

Fees for Commonwealth law matters for approvals made on or after 5 January 2009

Family Matters – Practitioner Fees

- 1 Counsel Fees
- 2 Solicitor Fees
- 3 Travel Entitlements

Fee Scales

1. Counsel Fees

Scale of Fees for approvals made on or after 5 January 2009

Final Hearings	
First day all inclusive fee includes preparation, conferences and hearing	\$1,040
Subsequent day all fee inclusive	\$832
Appeals before the Family Court	
All inclusive fee includes preparation, conferences and hearing	\$1,875
Miscellaneous	
Chamber work	\$130/hour
Other appearance work (where prior written approval has been obtained)	\$130/hour

Guidelines

- a) Lump sum fees are calculated on the number of hearings listed comprising a "first day" and a "subsequent day" fee component.
- b) Where a hearing concludes on the first day then only the "first day" component of the lump sum will be paid.
- c) Where the hearing concludes early but on a subsequent day, the fee will be calculated on a "first day" and then "subsequent day" basis paid up to and including the date of conclusion.
- d) Aid will not be granted to brief Counsel in interim hearings.
- e) Aid will not be granted to brief Counsel in a local court except in particularly complex or exceptional cases.
- f) Aid will not be granted to brief Counsel by a child's representative unless the matter raises complex issues of fact or law or there are other exceptional circumstances.
- g) Travel expenses will only be paid upon prior approval by the Commission.

Travel expenses will only be paid where the round trip from the barristers chambers to Court exceeds 70km.

Travel expenses will not be paid in respect to travel in the Sydney Metropolitan Region. The Sydney Metropolitan Region is defined as that area bounded by Hornsby to the north, Penrith to the west and Campbelltown to the south.

Where approved travel expenses will be paid at the rate of \$0.35 per kilometre, or where appropriate, a return economy airfare.

Accommodation expenses will only be paid upon prior approval by the Commission.

Where approved, accommodation expenses (including sustenance) will be paid as incurred, but to a **maximum of the NSW Public Service Travel Allowance**.

Fee Scales

2. Solicitor Fees

- Primary Dispute Resolution
- Family Court-Case Management System
- Federal Magistrates Service
- Local Court (Family Matters)

Lump Sum Fees - *Family Law Act* matters - for approvals made on or after 5 January 2009

Fees are calculated on a lump sum basis according to the guidelines set out below.

Guidelines

(a) The lump sum fee is calculated having regard to an hourly rate of \$130 net.

(b) If the hearing exceeds the original estimate for unforeseen reasons, no additional payment will be allowed unless a decision not to make an additional payment would be clearly unjust, and a judge or magistrate certifies that up to one day of extra hearing time is required for the effective disposal of the case.

(c) Where proceedings conclude earlier than the original estimate the lump sum amount will be reduced on a pro rata basis and only the actual time spent will be allowed at the hourly rate.

(d) Agency Work

Excluding change of venue applications - see separate fees in schedule below.

Where a solicitor is to act as an agent the following applies:

- the principal solicitor's lump sum fees will be increased by \$130 net for each appearance by the agent to accommodate work associated with the retaining of the agent.
- the agent will be paid from the principal solicitor's lump sum by the principal solicitor.
- the agent will be paid \$260 for each mention/directions hearing and \$325 for a pre-hearing conference.

(e) Special Fixing of Fees

In cases considered complex by the Commission, taking into account advice from the Family Court of Australia or the Federal Magistrates Service, fees in excess of the amounts in 1(d) may be agreed upon between the Commission and Solicitor.

(f) Other Items

Items not specifically included in these guidelines are subject to separate negotiations.

(g) Application of the stage of matter model

- If there is a change of solicitor, the model applies on if there were no change of solicitor and payments will be made on a pro-rata basis for work completed for each stage.
- If a legal aid client loses contact with the solicitor, payment for the work completed will be on a pro rata basis to be negotiated with the Commission.
- If contact is re-established, funding already provided will be taken into account with the guidelines when considering any further grants of aid.
- The hearing length of a trial will be estimated taking into account the estimate given by the court.
- If a matter is listed for hearing (final or otherwise) and not reached by the court on the date set, funding outside the stage of matter grant must be negotiated with the Commission.
- Court attendance includes waiting time and appearance in court but excludes travel time.

