

# FAMILY STEPS

## Pre-proceedings Settlements

December 2007

### Step: Settlement of legal disputes prior to proceedings

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Negotiation of settlement	up to <b>6</b> hours	For <ul style="list-style-type: none"><li>• Taking instructions, attending the client</li><li>• Identifying legal and factual issues</li><li>• Preparing application for legal aid</li><li>• Liaising with the other party(s)</li><li>• Conducting negotiations and where possible reaching agreement (see Granting Notes)</li><li>• Reporting to client</li><li>• Reporting to and invoicing for Legal Aid</li></ul>

#### Granting Notes

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

**Step: Private Mediation**

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation for mediation	up to <b>1.5</b> hours	For <ul style="list-style-type: none"> <li>• Taking instructions, attending the client</li> <li>• Identifying legal and factual issues</li> <li>• Preparing application for legal aid</li> <li>• Liaising with the other party(s)</li> <li>• Preparing for the mediation</li> <li>• Writing up the agreement after the mediation</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing for Legal Aid</li> </ul>
Mediation	<b>Actual</b> hours	For <ul style="list-style-type: none"> <li>• Attending mediation</li> <li>• Finalising the agreement that occurs during the mediation</li> </ul>

**Step 1: Application for Review**

<b>Activity</b>	<b>Guideline Hours</b>	<b>Tasks normally covered by Guideline Hours</b>
<b>Adoption Order</b> Either: <ul style="list-style-type: none"> <li>• with consent; or</li> <li>• that consent is dispensed with</li> </ul>	up to <b>5</b> hours	For <ul style="list-style-type: none"> <li>• Taking instructions, attending the client</li> <li>• Identifying legal and factual issues</li> <li>• Preparing application for legal aid</li> <li>• Preparing proceedings, including the following documents:               <ul style="list-style-type: none"> <li>○ Affidavit(s) in support</li> <li>○ Consent of the birth parents or an application for consent to be dispensed with</li> <li>○ Section 10 report from social worker</li> </ul> </li> <li>• Attend formal hearing and obtain interim adoption order</li> <li>• If undefended and application is resolved apply for final order</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing for Legal Aid</li> </ul>
<b>Application to dispense with consent</b>	up to <b>2</b> hours	For preparing an application to dispense with consent – see Granting Notes
<b>Additional factors</b>	up to <b>3</b> hours	<ul style="list-style-type: none"> <li>• Guideline hours must be exceeded</li> <li>• Each factor must be clearly identified and justified</li> </ul>

**Step 2: Defended Application**

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

## Granting Notes

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

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

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

### **Additional Factors – Proceedings Step 1 and Step 2**

Surrounding circumstances may make it necessary to consider guideline hours for 'additional factors' for example:

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

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

# Children & Young Persons (CYP)

August 2008

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

## Step 1: Application for Declaration and/or other CYPF Act Order (filed by Child, Youth and Family)

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Declarations and/or other CYPF Act order(s)</b> (Care and Protection orders)	up to <b>8</b> hours	For <ul style="list-style-type: none"><li>• Taking instructions, attending client</li><li>• Identifying legal and factual issues</li><li>• Preparing application for legal aid</li><li>• Preparing application for interim/final declaration (orders), including:<ul style="list-style-type: none"><li>○ Affidavit(s) in support</li><li>○ Information sheets for the Court</li></ul>(See Granting Notes for impact of s120 of CYPF Act on parenting order(s) issued under Care of Children Act)</li><li>• Serving of documents</li><li>• Considering need for Counsel for Child</li><li>• Considering need for s178 report from medical or mental health specialist</li><li>• Attending CYPF List or Judges List hearing</li><li>• Reporting to client</li><li>• Reporting to and invoicing for Legal Aid</li></ul>
<b>Additional factors</b>	up to <b>3</b> hours	<ul style="list-style-type: none"><li>• Guideline hours must be exceeded</li><li>• Each factor must be clearly identified and justified</li></ul>

