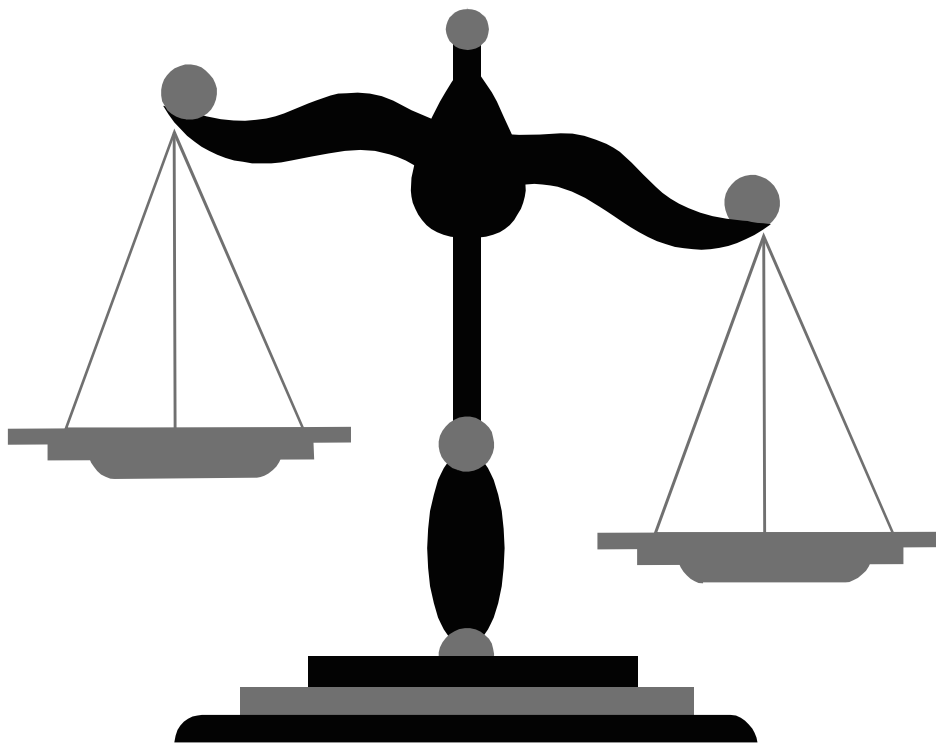


LEGAL AID OFFICE (A.C.T.) SCALES OF COSTS



SCALES OF COSTS PAYABLE TO PRIVATE LEGAL PRACTITIONERS

Notes

1. These Scales are determined pursuant to s32 Legal Aid Act.
2. "Commission" includes where the meaning is appropriate "Review Committee" and the Chief Executive Officer of the Commission, his or her delegate or nominee, but will generally mean the Commission carrying on business as the "Legal Aid Office (A.C.T.)".
3. These Scales should be read subject to the obligations and rights of the Commission under the Legal Aid Act 1977, subject to the Terms and Conditions of Referral of Legal Assistance and to the Guidelines and Determinations of the Commission.
4. **Date of Effect**
Unless otherwise stated these Scales apply to grants, or extensions to grants of legal assistance made on and after 1 July 2006 and in respect of counsel, to briefs delivered, matters heard or conferences held on and after 1 July 2006.

SCALES OF PAYMENTS TO COUNSEL

GENERAL NOTES

These General Notes form part of each Scale. All items are exclusive of GST.

1.(a) **Brief fees**

Include payment of all preparation including normal reading, and a preliminary conference of 1 hour. In matters of exceptional complexity a further reading fee may be approved.

(b) In these Scales chamber work includes advising, conferences, views and similar work.

(c) In an exceptional case as determined by the Commission being a case where two or more junior counsel are engaged, the senior of those counsel may, in the discretion of the Chief Executive Officer be allowed a fee not exceeding a fee allowable to a senior counsel.

2. **Refreshers**

Where it is proper for counsel to charge a refresher, it will be allowed at 2/3rds of the brief fee if counsel is engaged for a period of more than three hours on any one day. If engaged for less than three hours on any one day then a fee of 1/2 the brief fee will be allowed as a refresher.

3. **Senior counsel or equivalent**

In exceptional circumstances permission may be granted to brief Senior Counsel or equivalent. The fee allowable will be that allowed for junior counsel plus 50%.