Primary Dispute Resolution (PDR)		Fees
Stage 1 (a)	PDR early intervention	
	Taking instructions and preparing for PDR process	\$260
	Representing client at PDR process	A lump sum fee based on the actual time spent calculated with reference to the hourly rate up to a maximum of 4 hours
	Preparing consent orders, if appropriate	\$130
Stage 1 (b)	PDR litigation intervention	
	Representing client at PDR process	A lump sum fee based on the actual time spent calculated with reference to the hourly rate up to a maximum of 4 hours
	Preparing consent orders, if appropriate	\$130
Family Court - Case Management System		Fees
Stage 2(a)(p)	Initiating court proceedings up to conclusion of directions hearing/s including case conference	
	Taking instructions; communications; preparing documents; attending to filing and service; court attendance; attending case conference; consent orders, if appropriate	\$1,170
Stage 2(b)(p)	Initiating court proceedings - up to conclusion of directions hearing/s, including application for interim relief filed at the same time and case conference	
	Taking instructions for initiating court proceedings and for affidavits; communications; preparing court documents; attending to filing and obtaining short service; court attendance; attending case conference; consent orders if appropriate	\$1,170
	Court attendance	A lump sum fee based on the actual time spent calculated with reference to the hourly rate up to a maximum of 5 hours
Stage 2(c)(p)	Interim or summary hearing - as a discrete event	
	Taking instructions for	\$780

	application and affidavit; preparing court documents; obtaining short service	
	Court attendance	A lump sum fee based on the actual time spent calculated with reference to the hourly rate up to a maximum of 5 hours
Stage 2(d)(p)	Up to conclusion of conciliation conference (if any)	
	File management; taking instructions; court attendance; obtaining consent orders, if appropriate	\$390
Stage 2(e)(p)	Application for recovery order where there is an existing court order	
	Taking instructions; preparing court documents	\$390
	Court attendance	A lump sum fee based on the actual time spent calculated with reference to the hourly rate up to a maximum of 3 hours
Stage 3(a)(p)	Preparation for trial up to and including pre-trial conference	
	Taking instructions; interviewing witnesses; preparing documents including affidavits; preparing your client for Family Report process; issuing subpoenae; case management guideline trial document; completing and filling compliance certificate; attending pre-trial conference; consent orders, if appropriate	A lump sum fee based on estimated preparation time calculated with reference to the hourly rate.
Stage 3(b)(p)	Not ready list	
	Taking instructions; preparing court documents; court attendance	\$130
Stage 3(c)(p)	After pre-trial conference to eve of trial	
	Preparing client for family report process; read family report; advise client; case outline document; brief to counsel; conference with counsel; consent orders if appropriate	\$780
Stage 4(p)	Trial costs	
	Attendance each day of hearing Advocacy allowance if any	A lump sum fee based on estimated hearing time calculated with reference to the hourly rate. The Commission pays for actual

		time spent up to 5 hours per day.
	Taking judgement and explaining orders	\$130
Stage 5 (p)	Appeals to the Full Court	
	All work up to and including the hearing	\$1,300
Stage 5 (p)	Appeals to a single judge of the Family Court	
	All work up to and including the hearing	\$1,560
Child Representation in Family Court		
	Primary Dispute Resolution	
	Attendance at legal aid family law conference	A lump sum fee based on the actual time spent calculated with reference to the hourly rate up to a maximum of 4 hours
	Preparing consent orders, if appropriate	\$130
	To conclusion of pre-trial conference	
	Where an order is made at directions hearing for work up to and including attendance at pre-trial conference	\$1,560
	From pre-trial conference to eve of hearing	
	Where an order is made at directions hearing for work subsequent to completion of pre-trial conference, an allowance to cover all attendances, preparation etc. to eve of hearing	\$1,040
	Where an order is made other than at directions hearing	A lump sum allowance negotiated in reference to timing of orders and necessary work undertaken to cover all attendances, preparation etc prior to hearing
	Attendance on hearing	A lump sum fee based on estimated hourly time calculated with reference to the hourly rate. The Commission pays for actual time spent up to 5 hours per day
	Chapter 15 Experts	
	Where it is necessary to apply to the court for a Chapter 15	\$260