## Step 2: Pre-hearing Matters

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Pre-hearing matters</b>	up to <b>10</b> hours	For <ul style="list-style-type: none"> <li>• Taking further instructions</li> <li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours)</li> <li>• Undertaking negotiations</li> <li>• Attending Registrar's List/Chambers hearings</li> <li>• Liaising with relevant parties – CYF, Counsel for Child, witnesses, experts</li> <li>• Considering specialist reports – s178 report (medical and mental health specialist)</li> <li>• Undertaking discovery</li> <li>• Preparing interlocutory application(s), pre-trial conference memorandum</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing for Legal Aid</li> </ul>
<b>Mediation Conference</b> (Judge-led)	up to <b>1.5 times</b> anticipated conference time (hrs)  <b>Actual</b> hours	For <ul style="list-style-type: none"> <li>• Reviewing file</li> <li>• Preparing for hearing – briefing client, submissions</li> <li>• Reporting to client</li> </ul> For attending mediation conference
<b>Interlocutory hearing(s)</b>	up to <b>1.5 times</b> anticipated hearing time (hrs)  <b>Actual</b> hours	For preparing submissions for interlocutory hearing(s)  For attending interlocutory hearing(s)
<b>Additional factors</b>	up to <b>2</b> hours	<ul style="list-style-type: none"> <li>• Guideline hours must be exceeded</li> <li>• Each factor must be clearly identified and justified</li> </ul>

**Step 3: Hearing**

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

**Step 4: Court Review of a Case/Plan as a result of Court Order or Direction**

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Review hearing	up to <b>3</b> hours	For <ul style="list-style-type: none"><li>• Reviewing care and protection plan, taking instructions</li><li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours)</li><li>• Consulting with CYFS</li><li>• Attending review hearing</li><li>• Reporting to client</li><li>• Reporting to and invoicing for Legal Aid</li></ul>

## Granting Notes

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

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

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

As a guide, legal aid will only be granted for lawyers' attendances where:

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

If it is considered that legal aid is justified then three guideline hours would be granted to cover preparation for and attendance at the conference.

### Consideration of Additional Factors – Proceedings Step 1, 2

Surrounding circumstances may make it necessary to consider guideline hours for 'additional factors' for example:

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

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

# Day-to-Day Care & Contact

August 08

Steps for proceedings under the Care of Children Act 2004

## Step 1: Investigate and make/defend application

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

## Step 2: Pre-hearing Matters and Mediation

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Pre-hearing matters</b>	up to <b>8</b> hours	For <ul style="list-style-type: none"> <li>• Receiving notice of defence and undertaking negotiations</li> <li>• Taking further instructions</li> <li>• Preparing amendment to grant (if expecting to exceed the guideline hours)</li> <li>• Filing affidavit(s) in reply</li> <li>• Attending Registrar's List/Judges List/Roundtable conferences</li> <li>• Liaising with relevant parties – CYFS, Counsel for Child, witnesses, experts</li> <li>• Considering specialist reports, for example                             <ul style="list-style-type: none"> <li>○ s132 report - social worker</li> <li>○ s133 report - mental health, cultural specialist</li> <li>○ s59 – allegations of violence</li> <li>○ Lawyer for Child's report</li> </ul> </li> <li>• Undertaking discovery</li> <li>• Preparing interlocutory application(s), pre-trial conference memorandum</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing for Legal Aid</li> </ul>
<b>Mediation Conference</b> (Counsel or Judge-led)	up to <b>2</b> hours	<ul style="list-style-type: none"> <li>• Reviewing file</li> <li>• Preparing for mediation</li> <li>• Reporting to client</li> <li>• Reporting to Legal Aid</li> </ul>
	<b>Actual</b> hours	For attending mediation conference
<b>Judicial Conference</b> (Family Court Rules 2002, r175)	up to <b>2</b> hours	For <ul style="list-style-type: none"> <li>• Memorandum of issues</li> <li>• Preparing for conference</li> </ul>
	<b>Actual</b> hours	For attending Judicial Conference
<b>Interlocutory hearing(s)</b>	up to <b>1.5 times</b> anticipated hearing time (hrs)	For preparing submissions for interlocutory hearing(s)
	<b>Actual</b> hours	For attending interlocutory hearing(s)
<b>Additional factors</b>	up to <b>2</b> hours	<ul style="list-style-type: none"> <li>• Guideline hours must be exceeded</li> <li>• Each factor must be clearly identified and justified</li> </ul>

## Day-to-Day Care & Contact

August 2008

Steps for proceedings under the Care of Children Act 2004

### Step 3: Hearing

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

## Day-to-Day Care & Contact

August 2008

Steps for proceedings under the Care of Children Act 2004

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

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

### Granting Notes

#### Consideration of Additional Factors - Proceedings Step 1 and Step 2

Surrounding circumstances may make it necessary to consider guideline hours for 'additional factors' for example:

- The proceedings may involve a large number of parties applying for parenting orders including extended family members – any other person who is a member of the child's family, whānau, or other culturally recognised family group, or any other person granted leave to apply by the Court.
- The proceedings may involve several children. However, if the children have different parents, as respondents – separate applications for grants of legal aid will be required.
- A party who suffers from an intellectual disability or mental illness, language or reading difficulties – but not necessitating a separate interpreter – requiring more time in taking instructions or prolonging proceedings. An additional allowance for the use of interpreters is available if required.
- There are contested allegations of sexual abuse or violence.
- An application may be initiated by a child – involving the appointment of a litigation guardian.

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

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

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

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

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

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

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

## Granting Notes

### Consideration of Additional Factors - Proceedings Steps 1, 2

Surrounding circumstances may make it necessary to consider guideline hours for 'additional factors' for example:

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

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

# Family Proceedings/Guardianship

August 2008

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

## Step 1: Investigate and make application

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Maintenance and/or guardianship order(s)</b> (see Granting Notes for types of proceedings)	up to <b>8</b> hours	For <ul style="list-style-type: none"> <li>• Taking instructions, attending client</li> <li>• Identifying legal and factual issues</li> <li>• Preparing application for legal aid</li> <li>• Referrals to counselling services</li> <li>• Conducting initial negotiations between parties</li> <li>• Preparing application for interim/final order(s), including:               <ul style="list-style-type: none"> <li>○ Affidavit(s) in support</li> <li>○ Information sheets for the Court</li> </ul> </li> <li>• Serving of documents</li> <li>• Receiving minute/orders (either following in chambers or 1<sup>st</sup> Registrar's/Judge's List call)</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing for Legal Aid</li> </ul>
<b>Formal Proof hearing</b>	up to <b>2</b> hours <b>Actual</b> hours	For preparing for hearing For attending hearing to resolve undefended application(s)
<b>Memorandum of consent</b>	up to <b>2</b> hours	For <ul style="list-style-type: none"> <li>• Preparing memorandum of consent if agreement reached</li> <li>• Seeking approval by court</li> </ul>
<b>Additional factors</b>	up to <b>3</b> hours	<ul style="list-style-type: none"> <li>• Guideline hours must be exceeded</li> <li>• Each factor must be clearly identified and justified</li> </ul>

# Family Proceedings/Guardianship

August 2008

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

## Step 2: Pre-hearing Matters and Mediation

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Pre-hearing matters</b>	up to <b>8</b> hours	For <ul style="list-style-type: none"> <li>• Taking further instructions and undertaking negotiations</li> <li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours for this step)</li> <li>• Attending Registrar's List/Chambers hearings</li> <li>• Liaising with relevant parties – CYFS, Counsel for Child, witnesses, experts</li> <li>• Considering specialist reports for example s132 report (social worker), s133 report (mental health, cultural specialist)</li> <li>• Undertaking discovery</li> <li>• Preparing interlocutory application(s), pre-trial conference memorandum</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing for Legal Aid</li> </ul>
<b>Mediation Conference</b> (Judge-led)	up to <b>1.5 times</b> anticipated conference time (hrs)  <b>Actual</b> hours	For <ul style="list-style-type: none"> <li>• Reviewing file</li> <li>• Preparing for hearing – briefing client, submissions</li> <li>• Reporting to client</li> </ul> For attending mediation conference
<b>Interlocutory hearing(s)</b>	up to <b>1.5 times</b> anticipated hearing time (hrs)  <b>Actual</b> hours	For preparing submissions for interlocutory hearing(s)  For attending interlocutory hearing(s)
<b>Additional factors</b>	up to <b>2</b> hours	<ul style="list-style-type: none"> <li>• Guideline hours must be exceeded</li> <li>• Each factor must be clearly identified and justified</li> </ul>

# Family Proceedings/Guardianship

August 2008

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

## Step 3: Hearing

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

## Granting Notes

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

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

### Consideration of Additional Factors - Proceedings Step 1 and Step 2

Surrounding circumstances may make it necessary to consider guideline hours for 'additional factors' for example:

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

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

**Step 1: Section 16 review**

Step Grant	Guideline Hours	Activities normally covered by Guideline Hours
New instructions	up to <b>3</b> hours	For <ul style="list-style-type: none"> <li>Receiving initial instructions and identifying legal and factual issues</li> <li>Preparing application for legal aid (and amendment to grant if expecting to exceed the guideline hours for this step)</li> <li>Reporting to and invoicing Legal Aid</li> </ul>
Repeat within 4 months	up to <b>2</b> hours	
Repeat within 18 months	up to <b>2.5</b> hours	

**Step 2: Second section 16 review during one continuous period of assessment and treatment**

Step Grant	Guideline Hours	Activities normally covered by Guideline Hours
Taking instructions	further <b>1</b> hour	For <ul style="list-style-type: none"> <li>Receiving instructions and identifying legal and factual issues</li> <li>Advising reasons for second application</li> <li>Reporting to and invoicing Legal Aid</li> </ul>

**Step 3: undefended CTO application following a section 16 review**

Step Grant	Guideline Hours	Activities normally covered by Guideline Hours
Take instructions	up to <b>5</b> hours	For <ul style="list-style-type: none"> <li>Receiving initial instructions and identifying legal and factual issues</li> <li>Preparing application for legal aid (and amendment to grant if expecting to exceed the guideline hours for this step)</li> <li>Confirming previous grant for s16 review</li> <li>Reporting to and invoicing Legal Aid</li> </ul>
Repeat within 4 months	up to <b>3.5</b> hours	
Repeat within 18 months	up to <b>4</b> hours	

**Step 4: undefended CTO application where there has been no section 16 review**

Step Grant	Guideline Hours	Activities normally covered by Guideline Hours
New instructions	up to <b>4</b> hours	For <ul style="list-style-type: none"> <li>Receiving initial instructions and identifying legal and factual issues</li> <li>Preparing application for legal aid (and amendment to grant if expecting to exceed the guideline hours for this step)</li> <li>Reporting to and invoicing for Legal Aid</li> </ul>
Repeat within 4 months	up to <b>2.5</b> hours	
Repeat within 18 months	up to <b>3</b> hours	

# Mental Health

June 2018

Steps for proceedings under the Mental Health (Compulsory Assessment and Treatment) Act 1992

## Step 5: Defended CTO application following a section 16 review

Step Grant	Guideline Hours	Activities normally covered by Guideline Hours
Take instructions	up to <b>7</b> hours	For <ul style="list-style-type: none"><li>Receiving instructions and identifying legal and factual issues</li><li>Preparing application for legal aid (and amendment to grant if expecting to exceed the guideline hours for this step)</li><li>Confirming previous grant for s16 review</li><li>Reporting to and invoicing Legal Aid with details of grounds for defence</li></ul>
Repeat within 4 months	up to <b>4.5</b> hours	
Repeat within 18 months	up to <b>5.5</b> hours	

## Step 6: Defended CTO application where there has been no section 16 review

Step Grant	Guideline Hours	Activities normally covered by Guideline Hours
New instructions	up to <b>6</b> hours	For <ul style="list-style-type: none"><li>Receiving initial instructions and identifying legal and factual issues</li><li>Preparing application for legal aid (and amendment to grant if expecting to exceed the guideline hours for this step)</li><li>Reporting to and invoicing for Legal Aid</li></ul>
Repeat within 4 months	up to <b>4</b> hours	
Repeat within 18 months	up to <b>4.5</b> hours	

## Step 7: Application to Review Tribunal – this application can only be requested as a Forum Category 1 matter

Step Grant	Guideline Hours	Activities normally covered by Guideline Hours
New instructions	up to <b>6</b> hours	For <ul style="list-style-type: none"><li>Receiving initial instructions and identifying legal and factual issues</li><li>Preparing application for legal aid (and amendment to grant if expecting to exceed the guideline hours for this step)</li><li>Reporting to and invoicing for Legal Aid</li></ul>
Repeat within 4 months	up to <b>4</b> hours	
Repeat within 18 months	up to <b>4.5</b> hours	

## Step 8: Appeal from Review Tribunal

Step Grant	Guideline Hours	Activities normally covered by Guideline Hours
New instructions	up to <b>3</b> hours	For <ul style="list-style-type: none"><li>Receiving initial instructions and identifying legal and factual issues</li><li>Preparing application for legal aid (and amendment to grant if expecting to exceed the guideline hours for this step)</li><li>Reporting to and invoicing for Legal Aid</li></ul>

## **Documentation Requirements**

- Legal Aid Application for Mental Health proceedings (*LA form 7*) [s14 Legal Services Act 2011]

