

## ANNEX 50

- Country Report UNITED-KINGDOM

**CONTRACT**  
**JLS/2006/C4/007-30-CE-0097604/00-36**

**IMPLEMENTED BY**



**DEMOLIN, BRULARD, BARTHELEMY**

**- HOCHÉ -**

**FOR**



**COMMISSION EUROPEENNE**

**- DG FOR JUSTICE, FREEDOM  
AND SECURITY -**

**Study on the Transparency of Costs of Civil Judicial  
Proceedings in the European Union**

**Jean ALBERT  
Team Leader**

**- COUNTRY REPORT -**

**- UNITED KINGDOM -**

**Submitted by Benjamin John Francis Macfarlane  
Country Expert**

**DECEMBER 30, 2007**

COUNTRY REPORT .....	6
Introduction .....	7
Executive Summary .....	8
1 Summary of the mains sources of costs .....	8
2 Level of transparency .....	8
3 Determination of the amounts of costs.....	9
4 Proportion of each identified cost on the overall cost of civil judicial proceedings .....	9
5 Proportion of each identified cost on the overall volume of activity .....	9
6 Proportion of each identified cost on the value of disputed claim .....	10
7 Specificities in relation to EU cross-border disputes .....	10
8 Recommendations for EU action/national action.....	10
9 Relationship between the costs of justice, the transparency in the costs of justice and access to justice .....	10
Detailed Draft Report .....	12
1 General Questions .....	12
<b>1.1 Level of information on the transparency of fees and costs of justice</b> .....	<b>12</b>
<b>1.2 Transparency perception</b> .....	<b>13</b>
<b>1.3 Solutions to improve transparency</b> .....	<b>14</b>
<b>1.4 Fairness of costs</b> .....	<b>15</b>
<b>1.5 Conclusions and recommendations</b> .....	<b>15</b>
2 Court fees .....	16
<b>2.1 General</b> .....	<b>16</b>
<b>2.2 Cost of bringing an action to th courts</b> .....	<b>17</b>
<b>2.3 Other proceedings costs</b> .....	<b>19</b>
2.3.1.....	33
<b>2.4 Costs of legal recourses (Appeals...)</b> .....	<b>34</b>
<b>2.5 Costs of ADR</b> .....	<b>38</b>
<b>2.6 Costs of legal aid proceedings</b> .....	<b>39</b>
<b>2.7 Costs of fast track proceedings</b> .....	<b>39</b>
<b>2.8 Costs of Group action proceedings</b> .....	<b>39</b>
<b>2.9 Payment</b> .....	<b>39</b>
<b>2.10 E-justice</b> .....	<b>40</b>
<b>2.11 Impact of the number of hearings on costs</b> .....	<b>41</b>
<b>2.12 Transcription costs</b> .....	<b>41</b>
<b>2.13 Conclusions and Recommendations</b> .....	<b>42</b>
3 Lawyers' consulting and representation fees .....	42
<b>3.1 General</b> .....	<b>42</b>
<b>3.2 Fees depending on the nature of the litigation</b> .....	<b>43</b>
<b>3.3 Fees depending on the type of lawsuit or proceedings</b> .....	<b>43</b>
<b>3.4 Fees depending on the value of the claim</b> .....	<b>43</b>
<b>3.5 Fees depending on the jurisdiction</b> .....	<b>44</b>
<b>3.6 Legal aids cases</b> .....	<b>44</b>
<b>3.7 Contingency fees</b> .....	<b>44</b>
<b>3.8 Payment</b> .....	<b>44</b>
3.8.1 Retainers.....	44
<b>3.9 Conclusions and recommendations</b> .....	<b>45</b>
4 Bailiff fees .....	45
<b>4.1 General</b> .....	<b>45</b>
<b>4.2 Ante judgment</b> .....	<b>46</b>

4.3	During proceedings .....	46
4.4	Post proceedings .....	46
4.5	Legal aid cases .....	46
4.6	Payment.....	46
4.7	Conclusions and recommendations .....	47
5	Expert fees.....	47
5.1	General.....	47
5.2	Fees (medical experts, technical transports experts...) .....	48
5.3	Payment.....	49
5.3.1	Retainers.....	50
5.4	Legal aid cases .....	50
5.5	Reimbursement of experts' fees .....	50
5.6	Practical questions.....	50
5.7	Conclusion and recommendations .....	50
6	Translation and interpretation fees .....	51
6.1	General.....	51
6.2	Translation fees .....	52
6.3	Interpretation fees.....	52
6.4	Payment.....	53
6.4.1	Retainers.....	53
6.5	Practical questions.....	53
6.6	Legal aid cases .....	54
6.7	Reimbursement.....	54
6.8	Conclusion and recommendations .....	54
7	Witness Compensation.....	54
7.1	General.....	54
7.2	Fees.....	55
7.3	Legal aids cases.....	57
7.4	Payment.....	57
7.5	Practical questions.....	57
7.6	Conclusions and recommendations .....	58
8	Pledges and security deposits.....	58
8.1	General.....	58
8.2	Fees.....	58
8.3	Payment.....	58
8.4	Practical questions.....	58
8.5	Conclusion and recommendations .....	59
9	Court decisions.....	59
9.1	Cost of notification.....	59
9.2	Cost of obtaining an authenticated decision .....	59
9.3	Conclusions and recommendations .....	60
10	Civil Legal aid.....	60
10.1	General.....	60
10.2	Conditions of grant.....	60
10.3	Strings attached .....	62
10.4	Practical questions.....	62
10.5	Conclusion and recommendations .....	63
11	Personal experience.....	64
12	Case studies.....	64
12.1	Insurance.....	64

12.1.1	Is there any Insurance capacity to cover the risks of litigation in Civil Proceedings?.....	64
12.1.2	What are the average costs of these insurances?.....	65
12.1.3	Would such Insurances work for cross border disputes? .....	65
12.1.4	Is the Insurance Premium more expensive to cover cross border disputes? ....	65
12.1.5	What part of the costs do these insurances generally cover? .....	65

**ANNEXES TABLE:**

ANNEXE 1 Questionnaire completed for the implementation of this study

## COUNTRY REPORT

*Preliminary notes*

## **Introduction**

I am from the United Kingdom and am a solicitor of the Supreme Court of England and Wales. I have been asked to prepare this report to reflect the position within my jurisdiction in relation to the transparency of costs of civil judicial proceedings in the European Union.

## **Executive Summary**

### **1 Summary of the mains sources of costs**

The main sources of costs in any piece of litigation in England and Wales are lawyer's fees (solicitors-legal representatives and barristers-advocates), court costs, Expert Witness fees, Translators' fees, Bailiffs' fees and factual witness expenses. This is generally in the order of importance of the costs to the litigation.

### **2 Level of transparency**

The most transparent element of litigation costs are Court and Bailiffs' fees. These are widely published and readily accessible to the general public. Lawyers' fees and expert's fees are the least readily accessible or transparent in my view. The remaining costs associated with litigation in England and Wales fall between these two extremes

### **3 Determination of the amounts of costs**

. With the exception of Court Fees, which are determined according to the amount of the claim in issue, the general level of costs is determined by the complexity and difficulty of the case. If the matter is very complex and involves the translation of voluminous quantities of documents from foreign languages into English, this will inevitably escalate the litigation costs in a case.

### **4 Proportion of each identified cost on the overall cost of civil judicial proceedings**

The following tables are intended to give some guidelines based on a notional average case

Court Fees: 3-5%

Bailiffs' Fees: 3-5 %

Lawyers' Fees: 70-90 %

Experts' Fees: 5-10 %

Witness Compensation: 2-5%

Translation/Interpretation Fees: 5-7 %

### **5 Proportion of each identified cost on the overall volume of activity**

Court fees: 5-10% depending on the type of case.

Bailiffs' fees: 3-5%

Lawyers' fees: 70-90%

Experts' Fees: 5-10%

Witness Compensation: 2-5%

Translation/ Transcription Fees: 2-10%

## **6 Proportion of each identified cost on the value of disputed claim**

Court Costs: 1-10% depending on the value of the claim.

Bailiffs' Fees: 1-3%

Lawyers' Fees: 20-40%

Experts' Fees: 1-5%

Witness Compensation: 1-3%

Translation/Interpretation: 1-3%

## **7 Specificities in relation to EU cross-border disputes**

The main additional costs which will be encountered in cross border disputes are the engagement of two sets of lawyers (one in the home country, the other in the other EU country), registration of a foreign judgement, and translation and interpretation fees

## **8 Recommendations for EU action/national action**

There should be a central repository (i.e. website) where details of the litigation costs regime of each of the EU countries is held and which gives the relevant details in each of the national languages used in the EU

## **9 Relationship between the costs of justice, the transparency in the costs of justice and access to justice**

Currently in England and Wales, there is a substantial gap between those who cannot obtain legal aid and those who can afford to litigate. This gap is bridged in certain cases by Conditional Fee Arrangements ("CFA"), but not every case is suitable for a conditional fee arrangement. Indeed, lawyers will generally only take on a CFA where there is at least a 70% chance of success on the merits and the target of the litigation has substantial assets. Also, CFA's are really only suitable for Claimants' lawyers. Equally, in my view, a lot of people are put off litigating because of the lack of transparency in the amount and types of cost involved in Civil Litigation.



## Detailed Draft Report

### 1 General Questions

#### 1.1 Level of information on the transparency of fees and costs of justice

The main information which can be obtained from the web about costs of civil litigation in the UK can be found on the following public websites:

Government News Network website - [www.gnn.gov.uk/](http://www.gnn.gov.uk/)

Her Majesty's Court Service (HMCS) - [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk)

Department of Constitutional Affairs- [www.dca.gov.uk](http://www.dca.gov.uk) now [www.justice.gov.uk](http://www.justice.gov.uk)

Legal Services Commission - [www.legalservices.gov.uk](http://www.legalservices.gov.uk)

The information on these websites is free.

Further advice can be obtained for free from the following private websites:

Advice Guide - [www.adviceguide.org.uk/](http://www.adviceguide.org.uk/)

Roger Horne's Miscellany - [www.hrothgar.co.uk/](http://www.hrothgar.co.uk/)

Richard Buxton - [www.richardbuxton.co.uk/](http://www.richardbuxton.co.uk/)

Compact Law - [www.compactlaw.co.uk](http://www.compactlaw.co.uk)

There are also the following brochures available from the Court Service:

County Court Fees - Leaflet EX 50 from the HMCS Website referred to at paragraph 2 above (free).

Court Fees- Leaflet EX 160 A from the HMCS Website as above (free).

Also, it is possible to telephone any Court in England and Wales to ask about the amount of court fees. Provided that you call within court hours, the Court clerks are generally helpful and courteous and will assist with information regarding Court fees (and transcribers' fees). However, they are not in a position to assist with regard to the amount of lawyers' fees, nor, for example, translators' fees.

