

# Paternity

June 2005

## Steps for paternity proceedings under the Family Proceedings Act 1980

### Step 1: Investigate and Make Application (undefended)

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Pre-proceedings</b> Where proceedings are contemplated <i>and</i> the other party consents to pay the other half of the DNA Test	up to <b>2</b> hours	For <ul style="list-style-type: none"><li>• Taking instructions, attending the client</li><li>• Identifying legal and factual issues</li><li>• Preparing application for legal aid</li><li>• Arranging DNA Test</li><li>• Reporting to client, including results of DNA Test</li><li>• Reporting to and invoicing LSA</li></ul>
<b>Paternity Order</b>	up to <b>4</b> hours  or  up to <b>2</b> hours (if pre-proceedings activity already claimed – Step 1)	For <ul style="list-style-type: none"><li>• Taking instructions, attending the client</li><li>• Identifying legal and factual issues</li><li>• Preparing application for legal aid</li><li>• Arranging DNA Test</li><li>• Preparing and filing application for paternity order including:<ul style="list-style-type: none"><li>○ Affidavit(s) in support</li><li>○ Information sheets for the court</li></ul></li><li>• Attending Registrar's list</li><li>• Reporting to client, including results of DNA Test</li><li>• Reporting to and invoicing LSA</li></ul>
<b>Formal Proof hearing</b>	up to <b>1</b> hour	For preparing for hearing
<b>Service</b>	up to <b>1</b> hour	For an application to the Court for directions as to service

### Documentation Requirements

- Application for Family Legal Aid (*LSA Form 6*) [s12 Legal Services Act 2000].
- Family Legal Aid Tax Invoice (*LSA Form 10*) – including a report on progress with the proceedings.

### Granting Notes

Granting Notes, which should be read in conjunction with the application of this step to a grant, are set out on pages 3-4 for:

- Disbursements for DNA Tests
- Interpreter

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Step Grant	Guideline Hours	Activities normally covered by Guideline Hours
<b>Step 2: Defended Application</b>		
Defended Application for Paternity Order	up to <b>3</b> hours	For <ul style="list-style-type: none"><li>• Receiving/perusing notice of defence and associated documents from respondent – see Granting Notes</li><li>• Taking instructions, attending client</li><li>• Preparing amendment to legal aid grant (if expecting to exceed guideline hours at this step)</li><li>• Preparing for hearing – cross examination, briefing witnesses, submissions</li><li>• Arranging DNA Test if required</li><li>• Preparing for, and attending Registrar's list(s)</li><li>• Receiving and considering judgement</li><li>• Reporting to client, including results of DNA Test</li><li>• Reporting to and invoicing LSA</li></ul>
Hearing	<b>Actual</b> hours	For attending hearing

### Documentation Requirements

- Family Legal Aid Amendment to Grant (*LSA Form 9*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated.
- Family Legal Aid Tax Invoice (*LSA Form 10*) – including a report on progress with the proceedings

### Granting Notes

Granting Notes, which should be read in conjunction with the application of this step to a grant, are set out on pages 3-4 for:

- Defended Application for Paternity Order
- Disbursements for DNA Tests
- Interpreter

**Granting Notes****DNA Testing - Proceedings Steps 1, 2**

Evidence in support of parentage applications is normally by affidavit and bodily sample (DNA test) results. DNA testing will involve three people - the mother, the child and the alleged father. The cost is normally equally shared between the parties (parents).

The special disbursement incurred in the proceedings step(s) is:

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Special Disbursement - DNA Test</b>	<b>50%</b> DNA Test cost	For share of DNA Test costs

The legally aided person may request that the Agency pay 100% of the cost of DNA testing, because:

- the other party refuses to pay the cost of testing, however agrees to testing taking place; or
- the other party cannot afford to pay for the cost of testing.

An amendment to the grant will be required to seek prior approval of the special disbursement. Family Legal Aid Amendment to Grant (LSA Form 9).

In the event a legally aided person 'pays' for the full cost of testing then, if the testing is positive, the provider will be required to seek the costs of testing from the other party. It may be necessary to complete a Deed of Subrogation/Assignment for this purpose – an agreement between the Agency and the provider to assign collection of debt to the Agency.

The preparation/agreement of the Deed of Subrogation/Assignment is paid as a separate disbursement.

**Use of Interpreters - Proceedings Steps 1, 2**

It may be necessary for a provider to engage an interpreter to assist in communicating with the legally aided person.

Guideline hours are available, through a 'loading on hours granted', to recognise the time incurred in informing, briefing and seeking instructions from the legally aided person through an interpreter.

The guideline hours for the 'use of interpreters' in the proceedings step(s) are:

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Interpreter	30% loading on hours granted	For the additional time necessary to inform, brief and seek instructions from the client when an interpreter is engaged.

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Steps for paternity proceedings under the Family Proceedings Act 1980

### Granting Notes

#### Use of Interpreters - Proceedings Steps 1, 2 continued

The 'loading on hours granted' may be applied to the grant at the proceedings step(s), providing:

- the 'loading on hours granted' has been applied to the activity(s) relating to the 'preparation' of a matter – as opposed to hearings;
- the guideline hours for the activity(s) relating to the 'preparation' of a matter, have been exceeded; and
- the fees for the interpreter will be claimed as a special disbursement.

#### Defended Application for Paternity Order - Proceedings Steps 2

If the application is still defended after the DNA test results are known, further grants of legal aid will be subject to *prior approval*, and the matter will be referred to a specialist adviser for recommendation.