

DOUGLAS SILAS

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 @douglassilas

020 8349 7700

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team@dsslaw.co.uk

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EDUCATION LAWYER
OF THE YEAR



BEST IN
SPECIAL EDUCATION LEGAL SERVICES



SOLICITOR
OF THE YEAR



LEADING
INDIVIDUAL
(EDUCATION)



OUTSTANDING
ACHIEVEMENT



SEN LAW FIRM
OF THE YEAR



SOLICITOR
OF THE YEAR



LEADING
INDIVIDUAL
(EDUCATION)

[September 2017]

Please note that all of our costs quoted below include VAT

FIRST MEETING

Before we take on a case, parents attend a first meeting with us (which lasts 1-1½ hours) where we discuss their problem and offer our initial advice*. This meeting is for a fixed cost of **£250**, with there being no obligation on parents to instruct us afterwards.

*(If you live far from us or if travel is difficult for you, this first meeting can be 'virtually' by video/telephone conference, but please note that a first meeting is always better if held in person.)

HELPING WITH A CASE

If we cannot help someone, we tell them straightaway. If we can help them, we then offer to do this in one of two ways:

1. 'Consultancy':

This is where we advise/represent parents using our normal hourly rates of:

- **£250** (for Douglas);
- **£225** (for a Solicitor)
- **£200** (for a SEN Specialist);
- **£187.50** (for a Paralegal); and
- **£175** (for other staff)

calculated by the time that we spend on their case;

2. 'Capped Fees':

This is where we advise/represent parents bringing SEND Tribunal Appeals.

POTENTIAL COSTS

It is always difficult to give an estimate of potential costs of a case until we meet with a parent, hear about their situation and advise them about what they need to do. However, we know that parents often need to have an idea of costs, before they embark on a course of action.

We have therefore compiled a 'Menu of Services' here, which sets out our fees for doing 12 specific pieces of work, (including on a 'Capped Fee'*/** basis).***After this, we have also provided a section on 'Disbursements'. This gives an idea of how much things may cost.

*A 'Capped Fee' is different from a 'Fixed Fee'. A 'Fixed Fee' is where a solicitor charges a client a set amount for doing a specific piece of work. However, with a 'Capped Fee', if during the case the other party concedes/compromises, the client then only pays for work incurred up until that point (at normal hourly rates).

**In an appeal case where we are asked to do everything, we also charge a 10% 'uplift' where we are successful for a client, to reflect the risk that we also take if we go over the 'Cap'. For example, if we settle a case successfully at least a week before a hearing where only £2,000 worth of work has been incurred, we only charge £2,200 but if £5,000 worth of work has been incurred, we will charge £5,500.)

Please be careful of free/low-priced first meetings/'check-ups' from others that seem cheaper at first. These are often from 'lay' advisers or solicitors who add other costs on later (e.g. Barrister's fees). This can often cost parents much more in the long run (both financially and otherwise).

N.B. Any additional work required by us will be charged at our normal hourly rates.

