



# Legal Services Agency

*Pokapū Ratonga Ture*

---

## **Provider Information Pack: Family Law Proceedings**

### **Legal Aid Rates and Fees, Disbursements, and Steps**

---

Steps effective from 28 October 2008  
Provider rates effective from 1 July 2009

# Contents

- Introduction ..... 2**
- Granting Policies and Procedures..... 3**
  - Application for a Grant of Legal Aid..... 3
  - Amendments to a Grant of Legal Aid ..... 3
  - Maximum Grant..... 3
  - Guideline Hours..... 4
  - Maximum Grant, Guideline Hours and Amendments ..... 4
  - Claims for services provided ..... 5
  - Additional Proceedings and Efficiencies ..... 6
  - Pre-proceedings settlements..... 6
  - Section 66 – Additional Payments..... 6
  - Legal Aid Review Panel ..... 7
  - Specialist Advisers ..... 7
- Legal Aid Rates and Fees..... 8**
  - Fee Rates..... 8
  - Fixed Fees..... 9
  - Other Fee Rates..... 9
- Disbursements ..... 10**
  - General Office disbursements..... 10
  - Special disbursements ..... 11
  - Travel costs..... 12
  - Travel Policy for Legal Aid Services..... 13
  - Notes to Travel costs..... 14
- Steps for Family Law Proceedings..... 15**
  - Structure of the Steps..... 15
    - Documentation Requirements ..... 15
    - Granting Notes..... 15
    - Revision History ..... 16
  - Steps for Family Law Proceedings..... 17
    - Pre-proceedings Settlements ..... 18
    - Private Mediation ..... 19
    - Adoption ..... 20
    - Children & Young Persons (CYP)..... 24
    - Day-to-Day Care & Contact..... 31
    - Domestic Violence ..... 38
    - Family Proceedings/Guardianship..... 43
    - Paternity..... 49
    - Personal & Property Rights ..... 53
    - Property Relationships..... 57

# Introduction

## Provider information pack

The provider information pack is a quick reference guide for lawyers and other providers covering:

- key legal aid granting policies and procedures; and
- information necessary to determine the maximum grant for a matter and to prepare claims for services with reference to:
  - the steps for family law proceedings;
  - the legal aid rates and fees; and
  - disbursements.

The components of the information pack are described in the following sections along with tables of legal aid rates, fees and disbursements, and steps for family law proceedings for quick reference.

## Amendments to the information pack

The format of the information pack has been designed to make it easier to update and disseminate changes to legal aid rates, fees, disbursements and steps for proceedings in the future.

If you have any suggestions or comments on the format and content of the information pack please forward to:

Manager Operations Support, Grants  
Legal Services Agency  
PO Box 5333  
Wellington.

## Granting Policies and Procedures

The key legal aid granting policies and procedures applied by the Agency are included in this section of the information pack.

### Application for a Grant of Legal Aid

An application for a grant of legal aid must be made in the prescribed manner - Application for Family Legal Aid (*LSA Form 6*) - and include all the supporting documentation as stated on the application form. Failure to do so may result in:

- a delay to make a decision, or
- a further request to you and/or the aided person to provide further information.

Providers should ensure that an application for a grant of legal aid is made to the Agency before the final disposition of the matter. Failure to do so may result in the application being declined by the Agency and returned to you or the legally aided person.

For further information refer to section 12 of the Legal Services Act 2000.

### Amendments to a Grant of Legal Aid

An application to amend the conditions of the grant may be made as soon as it is known that those conditions have changed. For example, the maximum grant may need to be changed if the guideline hours for a particular activity are expected to be insufficient due to special circumstances.

An application for an amendment to a grant of legal aid must be made in the prescribed manner – Family Legal Aid Amendment to Grant (*LSA Form 9*) - and include all the supporting documentation, for example copies of application for orders, affidavits, exhibits, and summary documents for Court. Failure to provide the necessary information may result in:

- a delay to make a decision, or
- a further request to you and/or the aided person to provide further information.

Amendments seeking an increase in the guideline hours must be approved by the Agency before payment will be made for any additional time incurred.

Providers should ensure that an application for an amendment to a grant of legal aid is made to the Agency before the final disposition of the matter. Failure to do so may result in the application being declined by the Agency. For further information refer to section 24 Legal Services Act 2000.

### Maximum Grant

The maximum grant for a proceeding is the amount of legal aid authorised under the grant. In family law proceedings, the maximum grant will comprise:

- the guideline hours for the activities in the steps to be performed by the provider - at the appropriate fee rate (the fee rate, which is expressed in GST inclusive terms, is an hourly rate set according to 'proceedings and forum categories' and 'levels of experience of providers' - see section on Legal Aid Rates and Fees);
- the fees (if any) for the activities in the steps to be performed by the provider; and

- the amount (if any) of pre-approved disbursements.

Information about how the maximum grant is determined for a matter, is included in the letter sent to the provider when the grant is approved.

## **Guideline Hours**

Guideline hours have been established for each activity specified in the steps for a proceeding. The hours are a 'reasoned estimate' of the time required for the activity in at least 80% of cases. The 'reasoned estimate' has been developed in consultation with lawyers experienced in proceedings in the particular area of law.

The guideline hours are expressed in 'up to' terms – this means that the Agency expects:

- the legal aid work to be undertaken for the specific activity to be within the guideline hours stated – in 80% of cases; and
- that each claim for services by providers will be based on 'actual and reasonable' time incurred for the specified activity.

Once a grant of legal aid has been approved for a matter, the Agency will not require prior approval to undertake the steps and activities specified for the proceeding. This will also apply to disbursements where they are specified and expected to be incurred as part of the activities performed within the steps.

Where fees are specified in the steps as an alternative to guideline hours, they are the 'maximum' amount that can be claimed for the activity. They are considered to be, on average, a fair and reasonable payment for the work to be performed on that activity measured over time across a number of similar types of matters.

## **Maximum Grant, Guideline Hours and Amendments**

A provider is required to apply for an amendment to grant when the maximum grant is likely to be exceeded, ie when the guideline hours for one or more activities within a step in a proceeding are likely to be exceeded because of the nature and complexity of the matter.

When determining the need to seek an increase in the maximum grant, the provider will need to consider and confirm the following:

- the services required are not covered by the guideline hours/fixed fees;
- the services required are legal aid services;
- there is merit in continuing with the services required; and
- the services required may be subject to special circumstances.

An amendment to the maximum grant – when the guideline hours for an activity are likely to, or have been exceeded - may be requested by:

- a Family Legal Aid Amendment to Grant (*LSA Form 9*); or
- a Family Legal Aid Tax Invoice (*LSA Form 10*).

The following table provides guidance on which form to use, depending upon the status and circumstances of the matter at the time:

Status of matter	Action for amendment
<i>Matter not complete:</i> the services required are expected to exceed, overall, the guideline hours established for the activities within a step in a proceeding	Complete a Family Legal Aid Amendment to Grant ( <i>LSA Form 9</i> )
<i>Matter not complete:</i> the services required are not expected to exceed, overall, the guideline hours established for the activities within a step in a proceeding	Complete a Family Legal Aid Tax Invoice ( <i>LSA Form 10</i> ) - amendment to grant section (see notes following table*) <i>or</i> Complete a Family Legal Aid Amendment to Grant ( <i>LSA Form 9</i> ) (no completed activities)
<i>Matter complete:</i> the services delivered exceed, overall, the guideline hours established for the activities within a step in a proceeding	Complete a Family Legal Aid Amendment to Grant ( <i>LSA Form 9</i> )
<i>Matter complete:</i> the services delivered do not exceed, overall, the guideline hours established for the activities within a step in a proceeding	Complete a Family Legal Aid Tax Invoice ( <i>LSA Form 10</i> ) - amendment to grant section (see notes following table*)

*Notes on using the Tax Invoice to request an amendment to the maximum grant*

Providers may request an amendment to the maximum grant on the tax invoice. This option allows ‘unused’ guideline hours (‘unders’) for an activity(s) within a step to be offset against activities where actual hours exceeds the guideline hours (‘overs’) in the same step. The ‘balancing’ of ‘overs’ against ‘unders’ may only be applied in the following circumstances:

- there must two (2) or more *completed* activities within a step – the guideline hours from incomplete activities cannot be applied to this ‘balancing’ process;
- the total of the hours being claimed across the *completed* activities must be equal to or within the guideline hours available; and
- certain activities cannot be applied to this amendment process - ‘additional factors’ and ‘use of interpreters’ (these activities are used to ‘top up’ the guideline hours for activities within steps when special circumstances exist).