4. **Non-Resident Counsel**

Non-resident counsel may not be briefed except with the prior permission of the Chief Executive Officer

5. **Travel and Accommodation for Counsel**

Reasonable expenses necessarily incurred and where necessary airfares at economy class and standard rate nonluxury accommodation will be paid in addition to any other fee prescribed. No other fee by way of loading will be permitted. Vouchers must be produced.

6. Counsel's Accounts

When counsel is briefed at an hourly rate the account should include details of the time spent on the matter.

7. No separate allowance in the nature of care, skill and attention shall be paid.

8. Marking of Briefs

Counsel is requested not to accept unmarked briefs. It is essential that the fee payable and the fact that the matter is a Legal Aid matter be established when the brief is handed to Counsel.

9. Matters in which Counsel may not be briefed

- (i) Criminal matters in Magistrates (including Childrens) Court and Sentence Administration Board unless in the opinion of the Chief Executive Officer, the proceedings (whether committal or summary) are extraordinarily complex and involve a serious charge.
- (ii) Family law and civil matters in the ACT Magistrates (including Childrens) Court, the Federal Magistrates Court and the Family Court unless in the opinion of the Chief Executive Officer the proceedings are of such complexity or otherwise involve an issue of such substance that counsel should be briefed.
- (iii) Generally, in all jurisdictions, in mentions and like appearances unless the briefing of counsel would procure a saving of costs or prior approval has been obtained from the Chief Executive Officer.

10. Special arrangements

- (a) The Commission makes its Scales for the guidance of practitioners and the Legal Aid Office as to its expectation of payments in legally assisted matters. However, subject to the contents of this paragraph, where a particular case or class of cases or discrete task within a grant of legal assistance warrants payment at a rate different to that set in the Scales the Chief Executive Officer may negotiate a different payment less or equal to 80% of accepted commercial rates:

However the Chief Executive Officer may not amend an agreed rate of payment during the currency of a grant of legal assistance.

- (b) The Chief Executive Officer may negotiate a rate of payment beyond these Scales only where she or he is satisfied that:
- (i) the matter is of such complexity that a payment above the Scales is warranted; and
 - (ii) the experience of the practitioner in the relevant area of the law is so substantial and necessary to the efficient and effective conduct of the matter that such a payment is warranted.
- (c) In paragraph (b) the requisite level of experience will be a demonstrated expertise of at least seven years standing.

THE CRIMINAL LAW SCALE OF COSTS FOR COUNSEL

1. **HIGH COURT, FEDERAL COURT AND ACT COURT OF APPEAL**

	\$
(a) Appeals (including any application for leave to appeal) Fee on brief	2,200- 5,000
(b) Necessary mentions and taking reserved judgments	180
(c) Interlocutory applications Fee on brief	1,000 – 1,500
(i) defended	350 - 500
(ii) undefended	

2. **SUPREME COURT**

(a) Trials and conviction appeals Fee on brief	1,700
(b) Pleas and severity appeals Fee on brief	1,000
(c) Bail applications Fee on brief:	
Opposed application	550
Unopposed application	270
(d) Applications not otherwise provided for Fee on brief:	
Opposed application	750-1,100
Unopposed application	350
(e) Necessary mentions and taking reserved judgments	150

3. **MAGISTRATES (INCLUDING CHILDRENS AND CORONERS) COURT**

(a) Committal proceedings and matters determined summarily Fee on brief	1,100
(b) Plea of Guilty, breach of recognizance, and similar Fee on brief	750
(c) Bail applications Fee on brief:	
Opposed application	420
Unopposed application	175
(d) Necessary mentions, unopposed applications taking reserved judgments, Case Status Enquiries and similar	150

4. Chamber work
per hour or pro rata 230

5. Sentence Administration Board
Payment at 80% of the applicable item in paragraph 3 above

6. Co-accused
For each legally assisted person after the first, a brief fee not exceeding one-third of the brief fee prescribed for the first legally assisted person shall be paid

7. Matters unexpectedly not reached
Costs of the day to be paid at full refresher rate.

THE CIVIL LAW SCALE OF COSTS FOR COUNSEL

1. **HIGH COURT OF AUSTRALIA, FEDERAL COURT OF AUSTRALIA AND ACT COURT OF APPEAL**
 - (a) Appeals, (including any applications for leave to appeal)
Fee on brief 2,200 – 5,000
 - (b) Interlocutory applications:
Fee on brief 700 – 1,000
 - (i) defended
 - (ii) undefended 350 – 700
 - (iii) interim injunction 900 - 1,200
 - (c) Necessary mentions and taking reserved judgment 180
 - (d) Chamber work 230