	Experts report, an allowance to cover all work including court attendance	
	Interim or summary hearing as a discrete event	
	Preparation	\$780
	Court attendance	A lump sum fee based on estimated hourly time calculated with reference to the hourly rate. The Commission pays for actual time spent up to 5 hours per day
Dissolution of Marriage		
	With no children under 18 years	\$390
	With children under 18 years	\$560
Change of Venue Application		
	Principal Solicitor	\$260
	Where a solicitor is to act as an agent	The principal solicitor's fee of \$260 will be increased by \$130 to accommodate work associated with the retaining of the agent. The agent will be paid from the principal solicitor's \$390 fee by the principal solicitor. The agent will be paid \$220 for the change of venue application
Enforcement Proceedings		
	Enforcement under section 112AD	
	Taking instructions; preparing court documents	\$520
	Court attendance	A lump sum fee based on estimated hourly time calculated with reference to the hourly rate. The Commission pays for actual time spent up to 5 hours per day
Children's Cases Program Pilot	Intake stage: Acting for parties	
	Taking instructions; advice and assistance in the preparation of consent and questionnaire documents; all preparation for and initial appearance in the Childrens Case Program; all negotiation and drafting of any relevant	\$780

	consent orders, if appropriate.	
	Intake Stage: Acting for children	
	All investigations and enquiries including the issuing of subpoenas; all child interviews; all preparation for and initial appearance in the Children's Court Program Pilot.	\$780
Miscellaneous		
	Consent orders	
	Lump sum allowance (excluding those orders arising from participation in conferencing)	\$390
	Parenting Plan	
	Parenting Plan	\$390
	Solicitor appearing as an advocate	
	Where a solicitor appears as an advocate on hearing, as agreed beforehand with the Commission	
Federal Magistrates Service		Fees
Stage 2(ab)	Initiating court proceedings	
	Taking instructions for application and affidavit; preparing court documents; obtaining short service, if required	\$780
	Court attendance	A lump sum fee based on actual time spent calculated with reference to the hourly rate up to a maximum of 5 hours
Stage 2(d)	Up to conclusion of conciliation conference (if any)	
	File management; taking instructions; court attendance; obtaining consent orders, if appropriate	\$390
Stage 2(e)	Case review (if any)	
	Preparing court documents (if any); taking instructions; court attendance; obtaining consent orders, if appropriate	\$390
Stage 2(g)	Application for recovery order, where there is an existing order	
	Taking instructions; preparing	\$390

	court documents	
	Court attendance	A lump sum fee based on actual time spent calculated with reference to the hourly rate up to a maximum of 3 hours
Stage 2(h)	Any subsequence appearance	
	Taking instructions for application and affidavit; preparing court documents; obtaining short service, if required	\$780
	Court attendance	A lump sum fee based on actual time spent calculated with reference to the hourly rate up to a maximum of 5 hours
Stage 4	Preparation for trial	
	Taking instructions; interviewing witnesses; preparing documents; preparing client for family report process; issuing subpoenas; preparing case management guideline trial documents; preparing and delivering brief to counsel; reading family report; conference with counsel; attending list conference	A lump sum fee based on estimated preparation time calculated with reference to the hourly rate
Stage 5	Trial costs	
	Attendance each day of hearing	A lump sum fee based on estimated hearing time calculated with reference to the hourly rate. The Commission pays for actual time spent up to 5 hours per day
	Taking judgment and explaining orders	\$130
Child Representation in Federal Magistrates Service		
	Primary Dispute Resolution	
	Attendance at legal aid family law conference	A lump sum fee based on the actual time spent calculated with reference to the hourly rate up to a maximum of 4 hours
	Preparing consent orders, if	\$130