The ‘balancing’ process is aimed at ensuring that the hours claimed, based upon ‘actual and reasonable’ time incurred, accurately reflects the work undertaken in that activity. This will assist the Agency when reviewing and updating guideline hours/fees in the future. The process is also aimed at reducing the administration effort required by providers to amend grants of legal aid.

NB: The ‘balancing ‘overs’ and ‘unders’ in guideline hours applies to activities *within* a step, and is not available between the steps in a proceeding, or between proceedings.

### **Claims for services provided**

The claims for legal aid services are based upon ‘actual and reasonable’ time incurred on a matter, and may include fees and disbursements.

Lawyers and other providers are expected to promptly claim for services undertaken on legal aid grants.

The claims for legal aid services are submitted on the invoice forms developed by the Agency for this purpose - Family Legal Aid Tax Invoice (*LSA Form 10*). The invoice form specifies the information required, if any, to be submitted in support of the claim, but as a minimum should include details of the activities and steps completed along with a report on the progress or outcome of the matter.

The Agency recommends that a claim be prepared and submitted to the Agency after the completion of the activities for each step in a proceeding.

This timing is preferred, as it assists the Agency to promptly review and certify the claim against the particular activities undertaken within a step, particularly if the provider is seeking to use the option to offset the 'overs/unders' in hours between activities within a step.

Providers should retain sufficient documentary evidence and records to be able to support each claim in the event of an examination and/or audit – as provided for in the Legal Services Act 2000.

The Agency may also, from time to time, undertake assurance programmes aimed at ensuring:

- the work invoiced by the provider within the steps was actually and reasonably completed; and
- the provider advised the Agency of any change in the merits of the case, or other conditions of the grant.

## **Additional Proceedings and Efficiencies**

### **Additional proceedings**

Generally, a separate application for a grant of legal aid is submitted for each type of proceeding as the merits may differ between those proceedings.

However, the Agency recognises that there will be some circumstances where one application for legal aid can cover a number of different proceedings. This may include matters which are to be heard at the same time and/or arise from the same set of facts and will be heard within a short time of each other, eg Domestic Violence and Day to Day Care & Contact proceedings.

Providers should seek confirmation from the Agency that a separate application for legal aid will not be required for subsequent but related proceedings.

### **Efficiencies**

When legal aid is granted to an applicant for more than one set of proceedings, the Agency expects lawyers and other providers to recognise any efficiencies that may arise through progressing the matters under the same legal aid grant, by preparing a claim for time incurred on the matters on an 'actual and reasonable' basis.

## **Pre-proceedings settlements**

Providers may seek to settle disputes before formal proceedings are commenced. Applications for grants of legal aid for pre-proceedings will be considered by the Agency in accordance with the steps for pre-proceedings.

## **Section 66 – Additional Payments**

A lawyer or other listed provider may not take payments from, or in respect of, a person who receives services from the legal aid scheme (or any other scheme administered by the Agency) unless authorised by the Agency – s66 Legal Services Act 2000.

A provider may request the Agency to determine whether to allow an additional payment to be made. The Agency will consider each request on its own merits and will authorise an additional payment under section 66 only in exceptional circumstances.

### **Legal Aid Review Panel**

The legally aided person and/or the provider may decide to appeal a granting decision made by the Agency. This appeal is made to the Legal Aid Review Panel.

A grant of legal aid may be made by the Agency for this appeal. The maximum grant for this purpose is set out in the section on Legal Aid Rates and Fees. Claims in excess of the fixed fee will require justification and be decided on a case by case basis.

### **Specialist Advisers**

The Agency has Specialist Advisers who are experienced lawyers with the necessary technical expertise to assist staff with making granting decisions, including:

- to grant or decline legal aid;
- to advise on the maximum grant appropriate for a matter; and
- to assess the merits of continuing with a grant of legal aid.

Applications for grants of legal aid, including applications for amendments to grants, may be referred to Specialist Advisers by grants officers for a recommendation or decision at any time.

A referral is more likely to be made when the nature and circumstances of the proceedings indicate issues of merit, complex legal issues, multiple parties, difficult litigants, and the costs are likely to significantly exceed the guideline hours set out in the steps for proceedings.

## Legal Aid Rates and Fees

The legal aid rates and fees are used to reimburse lawyers and other providers for performing legal aid services in accordance with the steps for family law proceedings. The rates and fees are comprised of:

- hourly rates set according to the category of the forum – court or similar – for the proceedings, and the level of experience of the provider; and
- fees set for a specific service.

### Fee Rates

The following hourly rates are applied in the determination of maximum grants and claiming for legal aid services performed in family law proceedings [Legal Services Act 2000 s7]

<i>Rates effective 1 July 2009</i>	<b>Level of Experience</b>			
	<b>Other</b> (\$/hr)	<b>Level 1</b> (\$/hr)	<b>Level 2</b> (\$/hr)	<b>Level 3</b> (\$/hr)
<b>Proceedings Category</b> (see below for full explanation of categories)				
FC1 (Other tribunal/judicial authority)		103	130	140
FC2 (Family Court, District Court, ...)		119	135	151
FC3 (High Court)		135	151	168
FC4 (Court of Appeal/Supreme Court)		146	162	179
Travel time		54	65	76
Employment advocates	92			
Qualified legal executives	92			
Non qualified legal executives/para-legals	81			
Law clerks	81			

NB: All fee rates are GST inclusive.

The fee rates are effective from 1 July 2009.

### Forum Categories

- FC 1** Any tribunal or judicial authority not included in any other category
- FC 2** Family Court, District Court (including any mental health hearing before a District Court judge), Environment Court, Employment Court, Maori Land Court
- FC 3** High Court, Maori Appellate Court, Waitangi Tribunal.
- FC 4** Court of Appeal and Supreme Court.

### Level of Experience

- Level 1** A person with up to 4 complete years of litigation experience
- Level 2** A person with at least 4 and up to 9 complete years of litigation experience
- Level 3** A person with at least 9 complete years of litigation experience

## Fixed Fees

No fixed fees have been established for Steps/Activities within family law proceedings.

## Other Fee Rates

Other fee rates have been established by the Agency for the following specific services:

<b>Services</b>	<b>Fixed Fee/Rate</b>
LARP Review	\$220 per review * (including disbursements)
Private Mediation	\$160/hour

\* Payment in excess of the fee, up to a maximum of 3 hours at the appropriate fee rate, will be considered in special circumstances - by application for amendment to grant.

NB: All other fee rates are GST inclusive.

The fee rates are effective from 1 July 2008.

## Disbursements

Lawyers and other providers are normally expected to pay for all disbursements relating to a legally aided matter, but may claim reimbursement of those costs from the Agency. The disbursements are claimed by the 'lead provider' assigned to the matter.

Disbursements which may be reimbursed include:

- general office disbursements,
- special disbursements, and
- travel costs.

The amount of disbursements incurred on a matter, along with the fees paid for the services provided, will contribute to the cost of services, part or all of, which have to be repaid by the legally aided person.

The amount of disbursements likely to be incurred on a matter will be part of the maximum grant established for that matter.

### General Office disbursements

General office disbursements include specific office expenditure incurred by a lawyer or other provider which can be *directly* attributed to the conduct of a matter.

The Agency will reimburse the following general office disbursements:

Type of disbursements	Basis of Reimbursement
Cell phone/mobile calls	Cost per call
Facsimiles	Cost per facsimile
Photocopying	<b>20</b> cents per page copied
Postage, courier fees	Cost per delivery
Toll calls (from land lines)	Cost per call

Office overhead expenses - for example, office running costs, secretarial costs, file administration, computer costs, phone rental including local calls, cell phone /mobile plans and equipment rentals - are not reimbursable.

The Agency does not require 'prior approval' for general office disbursements up to \$100 for each matter. An amount of \$100 will be allocated to each matter for grant approval and notification purposes, pending the claim for reimbursement.

Amounts in excess of \$100 will be considered for approval as part of the application for amendment to grant process.

A claim for 'actual and reasonable' general office disbursements should be submitted on the appropriate Agency invoice form (criminal, family, civil, Treaty of Waitangi) for the matter in question. Details of the supplier, date and description of service, type and amount of the disbursements claimed should be recorded on, or attached to, the invoice. General office disbursements may not be separately claimed if already claimed as part of a fixed fee in the steps for a proceeding.

To claim general office disbursements, providers are required to retain sufficient documentary evidence and records to be able to support each claim in the event of an examination and/or audit – as provided for in the Legal Services Act 2000.

The Agency may also, from time to time, undertake assurance programmes aimed at ensuring the work invoiced by the provider within the steps was actually and reasonably completed, and the provider advised the Agency of any change in the merits of the case.

## Special disbursements

Special disbursements include specific expenditure for the services supplied by third parties which can be directly attributed to the conduct of a matter.

