

NILSC Guidance: Guide to Case Management in Public Law Proceedings

Introduction

- Under 3.1 of the 'Guide to Case Management in Public Law Proceedings', the Health and Social Care Trust must issue a letter to parents or those with parental responsibility setting out its concerns which lead it to believe that a child has suffered or is likely to suffer significant harm within the terms of **Article 50** of the Children (Northern Ireland) Order 1995. At this stage, the threshold for potential or actual harm of the child will have been met.
- The letter will invite parents to attend a meeting organised by the Trust. The purpose of the meeting is to try and reach agreement between the Trust and the parents on what steps parents can take to avoid the Trust issuing court proceedings or where this is not possible, to narrow the issues in proceedings so that proceedings can be dealt with more quickly.
- Upon receipt of the letter before proceedings (LBP), parents are entitled to seek free legal advice and assistance which the Commission will fund under the ABWOR scheme.

Application Process

- The solicitor is required to submit an App8 application form to the Commission. Section 3 of the App8 must be completed indicating that the application is for the provision of advice in relation to the LBP and subsequent attendance at pre-proceedings meeting (PPM). **The original letter from the Trust which evidences the proposed Actions of the Trust must be attached to the App8.** The App8 must be signed by the Solicitor and returned to the Commission within 7 days upon which approval will be granted and a limited ABWOR certificate issued.
- A limited certificate cannot be issued if the original LBP issued by the Trust is not attached to the App8 and same will be returned to the Solicitor.
- Solicitors are reminded that advice provided in relation to LBP must not be claimed for under Rep 5 (Green Form).
- If the situation is resolved and proceedings are not issued, the Solicitor should submit a Rep 7 claim for payment of the pre-proceedings work.
- If the situation is not resolved at the pre-proceedings meeting and proceedings are issued, the Solicitor will need to inform the Commission and provide a copy of the Summons issued by the Trust.

- On receipt of the Summons the limited certificate will be amended to 'full approval' for representation of the client throughout the proceedings. The limited certificate will be kept open for a maximum of six months.
- Counsel will not be authorised for pre-proceedings work.

Remuneration

- Where proceedings are issued following the pre-proceedings stage Solicitors may claim an interim payment for the pre-proceedings work only by letter of request to the Commission providing dates for the pre-proceedings work and meeting.
- Where an interim payment is not requested, Solicitors must submit Rep 7 at the conclusion of the case for payment in relation to all work undertaken.
- Pre-proceedings work will be remunerated by way of composite fee as set out below:

Advice given to parent in relation to LBP	Preparation & Attendance with parent at PPM	Mileage
Composite Fee £144	Composite Fee £347	35.7p per mile

- The composite fees remunerate all aspects of the pre-proceedings process including any follow up meetings that may be held in relation to the case and include travel. There will be no uplifts/enhancements applied.
- The Composite fee for attendance at the PPM will not be payable if the meeting does not proceed.
- If proceedings are issued, same will be paid in accordance with existing ABWOR Children Order arrangements as set out below:

Children Order Public Law	
Composite Fee	£400 Mileage 35.7p per mile
Hourly Rates	Mileage 35.7p per mile Travel £29.25 per hour

4 Implementation

The arrangements set out in this Guidance will become operative on 1 October 2009.