

COURT OF PROTECTION

(File Management Notes)

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LAW COSTS DRAFTSMEN

COSTS NOTES RE FILE MANAGEMENT **(in relation to Court of Protection matters in particular)**

1. Always prepare a brief note for the file of what work was done. Do not rely upon computer entries. Do be succinct - you can summarise the content of a longer note should you need the latter for the file.
2. Note separate elements of work separately. For example:-
 - ◆ Attending people
 - ◆ Drafting documents
 - ◆ Dictating long letters
 - ◆ Dictating file notes
 - ◆ Travelling etc.

It is difficult for the draftsman to apportion the times between different classes of work when global times for work are given.

3. Provided it is consistent with the time spent / work done, when preparing file notes emphasise the financial aspects of the work as opposed to any social or domestic issues.
4. If there was an element of social / domestic issues dealt with in the time spent that you do not consider it appropriate to charge for, say what part of the time you are not charging for and why (see 7 below). If, on the other hand, you do consider it appropriate to charge for the social / domestic work, say how the issues impacted upon the Protected Party's finances in order to justify a charge being made.
5. Use the lowest grade of fee earner it is possible to do and still conduct matters properly. One will not usually be paid Partner rates for work a Trainee could have done.
6. Try not to duplicate work done by others. If it is essential to look at something someone else has done, say why. If you cannot justify it personally, what hope has the draftsman of doing so when preparing the bill?
7. Note time that you have not claimed on file so that the Court can see that you are not seeking costs to which you do not think there is an entitlement. For example, 'reading-in' and copying are both items which should not be claimed

for, but one should note the time spent on file and say 'not claimed'. This will show the Costs Officer that you are not trying to wring every last penny from a case.

8. Explain unusual courses of action in file notes - e.g. the reasons why you needed to go to the Protected Party's home several times in the period concerned.
9. Explain in file notes the reason why any particular piece of work took longer than one might have expected it too - otherwise the Costs Officer may think you are too slow and disallow time.
10. If you are making several similar, yet distinct, applications (e.g. for different kinds of benefits for the Protected Party), clearly distinguish them - otherwise the Costs Officer might think that you are re-doing the same application several times and are inefficient.
11. When noting work, place yourself in the position of the person (i.e. the Costs Officer) who is considering whether the work was reasonably done and is reasonable in amount, and ensure that the note explains why it is so. State exactly what you are doing and the reason why you are doing it. If there is anything unusual about it, make the note more detailed - if there is any doubt in the Costs Officer's mind about whether costs were reasonably incurred or reasonable in amount, on the standard basis of costs assessment the Court will disallow them. More of the work done should be allowed, once you are in the habit of noting properly and adopting the mind-set of a Costs Officer when doing so.
12. If you do repetitive tasks (e.g. paying a Care Home) explain the reason why, if it can't be, this task cannot be automated by direct debit for instance, otherwise the Court might consider you are working inefficiently at the cost of the client.
13. Make it easy for the Costs Officer to do their job. If they have difficulty finding a note of what was done, or understanding why it was done, they will not trouble and may disallow the work. If the fee earner cannot be troubled to note what they are doing and the reason why they are doing it, why should the Costs Officer be troubled to spend time searching for non-existent notes or deciphering poorly prepared ones (they won't!).
14. Finally, remember that to achieve the goal of making the Costs Officer's job easy, it helps to make the Costs Draftsman's job easier too. The same thing applies to them in relation to searching for notes and such like - it is difficult to draft a robust bill if the file is not noted properly, as well as time consuming for the draftsman. This leads to higher fees and bills that are likely to be more heavily reduced on assessment than would have been the case if supported by a better documented file.