The Agency will reimburse the following specific disbursements:

Type of disbursements	Basis of Reimbursement
Agents Fees	Fee @ Cost (as agreed by reference to Fee Rates for providers)
Court Filing Fees	Fees not covered by the fees waiver and refund regulations (fees noted under the regulations may be waived/refunded upon application to the Registrar of the Court)
DNA and Blood Testing	<b>50%</b> Cost of Test Cost of Birth Certificate –if relevant to matter
Document/Process Servers	Cost (as invoiced by third party)
Specialist Report – Independent Psychiatric Report issued under the Mental Health (Compulsory Assessment and Treatment ) Act 1992	Cost (as invoiced by third party)
Specialist Reports – Valuations, Medical, Restorative Justice, Other	Cost (as invoiced by third party)
Witnesses and Interpreters	Fee @ Rates governed by the Witnesses and Interpreters Fees Regulations 1974, or Courts Schedules - and any subsequent updates
Title search	Cost (as invoiced by third party)

The Agency does not require 'prior approval' for the special disbursements listed above **providing** they are incurred on matters which will be conducted *within* the guideline hours specified in the steps for the particular proceedings. The disbursement may be:

- a standard cost which has been notified to providers as being part of the proceedings steps applicable to the matter, e.g. 50% of the cost of DNA Testing required as part of the Paternity proceedings; or
- a disbursement expected to be incurred in accordance with the tasks and activities which have been specified in the steps, e.g. Costs for the serving of documents by Document and Process Servers.

The lead provider will need to seek prior approval from the Agency for all other special disbursements, as part of the application for legal aid, or the amendment to grant process.

A claim for 'actual and reasonable' special disbursements should be submitted on the appropriate Agency invoice form (criminal, family, civil, Treaty of Waitangi) for the matter in

question. Details of the supplier, date and description of service, type and amount of the disbursements claimed should be recorded on, or attached to, the invoice. Special disbursements may not be separately claimed if already claimed as part of a fixed fee in the steps for a proceeding.

To claim special disbursements providers are required to retain sufficient documentary evidence and records to be able to support each claim in the event of an examination and/or audit – as provided for in the Legal Services Act 2000.

The Agency may also, from time to time, undertake assurance programmes aimed at ensuring the work invoiced by the provider within the steps was actually and reasonably completed, and the provider advised the Agency of any change in the merits of the case.

## Travel costs

Travel costs include specific expenditure incurred by lawyers and other providers on travel arrangements which can be directly attributed to the conduct of a matter.

The Agency will reimburse, in accordance with its Travel Policy (see below), the following travel costs, including travel time:

Type of fees/disbursements	Basis of Reimbursement
Accommodation, meals, and incidentals	Cost (as invoiced by third party) (see Notes to Travel Costs below for guideline accommodation rates and meal allowances)
Travel – air, train, bus, taxi, car rental	Cost (as invoiced by third party)
Travel time	Fee @ Fee Rates specified for travel time by lawyers and other providers (see Legal Aid Rates and Fees)
Use of provider’s motor vehicle	Kilometres travelled @ <b>73</b> cents per kilometre

The Agency does not require ‘prior approval’ for travel costs where travel is required and unavoidable – this includes travel:

- to a place of ‘detention’ or similar; and
- a change in the assigned court for the hearing or trial.

All other travel costs will require prior approval, by application for amendment to grant.

A claim for ‘actual and reasonable’ special disbursements should be submitted on the appropriate Agency invoice form (criminal, family, civil, Treaty of Waitangi) for the matter in question. Details of the supplier, date and description of travel and related service, type and amount of the disbursements claimed should be recorded on, or attached to, the invoice. Travel costs may not be separately claimed if already claimed as part of a fixed fee in the steps for a proceeding.

To claim special disbursements providers and other providers are required to retain sufficient documentary evidence and records to be able to support each claim in the event of an examination and/or audit – as provided for in the Legal Services Act 2000.

The Agency may also, from time to time, undertake assurance programmes aimed at ensuring the work invoiced by the provider within the steps was actually and reasonably completed, and the provider advised the Agency of any change in the merits of the case.

# Travel Policy for Legal Aid Services

## Introduction

The Agency recognises that from time to time it will be necessary for a lawyer and other providers to undertake travel to meet clients, witnesses, and experts, and to attend court and mediation hearings, and meetings between the parties. To ensure that the impact of travel costs, which can be significant in certain circumstances, is managed fairly for all parties – the legally aided person, the lawyer and other providers, and the Government – the Agency has developed a Travel Policy for Legal Aid Services.

## Reimbursement of travel costs

The Agency will reimburse the actual and reasonable travel costs, including time, of a lawyer or other provider, where:

- the legally aided person is being held in a place of detention, including prisons, mental health institutions, refugee detention centres;
- the travel destination is not 'local' for the provider – for example, travel to a court in another centre (High Court, Court of Appeal), the matter is moved to another court by the Judiciary/Courts ('local' is explained below);
- non reimbursement of travel costs would compromise the legally aided person's access to justice; or where
- exceptional circumstances exist.

'Local' is described as the centre – large metropolitan city, provincial city, town - where the provider's normal place of work and the travel destination – usually the Court – is located. Travel costs will not normally be reimbursed for travel within the 'local' centre unless it is unreasonable for the provider to bear the time and cost of travel given the time and distance required to travel to the court, or other destination, within that 'local' centre. As a guide, distances less than 25 kilometres and/or travel time less than 30 minutes would normally be considered 'local' and travel costs will not be reimbursed.

The Agency will endeavour to assign, in accordance with its Assignment Policy, a lawyer or other provider to a legal aid matter who is located in the same centre as the appropriate court.

## Claims for travel costs

The Agency, when assessing the 'reasonableness' of travel time and costs for certification of the claim, may take into account the following factors which necessitated the travel:

- the Agency's Assignment Policy, which allows for preferred providers and by-rotation providers, and whether the matter should have been reassigned, or an agent appointed;
- the availability of providers in the 'local' centre with the appropriate listing categories and/or expertise in the matter;
- the existence of any conflicts of interest among counsel within a 'local' centre necessitating reassignment of the matter to a lawyer/other provider located outside the centre;
- the 'other party' is located in another centre;
- the legally aided person and/or person significant to the matter, is physically unable to travel, e.g. temporary hospitalisation; and

- the most cost effective travel option(s) have been applied – for example, these might include:
  - economy class air travel
  - advance booking of air fares
  - use of a rental car if private vehicle reimbursement is likely to exceed the rental cost
  - accommodation guidelines covering room rates, meal and incidental allowances.

### Claims for travel time

Claims for travel time are to reimburse the time actually spent in travelling to the ‘travel destination’ where it was not possible to undertake other client chargeable activities. Travel time does not include normal home-office travel in accordance with established business and tax practice.

### Application of Policy

The Travel Policy applies to services provided by lawyers and other providers under the Legal Aid Scheme, the Duty Solicitor and Police Detention Legal Assistance Schemes.

### Notes to Travel costs

#### Guideline Accommodation Rates and Meal Allowances

The following guideline rates and allowances may be used by lawyers and other providers in claims for reimbursement of travel costs if needed:

<b>Accommodation rates*</b>	<b>\$/day (GST inclusive)</b>
Metropolitan city	\$140 to \$155
Provincial city	\$125 to \$140
Town	\$125 to \$140

<b>Meal allowances</b>	<b>\$/day (GST inclusive)</b>
Breakfast	up to \$15
Lunch	up to \$10
Dinner	up to \$30

\* The range of accommodation rates are within acceptable thresholds for government funded organisations and contracted suppliers of services.

The rates and allowances are maintained by the Agency for domestic travel by staff. The rates are current as at 1 July 2008.

## Steps for Family Law Proceedings

Steps have been established for all major types of family law proceedings to help determine:

- the maximum grant that may be approved when legal aid is granted in a matter; and
- the amount that may be claimed for services provided in a matter.

### Structure of the Steps

The steps for a proceeding are made up of:

- *steps* - covering the main 'events' in a proceeding, eg Investigate and Make Application, Defended Hearing;
- *activities* – defined for each of the steps, or main 'events' in a proceeding, eg Preparation for Hearing, Hearing;
- *guideline hours and/or fees* - a 'reasoned estimate' of the time required for each activity in a step for at least 80% of matters;
- *tasks* – describing the actions for each activity within a step;
- *documentation requirements* – forms to be completed by providers to support the legal aid services; and
- *granting notes* – providing additional information to support special granting situations.

A summary of the Agency's policies and procedures for applying the steps to granting legal aid and making claims for services provided is included in the Policies and Procedures section of this information pack.

### Documentation Requirements

The documents required to support the provision of services are specified in the steps for the proceedings. Generally, the documents required comprise the Agency's forms covering:

- applications for, and amendment of, grants of legal aid; and
- tax invoices.

