

Pro bono passport

Make the time spent on your case and free advice pay

Use this booklet to:

1. Record the time you, as an individual, have spent on a civil legal case (i.e. not criminal or family), **p2-3**
2. Record the time spent and work done, for free, on the case by any qualified legal advisers, **p4-8** and
3. Claim the cost of the time spent on the case from the other side if you win; the cost of your work will be repaid to you and the cost of your lawyer's work will be payable to free legal advice charities.

The Access to Justice Foundation

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The Access to Justice Foundation is a company limited by guarantee (No. 6714178) and a registered charity (No. 1126147). Registered office 20-22 Bedford Row London WC1R 4JS

THE
ACCESS
TO JUSTICE
FOUNDATION

For Individuals

What costs can be claimed?

You can claim £19 per hour for time you spend working on your case (or your actual financial loss if you can prove this). You can also claim for expenses incurred, such as photocopying, travel to court, loss of earnings and any advice or expert assistance you have paid for (see page 7).

Costs can also be claimed for any advice given to you for free by lawyers; this money will be payable to the Access to Justice Foundation. Please direct your adviser to page 4.

How can costs be claimed?

1. Record the time spent on your case in this booklet. Complete the table on page 3 (lawyers can complete the table on pages 4 and 5). Notes on how to complete the table can be found below.

2. Keep this booklet with the rest of your case papers. Whenever you do some work on the case, record the time you spent and the type of work you did. Whenever you receive any free legal advice ask your adviser to record their time and what they did too.

3. Hand this booklet to the judge if your case goes to court and is successful. The judge may be able to order the other side to pay your time and expense costs and pro bono costs. The judge will not always make the other side pay but you have a legal right to ask. Information for the judge can be found on page 8.

When the case is finished, whether it goes to court or not, send the booklet back to **Freepost THE ACCESS TO JUSTICE FOUNDATION.** We don't need your name or contact details.

Time and cost recording notes for individuals

- **Description:** Short description of the type of work you did (see examples on page 4 under work types) e.g. writing to the other side, or the expense e.g. court fees.
- **Date:** The date you did the work.
- **Hours Spent:** Record the time spent working on your case in hours (30 minutes would be 0.5).
- **Cost:** This should be the actual cost of the expense (e.g. travel costs) or work done on your case (e.g. the time you've spent researching your case).
- **Total:** Line total e.g. if you have spent 30 minutes researching your case at a cost of £19 per hour the total will be £9.50.

Please keep all relevant documents which evidence or show the work that has been done, for example, train tickets or a letter from an employer confirming time off to attend court.

For Legal Advisers

What costs can be claimed?

Legally qualified advisers and representatives (e.g. solicitors or caseworkers at advice agencies or clinics) can claim the amount a paying client would have been charged for the advice they give for free. These are known as pro bono costs (more information on pro bono costs orders can be found on page 7).

Record the time spent in the following tables. Notes on how to complete the tables can be found below.

Please note that you may be required to provide a detailed breakdown of time spent on a case, particularly if it is sent for detailed assessment.

When can pro bono costs can be claimed?

Pro bono costs can be claimed in any civil litigation case where free representation has been provided and costs could usually be claimed. They may be claimed following a hearing or negotiated and included in a settlement agreement.

Time and cost recording notes for legal advisers

Lawyer Grade

- (A)** Solicitors and Legal Executives with over eight years post qualification experience including at least eight years litigation experience.
- (B)** Solicitors and legal executives with over four years post qualification experience including at least four years litigation experience.
- (C)** Other solicitors and legal executives and fee earners of equivalent experience.
- (D)** Trainee solicitors, paralegals and other fee earners.
- (E)** Counsel (include year of call).

"Legal Executive" means a Fellow of the Chartered Institute of Legal Executives.

Work Type

- (A)** Personal attendance/interview - please specify with whom (client, opponent, witness etc.)
- (B)** Letters/emails - please specify to whom (client, opponent, witness etc.)
- (C)** Telephone calls - please specify to whom (client, opponent, witness etc.)
- (D)** Attendance at hearing
- (E)** Travel and waiting
- (F)** Work done on documents - please specify
- (G)** Other - please specify

Litigant in Person Costs

- CPR 46.5 and 45.39(5) effectively provide that litigants in person can claim reasonable costs for work done or disbursements which would have been allowed had there been legal representation.
- PD 46.3 provides the hourly rate of £19 for individuals (who cannot prove actual financial loss) for time spent on their cases (as at April 2016).
- The maximum amount recoverable is two-thirds of the amount that would have been allowed if represented by a lawyer, not including disbursements.
- Litigants in person can also claim for reasonable payments made for legal services relating to their case.

Pro Bono Costs Orders

- Pro bono costs awards are like ordinary costs, but are awarded where a party has had free legal representation.
- CPR 46.7(4) effectively provides that the normal costs provisions in CPR parts 44 - 47 apply to pro bono costs.
- VAT is not payable on pro bono costs.
- Form N260 is not required (see PD 46.4) but you may prefer to use it.
- Pro bono costs are available in respect of legal representation provided free of charge. A "legal representative" is defined in CPR 2.3(1) and includes all lawyers instructed in relation to proceedings.
- The Access to Justice Foundation is the "prescribed charity" that receives pro bono costs under section 194 of the Legal Services Act 2007.
- The County Court, High Court and Court of Appeal Civil Division can award pro bono costs broadly where they would award normal costs.
- Section 61 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 extends section 194 to include the Supreme Court when it is dealing with a relevant civil appeal.
- The costs cover any period when free representation was provided and normal costs can also be sought for fee-paid work.
- The amount awarded should be based on what a paying client would recover.

Next Steps

If your case is resolved without going to court: post this form back to **Freepost THE ACCESS TO JUSTICE FOUNDATION**. We don't need your name or contact details but it helps us to get an idea of how much legal work is being done for free.

If your case goes to court and you do not have a lawyer, at least 24 hours before the hearing: copy this booklet. Send one copy to the court and one copy to the other side. If you win your case hand the booklet to the judge, asking them to **look at page 8**.

If your case goes to court and you have a lawyer (pro bono or paid): give a copy of this booklet to your lawyers at least 24 hours before the hearing.

Dear Judge,

The Applicant requests a pro bono costs order for the sum in the "Grand Total" box on page 6 representing lawyers' fees and counsel's fees, £_____ under Section 194 Legal Services Act 2007 and CPR 46.7.

The suggested wording for the order is as follows:

The [party] must pay costs for pro bono representation on or before [date] to The Access to Justice Foundation (PO Box 64162, London WC1A 9AN), [summarily assessed at £_____] [or] [to be assessed on the standard/indemnity basis if not agreed].

The Applicant also requests Litigant in Person expenses if appropriate.

For Judges

The court's power to make pro bono costs orders arises under section 194 Legal Services Act 2007 and CPR 46.7. The procedure is broadly the same as for normal costs.

Statements of costs (not necessarily Form N260) should show what free work was provided and how much it would have cost a paying client at the lawyer's normal rate.

The court should assess whether and how much costs would have been awarded for the pro bono party's representation, had it been on a fee paying basis, and award the equivalent amount in pro bono costs. Summary assessment is encouraged.

The payee by statute must be the Access to Justice Foundation. The winning pro bono party should notify the Foundation that costs have been awarded by emailing costs@atjf.org.uk. For the Court of Appeal's straightforward approach see *Grand v Gill* [2011] EWCA Civ 554 at [29].

The court's power to make litigant in person costs orders arises under the Litigants in Person (Costs and Expenses) Act 1975 and CPR 48.6.