Information is also available to the public at large about legal costs from public information centres such as The Citizen's Advice Bureaux. Many of these are over-used and it is difficult to get through by telephone. Also, those on legal aid or who think that they may be entitled to legal aid can approach Community Legal Service Direct. This advice is also free.

Advice on court costs and lawyers' fees can be obtained from a professional such as a solicitor and this information will generally be provided for free before the beginning of the case and a solicitor will have the best overview of the potential costs of the case.

I checked with some of the largest Trades Unions (Employees Unions): Amicus, GMB, Unison and T&G: none were able to give me direct information but they provide access to legal advice free to their members, so indirectly they can provide these services. Personal injury and employment matters are dealt with for free. The union lawyers also provide half an hour of free legal advice to members. The union has a discretion as to whether to allow affiliated unions in the EC to benefit, but I understand that these benefits have been extended to members of affiliated EC Unions on occasion.

In addition, the Law Society is in a position to give general guidance to members of the public about legal costs.

## **1.2 Transparency perception**

In general, I consider that the access to information concerning the cost of justice in my country is difficult to access. Some types of information are more transparent than others. In particular, the cost of court fees, for example, is easy to find out

and there are a number of sources for the information. By contrast, lawyers' fees are opaque, and, as most charge on an hourly basis, it is not possible to give the client an accurate assessment of the precise cost of litigation.

On a descending scale of transparency: court costs are the most transparent as they are fixed; next come bailiffs' fees, legal aid levels of assistance and transcription fees, all of which are similarly quite transparent; then come witness fees and interpretation and translation costs; least transparent are lawyers' fees and experts' fees. Translators' fees and interpreters' fees are charged on a "per word" or daily basis and generally you know how long their services will be required. On the other hand, it is not particularly easy to predict how long the lawyer or expert will be required. It is somewhat easier with an expert because their involvement with a case is normally limited to the preparation of a report, commenting on the other side's expert report, and appearing in court.

I have been involved in foreign proceedings particularly in France and Italy but have yet to come across another European country where the civil legal costs regime was more transparent than in England. However, I would say that most European lawyers speak good English, so I have never had a problem with translation. Furthermore, I had good comprehension of the local judicial system and its cost and was also quite easily able to identify the role of the stakeholders and their fees.

### **1.3 Solutions to improve transparency**

I consider that the lack of transparency of the costs regime is bound to discourage claimants from bringing actions in other EC countries though it has not stopped my commercial clients from bringing an action where they have felt that it is necessary. I consider that much could be done to improve the present situation by having a common repository of court decisions for EC member states where judgements were automatically registered from the Member States and translations would be made available of judgments in that repository as and when required (at a low cost or free). This should enable the Member States to make the entire business of enforcement of judgments across EC national boundaries less onerous.

I also believe that other measures, such as centralizing the information on the functioning and costs of justice and publishing schedules of costs online are good measures to facilitate transparency and access to justice in the case of national proceedings. With regard to cross-border disputes, it is also a good idea to centralize information on the operation and costs of justice, as well as imposing on Member States a translation of the presentation of their judicial system procedures and relevant costs. I would also recommend creating specific procedures for cross border litigations and making Member States pay for the translation of any documents the court deems necessary. On the other hand, I do not think that steps such as enabling the proceedings to take place in multiple languages or codifying European texts governing the proceedings would be advisable. I also do not consider that claimants should be compelled to provide respondents with information on the judicial system of the country in which the litigation is brought, nor that proceedings should be dematerialised. Finally, I do not believe it would assist matters to create ad hoc European courts that would include judges from relevant countries to the litigation.

#### **1.4 Fairness of costs**

In conclusion for this section, I do believe that whilst litigation fees can sometimes become substantial, they are in general justified and fair. I also agree that fees associated with litigation should be reimbursed to the winning party (in this country, this is what usually happens, with the winning party being allowed to recover its reasonable costs).

#### **1.5 Conclusions and recommendations**

It is difficult for anyone to get an accurate picture from the start as to precisely how much a piece of litigation in England will cost. Conditional Fee Arrangements and After the Event insurance, which are mentioned later in this report, have helped to offset this problem but not entirely get rid of it. Having said this, the system of recovering legal costs as part of the proceedings is a good and fair one. There should be a point of mutual reference for people (including citizens of other EU countries) to be able to obtain information and the information should be freely available on the internet.

## 2 Court fees

### 2.1 General

'Court fees' in the United Kingdom are regulated by the Civil Proceedings Fees Order 2004. This order was amended and became effective from 10th January 2006 as the Civil Proceedings Fees (Amendment) Order 2006. Civil Proceedings fees were broken down into: (1) Supreme Court Fees; and (2) County Court Fees. The 2004 order can be found on - [www.opsi.gov.uk/SI/si2004/20043121.htm](http://www.opsi.gov.uk/SI/si2004/20043121.htm) (Please find attached the main 2004 order as Annex 2) and the amended order of 2006 can be found on - <http://www.opsi.gov.uk/SI/si2006/20060719.htm>. (Please find attached the amended order as Annex 3).

Furthermore, as of 1st October 2007, a new order, known as the Civil Proceedings (Fees (Amendment) No. 2) Order 2007 No. 2176 comes into force. It amends the 2006 order and, in brief, it slightly reduces and amalgamates the fees for starting proceedings in the High Court and county courts. It also introduces a new hearing fee, with provision made for the refund of the hearing fee, or a percentage of it, if the claim is settled or discontinued before the date fixed for the hearing and notice is given to the court within specified periods. This new order can be found on [www.opsi.gov.uk/si/si2007/20072176.htm](http://www.opsi.gov.uk/si/si2007/20072176.htm). (Please find attached the amended order as Annex 4).

Information on court fees is obtainable from public websites, such as: the Government News Network website - <http://www.gnn.gov.uk/>; Her Majesty's Service - [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk); Department of Constitutional Affairs - [www.dca.gov.uk/](http://www.dca.gov.uk/); Legal Services Commission - [www.legalservices.gov.uk](http://www.legalservices.gov.uk). There is no charge for accessing this information.

There are also brochures which can be obtained for free, such as the County Court Fees Leaflet EX 50 and High Court Fees Leaflet EX 160 A from the HMCS website. It is also possible to call the courts themselves for this information. Again, there will be no charge. However, calls to any court, whether an Appeal Court, High Court or County Court must be made between 9 am and 5 pm Monday to Friday.

Information centres such as the Citizen's Advice Bureaux and the Community Legal Service Direct, will also provide the relevant information for free. Alternatively, a potential litigant can call a professional, for example any solicitor which the Law Society shows as specialising in Civil Litigation, use the website, [www.lawsociety.org.uk/choosingadvising/findasolicitor/action=lawfirmsearch.law](http://www.lawsociety.org.uk/choosingadvising/findasolicitor/action=lawfirmsearch.law) This recommendation will not be chargeable. However, before asking a recommended solicitor for initial advice, it should be clarified whether he or she will be charging for that preliminary opinion.

At the present time, information on court fees is not obtainable on any private websites. Nor does it appear to be available upon consultation of employees' unions. The latter do however provide access to free legal advice to their members, so that indirectly they provide this service to their members.

Court fees are determined by the Ministry of Justice (formerly known as the Department of Constitutional Affairs or DCA). The fee for issuing a new claim is payable at the time the case is filed and is payable by cash or cheque. However, VAT is not payable on court fees.

## **2.2 Cost of bringing an action to th courts**

The costs of commencing proceedings in the High Court and County Court vary as follows: £30 (Euros 41 approx) when the value of the claim is under £300 (€441.6 approx); £45 (Euros 65.7 approx) for a claim between £300 (Euros 441 approx) and £500 (Euros 736 approx); £60 (Euros 87.6 approx) when the value of the claim is over £500 (Euros 736 approx) but not over £1,000 (Euros 1,472 approx); £70 (Euros 102.2 approx) for a claim amount over £1,000 (Euros 1,472 approx) but not over £1,500 (Euros 2,190 approx); £80 (Euros 116.8 approx) where the amount claimed is over £1,5,00 (Euros 2,190 approx) but not over £3,000 (Euros 4,380 approx) £108 (Euros 588 approx) where the amount claimed is over £3,000 (Euros 4,380 approx) but not over £5,000 (Euros 7,300 approx); £225 (Euros 3,285 approx) for a claim amount over £5,000 (Euros 7,300 approx) but not over £15,000 (Euros 21,900 approx); £360 (Euros 525.6 approx) where the amount claimed is over £15,000 (Euros 21,900 approx) but not over £50,000 (Euros 73,000 approx); £630 (Euros

919.8 approx) for a claim amount over £50,000 (Euros 73,000 approx) but not over £100,000 (Euros 146,000 approx); £810 (Euros 1182.6 approx) where the amount claimed is over £100,000 (Euros 146,000 approx) but not over £150,000 (Euros 219,000 approx); £990 (Euros 1,445.4 approx) where the claim amount is over £150,000 (Euros 219,000 approx) but not over £200,000 (Euros 292,000 approx); £1,170 (Euros 1,708.2 approx.) where the amount claimed is over £200,000 (Euros 292,000 approx) but not over £250,000 (Euros 365,000 approx); £1,350 (Euros 1971 approx) where the amount claimed is over £250,000 (Euros 365,000) but does not exceed £300,000 (Euros 438,000 approx); finally an issue fee of £1,530 (Euros 2,233.8 approx) where the amount claimed is over £300,000 (Euros 438,000 approx) or is unlimited. These fees apply to cases relating to commercial law, labour law and general civil law.

The costs of commencing proceedings in the family court division of the High Court differ slightly to the costs quoted above, because of the different issues involved. For example, to file originating proceedings relating to a divorce, the fee payable is £200 (Euros 295 approx.). Alternatively, to bring a child custody right costs £175 (Euros 258 approx.) and to register maintenance for alimony costs £35 (Euros 51 approx.).

Different fees will also apply in property law cases where disputes are usually determined by local Leasehold Valuation Tribunals (LVTs). LVTs have no enforcement powers but their orders are enforceable in the same way as County Court orders. Fees payable in these case will depend on the value of the claim, for example, an application fee can vary from £50 (Euros 73 approx.) for a claim of not more than £500 (Euros 539 approx.) to £350 (Euros 517 approx.) for a claim of more than £15,000 (Euros 22,170 approx.). A hearing fee before the LCT costs £150 (Euros 221 approx.).

Beyond the actual costs of issuing a claim, court fees will be determined by the type and nature of litigation involved, the number and type of interim applications made during the course of the litigation and also whether there are any cross-border issues or cross-border litigation involved.

Where there is cross-border litigation, there is usually an inevitable amount of duplication of legal and court fees to take into account legal proceedings in more

than one jurisdiction. Some examples are the need to have two lawyers, extra travel costs of litigants, witnesses and lawyers, together with translation and interpreting costs. The extent of these additional costs may depend on the complexity of the litigation involved, the jurisdictions involved and whether any international treaties apply to facilitate cross-border litigation.