In the event that an application for amendment to grant is required in a matter, additional documentation may be required or requested by Agency staff, to substantiate the application, eg copies of application for orders, affidavits, exhibits, and summary documents for Court.

Providers should also retain sufficient documentary evidence and records to be able to support each claim in the event of an examination and/or audit – as provided for in the Legal Services Act 2000.

### Granting Notes

The steps are supported by 'Granting Notes' which may apply to one or more activities within the steps. The notes provide additional context for the activities within the steps, and any special granting requirements and approvals.

Some notes will apply to specific steps - the application of 'Additional Factors', the use of 'Interpreters'; and some are specific to the proceedings - attendance at Family Group Conferences.

## Revision History

The steps which are available for application to family law proceedings comprise:

<b>Steps</b>	<b>Legislation</b>	<b>Last Revision</b>
Adoption	Adoption Act 1955	June 2005
Children & Young Persons	Children, Young Persons and Their Families Act 1989	<b>August 2008</b>
Day to Day Care & Contact	Care of Children Act 2004	<b>August 2008</b>
Domestic Violence	Domestic Violence Act 1995	<b>August 2008</b>
Family Proceedings/Guardianship	Family Proceedings Act 1980, Care of Children Act 2004	<b>August 2008</b>
Paternity	Family Proceedings Act 1980	June 2005
Personal & Property Rights	Protection of Personal & Property Rights Act 1988	June 2005
Property Relationships	Property (Relationships) Act 1976	<b>August 2008</b>

The steps, which were revised at August 2008, have been prepared using a new format. The new format is aimed at providing better information about the steps and the activities to be completed in a proceeding. The steps, which were last revised in June 2005, have been converted to the new format for consistency - although the guideline hours have not been reviewed.

The Agency will, as needed, update the steps to reflect changes to the legislation upon which the proceedings are based, and any significant changes in court procedures and legal practice surrounding the proceedings.

## **Steps for Family Law Proceedings**

The steps for family law proceedings follow.

Lawyers and other providers should ensure they are familiar with the key granting policies and procedures, and information located elsewhere in this information pack, before applying the steps to a matter.

## Step: Settlement of legal disputes prior to proceedings

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Negotiation of settlement	up to <b>6</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>• Liaising with the other party(s)</li> <li>• Conducting negotiations and where possible reaching agreement (see Granting Notes)</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>

### Documentation Requirements

- Application for Family Legal Aid (*LSA Form 6*) [s12 Legal Services Act 2000].
- Family Legal Aid Tax Invoice (*LSA Form 10*) – including evidence that there have been reasonable attempts to negotiate and settle the issues in dispute.

### Granting Notes

Where the matter is not resolved by a pre-proceedings settlement, the applicant and/or provider may seek a further grant of legal aid to resolve the matter by legal proceedings. It may be appropriate to adjust the guideline hours/reduce the hours claimed in Step 1 of those proceedings, to reflect any efficiencies arising from the services already provided.

## Step: Private Mediation

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation for mediation	up to <b>1.5</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>• Liaising with the other party(s)</li> <li>• Preparing for the mediation</li> <li>• Writing up the agreement after the mediation</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>
Mediation	<b>Actual</b> hours	For <ul style="list-style-type: none"> <li>• attending mediation</li> <li>• finalising the agreement that occurs during the mediation</li> </ul>

### Documentation Requirements

- Application for Family Legal Aid (*LSA Form 6*) [s12 Legal Services Act 2000].
- Family Legal Aid Tax Invoice (*LSA Form 10*) – including evidence that there have been reasonable attempts to negotiate and settle the issues in dispute.

## Step 1: Application for Review

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Adoption Order</b> Either: <ul style="list-style-type: none"> <li>with consent; or</li> <li>that consent is dispensed with</li> </ul>	up to <b>5</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>Preparing proceedings, including the following documents:                             <ul style="list-style-type: none"> <li>Affidavit(s) in support</li> <li>Consent of the birth parents or an application for consent to be dispensed with</li> <li>Section 10 report from social worker</li> </ul> </li> <li>Attend formal hearing and obtain interim adoption order</li> <li>If undefended and application is resolved apply for final order</li> <li>Reporting to client</li> <li>Reporting to and invoicing LSA</li> </ul>
<b>Application to dispense with consent</b>	up to <b>2</b> hours	For preparing an application to dispense with consent – see Granting Notes

### 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 22-23 for:

- Application to dispense with consent
- Additional factors
- Interpreter

# Adoption

June 2005

Steps for all proceedings involving adoption under the Adoption Act 1955

## Step 2: Defended Application

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation for Hearing	up to <b>1.5 times</b> anticipated hearing time (hrs)	For <ul style="list-style-type: none"><li>• Reviewing file</li><li>• Preparing for hearing – cross examination, briefing witnesses, submissions</li><li>• Undertaking research, if necessary</li><li>• Reporting to client</li><li>• Preparing amendment to legal aid grant (if expecting to exceed guideline hours at this step)</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul> (If the anticipated hearing time exceeds 2 days, attach a copy of the court fixture notice to the tax invoice)
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 22-23 for:

- Interpreter

## Granting Notes

### **Application to Dispense with Consent (when combined with Application for Adoption Order) - Proceedings Step 1**

The following issues should be considered before undertaking and claiming this activity:

- The application to dispense with consent is a separate application from the application for an adoption order, and will be the subject of a separate hearing.
- The s10 report from the social worker is supportive of the application for adoption - the interim, or in some cases final, order may be made by consent in a chambers list, formal proof hearing or equivalent.
- An interim order has been made and requires an application for a final order at a later stage - with a separate hearing possibly being required.

### **Consideration of Additional Factors - Proceedings Step 1**

Guideline hours have been allocated to each activity within the steps for a proceedings on the basis that they are a reasonable estimate of the time required to perform that activity, in at least 80% of matters.

However, the circumstances surrounding a matter may make it necessary to consider guideline hours for 'additional factors'. The 'additional factors' may arise from a variety of circumstances, for example:

- The other party(s) may be self-represented causing additional delays to the progression of the proceedings
- Adoption is sought for more than one child. There may need to be different applications and reports and there may be different circumstances relating to each.
- A party suffers from an intellectual disability or mental illness, language or reading difficulties – but not necessitating a separate interpreter – requiring more time in taking instructions or prolonging proceedings. An additional allowance for the use of interpreters is available if required.
- Apart from the birth mother and birth father, there are additional guardians of the child. The additional guardians may be involved in the proceedings, requiring additional attendances and communications.
- When a final order is applied for separately, an additional grant may be necessary, e.g. more Court documentation may need to be prepared and/or there may be a short hearing.

There is no complete 'checklist' of circumstances - each matter should be considered on a case by case basis.

**Granting Notes****Consideration of Additional Factors - Proceedings Step 1 continued**

The guideline hours for 'additional factors' in the proceedings step(s) are:

<b>Activity</b>	<b>Guideline Hours</b>	<b>Tasks normally covered by Guideline Hours</b>
<b>Additional factors</b>	up to <b>3</b> hours	For additional factors which are likely to impact the preparation and filing of the orders

The guideline hours for 'additional factors' may be applied to the grant, providing:

- the guideline hours for the activity(s) forming part of the maximum grant in this step have been exceeded; and
- the 'additional factors' can be clearly identified and justified.

**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:

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

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.

## Step 1: Application for Declaration and/or other CYPF Act Order (filed by CYFS)

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Declarations and/or other CYPF Act order(s)</b> (Care and Protection orders)	up to <b>8</b> hours	For <ul style="list-style-type: none"> <li>• Taking instructions, attending client</li> <li>• Identifying legal and factual issues</li> <li>• Preparing application for legal aid</li> <li>• Preparing application for interim/final declaration (orders), including:                             <ul style="list-style-type: none"> <li>○ Affidavit(s) in support</li> <li>○ Information sheets for the Court</li> </ul>                             (See Granting Notes for impact of s120 of CYPF Act on parenting order(s) issued under Care of Children Act)                         </li> <li>• Serving of documents</li> <li>• Considering need for Counsel for Child</li> <li>• Considering need for s178 report from medical or mental health specialist</li> <li>• Attending CYPF List or Judges List hearing</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>

### 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 28-30 for:

- Attendance at Family Group Conferences (FGC)
- S120 CYPF Act
- Additional factors
- Interpreter

