

Legal Services Commission Circular 09/08

30 September 2009

Dear Practitioner

The Magistrate's Court and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009

Introduction: This Circular is to inform you that The Magistrate's Court and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009 come into operation with effect from 30 September 2009. The new 'Rules 2009' are now available on the Commission's website under Publications.

In order to assist the Profession, this circular sets out transitional arrangements for the operation of the 'Rules'.

- 1. Transitional Arrangements:** A new set of Forms has been drafted. The forms are available on the Commission's website and can be accessed via the members' page. An index accompanies the Forms for ease of reference.
- 2. Guidance for Practitioners:** The Commission has also developed a set of Guidance Notes which are intended to assist the Profession when completing relevant forms for payment in relation to the different proceedings types. This same guidance will be applied by staff when processing claims for payment.
- 3. Forms:** The range of new forms is as follows:

Claim Form MC2	-	New Solicitor Magistrates Court
Claim Form CYT2	-	New Solicitor County Court
Claim Form VHCC2	-	New Solicitor Very High Cost Case
Application Form VHCC1	-	New Solicitor Very High Cost Case Certificate
Periodic Report Form	-	New Solicitor Form
Claim Form MC1	-	New Counsel Magistrate Court
Claim Form CYT1	-	New Counsel County Court
Claim Form VHCC1	-	New Counsel Very High Cost Case

Application Form VHCC	-	New Counsel High Cost Case Certificate
Periodic Report Form	-	New Counsel Form

4. Attention is drawn to Schedule 1 Part 3, Miscellaneous, and Rule 10 – General Provisions which states:

‘Except as provided under this Para, all work undertaken by a representative is included within the standard fee specified in Part 2 as appropriate to’

- (a) The category of representative
- (b) The offence with which the assisted person was charged; and
- (c) The nature of the disposal of the case in the Magistrate’s Court or the appeal, as applicable

Schedules 1, Part 3, Miscellaneous Rules also sets out the arrangements where the following circumstances arise:

Para 11	-	Additional charges and additional cases
Para 12	-	Arrest Warrants
Para 13	-	Breach of court order
Para 14	-	Applications
Para 15	-	Dismissal or withdrawal of representative
Para 16 & Table 2	-	Limited Certificates
Para 17	-	Withdrawn or discontinued cases
Para 18	-	Deferred sentence
Para 19	-	Late sitting fee
Para 20	-	Senior Counsel

5. Travelling Allowance – Solicitors and Counsel

Solicitors: Para 21(1) states, “where a solicitor attended court other than the solicitor’s local court”, the Commission

- (a) shall allow travelling time on each such occasion at the rate of £24.75 per hour; and
- (b) may allow an amount to cover any travelling expenses actually and reasonably incurred and necessarily and exclusively attributable to the solicitor’s attendance at that court.

Attention is also drawn to Para 21 (2) which states that for the purpose of subparagraph (1), a solicitor’s local court shall be determined by the Commission in

accordance with a list which it shall establish and maintain recording the local court for each solicitor firm in Northern Ireland .

The Commission has drawn up a list solicitor firms and allocated each firm a local court. In order to ensure that the Commission has identified the correct local Magistrate's Court against each solicitor firm's address, a letter will issue to all solicitor firms during the course of the next week. The letter will specify the local Magistrate's Court deemed to be in closest proximity to the firms' office, and solicitor firm's will be asked to respond to the Commission letter. This will assist with the establishment and maintenance of a list of local courts for each solicitor firm in Northern Ireland.

Counsel: Para 22(1) states, "where counsel was instructed to appear in a court which is more than 20 miles from the Head Post Office in Belfast", the Commission:

- (a) shall allow travel time at the rate of £12 per hour; and
- (b) may allow an amount to cover any travelling expenses actually and reasonably incurred and necessarily and exclusively attributable to the counsel's attendance at that court .

6. Schedule 2, Rule 10 deals with Remuneration arrangements for Very High Costs Cases in the Lower Court

7. Very High Cost Case: Attention is also drawn to individual solicitors and counsel assigned to Criminal Magistrate's Court Certificate where the Commission grants a Very High Cost Case Certificate. In all such cases there is a requirement to complete Periodic Report Forms.

The details required include the nature of the work undertaken and the time taken against each area of work. It is of the utmost importance that both solicitors and counsel time record work undertaken as early as possible in a Magistrate's Court case where the case is deemed to be of such a nature that it is likely to come within the Very High Cost Case arrangements.

This will, of course, be subject to submission of a VHCC application to the Commission and the decision to grant or refuse. The Commission will notify each legal representative of the timescales for completion of periodic report forms when a Very High Cost Case Certificate is granted.

8. Service Delivery: Following the implementation of these 'Rules', i.e. from the 30 September 2009, the Commission will be operating two parallel systems in order to deal with claims for payment received on certificates granted on or after the 30 September 2009 and, at the same time, will continue to process all other claims for payment under the 1992 Rules.

The Commission's aim is to process no less than 75% of all claims received under these new arrangements within 6 weeks from the date a claim is received until it is authorised for payment. Performance against this target will be subject to regular review.

9. Website Information: In support of these new arrangements, the information under The Magistrate's Court and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009 can be found in the following areas:

- Publications**
- Copy of the new 'Rules 2009
 - Copy of LSC Circular 09/06

- Members Page**
- New Claim Forms for Solicitors and Counsel
 - New VHCC Application Form
 - New Periodic Report Forms for Solicitors and Counsel (in support VHCC arrangements)
 - LSC Guidance in relation to the operation of the Rules
 - ICOS Charge Codes (full set of codes can be accessed for all charges, a description accompanies each code)
 - General Authority

10. **General Authority:** The Commission is reviewing the General Authority (copy of which is already available under the members pages) with a view to including other experts who are now considered by the Commission to be routinely required in criminal cases in the lower courts. While it is not the intention to increase the rates payable to experts, it is hoped that any additions to the General Authority will remove the need for referral for prior authority to the Commission in the majority of these lower court cases.

11. It is envisaged that, with the operation of the 'Rules', issues will evolve which may result in changes to the notes for guidance and forms and you will be notified of any changes and updates to the website information. The Law Society and the Bar Council Northern Ireland will also receive advance notice of any changes.

You can access the website via the members' page @; www.nilsc.org.uk

If you do not have access to the website hard copies of all the information can be obtained upon request. Your request should be addressed and clearly marked for the attention of the:

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Yours sincerely



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