Cross-border litigations involving these areas of the law will involve specific costs such as those relating to the necessity of hiring two lawyers, translation and interpreting costs, as well as miscellaneous expenses such as extra travel costs of the parties involved (witnesses, litigants, lawyers etc). These are not fixed costs but will depend on the complexity of litigation and which jurisdictions are involved, as well as whether any international treaties exist, facilitating cross-border litigation.

### 2.3 Other proceedings costs

These are as follows

Nature of the action	Filing Fees (description of filing fees, time of payment and determination of payor)	Other court fees (description of filing fees, time of payment and determination of payor)	Regulation
1. FAMILY LAW			
- Divorce	Filing Originating Proceedings - £200 (€ 295 286 approx)	On presenting any petition, other than a second petition – £ 300 (€ 443 429 approx)  Amending a petition - £ 80 (€ 118 114 approx)  Filing an answer to a petition or a cross-petition - £200 (€ 295 286approx)	Civil Proceedings Fees (Amendment) Order 2006The Family Proceedings Fees (Amendment) (No 2) Order 2007
- Children Custody Right	£175 (€258 250 approx)		The Family Proceedings Fees

			(Amendment) (No 2) Order 2007 Civil Proceedings Fees (Amendment) Order 2006
- Alimony	To register maintenance - £35 (€ 51 50 approx)	Financial Application - £ 210 (€ 3010 approx) Financial Provision for Children- £ 175 (€250 approx)(€258 approx)	The Family Proceedings Fees (Amendment) (No 2) Order 2007 Civil Proceedings Fees (Amendment) Order 2006
2. LABOUR LAW	<b>SAME AS HIGH COURT AND COUNTY COURT FEES ABOVE</b>		Civil Proceedings Fees (Amendment) (No 2) Order 2007
- Work Accidents/ Redundancies	<p>Amount claimed does not exceed £300 (€ 429 approx) – Fees = £30 (€ 43 approx)</p> <p>Amount claimed is between £300 (€ 429 approx) and £500 (€ 714 approx) – Fees = £45 (€ 64 approx)</p> <p>Amount claimed is over £500 (€ 714 approx) but not over £1,000 (€ 1,429 approx) – Fees = £60 (€ 86 approx)</p> <p>Amount claimed is over £1,000 (€ 1,429 approx) but not over £1,500 (€ 2,143 approx) – Fees = £70 (€ 100 approx)</p> <p>Amount claimed is over £1,500 (€ 2,143 approx) but not over £3,000 (€ 4,286 approx) – Fees = £80 (€ 114 approx)</p> <p>Amount claimed is over</p>		

	<p>£3,000 (€ 4,286 approx) but not over £5,000 (€ 7,143 approx) – Fees = £108 (€ 154 approx)</p> <p>Amount claimed is over £5,000 (€ 7,143 approx) but not over £15,000 (€ 21,430 approx) – Fees = £225 (€ 321 approx)</p> <p>Amount claimed is over £15,000 (€ 21,430 approx) but not over £50,000 (€ 71,434 approx) – Fees = £360 (€ 514 approx)</p> <p>Amount claimed is over £50,000 (€ 71,434 approx) but not over £100,000 (€ 142,867 approx) – Fees = £630 (€ 900 approx)</p> <p>Amount claimed is over £100,000 (€ 142,867 approx) but not over £150,000 (€ 214,301 approx) – Fees = £810 (€ 1,157 approx)</p> <p>Amount claimed is over £150,000 (€ 214,301 approx) but not over £200,000 (€ 285,735 approx) – Fees = £990 (€ 1,414 approx)</p> <p>Amount claimed is over £200,000 (€ 285,735 approx) but not over £250,000 (€357,168 approx) – Fees = £1,170 (€ 1,672 approx)</p> <p>Amount claimed is over £250,000 (€357,168 approx) but not over £300,000 (€428,602</p>		
--	--	--	--

	<p>approx) – Fees = £1,350 (€1,929 approx)</p> <p>Amount claimed is over £300,000 (€428,602 approx) or not limited – Fees = £1,530 (€ 2,186 approx)</p>		
- Redundancies			
3. COMMERCIAL LAW	<b>SAME AS HIGH COURT AND COUNTY COURT FEES ABOVE</b>		Civil Proceedings Fees (Amendment) (No 2) Order 2007
- Payment for a commercial or services agreement	<p>Amount claimed does not exceed £300 (€ 429 approx) – Fees = £30 (€ 43 approx)</p> <p>Amount claimed is between £300 (€ 429 approx) and £500 (€ 714 approx) – Fees = £45 (€ 64 approx)</p> <p>Amount claimed is over £500 (€ 714 approx) but not over £1,000 (€ 1,429 approx) – Fees = £60 (€ 86 approx)</p> <p>Amount claimed is over £1,000 (€ 1,429 approx) but not over £1,500 (€ 2,143 approx) – Fees = £70 (€ 100 approx)</p> <p>Amount claimed is over £1,500 (€ 2,143 approx) but not over £3,000 (€ 4,286 approx) – Fees = £80 (€ 114 approx)</p> <p>Amount claimed is over £3,000 (€ 4,286 approx) but not over £5,000 (€ 7,143 approx) – Fees =</p>		

	<p>£108 (€ 154 approx)</p> <p>Amount claimed is over £5,000 (€ 7,143 approx) but not over £15,000 (€ 21,430 approx) – Fees = £225 (€ 321 approx)</p> <p>Amount claimed is over £15,000 (€ 21,430 approx) but not over £50,000 (€ 71,434 approx) – Fees = £360 (€ 514 approx)</p> <p>Amount claimed is over £50,000 (€ 71,434 approx) but not over £100,000 (€ 142,867 approx) – Fees = £630 (€ 900 approx)</p> <p>Amount claimed is over £100,000 (€ 142,867 approx) but not over £150,000 (€ 214,301 approx) – Fees = £810 (€ 1,157 approx)</p> <p>Amount claimed is over £150,000 (€ 214,301 approx) but not over £200,000 (€ 285,735 approx) – Fees = £990 (€ 1,414 approx)</p> <p>Amount claimed is over £200,000 (€ 285,735 approx) but not over £250,000 (€357,168 approx) – Fees = £1,170 (€ 1,672 approx)</p> <p>Amount claimed is over £250,000 (€357,168 approx) but not over £300,000 (€428,602 approx) – Fees = £1,350 (€1,929 approx)</p>		
--	--	--	--

	<p>Amount claimed is over £300,000 (€428,602 approx) or not limited – Fees = £1,530 (€ 2,186 approx)</p>		
- Goods or services not in accordance	<p>Amount claimed does not exceed £300 (€ 429 approx) – Fees = £30 (€ 43 approx) Amount claimed is between £300 (€ 429 approx) and £500 (€ 714 approx) – Fees = £45 (€ 64 approx)</p> <p>Amount claimed is over £500 (€ 714 approx) but not over £1,000 (€ 1,429 approx) – Fees = £60 (€ 86 approx)</p> <p>Amount claimed is over £1,000 (€ 1,429 approx) but not over £1,500 (€ 2,143 approx) – Fees = £70 (€ 100 approx)</p> <p>Amount claimed is over £1,500 (€ 2,143 approx) but not over £3,000 (€ 4,286 approx) – Fees = £80 (€ 114 approx)</p> <p>Amount claimed is over £3,000 (€ 4,286 approx) but not over £5,000 (€ 7,143 approx) – Fees = £108 (€ 154 approx)</p> <p>Amount claimed is over £5,000 (€ 7,143 approx) but not over £15,000 (€ 21,430 approx) – Fees = £225 (€ 321 approx)</p> <p>Amount claimed is over £15,000 (€ 21,430</p>		

	<p>approx) but not over £50,000 (€ 71,434 approx) – Fees = £360 (€ 514 approx)</p> <p>Amount claimed is over £50,000 (€ 71,434 approx) but not over £100,000 (€ 142,867 approx) – Fees = £630 (€ 900 approx)</p> <p>Amount claimed is over £100,000 (€ 142,867 approx) but not over £150,000 (€ 214,301 approx) – Fees = £810 (€ 1,157 approx)</p> <p>Amount claimed is over £150,000 (€ 214,301 approx) but not over £200,000 (€ 285,735 approx) – Fees = £990 (€ 1,414 approx)</p> <p>Amount claimed is over £200,000 (€ 285,735 approx) but not over £250,000 (€357,168 approx) – Fees = £1,170 (€ 1,672 approx)</p> <p>Amount claimed is over £250,000 (€357,168 approx) but not over £300,000 (€428,602 approx) – Fees = £1,350 (€1,929 approx)</p> <p>Amount claimed is over £300,000 (€428,602 approx) or not limited – Fees = £1,530 (€ 2,186 approx)</p>		
- Litigation between associates	Amount claimed does not exceed £300 (€ 429)		

	<p>approx) – Fees = £30 (€ 43 approx)  Amount claimed is between £300 (€ 429 approx) and £500 (€ 714 approx) – Fees = £45 (€ 64 approx)</p> <p>Amount claimed is over £500 (€ 714 approx) but not over £1,000 (€ 1,429 approx) – Fees = £60 (€ 86 approx)</p> <p>Amount claimed is over £1,000 (€ 1,429 approx) but not over £1,500 (€ 2,143 approx) – Fees = £70 (€ 100 approx)</p> <p>Amount claimed is over £1,500 (€ 2,143 approx) but not over £3,000 (€ 4,286 approx) – Fees = £80 (€ 114 approx)</p> <p>Amount claimed is over £3,000 (€ 4,286 approx) but not over £5,000 (€ 7,143 approx) – Fees = £108 (€ 154 approx)</p> <p>Amount claimed is over £5,000 (€ 7,143 approx) but not over £15,000 (€ 21,430 approx) – Fees = £225 (€ 321 approx)</p> <p>Amount claimed is over £15,000 (€ 21,430 approx) but not over £50,000 (€ 71,434 approx) – Fees = £360 (€ 514 approx)</p> <p>Amount claimed is over £50,000 (€ 71,434 approx) but not over £100,000 (€ 142,867 approx) – Fees = £630</p>		
--	--	--	--