## Step 2: Pre-hearing Matters

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Pre-hearing matters	up to <b>10</b> hours	For <ul style="list-style-type: none"> <li>• Taking further instructions</li> <li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours)</li> <li>• Undertaking negotiations</li> <li>• Attending Registrar's List/Chambers hearings</li> <li>• Liaising with relevant parties – CYFS, Counsel for Child, witnesses, experts</li> <li>• Considering specialist reports – s178 report (medical and mental health specialist)</li> <li>• Undertaking discovery</li> <li>• Preparing interlocutory application(s), pre-trial conference memorandum</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>
<b>Mediation Conference</b> (Judge-led)	up to <b>1.5 times</b> anticipated conference time (hrs)  <b>Actual</b> hours	For <ul style="list-style-type: none"> <li>• Reviewing file</li> <li>• Preparing for hearing – briefing client, submissions</li> <li>• Reporting to client</li> </ul> For attending mediation conference
<b>Interlocutory hearing(s)</b>	up to <b>1.5 times</b> anticipated hearing time (hrs)  <b>Actual</b> hours	For preparing submissions for interlocutory hearing(s)  For attending interlocutory hearing(s)

### 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 28-30 for:

- Additional factors
- Interpreter

## Step 3: Hearing

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation for hearing	up to <b>1.5 times</b> anticipated hearing time (hrs)	For <ul style="list-style-type: none"> <li>• Reviewing file</li> <li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours)</li> <li>• Preparing for hearing – cross examination, briefing witnesses, submissions</li> <li>• Undertaking research, if necessary</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul> (If the anticipated hearing time exceeds 2 days, attach a copy of the court fixture notice to the tax invoice)
Hearing	<b>Actual</b> hours	For attending hearing
Review of judgement	up to <b>2</b> hours	For <ul style="list-style-type: none"> <li>• Receiving and considering judgement</li> <li>• Advising client on implementation of judgement</li> </ul>

### 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 28-30 for:

- Interpreter

## Children & Young Persons (CYP)

August 08

Steps for proceedings under the Children, Young Persons and their Families Act 1989

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Step 4: Court Review of a Case/Plan as a result of Court Order or Direction</b>		
Review hearing	up to <b>3</b> hours	For <ul style="list-style-type: none"><li>• Reviewing care and protection plan, taking instructions</li><li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours)</li><li>• Consulting with CYFS</li><li>• Attending review hearing</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul>

### 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 28-30 for:

- CYPF Review
- Interpreter

## Granting Notes

### Attendance at Family Group Conferences – Proceedings Step 1

Prior approval is required for any attendance, including preparation, by Counsel at a Family Group Conference (FGC). This requirement is aimed at recognising the special purpose and attendance arrangements surrounding FGCs.

Approval to attend may be sought by completing the Family Legal Aid Amendment to Grant (*LSA Form 9*)

As a guide, legal aid will only be granted for lawyers to attend Family Group Conferences (FGC's) when:

- Attendance of counsel is for the purpose of providing legal services; and
- There are special circumstances, such as:
  - The legally aided parent has a disability;
  - There are serious power and control issues in the family dynamics; or
  - There are significant domestic violence issues affecting the legally aided person.

If the Agency considers that legal aid for this purpose is justified, the following guideline hours would be granted.

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Family Group Conference (FGC)</b>	up to <b>3</b> hours	For preparation and attendance at FGC. NB: Guideline hours are subject to prior approval

### Section 120 CYPF Act – Proceedings Step 1

Orders made, either interim or final, following proceedings under the CYPF Act have the effect of suspending particular proceedings under the Care of Children Act 2004 - see s.120 below:

#### ***CYPF Act, section 120***

120. Restriction on making of guardianship and parenting orders under Care of Children Act 2004
- (1) If a child or young person is subject to an order made under section 78, section 101 or section 110 of this Act, none of the following may be made under the Care of Children Act 2004:
- (a) an order in respect of the guardianship of that child or young person; and
  - (b) an order about the role of providing day-to-day care for that child or young person; and
  - (c) an order for contact with that child or young person.
- (1A) Subsection (1) is subject to subsection (2) and section 117(2).

**Granting Notes****Section 120 CYPF Act – Proceedings Step 1 continued**

- (2) Nothing in subsection (1) affects the power of a Court having jurisdiction under section 31 of the Care of Children Act 2004 to make an order under that section in respect of any child or young person who is subject to an order made under section 78 or section 101.

This will have a particular impact upon granting decisions:

- If an application by CYFS is imminent and its outcome is likely to endure for some time, it will not be practical to seek orders under the Care of Children Act 2004.
- Alternatively, if arrangements under the CYPF Act are likely to be short term, or are coming to the end of a longer term arrangement, then orders under the Care of Children Act 2004 may be helpful - conventional day-to-day care and contact orders might be needed to fill the gap after orders under the CYPF Act are discharged.

**Consideration of Additional Factors - Proceedings Step 1, 2**

Guideline hours have been allocated to each activity within the steps for a proceedings on the basis that they are a reasonable estimate of the time required to perform that activity, in at least 80% of matters.

However, the circumstances surrounding a matter may make it necessary to consider guideline hours for 'additional factors'. The 'additional factors' may arise from a variety of circumstances, for example:

- Some of the parties might not be represented, resulting in the lawyer having to explain the proceedings to, and prepare documentation for, person(s) other than the legally aided person, or perhaps having to deal with a difficult litigant in person.
- The proceeding may involve several children, perhaps with different parents. This may require different applications and reports reflecting the different circumstances.
- A party who suffers from an intellectual disability or mental illness, language or reading difficulties – but not necessitating a separate interpreter - requiring more time in taking instructions or prolonging proceedings. An additional allowance for the use of interpreters is available if required.
- There are contested allegations of sexual abuse or violence.

There is no complete 'checklist' of circumstances - each matter should be considered on a case by case basis.

The guideline hours for 'additional factors' in the proceedings step(s) are:

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Additional factors</b>	up to <b>3</b> hours	For additional factors which are likely to impact the preparation and filing of the orders

**Granting Notes****Consideration of Additional Factors - Proceedings Step 1, 2 continued**

The guideline hours for 'additional factors' may be applied to the grant, providing:

- the guideline hours for the activity(s) forming part of the maximum grant in this step have been exceeded; and
- the 'additional factors' can be clearly identified and justified.

**Use of Interpreters - Proceedings Steps 1, 2, 3, 4**

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:

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

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.

**CYPF Act Review – Proceedings Step 4**

Under the Care of Children Act a final order does not require periodic review - except for interim orders under the Care of Children Act which have a review date set.

In contrast, an order under CYPF Act must be reviewed:

- Every 6 months if the child is less than 7 years old; or
- Each year if the child is 7 years or older.

In addition, every order made under this Act will expire 6 months after the young person in respect of whom the order is made attains the age of 17 years (unless it has already expired).

## Day-to-Day Care & Contact

August 08

Steps for proceedings under the Care of Children Act 2004

### Step 1: Investigate and make/defend application

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Parenting order(s)	up to <b>8</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>• Referrals to counseling services</li><li>• Conducting initial negotiations between parties</li><li>• Preparing application for interim/final order(s), including:<ul style="list-style-type: none"><li>○ Affidavit(s) in support</li><li>○ Information sheets for the Court</li></ul></li><li>• Serving of documents</li><li>• Receiving minute/orders (either following in chambers or 1<sup>st</sup> Registrar's/Judge's List call)</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul>
Formal Proof hearing	up to <b>2</b> hours <b>Actual</b> hours	For preparing for hearing For attending hearing to resolve undefended application(s)
Memorandum of consent	up to <b>2</b> hours	For <ul style="list-style-type: none"><li>• Preparing memorandum of consent if agreement reached</li><li>• Seeking approval of the court</li></ul>

#### 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 35-37 for:

- Additional factors
- Interpreter

## Step 2: Pre-hearing Matters and Mediation

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Pre-hearing matters</b>	up to <b>8</b> hours	For <ul style="list-style-type: none"> <li>• Receiving notice of defence and undertaking negotiations</li> <li>• Taking further instructions</li> <li>• Preparing amendment to grant (if expecting to exceed the guideline hours)</li> <li>• Filing affidavit(s) in reply</li> <li>• Attending Registrar's List/Judges List/Roundtable conferences</li> <li>• Liaising with relevant parties – CYFS, Counsel for Child, witnesses, experts</li> <li>• Considering specialist reports, for example                             <ul style="list-style-type: none"> <li>○ s132 report - social worker</li> <li>○ s133 report - mental health, cultural specialist</li> <li>○ s59 – allegations of violence</li> <li>○ Lawyer for Childs report</li> </ul> </li> <li>• Undertaking discovery</li> <li>• Preparing interlocutory application(s), pre-trial conference memorandum</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>
<b>Mediation Conference</b> (Judge-led)	up to <b>1.5 times</b> anticipated conference time (hrs)  <b>Actual</b> hours	For <ul style="list-style-type: none"> <li>• Reviewing file</li> <li>• Preparing for hearing – briefing client, submissions</li> <li>• Reporting to client</li> </ul> For attending mediation conference
<b>Interlocutory hearing(s)</b>	up to <b>1.5 times</b> anticipated hearing time (hrs)  <b>Actual</b> hours	For preparing submissions for interlocutory hearing(s)  For attending interlocutory hearing(s)