2. **SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY**
 - A. **FULL COURT**

Applications and appeals
Fee on brief 2,400

 - (a) Other applications
Fee on brief 1,500 - 3,000
 - (b) Chamber work per hour or pro rata 230

 - B. **SINGLE JUDGE (or where appropriate, Master or Registrar)**
 - (a) Causes (including hearings, civil trials, appearances before a commissioner, an examination de bene esse, assessments and like proceedings)
Fee on brief 1,200 – 1,800

 - (b) Matters not covered by paragraph B(a) above including but not limited to interlocutory applications, ex parte applications for injunctions or similar orders.
Fee on brief 1,200 -1,750

 - (d) Appeals from another Court or tribunal.
Fee on brief 1,200-1,750

 - (e) Chamber work per hour or pro rata 230
Necessary mentions and taking reserved judgment 150

3. AAT AND WORKERS' COMPENSATION

75% of the amount(s) payable at paragraph 2

4. FEDERAL MAGISTRATES SERVICE AND ACT
MAGISTRATES COURT

80% of the amount(s) payable at paragraph 2

5. MENTAL HEALTH TRIBUNAL APPLICATIONS

Fee on brief

660

THE FAMILY LAW SCALE OF COSTS FOR COUNSEL

FAMILY AND
FEDERAL
MAGISTRATES
COURTS

AND

ACT MAGISTRATES
(INCLUDING
CHILDRENS) COURT

1.(a)	Appeals before the Full Family Court Fee on brief	2,100
(b)	Short defended hearings Fee on brief	720-1,020
(c)	Defended hearings Fee on brief	1,020-1,500
(d)	Mentions and other appearances in Court or before the Registrar where authorised by the Chief Executive Officer (including undefended applications)	170-330
(e)	Chamber work including <ul style="list-style-type: none"> - special reading fee where allowed; - extra conferences; - up to 2 hours' preparation and consideration of Trial Documents; and - settling Affidavits, Notices of Appeal, per hour or pro rata 	230
(f)	Taking reserved judgement	170

SCALES OF PAYMENTS TO SOLICITORS

GENERAL NOTES

1. Fee Ranges Within these Scales

- (i) Wherever these scales provide for a range of payable fees to make provision for differences in complexity of matters, the fee will be set by the Chief Executive Officer at his discretion.
- (ii) "Instructions for brief" will be paid at 25% of the total professional costs of the bill excluding any costs associated with preparing and taxing the bill (excluding family law and criminal matters).
- (iii) No separate allowance in the nature of care, skill and attention shall be paid.
- (iv) Any discretion provided by statutory rule, regulation or other instrument shall, insofar as it is applicable, be taken to be exercisable by the Chief Executive Officer.
- (v) No payment will be made for preparation of a solicitor/client bill but payment will be made where reasonable for the preparation of a party/party bill where taxation is probable.
- (vi) In more complex criminal matters where the Chief Executive Officer is satisfied that a matter is extraordinarily complex, he may prior to the hearing of the matter allow for payment to be made by way of hourly rate, not exceeding \$180 per hour

2. Special Arrangements

- (a) The Commission makes its Scales for the guidance of practitioners and the Legal Aid Office as to its expectation of payments in legally assisted matters. However, subject to the contents of this paragraph, where a particular case or class of cases warrants payment at a rate different to that set in the Scales the Chief Executive Officer may negotiate a different payment or discrete task within a grant of legal assistance less or equal to 80% of the relevant Court-sanctioned scale for party/party costs or where no scale exists 80% of accepted commercial rates applying at the time of the grant of legal assistance.

However the Chief Executive Officer may not amend an agreed rate of payment during the currency of a grant of legal assistance.