	<p>(€ 900 approx)</p> <p>Amount claimed is over £100,000 (€ 142,867 approx) but not over £150,000 (€ 214,301 approx) – Fees = £810 (€ 1,157 approx)</p> <p>Amount claimed is over £150,000 (€ 214,301 approx) but not over £200,000 (€ 285,735 approx) – Fees = £990 (€ 1,414 approx)</p> <p>Amount claimed is over £200,000 (€ 285,735 approx) but not over £250,000 (€357,168 approx) – Fees = £1,170 (€ 1,672 approx)</p> <p>Amount claimed is over £250,000 (€357,168 approx) but not over £300,000 (€428,602 approx) – Fees = £1,350 (€1,929 approx)</p> <p>Amount claimed is over £300,000 (€428,602 approx) or not limited – Fees = £1,530 (€ 2,186 approx)</p>		
- Mandates and agents	<p>Amount claimed does not exceed £300 (€ 429 approx) – Fees = £30 (€ 43 approx)</p> <p>Amount claimed is between £300 (€ 429 approx) and £500 (€ 714 approx) – Fees = £45 (€ 64 approx)</p> <p>Amount claimed is over £500 (€ 714 approx) but</p>		

	<p>not over £1,000 (€ 1,429 approx) – Fees = £60 (€ 86 approx)</p> <p>Amount claimed is over £1,000 (€ 1,429 approx) but not over £1,500 (€ 2,143 approx) – Fees = £70 (€ 100 approx)</p> <p>Amount claimed is over £1,500 (€ 2,143 approx) but not over £3,000 (€ 4,286 approx) – Fees = £80 (€ 114 approx)</p> <p>Amount claimed is over £3,000 (€ 4,286 approx) but not over £5,000 (€ 7,143 approx) – Fees = £108 (€ 154 approx)</p> <p>Amount claimed is over £5,000 (€ 7,143 approx) but not over £15,000 (€ 21,430 approx) – Fees = £225 (€ 321 approx)</p> <p>Amount claimed is over £15,000 (€ 21,430 approx) but not over £50,000 (€ 71,434 approx) – Fees = £360 (€ 514 approx)</p> <p>Amount claimed is over £50,000 (€ 71,434 approx) but not over £100,000 (€ 142,867 approx) – Fees = £630 (€ 900 approx)</p> <p>Amount claimed is over £100,000 (€ 142,867 approx) but not over £150,000 (€ 214,301 approx) – Fees = £810 (€ 1,157 approx)</p> <p>Amount claimed is over</p>		
--	--	--	--

	<p>£150,000 (€ 214,301 approx) but not over £200,000 (€ 285,735 approx) – Fees = £990 (€ 1,414 approx)</p> <p>Amount claimed is over £200,000 (€ 285,735 approx) but not over £250,000 (€357,168 approx) – Fees = £1,170 (€ 1,672 approx)</p> <p>Amount claimed is over £250,000 (€357,168 approx) but not over £300,000 (€428,602 approx) – Fees = £1,350 (€1,929 approx)</p> <p>Amount claimed is over £300,000 (€428,602 approx) or not limited – Fees = £1,530 (€ 2,186 approx)</p>		
4. CIVIL LAW	<b>SAME AS HIGH COURT AND COUNTY COURT FEES ABOVE</b>		Civil Proceedings Fees (Amendment) (No 2) Order 2007
- Consumers Protection	<p>Amount claimed does not exceed £300 (€ 429 approx) – Fees = £30 (€ 43 approx)</p> <p>Amount claimed is between £300 (€ 429 approx) and £500 (€ 714 approx) – Fees = £45 (€ 64 approx)</p> <p>Amount claimed is over £500 (€ 714 approx) but not over £1,000 (€ 1,429 approx) – Fees = £60 (€ 86 approx)</p> <p>Amount claimed is over</p>		

	<p>£1,000 (€ 1,429 approx) but not over £1,500 (€ 2,143 approx) – Fees = £70 (€ 100 approx)</p> <p>Amount claimed is over £1,500 (€ 2,143 approx) but not over £3,000 (€ 4,286 approx) – Fees = £80 (€ 114 approx)</p> <p>Amount claimed is over £3,000 (€ 4,286 approx) but not over £5,000 (€ 7,143 approx) – Fees = £108 (€ 154 approx)</p> <p>Amount claimed is over £5,000 (€ 7,143 approx) but not over £15,000 (€ 21,430 approx) – Fees = £225 (€ 321 approx)</p> <p>Amount claimed is over £15,000 (€ 21,430 approx) but not over £50,000 (€ 71,434 approx) – Fees = £360 (€ 514 approx)</p> <p>Amount claimed is over £50,000 (€ 71,434 approx) but not over £100,000 (€ 142,867 approx) – Fees = £630 (€ 900 approx)</p> <p>Amount claimed is over £100,000 (€ 142,867 approx) but not over £150,000 (€ 214,301 approx) – Fees = £810 (€ 1,157 approx)</p> <p>Amount claimed is over £150,000 (€ 214,301 approx) but not over £200,000 (€ 285,735 approx) – Fees = £990 (€ 1,414 approx)</p>		
--	--	--	--

	<p>Amount claimed is over £200,000 (€ 285,735 approx) but not over £250,000 (€357,168 approx) – Fees = £1,170 (€ 1,672 approx)</p> <p>Amount claimed is over £250,000 (€357,168 approx) but not over £300,000 (€428,602 approx) – Fees = £1,350 (€1,929 approx)</p> <p>Amount claimed is over £300,000 (€428,602 approx) or not limited – Fees = £1,530 (€ 2,186 approx)</p>		
- Liability	<p>Amount claimed does not exceed £300 (€ 429 approx) – Fees = £30 (€ 43 approx)</p> <p>Amount claimed is between £300 (€ 429 approx) and £500 (€ 714 approx) – Fees = £45 (€ 64 approx)</p> <p>Amount claimed is over £500 (€ 714 approx) but not over £1,000 (€ 1,429 approx) – Fees = £60 (€ 86 approx)</p> <p>Amount claimed is over £1,000 (€ 1,429 approx) but not over £1,500 (€ 2,143 approx) – Fees = £70 (€ 100 approx)</p> <p>Amount claimed is over £1,500 (€ 2,143 approx) but not over £3,000 (€ 4,286 approx) – Fees = £80 (€ 114 approx)</p>		

	<p>Amount claimed is over £3,000 (€ 4,286 approx) but not over £5,000 (€ 7,143 approx) – Fees = £108 (€ 154 approx)</p> <p>Amount claimed is over £5,000 (€ 7,143 approx) but not over £15,000 (€ 21,430 approx) – Fees = £225 (€ 321 approx)</p> <p>Amount claimed is over £15,000 (€ 21,430 approx) but not over £50,000 (€ 71,434 approx) – Fees = £360 (€ 514 approx)</p> <p>Amount claimed is over £50,000 (€ 71,434 approx) but not over £100,000 (€ 142,867 approx) – Fees = £630 (€ 900 approx)</p> <p>Amount claimed is over £100,000 (€ 142,867 approx) but not over £150,000 (€ 214,301 approx) – Fees = £810 (€ 1,157 approx)</p> <p>Amount claimed is over £150,000 (€ 214,301 approx) but not over £200,000 (€ 285,735 approx) – Fees = £990 (€ 1,414 approx)</p> <p>Amount claimed is over £200,000 (€ 285,735 approx) but not over £250,000 (€357,168 approx) – Fees = £1,170 (€ 1,672 approx)</p> <p>Amount claimed is over £250,000 (€357,168</p>		
--	---	--	--

	<p>approx) but not over £300,000 (€428,602 approx) – Fees = £1,350 (€1,929 approx)</p> <p>Amount claimed is over £300,000 (€428,602 approx) or not limited – Fees = £1,530 (€ 2,186 approx)</p>		
<b>5. PROPERTY LAW</b>			
- Lease	<p>These disputes are determined by local Leasehold Valuation Tribunals (“LVTs”). The LVT have no enforcement powers but its orders are enforceable in the same way as County Court orders.</p> <p>Service or Administration Charges : Application Fee: -</p> <p>Amount not more than £500 (€ 539 approx) - £50 (€ 73 approx)</p> <p>More than £500 (€ 539 approx) but not more than £1000 (€ 1478 approx) - £70 (€ 103 approx)</p> <p>More than £1000 (€ 1478 approx) but not more than £5000 (€ 7390 approx) - £100 (€ 147 approx)</p> <p>More than £5000 (€ 7390 approx) but not</p>	<p>Dispensation with Service Charge Consultation Requirements, Appointment of Manager, or Variation of Lease</p> <p>Application fee:</p> <p>5 or fewer dwellings - £150 (€ 221 approx)</p> <p>Between 6 and 10 dwellings - £250 (€ 369 approx)</p> <p>More than 10 dwellings - £350 (€ 517 approx)</p> <p>Hearing fee £150 (€ 221 approx)</p> <p>2.3.1</p>	

	<p>more than £15000 (€ 22,170 approx)- £200 (€ 295 approx)</p> <p>More than £15000 (€ 22,170 approx)- £350 (€ 517 approx)</p> <p>Hearing Fee: £150 (€ 221 approx)</p>		
--	---	--	--

Again here, cross-border litigations will involve specific costs such as those relating to the necessity of hiring two lawyers, translation and interpreting costs, as well as miscellaneous expenses such as extra travel costs of the parties involved (witnesses, litigants, lawyers etc). These are not fixed costs but will depend on the complexity of litigation and which jurisdictions are involved, as well as whether any international treaties exist, facilitating cross-border litigation

#### 2.4 Costs of legal recourses (Appeals...)

The cost of bringing a claim in the Small Claims Track will vary from a fee of £25 (Euros 36.5 approx) where the claim amount does not exceed £300 (Euros 438 approx) to £300 (Euros 438 approx) where the claim amount exceeds £3,000 (Euros 4380 approx) but does not exceed £5,000 (Euros 7,300 approx). The same factors as relating to cross-border litigation as outlined above in paragraph 27 will apply in these cases.

To appeal from a County Court judgment to the High Court costs £100 (€ 147 approx.) in the case of a claim proceeding on the Small Claims Track and £120 (€ 176 approx.) in respect of all other claims.

Where the appeal is from the High Court to the Appeal Court, the cost of applying for permission to appeal is £200 (€294.40 approx.) and, if permission is given or where permission to appeal is not required, the cost of lodging the appeal itself is £400 (€588.80 approx).

Where a plaintiff creditor seeks to seize the property of a debtor prior to obtaining a judgment against that debtor, then the relevant procedure is found in CPR 25.4.

An application is normally made “ex parte” in the first instance supported by an affidavit setting out the grounds for the freezing order. Where a cross-border dispute is involved, then any foreign documents would need to be translated into English. Once the temporary injunction has been obtained, the Court will set a return date for a hearing between the parties. This is normally within 7 to 10 days.

The costs involved are £50 (€73.60 approx) in court costs, payable for the initial application. Solicitors’ fees can be anything up to about £5,000 (€7,360 approx). In addition, on a complicated application, it might be advisable to engage a specialist advocate (barrister) for which there may be an additional fee of £5,000 (€7,360 approx) or more. The costs of coming back on the inter partes application are the same i.e. £50 (€73.60 approx) for the court costs, about £5,000 (€7,360 approx) for solicitors’ fees and another £5,000 (€7,360 approx) for counsel’s fees.

