



“I have been ruined but twice. Once when I lost a lawsuit, and once when I won one.” ~ Daniel Defoe

There are two main areas to think about with costs. Firstly, ‘lawyer-client’ costs. That is, what you pay me. The second is ‘inter-parties’ costs. That’s what the various parties to litigation may end up owing to each other. Note I say ‘owing’ not ‘paying’. Those concepts are by no means synonymous; of which more below.

In regards to what I charge, *generally* things like consultations and court hearings are priced based on a fixed fee. Paperwork type matters, such as drafting documents or reading through material to provide advice are calculated by reference to an hourly rate.

Here I set out some indicative prices. Whilst I try to stick to these, they are only guidelines. Sometimes the nature of the work means that I will have to charge more.

Fixed fee appointment: £95

This is an initial one hour consultation. We meet. You explain what your query is. I give you some initial advice. Sometimes I may be able to give you all the information you need there and then. Usually though it will be more that I can set out your options and likely cost implications of the various alternatives.

Court Hearings

Less than one hour: £150-200

Up to half a day: £750 -£1,000

Up to one day: £1,500- £2,000

Where a case lasts more than one day there are daily top up fees, called 'refreshers' by lawyers.

My usual refresher rate is £750 -£1,000 depending on the nature of the case.

These prices do include preparation for the hearing including reading into the papers and producing any skeleton arguments or draft orders as may be required; but not drafting any other documentation or preparation of trial bundles or similar work. If such work is required then generally it will be charged based on an hourly rate.

My usual hourly rate for County Court work is £200 per hour and for High Court work £350 per hour.

This covers things like...

Providing Opinions. An opinion is a written document that gives information about a legal matter. Opinions address the facts of the case and the evidence; give a summary of the applicable law, and then a conclusion on how to deal with the matter and the prospects of success.

Drafting 'Pleadings'. Pleadings is just a term lawyers use for some types of formal court documents. The most common are 'Particulars of Claim' and 'Defences'. Those being the documents where the person suing sets out their case and what they want, and where the person being sued says why that's all wrong.

Settling witness statements. Settling is what lawyers call writing down what a witness says into the standard court format. One key thing about statements, is that they are meant to be the witnesses own words about the facts as the witness *personally* knows them. So, whilst in more complex cases, lawyers may wish to set the parameters of the statement by asking questions, often it is better for the witness to write down their own version of events and the lawyer just tidy that up and put into the appropriate format.

Preparing for the case. This is reading all the documents, preparing questions, and legal research.

The length of time to carry out any of the above tasks varies according to the complexity of the case. Particulars of Claim in a simple 'unpaid invoice' case might easily be prepared in less than an hour. A professional negligence claim where there are multiple examples of sub-standard work could take a whole day or more to draft.

Much will depend on the nature of the case, and the division of labour. Obviously the more work you can do yourself the cheaper things will be; and one of the great advantages of the Direct Public Access scheme is that you can instruct a barrister to undertake discrete areas of work, but do the bulk of the work yourself. That might include things such as filing paperwork with the court. Also, whilst I am happy to draft letters on your behalf; I do not send them myself, nor can I take responsibly for receiving mail. You as the client will have to deal with all correspondence.

Generally I don't charge for travelling for cases in Cornwall or London; but if the case is further afield, or you wish to meet me at a location of your choosing then traveling is charged at £50 per hour.

An example - winding up proceedings

So, having set all that out, let's look at how things may work in practice. By way of example let's look at a corporate insolvency matter...

The case may start with a fixed fee appointment. So you initially pay £95.

During the consultation you explain to me that you have carried out work for a company; but they haven't paid. You show me the original contact and the invoice you sent. It is clear from copies of emails that the company is showing no inclination to pay what they owe. The debt is for more than £750 so I advise that your best option is to wind the debtor company up.

As you have already sent the invoice and repeatedly asked for payment, which has not been forthcoming, I advise you don't need to serve a statutory demand (that's a formal request for payment). So the document that starts proceedings is a winding up petition.

In a simple invoice case that may be easy to prepare within an hour; so I charge £200 to draft that. You then need to 'serve' the petition. There are various ways of doing that but it's usual to instruct someone called a process server. They hand deliver the petition, and produce a certificate of service. That's a statement setting out where they delivered the petition and who received it. It avoids the debtor claiming they didn't get it. You would have to pay the process server a fee. You can of course serve the petition yourself if you like.

There is also a court fee for issuing the petition. That's currently £280. You also pay a 'deposit' of £1,600; but you may get that money back as it is added to the debt.

If the company does nothing, then you can advertise the petition. That lets any other creditors know you are trying to wind the company up. They can then 'support' the petition by adding their debt.

There is then a hearing. If the company has not applied to challenge the petition the hearing is usually very short. So you would pay me £150-200 to attend.

But what if the company challenges the petition? I would first need to consider the challenge. That itself might only take an hour. So another £200. I would need to consult with you as to what you say about the challenge, and advise you on the back of that. That could be another hour or two. So between £200 and £400.

If the challenge is substantial then that might necessitate obtaining witness statements and evidence. This would all be charged at the hourly rate.

A contested winding up application would be listed for hearing with an appropriate time estimate to conductor all the evidence and legal argument, so the half or whole day fees would apply (i.e. £750 - £2,000).

Recovering costs

The general rule in litigation is that “loser pays winner’s costs”; however it’s not always that simple. Courts allocate cases to different ‘tracks’ depending on the nature of the case and the value of the claim.

Cases where the claim is less than £10,000 will usually be allocated to the Small Claims Track. With small claims usually each party pays their own legal costs, regardless of the result.

Where the claim exceeds £10,000 but the case is likely to be concluded within one day (and subject to claim value) the case will be allocated to the Fast Track. Here you can be awarded legal costs; but things like the trial costs are fixed at a capped level.

High value complex cases are allocated to the Multi Track, and there are no fixed costs.

However...

Even if you win the case you are unlikely to be awarded all your costs. Costs are subject to ‘assessment’ either by the judge at the conclusion of the case; or in more complex cases, at a separate hearing. Judges only allow recovery of costs that are necessary and proportionate to the case. The conduct of the parties during the litigation can also be taken into account. The upshot is that you will probably only be awarded a percentage of your costs even if you win. You must also be aware that getting a costs order is, like obtaining a judgement, only a piece of paper. Translating the orders into cash can require enforcement proceedings if the paying party does not voluntarily abide by the order.

Alternate sources of funding

It is worth checking any insurance policies you may have to see if they include legal expenses cover. Some bank accounts and credit cards also provide cover. If you are a member of a trade union or professional association; then sometimes they can provide legal expenses cover too. There are also insurance companies that fund litigation. You can buy pre-emptive legal insurance; so called ‘Before the event’ or BTE insurance. There are also companies that may fund litigation even after the cause of action has occurred. This is ‘After the event’ or ATE insurance. The companies receive payment by recovering costs from the other side; so they will only fund litigation with a high prospects of success against solvent opponents.

I may also, in certain cases, consider ‘conditional fee agreements’. That is ‘no win, no fee’. I apply the same criteria as ATE insurers; and also consider timescales. Cases can take anything from a few months to conclude for a small claim or fast track, to years for more complex cases; and that is a factor in deciding whether to offer a ‘CFA’.

I am always though very happy to discuss payment options, or to answer any queries you may have about any of the above. So if you do have any questions about costs; or my services generally, please do not hesitate to get in touch.

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