- (b) The Chief Executive Officer may negotiate a rate of payment beyond these Scales only where she or he is satisfied that:
 - (i) the matter is of such complexity that a payment above the Scales is warranted; and
 - (ii) the experience of the practitioner in the relevant area of the law is so substantial and necessary to the efficient and effective conduct of the matter that such a payment is warranted.
 - (c) In paragraph (b) the requisite level of experience will be a demonstrated special expertise of at least seven years standing.
 - (d) In criminal matters the maximum hourly rate payable by the Chief Executive Officer shall be \$180 per hour.
3. Solicitor appearing as Counsel
Wherever a solicitor appears as Counsel s/he shall be paid three-quarters of the brief fee payable to an independent Counsel.
 4. Disbursements
Disbursements in excess of \$500 may not be paid by the Office if prior approval is not obtained from the Chief Executive Officer. Vouchers will be required.
 5. Witness Expenses.
Witnesses called because of their professional, scientific or other special skills or knowledge, per day provided that the Chief Executive Officer shall have a discretion to allow a higher fee in appropriate circumstances. 800-1,500
 6. Witnesses Generally.
If remunerated in their occupation by wages, salary or fees, the amount lost by the witness by the attendance at Court, not to exceed \$300 per day, provided that the Chief Executive Officer shall have a discretion to allow a higher fee in appropriate circumstances. Documentary evidence will be required.
 7. Clerks.
Where a clerk performs payable work including instructing counsel, payment will be at \$50 per hour.
 8. Photocopying/facsimiles
These scales include payment for regularly anticipated photocopying. Extra necessary photocopying is payable at 75c per page copied. In similar circumstances facsimiles are payable at 75c per page sent.
Bulk photocopying shall be paid at commercial printers' rates.

9. Advice and Duty Lawyer Referrals

Where the Office refers a person to a practitioner for

- (i) advice, payment shall be at \$120 per hour to a maximum of one hour and where time taken is less than 1 hour, payment will be pro-rata; and
- (ii) duty lawyer representation in domestic violence, payment shall be made at \$180 for a contested matter and for an uncontested matter \$100 and bail applications, payment will be \$220 for a contested matter and \$100 for an uncontested matter

10. Co-accused in criminal matters

Where a solicitor appears for more than one legally assisted person an amount not exceeding one third of the amount prescribed for the first legally assisted person shall be paid.

11. More than one charge in legally assisted criminal matters.

Where a grant of legal assistance covers a number of charges or counts the payments itemised in these Scales whether for counsel or solicitor may be paid for separate charges or counts only if in the opinion of the Chief Executive Officer it is reasonable that they be the subject of separate preparation and conduct.

12. Matters capable of summary determination committed to the Supreme Court

In the absence of exceptional circumstances the office shall pay the lowest amount in any fee range and shall acknowledge work paid for in the Magistrates Court as being part preparation of the Supreme Court matter.

13. Retained Agents.

Prior to retaining solicitors as agents, the Commission requires that the practitioner be satisfied that those solicitors accept the Commission's Terms and Conditions of Referral and will accept payment pursuant to the Commission's relevant scale.

THE CRIMINAL LAW SCALE OF COSTS FOR SOLICITORS

1. HIGH COURT, FEDERAL COURT AND ACT COURT OF APPEAL

(a) Leave applications

Solicitor instructing when Counsel briefed from the Bar or another firm: all preparation and first 5 hours in Court	1,200-2,400
Subsequent hours in Court	120

(b) Appeals

Solicitor instructing - all preparation and first 5 hours in Court	1,200 - 2,400
Subsequent hours in Court	120

(c) Necessary mentions and taking reserved judgments 120

2. SUPREME COURT

(a) Contested motions and applications, pleas
severity appeals

Solicitor instructing when Counsel briefed from the Bar or another firm: all preparation including all interlocutory appearances and first five hours in Court	900 - 1,800
Subsequent hours in Court	110

(b) Trials and other appeals

Solicitor instructing when Counsel briefed from the Bar or another firm: all preparation including all interlocutory appearances and first five hours in Court	1,200-1,800
Subsequent hours in Court	110

(c) Necessary mentions and taking reserved judgments 100

3. MAGISTRATES (INCLUDING CHILDRENS AND CORONERS) COURT

(a) Committal proceedings, defended matters and hearings generally		
(i) Solicitor appearing		
All preparation and first five hours in Court.		780
Subsequent hours in Court		120
(ii) Solicitor instructing when Counsel briefed from the Bar or another firm:		
All preparation and first five hours in Court.		660
Subsequent hours in Court		110
(b) Plea of Guilty, breach of recognizance, or DPP non-continuance, including all conferences, preparation and appearances	350 -	720
(c) Bail application opposed (if unopposed see (d))		250
(d) Necessary mentions, unopposed applications taking reserved judgments and Case Status Enquiries		90

4. SENTENCE ADMINISTRATION BOARD AND TRIBUNALS NOT OTHERWISE PROVIDED FOR

80% of the applicable item in paragraph 3.

