

LSANI Representation Lower Guidance

To submit a request for payment for uncertified counsel

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May 2026	0.1	Draft
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LSANI Representation Lower Guidance - To submit a request for payment for uncertified counsel

1. Purpose

- 1.1 Currently, if a solicitor is seeking certification of counsel the solicitor must clearly demonstrate that the case (or part of the case which is the subject matter of the application) could not be adequately conducted without the higher level of representation applied for. Solicitors must personally address this issue and should not seek to rely on counsel's opinion.
- 1.2 Where a request for counsel has been unsuccessful a solicitor may choose to instruct counsel – this is referred to as 'uncertified counsel'.
- 1.3 This guidance sets out the Legal Services Agency (LSA) administrative arrangements for submission of payment requests for uncertified counsel in Family Children Order proceedings and Family Homes and Domestic Violence Order proceedings in the Representation Lower courts.
- 1.4 This guidance comes into effect from **22 June 2026**.

2. Background

- 2.1 Counsel can only be paid directly by the Legal Services Agency (the Agency) for cases in which they have been certified by the Agency.
- 2.2 The Agency, however, recognises that on occasions solicitors may engage uncertified counsel to undertake specific cases for a variety of reasons. This guidance sets out how uncertified counsel should bill solicitors when they have acted in an uncertified capacity.

2.3 Practitioners should follow the process set out in this Guidance when a solicitor is claiming payment for a case in which uncertified counsel has been engaged.

3. General principles

3.1 In allowing uncertified counsel there can be **no additional cost to the legal aid fund**:

- The solicitor will be remunerated for work completed under the civil legal aid certificate, irrespective of whether the work is carried out by the solicitor or counsel;
- LSA will remunerate the solicitor for the work undertaken at solicitor rates, as set out in the 2015 and 2025 Remuneration Order, dependent on the date of the legal aid certificate;
- As counsel has not been certified, **the solicitor** must submit the bill and discharged payment to counsel;
- The amount of any claim must be substantiated, and assessment will be on a case-by-case basis. It is important that sufficient information is provided to allow the assessor to make a reasonable decision; and
- Claims submitted will be subject to Agency system controls. Any overlap or duplication with previously paid bills may result in fee lines being rejected.

4. Submitting a claim for payment

4.1 The solicitor must claim for uncertified counsel's work as a **disbursement**. A separate fee line will be required for each item of work undertaken, using the description "Counsel Fees" and claimed at the corresponding solicitor hourly rate.

4.2 When submitting a report on case the solicitor must upload counsel's fee note which should include the detail set out below. **Where a fee note does not adhere to the detail below then corresponding fee lines may be refused.**

4.3 A template for a '[Counsel fee note](#)' is located within the '[LAMS Supporting Documents](#)' area of the LSANI website. Counsel should use this template to avoid expense lines being refused. System controls, introduced in September 2025 ([LSA 06-25 - Enhancements to LAMS](#)), will identify duplicate expense lines where a claim has already been made by the same practitioner, and paid by the Agency; the identified expense lines will be refused. In any case the required information is:

- Date and the duration of each piece of work completed
- Detail of the work undertaken, for example:
 - Consultation – include who attended
 - Preparation – outline what this entailed.

5. Work that is not payable

5.1 To ensure there is no additional cost to the fund, where uncertified counsel is engaged and is briefed to act in place of the solicitor, the following work will not be payable:

- Correspondence i.e. calls/ emails/ letters, between the solicitor and uncertified counsel.
- If uncertified counsel attends court or consultation and the solicitor is present - only the solicitor's attendance will be payable.
- Where any duplication of work is identified only the solicitor's fee will be payable.

LSANI
22 June 2026