With regard to attachment costs, the Claimant’s solicitors will be required to give a cross-undertaking in damages to meet any damage which the Defendant may suffer as a result of not being able to deal with his assets during the period that they are subject to the freezing injunction.

Post-judgment, where a plaintiff creditor seeks to seize the property of the debtor by obtaining a garnishment, he must apply for an order nisi (a temporary order) directing the party who holds the money/ property to hold onto it. This is an ex parte application. Once the order nisi is made, this is served on the relevant party. Then the creditor applies for an order absolute which enables him to execute against the money/property concerned.

The costs of this garnishment are £50 (€ 73.60 approx) for the initial application. The solicitor’s fees on this will be of the region of £1,500 (€2,208 approx). It will cost £50 for the inter partes application and about another £1,000 (€1,472 approx.) of solicitor’s fees.

The costs of obtaining the enforcement of a decision (including attachment) are as follows:

Type of decision	Civil and Commercial
Court hearing expenditures	£50 (Euros 73 approx) for the application, in addition, and the foreign judgement must be translated and notarised.

	Translation costs around £100 (Euros 146 approx). Notarisation costs around £150 (Euros 219 approx).
Bailiff fees	Scale fees as above
Seizure proceedings	£50 (Euros 73 approx) for the application plus bailiffs fees as above
Seizure costs	Lawyers' fees: £1,000 (Euros 1460 approx)
Compulsory sale	Part of Bailiffs' fees

The steps and costs of obtaining an attachment (pre-judgment proceeding whereby a plaintiff creditor seeks to seize the property of the debtor to ensure that such property will not disappear before the judgment is rendered) are as follows:

Type of decision	Civil and Commercial steps	Civil and Commercial costs
Court hearing expenditures	<p>The procedure takes place under the Civil Procedure Rules 25.4.</p> <p>Application is normally made "ex parte" in the first instance supported by an affidavit setting out the grounds for the freezing order. Where a cross-border dispute is involved then any foreign documents would need to be translated into English.</p> <p>Once the temporary injunction has been obtained the Court will set a return date for a hearing between the parties. This is normally within 7 to 10 days.</p>	<p>£50 (Euros 73 approx) in court costs for the initial application. Solicitor's fees anything up to about £5000 (Euros 7,300 approx). In addition, on a complicated application you may wish to engage a specialist advocate (barrister) for which you may face an additional fee of £5,000 (Euros 7,300 approx) or more.</p> <p>The costs of coming back on the inter partes application are the same. £50 (Euros 73 approx) for the Court costs. About £5,000 (Euros 7,300 approx) for solicitors' fees and another £5,000 (Euros 7,300 approx) for counsel's fees.</p>
Bailiff hiring	Not applicable. Notice of the injunction is served on the Defendant and on any parties	
Attachment proceedings		
Attachment costs	The Claimant's solicitors will be required to give a cross-undertaking in damages to meet any damage which the	

	defendant may suffer as a result of not being able to deal with his assets during the period that they are subject to the freezing injunction	
--	---	--

The steps and costs of operating a seizure on debtors' assets (post-judgment proceeding whereby a plaintiff creditor seeks to reach the property of the debtor who is not willingly complying with the decision against him or her)

Type of decision	Civil and Commercial steps	Civil and Commercial costs
Court hearing expenditures	See notes on enforcement of decision above	

The steps and costs of obtaining a garnishment (post-judgment proceeding whereby a plaintiff creditor seeks to reach the property of the debtor) are as follows:

Type of decision	Civil and Commercial steps	Civil and Commercial costs
Court hearing expenditures	<p>Apply for an order nisi (a temporary order) directing the party who holds the money/property to hold onto it. This is an ex parte application. This is served on the relevant party.</p> <p>Then you apply for an order absolute which enables you to execute against the money/property concerned.</p>	<p>£50 (Euros 73 approx) for the initial application. The solicitor's fees on this will be of the region of £1,500 (Euros 2,190 approx).</p> <p>£50 (Euros 73 approx) for the inter partes application and about another £1,000 (Euros 1,460 approx) of solicitor's fees.</p>

## 2.5 Costs of ADR

Alternative Dispute Resolution (ADR) may be available as an alternative solution to litigation in certain cases. There are different types of ADR: mediation, arbitration or using an Ombudsman. Obviously, the parties also have the option of negotiating a settlement inter partes but this is not a court-directed option, nor is there usually any formal agreement compelling the parties to negotiate.

Mediation: Civil / commercial mediation costs can be high. The Centre for Effective Dispute resolution (CEDR) currently charges an instruction fee of £250 (€ 368 approx.) per party and an hourly rate of £140 (€ 206 approx.) to £450 (€ 662 approx.) divided between the parties. Mediation can be provided through the national mediation helpline, funded by the Department for Constitutional Affairs. The providers in this scheme make a fixed charge of £250 (€ 368 approx) (small claims), £500 (€ 736 approx) (fast track) or £750 (€ 1,104 approx) (multi-track). In court cases, the loser usually pays the costs of the winning side, except in the small claims process. Unless it is agreed otherwise, in mediation the usual arrangement is that each side pays their own costs. Parties eligible for Legal Aid can claim the cost of mediation as a disbursement under the funding code.

With family mediation, it can be hard to work out initially how much it is all going to cost. The total cost depends on a number of different factors: the number of issues to be decided, how complicated they are, how long it takes to reach an agreement, which service is used, and whether the party or parties can get legal aid. If the parties are paying for mediation themselves, it could cost them between £100 (€ 147 approx) and £1000 (€ 1,472 approx) per party.

Arbitration: Most arbitration schemes charge a fee for applying. Arbitration schemes run for a trade association by the Chartered Institute of Arbitrators are usually relatively low-cost to the consumer, compared with legal advice or court action. For example, over 90% of the claims under the ABTA arbitration scheme for holiday disputes currently have a registration fee of £72.85 (€ 107 approx) including VAT.

Ombudsmen: Ombudsmen schemes are free to use, although individuals should consider the costs of copying and sending documents used to support their complaint.

VAT will be payable on mediations and arbitrations at the normal rate of 17.5% where the litigant is based within the jurisdiction. EC nationals / companies are not liable to pay this VAT. These charges can be paid by cheque or wire transfer

Costs of legal Aid proceedings

## **2.6 Costs of legal aid proceedings**

When legal aid is permitted, it makes no difference to court costs.

## **2.7 Costs of fast track proceedings**

With regard to a case on the fast track, the fixed fee payable for the hearing is £500 (Euros 736 approx). There is also a listing fee of £100 (Euros 146 approx).

## **2.8 Costs of Group action proceedings**

When Group Actions are permitted, they make no difference to court costs.

## **2.9 Payment**

In principle, fees are payable to the courts when a case is filed. However, there are certain applicable exemptions as follows, where a litigant or litigant's partner:

- (i) receive Income Support Benefit (support paid by the government after a qualifying period to unemployed borrowers)
- (ii) receive a Pension Credit guarantee credit (applicable to over-60s living in Britain)
- (iii) receive a Job Seeker's Allowance

- (iv) have a gross annual income (income before income tax and other money is taken away) which is less than £15,460 (€ 22,639 approx) and receive Working Tax Credit with a 'disability element' or 'severe disability element'; or
- (v) have a gross annual income is less than £15,460 (€ 22,639 approx) and receive Working Tax Credit and Child Tax Credit between you.
- (vi) are involved in a family case and receive 'Legal Help'. 'Legal Help' means the legal advice and assistance given under the Community Legal Service scheme.

Court fees are normally paid by cheque or cash.

## 2.10 E-justice

.Online court proceedings can be found on the following website links: Money Claim Online -[www.moneyclaim.gov.uk](http://www.moneyclaim.gov.uk) ; Possession Claim Online Project - <http://www.possessionclaim.gov.uk>.

Online ADR proceedings can be found on the following website links: <http://www.adreu.eurid.eu/>; [www.adrgroup.co.uk/online-dispute/](http://www.adrgroup.co.uk/online-dispute/).

Video conferences can be organised. Parties using facilities at their local courts will initially be responsible for paying the costs of transmission, which will be charged at £ 21.60 (€31 approx) per half hour. All such costs will be costs of the proceedings and the court will order which parties should pay them and in what proportions.

E-mailing is now authorised. A new rule and Practice Direction (PD 5B) which came into force on 6th October 2003 and was revised in May 2004 permits parties in a case to communicate and file certain documents at specified county courts and the Commercial Court by e-mail. Filing by e-mail is limited to the courts listed under this rule which have received the appropriate technology to operate e-mail.

## 2.11 Impact of the number of hearings on costs

. There is no limit to the number of hearings the parties can have. However, the court will take into account the extent and length of arguments necessary to decide on what and how many hearings are required.

## 2.12 Transcription costs

There is a collective agreement between transcription service suppliers and the Courts, whereby certain transcribers are officially authorised by the courts to transcribe court proceedings and where their maximum charges are agreed. These maximum charges are set out in EX 107 A: Authorised members of the Tape Transcription Panel, which can be accessed online on the public website [http://www.hmcourts-service.gov.uk/HMCSCourtFinder/GetForm.do?court\\_forms\\_id=163](http://www.hmcourts-service.gov.uk/HMCSCourtFinder/GetForm.do?court_forms_id=163). These fees can also be found in a brochure that can be printed from the following website:[http://www.hmcourts-service.gov.uk/courtfinder/forms/ex107info\\_0107.pdf](http://www.hmcourts-service.gov.uk/courtfinder/forms/ex107info_0107.pdf) .

It is also possible to call the courts during their normal working hours to obtain information about transcription services and fees. A list of the organisations entitled to transcribe court proceedings, together with the scale of average transcription costs, in this country is attached hereto at Annex 5. One can also call one of the organisations entitled to transcribe to get this information directly from them. However, details of transcription costs are not available from private websites, information centres or calling professionals such as lawyers.

Generally, transcription costs are calculated according to document type and the nature of the request and it is the transcriber who determines the transcription costs, conditional upon those costs not exceeding the maximum charges agreed with the courts.

The party requesting the transcription will be liable to pay the transcription costs. However, if that party is successful in the litigation, it may claim back the transcription costs from the losing party, because costs follow the event in English proceedings. In certain circumstances, where the court deems it necessary, it will

also request a transcription. The costs will nonetheless be paid by one or other or both of the litigants, not the court.

Transcription costs relate only to the costs of setting out in full the arguments made to the court and the judgment of the Court. Transcription is not required for Deeds before the English Courts.

In certain cases, where a case requires it, the transcription costs may be paid for by legal aid organisations. VAT will be payable on transcription costs where the service is requested by someone within the jurisdiction. Payment is normally made by cheque or wire transfer.