FAMILY LAW SCALE OF COSTS FOR SOLICITORS**FAMILY COURT AND FEDERAL
MAGISTRATES COURT**

Solicitor	\$150 per hour
Solicitor acting as Counsel for time spent appearing. (Prior approval of the Chief Executive Officer is required)	\$160 per hour
Solicitor instructing at Court	\$110 per hour
Clerk instructing at Court	\$ 50 per hour

Example of Criminal Accounts:Example 1

19 July 06	Mention	\$90.00
20 July 06	Plea	<u>\$630.00</u>
		\$720.00
	Plus GST	<u>\$72.00</u>
	Total	\$792.00
	Less client contribution	<u>\$90.00</u>
		<u>\$702.00</u>

Example 2 (*where Counsel is not instructed)

4 July 06	Mention	\$90.00
6 July 06	CSI	\$90.00
7 July 06	Hearing - all preparation and first five hours in Court	\$780.00
8 July 06	Second day in Court 10am - 1pm 3 hours @ *\$120.00	*\$360.00
10 July 06	Sentencing	<u>\$90.00</u>
		\$1,410.00
	Plus GST	<u>\$141.00</u>
		\$1,551.00
	Less client contribution	<u>\$90.00</u>
		<u>\$1,461.00</u>

Example of Civil Account:

Date	Item	Matter	Cost
6 July 06	22	Attendance on client taking instructions - 1 hr	178.80
8 July 06	29	Telephone attendance on client	22.20
	34	Letter to defendant's solicitor	31.20
9 July 06	35	Letter to client (3 folios)	51.50
10 July 06	18	Peruse letter from defendant's solicitor (2 folios)	10.00
	39	Receive and file same	9.40
22 July 06	10	Draft Certificate of Readiness (6 folios)	93.50
	15	Engross same	26.40
8 August 06	29	Telephone attendance on client	22.20
	35	Letter to Dr Smith (4 folios)	60.40
8 August 06	29	Telephone attendance on client	<u>22.20</u>
			\$527.80
		TOTAL	
		as per Supreme Court 4th Schedule	<u>\$527.80</u>
		Legal Aid Office Supreme Court Scale - 80% of Supreme Court 4th Schedule	\$422.24
		Plus GST	<u>\$42.22</u>
			<u>\$464.46</u>

Example of Time-Costed Account:

- Child Care Proceedings in Magistrates Court - \$140 p/h
- Domestic Violence and Restraining Order matters in Magistrates Court - \$130 p/h

Date	Matter	Time in Minutes
10 March 06	Attendance on client	60
11 March 06	Travelling to Court	NIL
11 March 06	Attendance at Children's Court	15
11 March 06	Travelling from Court	NIL
9 April 06	Attendance on client	45
14 April 06	Telephone attendance on client	10
15 April 06	Perusal of letter from Family Services	5
15 April 06	Letter to client	5
20 April 06	Telephone attendance on client	5
23 April 06	Matter Preparation/Research	NIL
14 May 06	Perusal of letter from Legal Aid (Client Services Unit)	NIL
5 June 06	Letter to Legal Aid (Client Services Unit)	NIL
30 June 06	Attendance at Children's Court – Final Care and Protection Order Plan	<u>30</u>
		175
	175 minutes (2.91 hours) @ \$140.00 p/h =	\$406.00
	Plus GST	<u>\$40.60</u>
		\$446.60
	Disbursements	
	Photocopying (24 pages @ 75c per page)	\$18.00
	Facsimiles sent (5 pages @ 75c per page)	<u>\$3.75</u>
		\$21.75
	Plus GST	<u>\$2.17</u>
		\$23.95
		\$470.52
	Less client contribution	<u>\$90.00</u>
		<u>\$380.52</u>

Example of Stage of Matter Lump-Sum Account:

- Family Law matter in Family Court and Federal Magistrates Service- \$150 p/h

Stage 2(ab) – Application for Interim Orders in the Federal Magistrates Service

Professional Costs		\$1,650.00
Disbursements		
- Photocopying (24 pages @ 75c per page)	\$18.00	
- Facsimiles sent (5 pages @ 75c per page)	\$3.75	<u>\$21.75</u>
Sub-total		\$1,671.75
Plus GST		<u>\$167.17</u>
		\$1,838.92
Less client contribution		<u>\$90.00</u>
TOTAL		\$1,748.92