Please note that all our costs quoted below include VAT

WHAT WE DO	HOW MUCH IT COSTS
SPECIFIC HELP	
1. First Meeting	
A first meeting (which lasts 1-1½ hours) is where we discuss your problem and offer you our initial advice.* There is no obligation on you to instruct us afterwards.	£250
*If you live far from us, or if travel is difficult for you, a first meeting can also be held 'virtually' by video/telephone conference (but please note that a first meeting is always better if held in person).	
2. Helping with an Annual Review of Statement/EHC Plan	
Help you through the Annual Review process, including checking/amending draft 'Parental Advice' and advising about any reports prepared during the process*	£500
*using current documentation (if we help obtain reports, you are charged extra at normal hourly rates)	
3. Helping with a Transfer Review (i.e. transferring Statement to EHC Plan)	
Help you through the Transfer Review process, including checking/amending draft 'Parental Advice' and advising about any reports prepared during the process*	£750
*using current documentation (if we help obtain reports, you are charged extra at normal hourly rates)	
THE ASSESSMENT PROCESS	
4. Helping with EHC Needs Assessment Process after LA has agreed to assess	
Help you through the Assessment process, including checking/amending draft 'Parental Advice' and advising about any reports prepared during the Assessment*	£500
*using current documentation (if we help obtain reports, you are charged extra at normal hourly rates)	
5. Making a Request for EHC Needs Assessment	
Prepare a draft Request for Assessment for you to send to the Local Authority (LA)*	£1,000
*using current documentation (if we help obtain reports, you are charged extra at normal hourly rates)	
6. Responding to a proposed Education, Health & Care Plan (EHCP)/Statement	
Prepare a draft Response for you to send (using available documentation)*	£1,500
*a response must be made within 15 days of receipt of a proposed EHCP/Statement	
APPEALING TO THE SEND TRIBUNAL	
7. Against refusals to assess/refusals to make an EHC plan (if you represent yourself)	
Help preparing appeal/further evidence, but <u>not</u> including representation* (includes £350 worth of 'office' disbursements, if paid by monthly standing order) *please note that since September 2016, appeals against refusals to assess do not need personal representation now at a hearing, as the appeal hearing is conducted 'on the papers' ** full fees payable if case settles within week before hearing (all fees must be paid up before hearing)	£6,750 (10% discount to £6,075 if paid by monthly standing order)**
8. Against refusals to make an EHC plan (if you ask us to represent you)	
Help preparing appeal/further evidence, up to representation (includes £350 worth of 'office' disbursements, if paid by monthly standing order)	£7,500* (10% discount to £6,750 if paid by monthly standing order)**
*any travel/accommodation needed charged separately ** full fees payable if case settles within week before hearing (all fees must be paid up before hearing) for adjournments, 2nd hearing usually charged at normal hourly rates	
9. Against Sections B/F of an EHC plan/Parts 2/3 of a Statement (if you represent yourself)	
Help preparing appeal/further evidence, but <u>not</u> including representation N.B. additional charge of £2,500 for Post-16/19 appeals (to reflect extra work needed)	£7,500
10. Against Sections B/F of an EHC plan/Parts 2/3 of a Statement (if you ask us to represent you)	
Help preparing appeal/further evidence, up to representation (includes £350 worth of 'office' disbursements if paid by monthly standing order)	£10,000* (10% discount to £9,000 if paid by monthly standing order)**
*any travel/accommodation needed charged separately ** full fees payable if case settles within week before hearing (all fees must be paid up before hearing) N.B. additional charge of £2,500 for Post-16/19 appeals (to reflect extra work needed) for adjournments, 2nd hearing usually charged at normal hourly rates	
11. Against Sections B/F/I of an EHC plan/Parts 2/3/4 of a Statement or ceasing an EHC plan/Statement (if you represent yourself)	
Help preparing appeal/further evidence/working document, but <u>not</u> including representation N.B. additional charge of £2,500 for Post-16/19 appeals (to reflect extra work needed)	£10,000
12. Against Sections B/F/I of an EHC plan/Parts 2/3/4 of a Statement or ceasing an EHC plan/Statement (if you ask us to represent you)	
Help preparing appeal/further evidence/working document, up to representation (includes £350 worth of 'office' disbursements if paid by monthly standing order)	£12,500* (10% discount to £11,250 if paid by monthly standing order)**
*any travel/accommodation needed charged separately ** full fees payable if case settles within week before hearing (all fees must be paid up before hearing) N.B. additional charge of £2,500 for Post-16/19 appeals (to reflect extra work needed) for adjournments, 2nd hearing usually charged at normal hourly rates	

Please note that all costs quoted below may not include VAT

DISBURSEMENTS

Many people have heard of solicitors charging their clients 'Disbursements' in addition to their fees, but sometimes people do not actually understand what they mean by this.

Disbursements can best be defined as any costs incurred by a client in a case that come in addition to the solicitor's normal fees. These costs usually relate to charges a solicitor incurs on a client's behalf, sometimes which the solicitor may have to pay to others to help prepare their case or charges which the client may incur directly.

Saying that fees do not include disbursements though, sometimes causes a client additional anxiety or difficulty setting a budget, as they may have no real idea how much their overall costs could actually end up being.

For this reason, we have set out further information here about what disbursements actually are (please note that disbursements usually have VAT applied to them).

We have set out below an overview of potential costs of various disbursements, which people can use as a guide when trying to work out potential overall costs of a case. Obviously, every case is different, so we can only provide an estimate of potential costs of disbursements in a case, when we have met personally with a client and advised them of what steps they may need to take.

Essentially, disbursements in cases that we usually undertake are:

- Office Fees (e.g. Photocopying/Special Postage/Courier/Travel/Accommodation);
- Expert Fees (e.g. assessment reports from an independent Educational Psychologist, Speech & Language Therapist, Occupational Therapist and/or Physiotherapist etc);
- Court Fees/Counsel's Fees.

OFFICE FEES

In an appeal to the SEND Tribunal, our Office Fees usually are in the region of **£250-£350** depending on what is required (N.B. this does not include travel/accommodation where a hearing is out of London).

Bulk photocopying is charged at 10p per sheet if we do it, or whatever we are charged by the supplier doing it for us, if we send it out.

EXPERT FEES

Regarding Expert Fees we would say the following:

- A good independent Educational Psychology Assessment (which will usually be conducted at a clinic/home/current school) – can cost between £1,500 to £1,800 (or even more), plus VAT and travel. Costs depend upon the expertise and experience of the Educational Psychologist.
- An independent Speech & Language/Occupational/Physiotherapy Assessment – may cost around £850 to £1,250 each plus VAT, plus VAT and travel. Costs also depend upon the expertise and experience of the particular Therapist.

Some Experts also may charge a non-refundable deposit when an assessment is booked.

However, independent experts also charge for other things such as:

Attendance At Hearing

Independent experts also usually make a charge for attending a hearing as a witness.

They always vary in how they do this, but we have found that many charge about 50-75% of their overall initial assessment/report cost and usually charge for attendance as a daily fee which is not dependent upon actual time involved.