### 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 35-37 for:

- Additional factors
- Interpreter

## Step 3: Hearing

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation for hearing	up to <b>1.5 times</b> anticipated hearing time (hrs)	For <ul style="list-style-type: none"> <li>• Reviewing file</li> <li>• Preparing amendment to grant (if expecting to exceed the guideline hours)</li> <li>• Preparing for hearing – cross examination, briefing witnesses, submissions</li> <li>• Undertaking research, if necessary</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul> (If the anticipated hearing time exceeds 2 days, attach a copy of the court fixture notice to the tax invoice)
Hearing	<b>Actual</b> hours	For attending hearing
Review of judgement	up to <b>1</b> hour	For <ul style="list-style-type: none"> <li>• Receiving and considering judgement</li> <li>• Discussing with client</li> </ul>

### 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 35-37 for:

- Interpreter

## Day-to-Day Care & Contact

August 08

Steps for proceedings under the Care of Children Act 2004

### Step 4: Review as a result of Court Order or Direction

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Review hearing	up to <b>3</b> hours	For <ul style="list-style-type: none"><li>• Reviewing parenting orders to evaluate Day-to-Day Care and Contact regime</li><li>• Preparing amendment to grant (if expecting to exceed the guideline hours)</li><li>• Reporting to client</li><li>• Reporting and invoicing LSA</li></ul>

#### 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 35-37 for:

- Interpreter

## Granting Notes

### Consideration of Additional Factors - Proceedings Step 1

Guideline hours have been allocated to each activity within the steps for a proceedings on the basis that they are a reasonable estimate of the time required to perform that activity, in at least 80% of matters.

However, the circumstances surrounding a matter may make it necessary to consider guideline hours for 'additional factors'. The 'additional factors' may arise from a variety of circumstances, for example:

- Some of the parties might not be represented, resulting in the lawyer having to explain the proceedings to, and prepare documentation for, person(s) other than the legally aided person, or perhaps having to deal with a difficult litigant in person.
- The proceedings may involve a large number of parties applying for parenting orders including extended family members - any other person who is a member of the child's family, whanau, or other culturally recognised family group or any other person granted leave to apply by the Court.
- The proceedings may involve several children. [However, if the children have different parents, as respondents - the Agency will require separate applications for grants of legal aid]
- A party who suffers from an intellectual disability or mental illness, language or reading difficulties – but not necessitating a separate interpreter - requiring more time in taking instructions or prolonging proceedings. An additional allowance for the use of interpreters is available if required.
- There are contested allegations of sexual abuse or violence.
- An application may be initiated by a child - involving the appointment of a litigation guardian.

There is no complete 'checklist' of circumstances - each matter should be considered on a case by case basis.

The guideline hours for 'additional factors' in the proceedings step(s) are:

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Additional factors</b>	up to <b>3</b> hours	For additional factors which are likely to impact the preparation and filing of the orders

The guideline hours for 'additional factors' may be applied to the grant, providing:

- the guideline hours for the activity(s) forming part of the maximum grant in this step have been exceeded; and
- the 'additional factors' can be clearly identified and justified.

**Granting Notes****Consideration of Additional Factors - Proceedings Step 2: Pre-hearing matters and Mediation**

The guideline hours for Step 2 are designed to cover all attendances for pre-hearing matters including a mediation conference. This is likely to include taking further instructions, negotiations, and attendances (by correspondence where possible, in person or by an agent otherwise) at all registrars lists and judges list while awaiting a mediation conference. However, a date for the mediation conference may be unavailable for several months. As a result, it may be necessary to resolve certain matters before the conference, for example:

- Interim negotiation of day-to-day care and contact arrangements
- A short causes hearing is required where agreement cannot be reached over day-to-day care and contact arrangements
- Additional time may be needed to negotiate arrangements both before and after the mediation conference and on attending Registrars' Lists and Chambers hearings.

In the event that the guideline hours for this pre-hearing step are insufficient to address the special circumstances of the matter, an amendment to the legal aid grant will need to be prepared for consideration by the Agency.

The guideline hours for 'additional factors' in the proceedings step(s) are:

<b>Activity</b>	<b>Guideline Hours</b>	<b>Tasks normally covered by Guideline Hours</b>
<b>Additional factors</b>	up to <b>2</b> hours	For additional factors which are likely to impact the pre-hearing matters and mediation.

The guideline hours for 'additional factors' may be applied to the grant, providing:

- the guideline hours for the activity(s) forming part of the maximum grant in this step have been exceeded; and
- the 'additional factors' can be clearly identified and justified.

**Use of Interpreters - Proceedings Steps 1, 2, 3, 4**

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.

**Granting Notes****Use of Interpreters - Proceedings Steps 1, 2, 3, 4 continued**

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

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

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.

## Step 1: APPLICANT – ‘on notice’ or ‘without notice’ application (Undefended)

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Protection order	up to <b>6</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>• Preparing ‘without notice’ or ‘on notice’ application for order(s), including:                             <ul style="list-style-type: none"> <li>○ Affidavit(s) in support</li> <li>○ Information sheets for the Court</li> </ul> </li> <li>• Serving of ‘on notice’ documents</li> <li>• Receiving minute/orders (either following in chambers or 1<sup>st</sup> Registrar’s/Judge’s List call)</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>
Occupation/tenancy, ancillary furniture order(s)	up to <b>2</b> hours	For preparing one or more orders in addition to the protection order
Special condition(s)	up to <b>1</b> hour	For preparing any protection order related conditions, e.g. contact with children who are also protected persons
Representative action	up to <b>2</b> hours	For preparing a protection order involving a representative for the applicant, e.g. adult representing child
Associated respondent(s)	up to <b>2</b> hours	For preparing a protection order involving associated respondents
Formal Proof hearing	up to <b>2</b> hours <b>Actual</b> hours	For preparing for hearing For attending hearing to resolve undefended application(s)

### 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 41-42 for:

- Additional factors
- Interpreter

## Step 2: APPLICANT – ‘On notice’ or ‘without notice’ application (Defended)

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Protection order</b> Where: <ul style="list-style-type: none"> <li>• Temporary order(s) obtained without notice are now being opposed/defended; or</li> <li>• Application for protection order initiated on notice and is defended.</li> </ul>	up to <b>6</b> hours (in addition to work completed in Step 1)	For <ul style="list-style-type: none"> <li>• Receiving/perusing notice of defence and associated documents from respondent,</li> <li>• Taking instructions, attending client</li> <li>• Preparing, filing and serving applicant's reply</li> <li>• Preparing amendment to legal aid grant (if expecting to exceed guideline hours at this step)</li> <li>• Undertaking discovery</li> <li>• Liaising with court appointed counsel, and third parties (Police, Doctor, hospital, witnesses, experts)</li> <li>• Preparing and attending, as required, Registrars List(s)</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>
<b>Occupation/tenancy, ancillary furniture order(s)</b>	up to <b>2</b> hours	For preparing one or more orders in addition to the protection order
<b>Special condition(s)</b>	up to <b>1</b> hour	For preparing any protection order related conditions e.g. contact with children who are also protected persons
<b>Pre- hearing</b>	up to <b>4</b> hours	For preparing interlocutory application(s), pre-trial conference memorandum
<b>Preparation for hearing</b>	up to <b>1.5 times</b> anticipated hearing time (hrs)	For <ul style="list-style-type: none"> <li>• Reviewing file</li> <li>• Preparing for hearing – cross examination, briefing witnesses, submissions</li> <li>• Undertaking research, if necessary</li> <li>• Reporting to client</li> </ul>
<b>Hearing</b>	<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 41-42 for:

- Additional factors
- Interpreter

## Step 2: RESPONDENT – ‘On notice’ or ‘without notice’ application (Defended)

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Notice of defence (if ‘on notice’), or Notice of intention to appear (if preceded by temporary orders)</b>	up to <b>7</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>• Preparing notice of defence/notice of intention to appear, including affidavit(s) in support</li> <li>• Serving of documents</li> <li>• Undertaking discovery</li> <li>• Liaising with third parties – Police, Doctor, hospital, witnesses, experts, programme issues</li> <li>• Preparing and attending, as required, Registrars List(s)</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>
<b>Objection to Programme</b>	up to <b>1</b> hour	For preparing objection to programme in addition to preparing defence of order(s)
<b>Objection to Programme (only)</b>	up to <b>4</b> hours	For preparing objection to programme only, ie not defending the protection order(s)
<b>Occupation/tenancy, ancillary furniture order(s)</b>	up to <b>2</b> hours	For defending one or more orders in addition to the protection order
<b>Special condition(s)</b>	up to <b>1</b> hour	For defending any protection order related conditions
<b>Pre-hearing</b>	up to <b>4</b> hours	For preparing interlocutory application(s), pre-trial conference memorandum
<b>Preparation for hearing</b>	up to <b>1.5 times</b> anticipated hearing time (hrs)	For <ul style="list-style-type: none"> <li>• Reviewing file</li> <li>• Preparing for hearing – cross examination, briefing witnesses, submissions</li> <li>• Undertaking research, if necessary</li> <li>• Reporting to client</li> </ul>
<b>Hearing</b>	<b>Actual</b> hours	For attending hearing

### 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 41-42 for:

- Additional factors
- Interpreter

**Granting Notes****Consideration of Additional Factors - Proceedings Steps 1, 2**

Guideline hours have been allocated to each activity within the steps for a proceedings on the basis that they are a reasonable estimate of the time required to perform that activity, in at least 80% of matters.

