or
- (b) request the Commission in writing to review its decision.
- (3) Where the Commission is requested to review its decision under sub-paragraph (2)(b), the Commission shall either –
- (a) allow the fee claimed; or
- (b) request the counsel to provide a detailed claim in the form directed by the Commission, and then redetermine counsel's fees.
- (4) Where counsel fails to make a request under sub-paragraph (2)(b) or to supply a detailed claim for the purpose of sub-paragraph (3)(b) within 6 weeks of the decision to allow the lower fee or the request to supply a detailed claim, whichever is the later, the decision to allow the lower fee shall be deemed to be confirmed.

**Standard fees**

2.—(1) The classes of work for which standard fees shall be payable are those specified in sub-paragraph (2).

- (2) The classes of work specified for the purposes of sub-paragraph (1) are –
- (a) all preparation work (since the date of grant of the criminal aid certificate under Article 28A of the Order) and attendance at a diversionary youth conference;
- (b) attendance at a court-ordered youth conference;
- (c) travelling.
- (3) The standard fees payable under this Schedule are the fees specified in the Tables below.

TABLES

**Diversionary Youth Conferences  
(Preparation and Attendance)**

	<i>Lower standard fee — Conferences lasting up to and including one hour</i>	<i>Principal standard fee — Conferences lasting more than one hour but not exceeding two hours</i>	<i>Conferences lasting in excess of two hours</i>
Standard fee	£84	£135	£135 + £29.25 per hour for additional hours attended

**Court-ordered Youth Conferences  
(Attendance only)**

	<i>Lower standard fee — Conferences lasting up to and including one hour</i>	<i>Principal standard fee — Conferences lasting more than one hour but not exceeding two hours</i>	<i>Conferences lasting in excess of two hours</i>
Standard fee	£70	£112.50	£112.50 + £29.25 per hour for additional hours attended

(4) Subject to sub-paragraph (5), fees for attendance at a youth conference shall be paid as specified in the above Tables in respect of the period of time beginning 15 minutes before the case was listed for the first occasion and ending-

(a) where the client was present at the youth conference, 15 minutes after the conference finally ended,  
or

(b) where the client failed to attend, when the meeting ended on that day,

and, save in exceptional circumstances, shall not be payable during any luncheon adjournment.

(5) Where counsel acts for more than one child, the Commission shall allow whichever of the appropriate standard fees is the greater and increase that fee by 20% for each additional child, but no percentage increase shall be made to the standard fee for travelling.

(6) Where counsel acts for a child in respect of more than one proceeding which is dealt with by way of a youth conference, the Commission shall allow whichever of the appropriate standard fees is the greater and increase that fee by 20% for each additional proceeding as the case may be.

(7) Where counsel is instructed to attend at a youth conference centre which is more than 20 miles from the Head Post Office, Belfast, the Commission shall allow travelling time at a rate of £12 per hour and it may allow an amount in respect of counsel's attendance at that centre to cover any travelling expenses actually and reasonably incurred and necessarily and exclusively attributable to counsel's attendance at that centre.

### **Review**

3. Irrespective of any dispute under paragraph 1 as to whether the principal standard fee should have been allowed instead of the lower standard fee, where counsel contends that the provisions of paragraph 2(5) or (6) have been incorrectly applied, he may, within 6 weeks of receipt of notification of the decision, make a written request setting out his reasons why the decision should be reviewed and, if the Commission confirms its decision, written reasons shall be given.



## **EXPLANATORY NOTE**

*(This note is not part of the Rules.)*

These Rules prescribe the remuneration for solicitors and counsel assigned under Articles 28, 28A, 29 and 30 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 in respect of diversionary youth conferences and attendance at court-ordered youth conferences. The remuneration is to be by way of a system of standard fees.





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