	appropriate	
	From directions hearing to eve of hearing-	
	Where an order is made at directions hearing for work up to the eve of the hearing and includes an allowance to cover all attendances, preparation etc. Pro rata adjustment will be required for early settlement	2,600 or a proportion of that sum reflecting the hourly rate
	Where an order is made other than at directions hearing	A lump sum allowance negotiated in reference to timing of orders and necessary work undertaken to cover all attendances, preparation etc prior to hearing
	Attendance on hearing	A lump sum fee based on estimated hourly time calculated with reference to the hourly rate. The Commission pays for actual time spent up to 5 hours per day
	Chapter 15 Experts	
	Where it is necessary to apply to the court for a Chapter 15 experts report, an allowance to cover all work including court attendance	\$260
	Interim or summary hearing as a discrete event	
	Preparation	\$780
	Court attendance	A lump sum fee based on estimated hourly time calculated with reference to the hourly rate. The Commission pays for actual time spent up to 5 hours per day
	Appeal to the Family Court	
	All work up to and including the hearing	\$1,560
Change of Venue Application		
	Principal Solicitor	\$260
	Where a solicitor is to act as an agent	The principal solicitor's fee of \$260 will be increased by \$130 to accommodate work associated with the retaining of the agent. The agent will be paid from

		the principal solicitor's \$390 fee by the principal solicitor. The agent will be paid \$220 for the change of venue application
Miscellaneous		
	Consent orders	
	Lump sum allowance (excluding those orders arising from participation in conferencing)	\$390
	Parenting Plan	
	Parenting Plan	\$390
	Solicitor appearing as an advocate	
	Where a solicitor appears as an advocate on hearing, as agreed beforehand with the Commission	
Local Court (Family Matters)		Fees
Stage 2(a)	Initiating court proceedings up to conclusion of directions hearing/s	
	Taking instructions; communications; preparing documents; attending to filing and service; court attendance; consent orders, if appropriate	\$650
Stage 2(b)	Initiating court proceedings - up to conclusion of directions hearing/s, including application for interim relief filed at the same time	
	Taking instructions for initiating court proceedings and for affidavits; preparing court documents; obtaining short service	\$650
	Court attendance	A lump sum fee based on the actual time spent calculated with reference to the hourly rate up to a maximum of 5 hours
Stage 2(c)	Interim or summary hearing - as a discrete event	
	Taking instructions for initiating court proceedings	\$650

	and for affidavits; preparing court documents; obtaining short service	
	Court attendance	A lump sum fee based on the actual time spent calculated with reference to the hourly rate up to a maximum of 5 hours
Stage 2(e)	Case review (if any)	
	Preparing court documents (if any); taking instructions; court attendance; obtaining consent orders, if appropriate	\$390
Stage 2(g)	Application for recovery order, where there is an existing court order	
	Taking instructions; preparing court documents	\$390
	Court attendance	A lump sum fee based on the actual time spent calculated with reference to the hourly rate up to a maximum of 3 hours
Stage 4	Preparation for trial	
	Taking instructions; interviewing witnesses; preparing documents; preparing client for family report process, issuing subpoenae; preparing case management guideline trial documents; preparing and delivering brief to counsel; reading family report; conference with counsel; attending list conference	A lump sum fee based on estimated preparation time calculated with reference to the hourly rate
Stage 5	Trial costs	
	Attendance each day of hearing	A lump sum fee based on estimated hearing time calculated with reference to the hourly rate. The Commission pays for actual time spent up to 5 hours per day
	Taking judgment and explaining orders	\$130
Transfer from Local Court to Family Court		
	Initiating court proceedings up to conclusion of directions hearing	
	Taking instructions; communications; preparing documents; attending to filing and service; court attendance;	\$1,040

	consent orders, if appropriate	
Change of Venue Application		
	Principal Solicitor	\$260
	Where a solicitor is to act as an agent	The principal solicitor's fee of \$260 will be increased by \$130 to accommodate work associated with the retaining of the agent. The agent will be paid from the principal solicitor's \$390 fee by the principal solicitor. The agent will be paid \$220 for the change of venue application
Child Support Declaration		
	Child support declaration under section 106 or section 107 of the <i>Child Support (Assessment) Act 1989</i>	
	For all work up to and including attendance at the directions hearing following the release of the paternity test results	\$520
Miscellaneous		
	Consent orders	
	Lump sum allowance (excluding those orders arising from participation in conferencing)	\$390
	Parenting Plan	
	Parenting Plan	\$390
	Solicitor appearing as an advocate	
	Where a solicitor appears as an advocate on hearing, as agreed beforehand with the Commission	