Example of Time-Costed Stage of Matter Account:

- Time-costed accounts are still required for Family Law Matters in Family Court and Federal Magistrates Service for:
Stage 4 – Preparation for Trial
Stage 5 – Final Hearing

Stage 5 – Final Hearing

4 January 06	Attendance at Family Court instructing Counsel at Hearing	480
5 January 06	Attendance at Family Court instructing Counsel at Hearing	480
6 January 06	Attendance at Family Court instructing Counsel at Hearing	<u>180</u>
		1,140
1,140 minutes (19 hours) @ \$110.00 per hour =		\$2,090.00
Plus GST		<u>\$209.00</u>
TOTAL		\$2,299.00

**Assessment of payments in General Matters where costs recovered
(Examples Only):**

1. Solicitor accepts payment at party/party costs.
Solicitor forwards to LAO a cheque for \$20,000.

Assessment		
Costs recovered		\$20,000.00
Less disbursements paid by LAO		
· Dr Smith, medical report	\$200.00	
· Dr Block, medical report	\$250.00	
· Service fees	\$92.00	
· Photocopying	\$35.00	
· *Counsel's fees	\$487.50	
Less disbursements to be paid		
· Dr Smith, witness expenses	\$500.00	
· Dr Block, stand-by fees	\$75.00	
· Exelserve	\$45.00	
· Dr Smith, medical report	\$350.00	
· Counsel's fees	\$2,500.00	
· Photocopying	<u>\$45.00</u>	
	\$4,579.50	<u>\$4,579.50</u>
		\$15,420.50
Solicitors costs 80% thereof		\$12,336.40
Plus Counsel's fees		
80% of \$2,500.00		\$2,000.00
Plus other unpaid disbursements		<u>\$1,015.00</u>
Total		\$15,351.40
Less client's initial contribution		<u>\$100.00</u>
Total payable		<u>\$15,251.40</u>

- * Counsel's fees actually paid at \$390.00 but converted to ordinary professional costs by adding 25%.

In all legally aided matters, Counsel should render accounts to the solicitor at the ordinary professional rate on the understanding that this Office will pay at the Legal Aid rate and that when costs are recovered there will be an additional payment to Counsel to bring the fees up to the level of 80% of costs recovered for Counsel's fees.

Please add GST where applicable.

2.	Solicitor wishes to be paid solicitor/client costs	
	Solicitor forwards to LAO cheque for	\$23,500.00
	Costs recovered	\$20,000.00
	Solicitor claims	\$23,500.00
	Assessment	
	Costs recovered	\$20,000.00
	Plus client's reassessed contribution	<u>\$3,500.00</u>
		\$23,500.00
	Less Disbursements already paid	
	▪ Dr Smith, medical report	\$200.00
	▪ Dr Block, medical report	\$250.00
	▪ Service fees	\$92.00
	▪ Photocopying	\$35.00
	▪ Counsel's fees	\$487.50
	Less Disbursements to be paid	
	▪ Dr Smith, witness expenses	\$500.00
	▪ Dr Block, stand-by fees	\$75.00
	▪ Exelserve	\$45.00
	▪ Dr Smith, medical report	\$350.00
	▪ Counsel's fees	\$2,500.00
	▪ Photocopying	<u>\$45.00</u>
		\$4,579.50
		<u>\$4,579.50</u>
		\$18,920.50
	Solicitor's costs 80% thereof	\$15,136.40
	Plus Counsel's fees, 80% of 2,500.00	\$2,000.00
	Plus other unpaid disbursements	<u>\$1,015.00</u>
	Total	\$18,151.40
	Less client's initial contribution	<u>100.00</u>
	Total payable	<u>\$18,051.40</u>

Please add GST where applicable.

How to render solicitor/client account where party/party costs recovered:

1. Forward fully itemised account to the Legal Aid Office, or
2. Forward to the Legal Aid Office, an assessment of solicitor/client costs by a legal costing firm, or
3. Forward a letter to the Legal Aid Office showing acceptance by client of agreement reached between solicitor and client as to the portion of costs reasonably incurred on a solicitor/client basis. The Legal Aid Office reserves the right to require an itemised account if in the opinion of the Chief Executive Officer, the agreed solicitor/client costs appear excessive.