### **2.13 Conclusions and Recommendations**

My conclusion is that this information is readily available for the English Court system. My recommendation is that these costs are held in a central depository with web access so that it is readily available to members of the public.

## **3 Lawyers' consulting and representation fees**

### **3.1 General**

Solicitors' charges are usually governed by the Solicitors' (Non-Contentious Business) Remuneration Order 1994. This regulation can be found on the public website [http://www.opsi.gov.uk/si/si1994/Uksi\\_19942616\\_en\\_1.htm](http://www.opsi.gov.uk/si/si1994/Uksi_19942616_en_1.htm). (Please find attached as Annex 6). These fees are determined both by the lawyers themselves and by their professional organisations.

Information on lawyers' representation fees can be obtained for free from private websites such as [www.clarksonhirst.co.uk](http://www.clarksonhirst.co.uk) and [www.richard-wilson.co.uk](http://www.richard-wilson.co.uk). Another option is to contact an information centre, such as the Citizen's Advice Bureaux or Community Legal Service Direct, which will help for free. Additionally, the name of a lawyer can be found on

[www.lawsociety.org.uk/choosingadvising/findasolicitor/action=lawfirmsearch.law](http://www.lawsociety.org.uk/choosingadvising/findasolicitor/action=lawfirmsearch.law) and that lawyer should be able to give an estimate of his fees. There is however no specific brochure providing this information.

A registered lawyer is needed for all types of litigation. Whilst it is possible for foreign lawyers to instruct local barristers (advocates) direct, this is unusual. Otherwise, it is possible to be represented by a third party or to represent yourself i.e. a litigant in person. In cases of cross-border litigation, parties have to use lawyers based in England and Wales for proceedings in this jurisdiction..

### **3.2 Fees depending on the nature of the litigation**

- . Lawyers' fees do not normally depend on the nature of the litigation. However, obviously some areas of the law (for example, commercial and corporate law) are more lucrative for their practitioners than others.

### **3.3 Fees depending on the type of lawsuit or proceedings**

Whilst lawyers normally charge on the basis of an hourly rate, they will sometimes give their clients a quote which encompasses a particular step in the proceedings (e.g. attending a hearing for an interim application / preparing, issuing and serving a claim form).

### **3.4 Fees depending on the value of the claim**

- . Lawyers' fees do not generally depend on the amount of money involved in the litigation. There is no schedule governing lawyers' fees. However, the average lawyers' fees on a per hour basis are between €250 and €349 and 17.5% VAT will be applicable unless instructions are from outside the UK. Furthermore, there is no distinction in England and Wales for lawyers' fees depending on the jurisdiction (including ADR institutions, Appeal Courts etc).

### **3.5 Fees depending on the jurisdiction**

Where cross-border litigation is involved, there are normally two sets of lawyers' fees involved. These will be the lawyer's fees where the party initiating the litigation is and the lawyer's fees of the place where the litigation takes place. Additionally, there may be witness, travel expenses and translation costs.

### **3.6 Legal aids cases**

According to the Department of Constitutional Affairs report published in December 2003 the average price for legally aided work was £69 per hour. <http://www.dca.gov.uk/laid/frontier-solicitors-rpt.pdf>.

### **3.7 Contingency fees**

Contingency fees are possible in this country. Basically, a lawyer can in most cases enter into a Conditional Fee Arrangement with their client. The Conditional Fee Arrangement means that a lawyer will not recover any fees if he loses. If he wins, then he can charge an uplift of up to 100% on his normal hourly rates.

### **3.8 Payment**

Lawyers' fees are payable upon being billed to the clients, depending on the normal practice of the firm, for example, monthly or quarterly billing or billing at the end of the case. These fees are normally paid by cheque or wire transfer.

#### **3.8.1 Retainers**

A retainer is usually required, particularly in cross-border litigations or where a new client is involved

### **3.9 Conclusions and recommendations**

Lawyers' fees are not transparent in England. I think it would help if there were a central depository where the likely kinds of fees were set out and where the role of the barrister (advocate) was fully explained.

## **4 Bailiff fees**

### **4.1 General**

There is no specific regulation applicable to bailiff fees. However, information on bailiff fees is obtainable free from public websites such as Her Majesty's Service - [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk); Department of Constitutional Affairs - [www.dca.gov.uk/](http://www.dca.gov.uk/); [www.birmingham.gov.uk](http://www.birmingham.gov.uk); [www.local.odpm.gov.uk](http://www.local.odpm.gov.uk).

It is also possible to obtain this information for free from private websites such as [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk); [www.debthelpuk.co.uk](http://www.debthelpuk.co.uk). Alternatively, the information can be obtained from an information centre or by calling a solicitor, whose name can be obtained from the Law Society website referred to above. However, there are no brochures available dealing with bailiff fees.

Having checked with some of the largest Unions (Amicus, GMB, Unison and T & G), none were able to give direct information on bailiff's fees, but they provide access to legal advice free to their members, so indirectly they can provide these services. Personal injury and employment matters are dealt with for free. The union lawyers also provide half an hour of free legal advice to members. The union has a discretion as to whether to allow affiliated unions in the EC to benefit but I understand that these benefits have been extended to members of affiliated EC Unions on occasion.

## **4.2 Ante judgment**

A bailiff must be legally authorised to collect the debt on behalf of the creditor. The authority is normally known as a 'warrant', or 'warrant of execution' if the bailiff is recovering money owed under a county court judgment. Bailiffs used by the magistrates court to collect unpaid council tax, outstanding fines, compensation or unpaid maintenance will be acting on either a 'distress warrant' or a 'liability order' issued by the magistrates court. Bailiff notifications are not applicable under English law and therefore there is no costs element in this case.

## **4.3 During proceedings**

During proceedings, the intervention of a bailiff is required by law where the Claimant wishes to execute his judgment by way of a writ of execution i.e. by the physical possession and sale of the Defendant's property.

## **4.4 Post proceedings**

Post-proceedings, the intervention of a bailiff is required by law where the Claimant wishes to execute a judgment by way of a writ of execution i.e. by seizing and selling physical assets belonging to the debtor. However, no notification of proceedings is required of bailiffs under English law.

## **4.5 Legal aid cases**

There is no difference in bailiffs' fees for legal aid cases.

## **4.6 Payment**

For Levying Distress (seizing debtor's goods to pay for debt), the Bailiff charges are due and payable by the tenant once Distress has been levied. In the event that distress is not levied for any reason, the "reasonable costs & charges" of the visit would normally be met by the person or company instructing the bailiff.

Bailiffs are usually paid on a per act basis. The average cost for a bailiff intervention for a county court matter can range from £20 (€29.3 approx.) for a debt of £125 (€183 approx.) or less to £40 (€58 approx.) where the debt is over £125. In the bulk centre, the cost will be £15 (Euros 22 approx) where the debt amount is £125 (Euros 183 approx) or less, going up to £35 (Euros 51 approx) where the debt amount is more than £125. Where the matter involves unpaid counsel tax or community charge, the Bailiff visits the premises but does not gain entry. First visit - £ 20 (€ 29.3 approx). Second visit - £ 15 (€ 22 approx). VAT is applicable at the normal rate of 17.5% and is added to the levy and possession costs when paying the bailiff. VAT is not charged to the defaulter. Bailiff fees can be paid by credit card, debit card, cash or cheque. However, no retainer is usually required. Furthermore, there will be no cross-border issues or costs as bailiffs enforce only on a local / national level.

#### **4.7 Conclusions and recommendations**

There is no lack of transparency for bailiffs' fees. However, its practical use for civil litigation is very limited. As before, my recommendation is that the information about bailiffs' fees should be held in a central depository about litigation costs in England which would be accessible on the web.

## **5 Expert fees**

### **5.1 General**

Information on expert assessment costs can be obtained from the public website [www.dca.gov.uk/courts/](http://www.dca.gov.uk/courts/) for free. Private websites that offer this information for free include:

[www.octc.co.uk](http://www.octc.co.uk),

[www.wlv.ac.uk](http://www.wlv.ac.uk)

[http://www.spineresearch.org.uk/expert\\_fees.htm](http://www.spineresearch.org.uk/expert_fees.htm).

Alternatively the Law Society offers this information free via its website. The experts themselves also provide this information by way of a list on [www.xproexperts.co.uk](http://www.xproexperts.co.uk). However, there is no national organization to contact to obtain a list of experts. Additionally, there are no general brochures offering this information, however. Furthermore, neither the courts nor information centres can help. Representative organisations will also not have this information.

Information on expert fees is not widely disseminated. However, solicitors have an idea of the cost of expertise in their particular field of litigation. Furthermore, there is no shortage of advice in the Civil Procedure Rules as to how an expert should conduct themselves. It is much more difficult to find an expert in any particular field. This knowledge tends to reside with the law firms who specialise in particular types of litigation.

Part 35 of the Civil Procedure Rules (CPR) deals with experts and assessors. However, there are not prescribed scales for the remuneration of expert witnesses. There are no statutory guidelines as to the extent of an expert's remuneration. Therefore it is left to the market as to how much an expert can charge.

Experts do not have to be accredited. However, to act before the court, the court has to be satisfied that the issue on which expert evidence is to be called is properly an issue on which expert evidence is required and that the person giving the expert evidence has the required expertise in the field concerned. Where an expert's report is produced by an accredited expert of another EU State, it will normally be accepted by the English courts.

## **5.2 Fees (medical experts, technical transports experts...)**

The following is a table of the cost allowances for experts in criminal cases which gives a rough indication. Basically the more specialist the expert witness the more you can expect that he will charge

	<b>Fees</b>
<b>1. Consultant medical practitioner, psychiatrist, pathologist</b>	
Preparation	£ 70 (€ 102 approx) - £ 100 (€ 146 approx) per hour
Attendance at court (full day)	£ 346 (€ 507 approx) - £ 500 (€ 733 approx)
<b>2. Fire (assessor) and/or explosives expert</b>	
Preparation	£ 50 (€ 73 approx) - £ 75 (€ 110 approx) per hour
Attendance at court (full day)	£ 255 (€ 374 approx) - £ 365 (€ 535 approx)
<b>3. Forensic scientist (including questioned document examiner), surveyor, accountant, engineer, medical practitioner, architect, veterinary surgeon, meteorologist</b>	
Preparation	£ 47 (€ 68 approx) - £ 100 (€ 146 approx) per hour
Attendance at court (full day)	£ 226 (€ 331 approx) - £ 490 (€ 718 approx)

### 5.3 Payment

VAT is payable on expert's fees at the normal rate by the instructing party if it is in the jurisdiction. Payment is generally by cheque or wire transfer and the average amount of fees is usually between €100 and €249 per hour, depending on the type of litigation. Payment is generally made after the expert has completed his report and then again once he has completed giving evidence if the matter goes to trial.