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

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

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

**Step 2: Defended Application**

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

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

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

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

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

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

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

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

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

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

**Defended Application for Paternity Order – Proceedings Steps 2**

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

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

<b>Activity</b>	<b>Guideline Hours</b>	<b>Tasks normally covered by Guideline Hours</b>
<b>Welfare/Property Interim Order</b>	up to <b>5</b> hours	For <ul style="list-style-type: none"><li>• Taking instructions, attending the client</li><li>• Identifying legal and factual issues</li><li>• Preparing application for legal aid</li><li>• Preparing and filing application for interim order including:<ul style="list-style-type: none"><li>○ Affidavit(s) in support</li><li>○ Information sheets for the court</li></ul></li><li>• Resolving by formal proof or consent memorandum (where no notice of defence has been filed)</li><li>• Attending Registrar's list</li><li>• Reporting to client</li><li>• Reporting to and invoicing for Legal Aid</li></ul>
<b>Service</b>	up to <b>1</b> hour	For an application to the Court for directions as to service

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

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Welfare/Property Final Order</b>	up to <b>8</b> hours or up to <b>3</b> hours (if preparation of interim order has already been claimed – Step 1)	For <ul style="list-style-type: none"> <li>• Taking instructions, attending the client</li> <li>• Identifying legal and factual issues</li> <li>• Preparing application for legal aid</li> <li>• Preparing and filing application for order including:                             <ul style="list-style-type: none"> <li>○ Affidavit(s) in support</li> <li>○ Information sheets for the court</li> </ul> </li> <li>• Resolving by formal proof or pre-hearing conference</li> <li>• Attending Registrar’s list</li> <li>• Attending pre-hearing conference</li> <li>• Reporting to client</li> <li>• Reporting to and invoicing for Legal Aid</li> </ul>
<b>Service</b>	up to <b>1</b> hour (no guideline hours if already claimed under Step 1)	For an application to the Court for directions as to service

# Personal & Property Rights

June 2005

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

## Step 3: Defended Hearing

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

# Property Relationships

August 2008

Steps for proceedings under the Property (Relationships) Act 1976

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

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

# Property Relationships

August 2008

Steps for proceedings under the Property (Relationships) Act 1976

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

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Relationship Property order(s)</b> (Applicant/Respondent)	up to <b>7</b> hours	For <ul style="list-style-type: none"><li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours for this step)</li><li>• Drafting/filing application for/defence to, relationship property orders</li><li>• Drafting/filing applicant/respondent P(R) 1, narrative affidavit</li><li>• Serving of documents</li><li>• Attending Registrar's List/Chambers List hearings</li><li>• Preparing interlocutory application(s), pre-trial conference memorandum</li><li>• Receiving Court review and directions</li><li>• Reporting to client</li><li>• Reporting to and invoicing for Legal Aid</li></ul>
<b>Interlocutory hearing(s)</b>	up to <b>3</b> hours	For preparing submissions for interlocutory hearing(s) (Hearing time expected to be minimal)
<b>Additional factors</b>	up to <b>2</b> hours	<ul style="list-style-type: none"><li>• Guideline hours must be exceeded</li><li>• Each factor must be clearly identified and justified</li></ul>

# Property Relationships

August 2008

Steps for proceedings under the Property (Relationships) Act 1976

## Step 2: Pre-hearing Matters

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

**Step 3: Hearing**

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

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

Surrounding circumstances may make it necessary to consider guideline hours for ‘additional factors’ for example:

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

There is no complete ‘checklist’ of circumstances so each matter will be considered on a case by case basis.

## Granting Notes

### Documentation Requirements

- Application for Family Legal Aid (*LA form 6*) [s14 Legal Services Act 2011].
- Family Legal Aid Tax Invoice (*LA form 10*) – including evidence that there have been reasonable attempts to negotiate and settle the issues in dispute.
- Family Legal Aid Amendment to Grant (*LA form 9*) [s28 Legal Services Act 2011] – if the time required for the step is expected to exceed the guideline hours stated.
- Supporting documents such as evidence of initial proceedings, court notices and minutes.

### Use of Interpreters

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

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

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

- it has been applied to the activity(s) relating to the ‘preparation’ of a matter – as opposed to hearings;
- the guideline hours for the activity(s) relating to the ‘preparation’ of a matter, have been exceeded; and
- the fees for the interpreter are claimed as a special disbursement.