However, the circumstances surrounding a matter may make it necessary to consider guideline hours for 'additional factors'. The 'additional factors' may arise from a variety of circumstances, for example:

- The other party may be self-represented, causing additional delays to the progression of the proceedings.
- A party who suffers from an intellectual disability or mental illness, language or reading difficulties – but not necessitating a separate interpreter - requiring more time in taking instructions or prolonging proceedings. An additional allowance for the use of interpreters is available if required.
- Overseas registration of a protection order.

There is no complete 'checklist' of circumstances - each matter should be considered on a case by case basis.

The guideline hours for 'additional factors' in the proceedings step(s) are:

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Additional factors</b>	up to <b>2</b> hours	For additional factors which are likely to impact the preparation and filing of the orders

The guideline hours for 'additional factors' may be applied to the grant, providing:

- the guideline hours for the activity(s) forming part of the maximum grant in this step have been exceeded; and
- the 'additional factors' can be clearly identified and justified.

**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.

**Granting Notes****Use of Interpreters - Proceedings Steps 1, 2 continued**

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

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

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.

## Family Proceedings/Guardianship

August 08

Steps for general proceedings under the Family Proceedings Act 1980 and Care of Children Act 2004 (Excluding application for parenting or paternity orders)

### Step 1: Investigate and make application

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Maintenance and/or guardianship order(s)</b> (see Granting Notes for types of proceedings)	up to <b>8</b> hours	For <ul style="list-style-type: none"> <li>• Taking instructions, attending client</li> <li>• Identifying legal and factual issues</li> <li>• Preparing application for legal aid</li> <li>• Referrals to counselling services</li> <li>• Conducting initial negotiations between parties</li> <li>• Preparing application for interim/final order(s), including:               <ul style="list-style-type: none"> <li>○ Affidavit(s) in support</li> <li>○ Information sheets for the Court</li> </ul> </li> <li>• Serving of documents</li> <li>• Receiving minute/orders (either following in chambers or 1<sup>st</sup> Registrar's/Judge's List call)</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>
<b>Formal Proof hearing</b>	up to <b>2</b> hours <b>Actual</b> hours	For preparing for hearing For attending hearing to resolve undefended application(s)
<b>Memorandum of consent</b>	up to <b>2</b> hours	For <ul style="list-style-type: none"> <li>• Preparing memorandum of consent if agreement reached</li> <li>• Seeking approval by court</li> </ul>

### 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 46-48 for:

- Types of proceedings
- Additional factors
- Interpreter

## Family Proceedings/Guardianship

August 08

Steps for general proceedings under the Family Proceedings Act 1980 and Care of Children Act 2004 (Excluding application for parenting or paternity orders)

### Step 2: Pre-hearing Matters and Mediation

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Pre-hearing matters</b>	up to <b>8</b> hours	For <ul style="list-style-type: none"> <li>• Taking further instructions and undertaking negotiations</li> <li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours for this step)</li> <li>• Attending Registrar's List/Chambers hearings</li> <li>• Liaising with relevant parties – CYFS, Counsel for Child, witnesses, experts</li> <li>• Considering specialist reports for example s132 report (social worker), s133 report (mental health, cultural specialist)</li> <li>• Undertaking discovery</li> <li>• Preparing interlocutory application(s), pre-trial conference memorandum</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>
<b>Mediation Conference</b> (Judge-led)	up to <b>1.5 times</b> anticipated conference time (hrs)  <b>Actual</b> hours	For <ul style="list-style-type: none"> <li>• Reviewing file</li> <li>• Preparing for hearing – briefing client, submissions</li> <li>• Reporting to client</li> </ul> For attending mediation conference
<b>Interlocutory hearing(s)</b>	up to <b>1.5 times</b> anticipated hearing time (hrs)  <b>Actual</b> hours	For preparing submissions for interlocutory hearing(s)  For attending interlocutory hearing(s)

#### 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 46-48 for:

- Additional factors
- Interpreter

## Family Proceedings/Guardianship

August 08

Steps for general proceedings under the Family Proceedings Act 1980 and Care of Children Act 2004 (Excluding application for parenting or paternity orders)

### Step 3: Hearing

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation for hearing	up to <b>1.5 times</b> anticipated hearing time (hrs)	For <ul style="list-style-type: none"><li>• Reviewing file</li><li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours for this step)</li><li>• Preparing for hearing – cross examination, briefing witnesses, submissions</li><li>• Undertaking research, if necessary</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul> (If the anticipated hearing time exceeds 2 days, attach a copy of the court fixture notice to the tax invoice)
Hearing	<b>Actual</b> hours	For attending hearing
Review of judgement	up to <b>2</b> hour	For <ul style="list-style-type: none"><li>• Receiving and considering judgement</li><li>• Discussing with client</li></ul>

#### 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 46-48 for:

- Interpreter

## Family Proceedings/Guardianship

August 08

Steps for general proceedings under the Family Proceedings Act 1980 and Care of Children Act 2004 (Excluding application for parenting or paternity orders)

### Granting Notes

#### Types of Proceedings – Proceedings Step 1 (list not exhaustive)

Application by husband or wife for maintenance during marriage	Family Proceedings Act s67
Application for maintenance of party after dissolution of marriage	Family Proceedings Act s70
Application for maintenance order in respect of child	Family Proceedings Act s74
Application for maintenance order under section 78	Family Proceedings Act s78
Application for maintenance order in favour of unmarried parent	Family Proceedings Act s79
Application for declaration as to guardianship of father	Care of Children Act s20
Application where dispute between guardians	Care of Children Act section 44
Application for appointment of additional guardian	Care of Children Act ss19, 23
Application for order to prevent removal from New Zealand	Care of Children Act s77
Application for removal of guardian	Care of Children Act s29

#### Consideration of Additional Factors - Proceedings Step 1

Guideline hours have been allocated to each activity within the steps for a proceedings on the basis that they are a reasonable estimate of the time required to perform that activity, in at least 80% of matters.

However, the circumstances surrounding a matter may make it necessary to consider guideline hours for 'additional factors'. The 'additional factors' may arise from a variety of circumstances, for example:

- Some of the parties might not be represented, resulting in the lawyer having to explain the proceedings to, and prepare documentation for, person(s) other than the legally aided person, or perhaps having to deal with a difficult litigant in person.
- The proceedings may involve a large number of parties applying for parenting orders including extended family members - any other person who is a member of the child's family, whanau, or other culturally recognised family group or any other person granted leave to apply by the Court.
- The proceeding may involve several children, perhaps with different parents. This may require different applications and reports reflecting the different circumstances.
- A party who suffers from an intellectual disability or mental illness, language or reading difficulties – but not necessitating a separate interpreter - requiring more time in taking instructions or prolonging proceedings. An additional allowance for the use of interpreters is available if required.
- There are contested allegations of sexual abuse or violence.
- A relocation application may involve an unexpected and unusual level of urgency.

## Granting Notes

### Consideration of Additional Factors - Proceedings Step 1 continued

There is no complete 'checklist' of circumstances - each matter should be considered on a case by case basis.

The guideline hours for 'additional factors' in the proceedings step(s) are:

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Additional factors</b>	up to <b>3</b> hours	For additional factors which are likely to impact the preparation and filing of the orders.

The guideline hours for 'additional factors' may be applied to the grant, providing:

- the guideline hours for the activity(s) forming part of the maximum grant in this step have been exceeded; and
- the 'additional factors' can be clearly identified and justified.