3. Travel Entitlements

Travel Entitlements in Commonwealth Case and Duty Matters

Travel Allowance

- A travel allowance is paid if the total return distance travelled from the legal practitioner's office to court exceeds 70 kilometres, and the practitioner is travelling to a court located outside the Sydney metropolitan area.
- The Sydney metropolitan area includes all courts within the area bounded by:
 - Hornsby;
 - Penrith;
 - Campbelltown; and
 - Sutherland.
- Unless there are exceptional circumstances, the travel allowance will not be approved where the matter could be assigned to:
 - a practitioner located within 35kms of the court; or
 - a practitioner who is significantly closer to the court; or
 - a practitioner who has other matters at the court on the same day.
- Prior approval to claim the travel allowance must be obtained from the Commission.
- If travel allowance is being claimed, approval should be sought in the original application.
- Travel allowance cannot be claimed more than once per day to the same court, regardless of the number of legal aid applicants being represented at that court.
- A local agent or the duty solicitor – where there is no conflict precluding them from appearing – should be asked to appear for appropriate court attendances, e.g. mentions.
- Where approved, travel expenses will be paid at the correct rate per kilometre, or where appropriate, a return economy airfare (whichever is the cheaper).

Allowance for Commonwealth Defended Local Court and Children's Court criminal law case matters

A lump sum of \$100 for travel time is paid in addition to the travel allowance of \$0.50 per kilometre. The lump sum payment may only be claimed once per day on which travel allowance is payable.

Allowance for Commonwealth Local Court and Children's Court criminal law duty matters

A lump sum of \$100 for travel time is paid in addition to the travel allowance of \$0.60 per kilometre. The lump sum payment may only be claimed once per day on which travel allowance is payable.

Allowance for Commonwealth case matters in

- **criminal law - Local Court (committal matters) District Court and Supreme Court,**
- **family law and**
- **civil law matters**

A travel allowance is paid at \$0.35 per kilometre.

Accommodation

Where approved, accommodation expenses (including sustenance) will be paid as incurred to the maximum rates determined by the Department of Premier and Cabinet of the NSW government. [Click here](#) to view the current rates.

Frequently Asked Questions

Is travel allowance available for appeals?

Yes, provided the criteria for the travel allowance is met and prior approval is obtained.

If travel allowance is approved for a criminal trial, is an allowance paid for accommodation and meals?

Yes. Actual expenses for meals and accommodation may be payable for each 24 hour period at rates determined by the Public Employment Office of the NSW government. If an accommodation and sustenance allowance is approved, the applicable rate will be provided to you at the time of the grant. All receipts must be provided and actual expenses only may be recovered. Claims for amounts above the rate will not be paid.

My client has asked me to appear for him at a court that is more than 35kms from my office. My client insists that I appear and is unwilling to accept another solicitor. Is the travel allowance available?

Generally a travel allowance will not be approved where a practitioner located within 35 km of the court is available to appear for the client. In exceptional circumstances travel may be approved, eg. where the client is a child, or has a disability, and the Commission agrees that continuity of representation is in the interests of the client.

Is travel allowance payable for views?

Yes, however, prior approval for the view must be obtained from the Commission and will be limited to views conducted outside the Sydney metropolitan area. Where the distance travelled exceeds a round trip of 70km, the travel allowance for a view may be approved or an appropriate fee negotiated.

Should I engage an agent for mentions?

Yes, in appropriate cases, e.g. mentions, a practitioner located close to the Court can be engaged as an agent. This could include the duty solicitor where there is no conflict.

How do I calculate the driving/road distance between destinations?

The website <http://www.travelmate.com.au> may assist in calculating distance between destinations.