### 5.3.1 Retainers

It is not normal to pay an expert any retainer

## 5.4 Legal aid cases

Where a person is entitled to legal aid (having applied and obtained legal aid at the beginning of the case, through a solicitor) and expert evidence is a necessary part of their case, then the legal aid will generally cover that too.

## 5.5 Reimbursement of experts' fees

In the case of a favourable decision for the party that has paid the expert fees, the court can order the losing party to reimburse the winning party for those fees. The court does not pay for expert fees in any cases.

## 5.6 Practical questions

An expert's report is necessary where there is some issue which is not purely factual but requires some expert evaluation, for example whether goods sold are fit for the purpose intended. An expert's report must be absolutely current, however, to be valid in an English court.

## 5.7 Conclusion and recommendations

Experts' fees are not particularly transparent for English litigation proceedings. My recommendation is that this information should be held in a central depository about litigation costs in England which would be accessible on the web.

## 6 Translation and interpretation fees

### 6.1 General

Information on translation costs is not accessible via public websites but can be obtained for free on private websites, such as:

[www.atlas-translations.co.uk](http://www.atlas-translations.co.uk);  
[www.london-translations.co.uk](http://www.london-translations.co.uk);  
[www.roevin.co.uk/translation](http://www.roevin.co.uk/translation);  
[www.lifelinelanguageservices.co.uk](http://www.lifelinelanguageservices.co.uk);  
[www.kwintessential.co.uk](http://www.kwintessential.co.uk)  
[www.languagelinkuk.com](http://www.languagelinkuk.com).

There is a national organization, the National Register for Public Service Interpreters (“NRPSI”), which will provide a list of accredited translators. The courts do not provide such information, nor are there brochures. Information centres do not provide this information, either. Neither do representative organizations. A professional such as a solicitor might be able to assist from his / her previous experience of a translating / interpreting agency he / she has previously used but would normally obtain a quote from that agency before giving an estimate of the costs involved. However, there is plenty of information in the court rules as to where translation of documents is required. The appropriate translator can then be found by searching the web. Therefore, the client has relatively easy access to names of accredited translators and information on them.

Free information on interpretation fees is not available on public websites but is obtainable from private websites such as:

[www.atlas-translations.co.uk](http://www.atlas-translations.co.uk);  
[www.london-translations.co.uk](http://www.london-translations.co.uk);  
[www.roevin.co.uk/translation](http://www.roevin.co.uk/translation);  
[www.lifelinelanguageservices.co.uk](http://www.lifelinelanguageservices.co.uk);  
[www.kwintessential.co.uk](http://www.kwintessential.co.uk);  
[www.languagelinkuk.com](http://www.languagelinkuk.com).

There are no brochures providing this information and the courts and information centres do not provide this information. Solicitors will not have definite

information on such fees either but might call an interpreting agency on behalf of a client and make inquiries. Representative organizations do not give out this information either.

There is no national organization providing a list of accredited interpreters. Interpreters do not have to be accredited. Any interpreter can act before the courts. However, the names of suitable interpreters can be easily accessed on the internet. Furthermore, where an interpreter is accredited or certified before the courts of another Member State, he or she is likely to be accepted by the English courts as having the relevant expertise.

## **6.2 Translation fees**

There are no regulations governing the fees translators charge or fixed compensations systems. It is up to the translation companies themselves to fix their own fees. Often, fees will be calculated on the basis of number of words translated, with the average amount being between 0.5 Euros and 1.49 Euros per word (before tax).

Furthermore, the level of fees may often depend on the language involved and the nature of the translation, so that the more obscure the language, the higher the fees. Generally, however, compensation will not depend on the nature of the litigation.

## **6.3 Interpretation fees**

There is no specific interpreter's compensation scheme. The interpretation companies themselves determine their fees and these may depend on the language in question (rather than the nature of the litigation in question), so that the more obscure the higher the fees. Fees will normally be calculated on the basis of time spent e.g. a day or a half-day and the average amount of fees on a per day basis is between €350 and €499.

The party that pays the interpretation fees is generally the party that needs the interpreter, though generally the costs are shared by agreement if each party needs

an interpreter. Interpreting fees will be taken care of by legal aid where the party requiring the interpreter is entitled to legal aid and where the interpreter is necessary for the proper presentation of the case..

## **6.4 Payment**

VAT will be payable on both translation and interpretation fees unless the requesting party resides out of the jurisdiction. Payment is generally by cheque or wire transfer..

### **6.4.1 Retainers**

It is not normal to pay translators or interpreters any retainer.

## **6.5 Practical questions**

Documents used in English court proceedings do not have to be translated by accredited translators. There is no applicable accreditation procedure in this country. Any translator can produce a certified translation. Provided a certified translation is properly done, it will be valid for an indefinite period. Translations by accredited translators from another Member State will be accepted in court proceedings in this jurisdiction, unless the court has any reason to think the translation is defective. As with expert witnesses, the court would normally accept a court accredited translator unless they had reason to consider that the translation was defective (for example where there was specialist technical language involved).

Generally, translation conditions such as the time-frame for producing a translation will be determined by the court / parties / translator. Where a party has the relevant experience and does not wish to incur the costs of a translator, it can produce its own translation. Otherwise, a regular translators' firm should be instructed.

## **6.6 Legal aid cases**

Where a party has applied for and been granted legal aid, then any translation or interpretation fees it incurs may be taken care of by legal aid.

## **6.7 Reimbursement**

Where a winning party in litigation has incurred translation and / or interpretation fees, then the court can order the losing party to pay those fees or reimburse the winning party if it has already paid the fees..

## **6.8 Conclusion and recommendations**

Translators and interpreters fees are relatively transparent. Again, however, it may be useful to include information on these fees in a central depository system.

# **7 Witness Compensation**

## **7.1 General**

Information on witness compensation can be obtained from the following public websites for free:

Her Majesty's Service -

[www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk)

Department of Constitutional Affairs -

[www.dca.gov.uk/](http://www.dca.gov.uk/)

<http://www.eastriding.gov.uk/>

[www.cjsonline.gov.uk/](http://www.cjsonline.gov.uk/)

<http://www.havering.gov.uk/>

<http://www.lewisham.gov.uk/>

<http://www.bromley.gov.uk/>

It is also obtainable for free from private websites such as:

[www.sac.ac.uk/](http://www.sac.ac.uk/)

[www.yourrights.org.uk/](http://www.yourrights.org.uk/)

[www.spex.co.uk/](http://www.spex.co.uk/).

The courts do not give out this information. Neither do information centres or representative organisations. A solicitor will also provide this information upon request for an agreed fee. An appropriate solicitor can be identified from the Law Society website, which provides information on those specialising in civil litigation.

There is no national organization to obtain a list of witness' rights. Nonetheless, information on the rights of witnesses is easily accessible and is available on <http://www.yourrights.org.uk/>. This website aims to provide an easily understood guide to the Human Rights Act 1998, explaining its relevance and impact in many different areas of law ranging from rights of privacy to rights of peaceful protest. The website gives a detailed list of the Rights of Victims and Witnesses.

## **7.2 Fees**

Witnesses in this jurisdiction are paid. Allowances and expenses payable to witnesses are governed by Regulations made by the Attorney General. These are made under Section 14 Prosecution of Offences Act 1985. The regulations are (The Crown Prosecution Service (Witnesses' etc. Allowances) Regulations 1988). The Regulations set out entitlements, conditions for payment and the relevant rates and amounts. Day subsistence allowance, based on length of absence from home or work, is payable while ordinary witnesses are travelling to or from, or are present at, court. It is to compensate for money spent on meals and/or refreshments. The "relevant amount" is set by the Regulations.

The witness allowances are set out in Part 34 of the Civil Procedure Rules and the prosecution of Offences Act 1985 and the Costs in Criminal Cases (General Regulations) 1985 see: <http://www.dca.gov.uk/courts/allowguid.htm>. The witness allowances are set out in Part 34 of the Civil Procedure Rules and the prosecution of Offences Act 1985 and the Costs in Criminal Cases (General Regulations) 1985 see: <http://www.dca.gov.uk/courts/allowguid.htm>.

In brief: a witness can claim an allowance for the time he or she loses from work. The average amount of compensation on a per day basis ranges between Euros 100 and Euros 149, to cover various costs such as travel, accommodation etc. More precisely, payment can range from £33.50 (€49.31 approx) for less than 4 hours absence to £67.00 (€98.62 approx) for an absence exceeding 4 hours. A witness can also claim for costs of subsistence i.e. accommodation / food and drink. These can range from £2.25 (€3.31 approx), where the period involved is less than 5 hours to £95 (€139.84 approx) where an overnight stay in a hotel is involved, and a further £21 (€30.91 approx) night subsistence allowance and £5 (€7.36 approx) personal incidental allowance.

Where a professional witness is involved (e.g. a police officer), the allowance will depend on the period of absence from work. The amount claimed can range from £83.50 (€122.91 approx) for an absence not exceeding 2 hours to £234 (€344.45 approx) for an absence exceeding 6 hours. Where locum fees are claimed in addition, the amount claimed will be slightly higher.

In the case of expert and professional witnesses and interpreters, overnight allowances can be claimed, ranging from £55.25 (€81.33 approx) in relation to most venues up to £85.25 (€125.45 approx) where a major city such as London or Birmingham is involved.

There is also a seamen witness allowance under the Regulations of £29.70 (€43.72 approx), plus any additional maintenance allowance at the discretion of the court.

Travelling allowances are also included and cover public transport, parking fees and passenger supplements. The allowance is calculated per mile, except in relation to parking fees, which will involve fees actually and reasonably incurred.

In relation to medical reports, there are different allowances applicable depending on whether it is a consultant or other registered medical practitioner. The daily maximum allowance for a consultant is £298.25 (€439.02 approx) and the daily maximum for another registered medical practitioner is £211 (€310.59 approx).

Further details of the witness compensation scheme are provided in the attached schedule at Annex 7..

### **7.3 Legal aids cases**

Legal aid will cover witness compensation where appropriate, i.e. where the claimant or defendant is legally aided and the attendance of the witness is necessary for the proper conduct of the case.

### **7.4 Payment**

Witness compensation does not attract VAT. It is usually paid by cheque or wire transfer.

### **7.5 Practical questions**

In the case of a favourable decision for the party that has paid the compensation, the court can order the losing party to pay for this compensation. Neither the court nor the country is ever responsible for witness fees, however. Furthermore, witness compensation will not depend on the nature of the litigation.

Any person who has direct factual knowledge about a case or in certain cases who has indirect factual knowledge (hearsay evidence) can be called as a witness. If the factual evidence is contested, then the evidence of the witness will be tested by having him appear in court personally to answer questions to the advocate for the Claimant and the Defendant. The Witness evidence-in-chief is normally in the form of a signed written statement. In theory, anyone can collect testimonies and a number of investigation agents can assist in the process but normally this is done by a solicitor or local lawyer. To authenticate the testimony, the witness himself/herself will have to appear in court and give evidence on oath. The judge asks the witness to swear an oath or give a declaration according to his/her religious beliefs prior to giving evidence.