### Consideration of Additional Factors - Proceedings Step 2: Pre-hearing matters and Mediation

The guideline hours for Step 2 are designed to cover all attendances for pre-hearing matters including a mediation conference. This is likely to include taking further instructions, negotiations, and attendances (by correspondence where possible, in person or by an agent otherwise) at all registrars lists and judges list while awaiting a mediation conference. However, a date for the mediation conference may be unavailable for several months. As a result, it may be necessary to resolve certain matters before the conference, for example:

- Interim negotiation of guardianship arrangements
- A short causes hearing is required where agreement cannot be reached over guardianship arrangements
- Additional time may be needed to negotiate arrangements both before and after the mediation conference and on attending Registrars' Lists and Chambers hearings.

The guideline hours for 'additional factors' in the proceedings step(s) are:

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Additional factors</b>	up to <b>2</b> hours	For additional factors which are likely to impact the pre-hearing matters and mediation.

The guideline hours for 'additional factors' may be applied to the grant, providing:

- the guideline hours for the activity(s) forming part of the maximum grant in this step have been exceeded; and
- the 'additional factors' can be clearly identified and justified.

## Granting Notes

### Use of Interpreters - Proceedings Steps 1, 2, 3

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:

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

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.

## 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 51-52 for:

- Disbursements for DNA Tests
- Interpreter

Steps for paternity proceedings under the Family Proceedings Act 1980

Step Grant	Guideline Hours	Activities normally covered by Guideline Hours
<b>Step 2: Defended Application</b>		
<b>Defended Application for Paternity Order</b>	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>
<b>Hearing</b>	<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 51-52 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
<b>Interpreter</b>	<b>30%</b> loading on hours granted	For the additional time necessary to inform, brief and seek instructions from the client when an interpreter is engaged.

## 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.

## Personal & Property Rights

June 2005

Steps for proceedings under the Protection of Personal and Property Rights Act 1988

### Step 1: Application for Interim Order - to Administer Property and/or Appoint Welfare Guardian and/or Property Manager

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Welfare/Property Interim Order	up to <b>5</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>• Preparing and filing application for interim order including:<ul style="list-style-type: none"><li>○ Affidavit(s) in support</li><li>○ Information sheets for the court</li></ul></li><li>• Resolving by formal proof or consent memorandum (where no notice of defence has been filed)</li><li>• Attending Registrar's list</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul>
Service	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 page 56 for:

- Interpreter

## Personal & Property Rights

June 2005

Steps for proceedings under the Protection of Personal and Property Rights Act 1988

### Step 2: Application for Final Order - to Administer Property and/or Appoint Welfare Guardian and/or Property Manager

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Welfare/Property Final Order	up to <b>8</b> hours  or  up to <b>3</b> hours (if preparation of interim order has already been 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>• Preparing and filing application for order including:<ul style="list-style-type: none"><li>○ Affidavit(s) in support</li><li>○ Information sheets for the court</li></ul></li><li>• Resolving by formal proof or pre-hearing conference</li><li>• Attending Registrar's list</li><li>• Attending pre-hearing conference</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul>
Service	up to <b>1</b> hour (no guideline hours if already claimed under Step 1)	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 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 page 56 for:

- Interpreter

## Step 3: Defended Hearing

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Pre-trial Conference	up to <b>2</b> hours	For preparing for pre-trial conference
Preparation for Hearing	up to <b>1.5 times</b> anticipated hearing time (hrs)	For <ul style="list-style-type: none"> <li>• Reviewing file</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>• Undertaking research, if necessary</li> <li>• Receiving and considering judgement</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul> (If the anticipated hearing time exceeds 2 days, attach a copy of the court fixture notice to the tax invoice)
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 page 56 for:

- Interpreter

## Granting Notes

### Use of Interpreters - Proceedings Steps 1, 2, 3

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.

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.

## Property Relationships

August 08

Steps for proceedings under the Property (Relationships) Act 1976

### Step 1(a): Pre-proceedings: Investigation and Negotiation

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Pre-proceedings	up to <b>7</b> hours	For <ul style="list-style-type: none"><li>• Taking instructions, attending client</li><li>• Identifying legal and factual issues</li><li>• Preparing application for legal aid</li><li>• Disclosure, discovery, asset valuations</li><li>• Negotiating between parties</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul>
s21 Agreement	up to <b>2</b> hours	For drafting and certifying s21 agreement – If agreement is reached at this stage

#### 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 61-62 for:

- Additional factors
- Interpreter

# Property Relationships

August 08

Steps for proceedings under the Property (Relationships) Act 1976

## Step 1(b): Pre-proceedings: Make or Defend Application

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Relationship Property order(s) (Applicant/Respondent)	up to <b>7</b> hours	For <ul style="list-style-type: none"><li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours for this step)</li><li>• Drafting/filing application for/defence to, relationship property orders</li><li>• Drafting/filing applicant/respondent P(R) 1, narrative affidavit</li><li>• Serving of documents</li><li>• Attending Registrar's List/Chambers List hearings</li><li>• Preparing interlocutory application(s), pre-trial conference memorandum</li><li>• Receiving Court review and directions</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul>
Interlocutory hearing(s)	up to <b>3</b> hours	For preparing submissions for interlocutory hearing(s) (Hearing time expected to be minimal)

### 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 61-62 for:

- Interpreter

# Property Relationships

August 08

Steps for proceedings under the Property (Relationships) Act 1976

## Step 2: Pre-hearing Matters

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Settlement Conference</b> (Judge led)	up to <b>2.0 times</b> anticipated conference time (hrs)	For preparing submissions for settlement conference, including memorandum of issues
	<b>Actual</b> hours	For attending settlement conference
<b>Consent Memorandum</b>	up to <b>2</b> hours	For preparing consent memorandum – if agreement reached in settlement conference
<b>Discovery</b>	up to <b>6</b> hours	For <ul style="list-style-type: none"> <li>• Undertaking further round of discovery – updated accounting reports, asset valuations, debt levels</li> <li>• Preparing interlocutory application(s), pre-trial conference memorandum</li> <li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours for this step)</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing LSA</li> </ul>
<b>Interlocutory hearing(s)</b>	up to <b>2</b> hours	For preparing submissions for interlocutory hearing(s) (Hearing time expected to be minimal)
<b>Interrogatories</b>	up to <b>4</b> hours	For obtaining information requested from other party to clarify/support the matter
<b>Document preparation</b>	up to <b>9</b> hours	For preparing pre-hearing documents– lists of issues, authorities, 'bundle' of documents (affidavits, statements of evidence)

### 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 61-62 for:

- Interpreter

# Property Relationships

August 08

Steps for proceedings under the Property (Relationships) Act 1976

## Step 3: Hearing

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation for hearing	up to <b>1.5 times</b> anticipated hearing time (hrs)	For <ul style="list-style-type: none"><li>• Reviewing file</li><li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours for this step)</li><li>• Preparing for hearing – cross examination, briefing witnesses, submissions</li><li>• Undertaking research, if necessary</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul>
Hearing	<b>Actual</b> hours	For attending hearing
Review of judgement	up to <b>5</b> hours	For <ul style="list-style-type: none"><li>• Receiving and considering judgement</li><li>• Sealing judgement (if appropriate)</li><li>• Advising client on implementation of judgement – re-financing, re-occupation, debt management, allocations of funds</li></ul>

### 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 61-62 for:

- Interpreter

**Granting Notes****Consideration of Additional Factors - Proceedings Step 1**

Guideline hours have been allocated to each activity within the steps for a proceedings on the basis that they are a reasonable estimate of the time required to perform that activity, in at least 80% of matters.

However, the circumstances surrounding a matter may make it necessary to consider guideline hours for 'additional factors'. The 'additional factors' may arise from a variety of circumstances, for example:

- Some of the parties might not be represented, resulting in the lawyer having to explain the proceedings to, and prepare documentation for, person(s) other than the legally aided person, or perhaps having to deal with a difficult litigant in person.
- A party who suffers from an intellectual disability or mental illness, language or reading difficulties – but not necessitating a separate interpreter - requiring more time in taking instructions or prolonging proceedings. An additional allowance for the use of interpreters is available if required.

There is no complete 'checklist' of circumstances - each matter should be considered on a case by case basis.

The guideline hours for 'additional factors' in the proceedings step(s) are:

<b>Activity</b>	<b>Guideline Hours</b>	<b>Tasks normally covered by Guideline Hours</b>
<b>Additional factors</b>	up to <b>2</b> hours	For additional factors which are likely to impact on the pre-proceedings.

The guideline hours for 'additional factors' may be applied to the grant, providing:

- the guideline hours for the activity(s) forming part of the maximum grant in this step have been exceeded; and
- the 'additional factors' can be clearly identified and justified.

**Use of Interpreters - Proceedings Steps 1, 2, 3**

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.

**Granting Notes****Use of Interpreters - Proceedings Steps 1, 2, 3 continued**

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

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

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.