A testimony collected by a court in another country will be valuable in the courts of this country, insofar as the court will take it into consideration. However, it is not conclusive and if the evidence is contested then the Court may require the witness to appear in person. If the written evidence is not in English, it will have to be translated as will any written witness statements in cross-border disputes.

## **7.6 Conclusions and recommendations**

Witness fees in this country are relatively transparent. However, their inclusion in a central depository system is recommended to increase transparency.

## **8 Pledges and security deposits**

### **8.1 General**

It is possible to request security for costs incurred in litigation from the Claimant under certain specific circumstances. The relevant rules are set out in the Civil Procedure Rules 25.13 (a copy of the rule with the notes from our Civil Procedure Rules is attached at Annex 8)..

### **8.2 Fees**

Fees will be payable to the bank or financial institution providing the pledge. There is no standard as to how high these will be.

### **8.3 Payment**

Payment will be direct to the bank or financial institution concerned.

### **8.4 Practical questions**

Pledges are required more often in cross-border litigations, but only where the claimant is not an EC resident.

Pledges or security deposits amounts are determined according to anticipated and actual costs of the Claimant. Security may be ordered by way of deposit in court or by way of bank guarantee or some other form of security which the Court is satisfied will be appropriate.

In order to lodge a request for a security deposit from another party, an application has to be made to the court on the grounds set out in CPR 25, which is an inter partes application. A security deposit will normally be automatically requested if a claimant is an impecunious company and looks as though it might become insolvent. Legal aid organizations will not normally organize a security deposit.

Where a party that has paid the costs of a security deposit wins in the litigation, the court can order that the interest on the deposited amounts be paid for by the losing party.

## **8.5 Conclusion and recommendations**

This issue is one which is more closely linked to the realm of banking or finance. To help individual claimants on the rare occasions when they have to provide security, there could be a EC-wide financial institution which would be recognised by the courts in each Member country as being sufficiently creditworthy to provide a pledge.

## **9 Court decisions**

### **9.1 Cost of notification**

There is no concept of notification of court decisions in this country. We have only personal service of an Order or of proceedings.

### **9.2 Cost of obtaining an authenticated decision**

There is no cost for publication of court decisions. However, it costs about £50 (Euros 71.53 approx) to obtain an authenticated copy of a decision on a per act basis. For the purposes of registering a foreign judgement in England and Wales the decision needs to be translated.

### **9.3 Conclusions and recommendations**

The costs of obtaining an authenticated copy of a court decision should be included, along with other costs of civil litigation, in a central depository system.

## **10 Civil Legal aid**

### **10.1 General**

Information on legal aid is available from the following public websites for free:

[www.legalservices.gov.uk](http://www.legalservices.gov.uk)

[www.direct.gov.uk](http://www.direct.gov.uk)

[www.dca.gov.uk](http://www.dca.gov.uk).

Private websites also provide this information for free. For example, the following websites: [www.lawsociety.org.uk](http://www.lawsociety.org.uk); [www.adviceguide.org.uk](http://www.adviceguide.org.uk).

In addition, some information centres can offer advice in this regard. Furthermore, solicitors specialising in legal aid work can help. The name of such a solicitor can be obtained from the Law Society website.

The regulation governing legal aid is the Civil Legal Aid (General) Regulations 1989 (Please find attached the regulation as Annex 9). It can be accessed online at: [http://www.opsi.gov.uk/SI/si1989/Uksi\\_198890339\\_en\\_1.htm](http://www.opsi.gov.uk/SI/si1989/Uksi_198890339_en_1.htm). Unfortunately, it is not available in any language other than English..

### **10.2 Conditions of grant**

The conditions under which legal aid is granted are as follows: Eligibility for legal aid for civil legal representation is assessed by the Legal Service Commission, based on financial means (income and capital) and legal merits (an assessment of the person's case) tests laid down by parliament. So long as the case relates to English or Welsh law, anyone regardless of their age or nationality can apply. People should

ask a solicitor or adviser, who has a contract with Legal Service Commission, about whether they qualify, but generally a client is eligible if they and their partner have a combined monthly disposable income of less than £672 (€ 984 approx). Their gross monthly income should not exceed £2,435 (€ 3565 approx) (can be higher if the applicant has more than four children). If a client satisfies these limits, they must also have no more than £8000 (€ 11,715 approx) in disposable capital.

A legal merits test is then conducted by the LSC, considering factors such as the case's likelihood of success, and solicitors are always asked to give an indication of the case's merits. If the client is getting Income Support, Income-based Jobseeker's Allowance or the guarantee credit part of Pension Credit, then the client will automatically qualify for legal aid. Also, special rules will apply if he is an asylum seeker getting support from the National Asylum Support Service ("NASS"). The eligibility calculator was updated on 9th April 2007 to reflect changes in eligibility limits. These figures apply to all applications received on or after that date.

Gross Income Cap	£2435 <sup>1</sup> (€ 3565 approx)
Disposable Income Limit	£672 (€ 984 approx)
Lower Income Limit (contributory levels of service)	£289 (€ 423 approx)
Capital Limit	£3000 <sup>2</sup> (€ 4393 approx) (Controlled Legal Representation (immigration matters) £8000 (€ 11,715) all other levels of service [including Controlled Legal Representation (asylum matters)].
Dependants Allowances	
Partner	£146.62 (€ 214 approx) per month
Dependant aged 15 or under	£206.75 (€ 302 approx) per month
Dependant aged 16 or over	£206.75 (€ 302 approx) per month

<sup>1</sup> A higher limit applies for families with more than 4 children, with £205 added for the 5th and each additional child dependent.

<sup>2</sup> This limit is to remain at £3000 (€ 4393 approx) for the time being with the intention to raise it to £8000 (€ 11,715) pending the outcome of consultation on an appropriate contribution scheme.

### 10.3 Strings attached

Legal aid is not available to legal entities other than individuals. However, there are automatic rights to legal aid if the person involved fulfils the relevant criteria. Furthermore, it can be granted to nationals involved in a cross-border case and where the competent court is located in another Member State.

The Legal Services Commission decides who should be granted legal aid. Their decisions are subject to judicial review. Where legal aid is granted in a case, it is not normally subsequently withdrawn during the trial.

### 10.4 Practical questions

Most family law issues (with the exception of alimony) are covered by legal aid. In the case of adoption, legal aid is only available if there is a dispute about the adoption.

In immigration law, asylum rights are covered by legal aid.

There is no legal aid available for inheritance and estate law, labour law or commercial law. In social law, only disabled people's rights are covered by legal aid. In administrative law, issues on education and human rights are covered. In civil law, consumer protection is covered.

In property law, legal aid is available for disputes relating to leases (housing cases, including eviction, repairs and rent arrears) and real property (buying and selling a home where a court order is involved) or if there is a divorce, legal separation or dissolved civil partnership.

In personal injury cases, legal aid will be available where the injury is the result of an assault or deliberate abuse.

It also covers the enforcement of court proceedings, ADR proceedings and the enforcement of ADR decisions. For example, legal aid can be provided for family mediation or mediations in other areas.

Where legal aid is granted, it may be renewed if the lower court's decision is appealed. It is also possible to apply for legal aid for appeal cases in which the initial case was not funded by legal aid. If the initial proceedings were funded by legal aid, the party will simply have the funding certificate amended. Legal aid will also cover the enforcement of court decisions.

The costs covered by legal aid are all costs which are reasonably incurred for the purposes of the litigation. Where a person wins the case, he may have to contribute to the costs. For example, if a person gets money or property as a result of work carried out through Legal Representation, the solicitor will use this money to pay their bill and the person will get what is left. This deduction is called the statutory charge.

In some cases, payment of the statutory charge can be postponed if:

- the property won in the case is a person's home or the home of his dependants
- the money won in the case is to be used to buy a home for himself or his dependants.

If a person loses the case, he may be ordered to pay the legal costs of the other side if the court considers this would be reasonable. On the other hand, if the decision is favourable and leads to a monetary benefit, then under the Access to Justice Act 1999, Section 10, the costs will constitute a first charge on any property recovered or preserved by the individual in any proceedings or in any compromise or settlement of any dispute in connection with which the legal aid funding was provided.

## **10.5 Conclusion and recommendations**

The information relating to legal aid in this country is relatively clear and quite transparent. However, its inclusion in a central depository system is to be recommended.

## 11 Personal experience

I have personally been involved in cross-border trials but have never encountered a situation where the costs of justice were too expensive for our clients or where I was unable to evaluate clearly the costs of justice. The question of legal aid never arose in these cases. However, they did require co-operation with lawyers residing in a different State. This co-operation involved Italian lawyers taking interim steps in Italy, where substantive proceedings were going on in England. This meant two sets of lawyers' fees, doubling the costs involved.

In my personal opinion, costs could be driven down by saving on lawyers' costs and having only one set of costs involved. Otherwise, such doubling of costs will act as a deterrent in cross-border disputes, particularly as there will be costs of translations, of sending papers from one jurisdiction to another and so on.

Best practices in terms of cost transparency would be to make court costs, translators' fees and interpreters' fees transparent. Furthermore, lawyers' fees should be much more closely related to the amount at stake in the proceedings for the sake of proportionality.

## 12 Case studies

I have attached the commercial case studies (Annex 10), which I have the experience to complete. I have also completed the family law case studies on the basis of information received from a family law practitioner (Annex 11).

### 12.1 Insurance

#### 12.1.1 Is there any Insurance capacity to cover the risks of litigation in Civil Proceedings?

Yes, there is cover. There are two basic types: Before the Event Insurance i.e. cover which you take out generally to cover your possible litigation needs and After

the Event Insurance which is cover that you can obtain generally to cover the possibility that you may have to pay opponents' costs in a piece of litigation

#### 12.1.2 What are the average costs of these insurances?

Premiums are calculated according to the Insurers' assessment of the risk on the basis of a percentage rate applied to the amount of legal costs the client wants to insure against. For civil commercial cases, premium rates typically range between 20 % and 40 %.

#### 12.1.3 Would such Insurances work for cross border disputes?

Only where the claimant is a UK citizen domiciled in the EC and the dispute is governed by English law and to be heard before the English Courts.

#### 12.1.4 Is the Insurance Premium more expensive to cover cross border disputes?

The premium depends on the amount which you assess to be your opponents' costs. In a cross border dispute, you might expect that these were going to be more expensive because, for example, of translation fees. So the answer is probably yes.

#### 12.1.5 What part of the costs do these insurances generally cover?

In general, the available products seek to offer cover for:

1. Opponents' Costs and Disbursements
2. Opponents' Costs and Disbursements and Own Disbursements
3. Opponents' Costs and Disbursements and Own Costs and Disbursements