Some experts charge more than this and we therefore always recommend clients to check with them directly about this before asking them to attend.

Travel/Accommodation

Most experts usually also charge extra for travel to a hearing at about 40-50p per mile (if travelling by car) or for public transport/taxi fees. They may also charge for overnight accommodation, where necessary. Some will charge travel time additionally at around 40-50% of their normal hourly rate.

Further Work

Some experts also charge at their normal hourly rate (usually between £100 to £150 per hour) for any further work that they are asked to do by a client after an assessment/report is completed, such as doing further observations, considering new documents, providing telephone advice or attending case conferences by telephone or in person.

School Visits

An independent expert, such as an Educational Psychologist, will also charge separately for any school visit that may be required (i.e. to assess the suitability of a school put forward by an LA).

We therefore always recommend that people check with the experts directly about this before asking them to pay a school visit.

Adjournment/Cancellation Fees

Nearly all experts also charge an adjournment or cancellation fee if they receive less than a few working days' notice before an assessment or hearing. Sometimes this is a percentage of their full fee but, where a settlement may be at the last minute and where they claim that they will not be able to substitute new work in place at such short notice, their full daily rate may be charged.

COURT/COUNSEL'S FEES

Finally, Court Fees and Counsel's Fees are something that always depend on the individual case concerned and the expertise/experience of the Barrister who is instructed. As such, we will always discuss these types of fees with a client personally.

But unlike most other solicitors involved in cases before the SEND Tribunal, we usually represent our clients ourselves, rather than using external Counsel (which we believe is better, as we probably know more about the case than they do anyway!).

We hope that this information below explains things fully.

We always actively try to minimise overall costs for parents.

However, if you wish to clarify anything please call us on 020-8349-7700.

THE SMALL PRINT!

PAYMENT ON ACCOUNT

- If clients wish to instruct us after a first meeting, they are required to first let us have a deposit as 'Payment on Account'. We ask for a deposit of **£2,500** and then, when monies on account fall below **£1,000** we request a further sum (usually **£1,500 - £1,750** depending on the amount of work anticipated). Alternatively, we ask for a deposit of **£1,500** if clients sign a monthly Standing Order to pay us **£1,000** per month.
- Payments on account given to us by a client are paid directly into our designated 'Client Account' - we then bill them monthly to quarterly for the work we have done on their behalf and 'transfer' this amount from our 'Client Account' to our 'Office Account'.
- Further monies requested as 'monies on account' must be paid promptly (i.e. within 7 days) - we regret that we cannot offer credit.
- When we take on a case, we only agree to do the work required normally for a 'service' which is agreed beforehand. Any additional advice/attendance required will be charged at our normal hourly rates (including any extra work caused by a third party's actions).
- Any unused monies are always returned to a client at the end of a case.

DISBURSEMENTS

- Disbursements are additional costs required in a case - our costs do not include the costs of any 'Disbursements'.
- Disbursements are usually 'Office Fees' for us (e.g. special postage/photocopying), 'Expert Fees' (e.g. assessments by an EP/SaLT/OT/PT) or 'Court/Counsel Fees', which are for others. We ask clients to pay their experts directly but to pay courts/counsel through us.
- In an appeal, our 'Office Fees' are usually in the region of **£250-£350** (not including travel/accommodation for hearings out of Greater London).
- By way of an incentive, in appeal cases where clients ask us to conduct all of an appeal for them by 'Capped Fee', if they agree to pay us from the start by way of monthly Standing Order, we offer a discount by agreeing to pay for their 'Office Fees' disbursements up to **£350** ourselves.

STANDING ORDER (MONTHLY)

- Appeals usually take around 3-5 months from beginning to end. If clients instruct us to conduct all of their appeal for them, we then offer to reduce our overall 'Capped Fee' by 10%.
- Appeals such as refusals to assess/reassess or refusals to make an EHCP cost **£6,750/£7,500** (depending on if you want us to represent you).
- Appeals against the contents of Sections B/F of an EHCP/Parts 2 & 3 of a Statement, or against the contents of Sections B/F/I of an EHCP/Parts 2/3/4 of a Statement and decisions to cease to maintain, cost **£10,000** or **£12,500** (depending on if you want us to represent you).
- Where clients agree to pay by monthly Standing Order though, we reduce their overall fee by 10% to **£6,075**, **£6,750**, **£9,000** or **£11,250** respectively (instead of **£6,750**, **£7,500**, **£10,000** or **£12,500**), but this fee is plus the costs of us instructing independent experts on their behalf.
- Instructing experts incurs a further cost of **£500** for the first assessment/report/school visit, then **£375** per subsequent assessment/report/school visit (we believe that it is fairer this way, as a client may have already paid for their experts previously through us on a 'Consultancy' basis).
- There are usually 1-3 experts needed on a case - i.e. an extra **£500-£1,250**. If a client has already instructed experts through us in an earlier part of the case, we adjust our fees. If a further 'expert' (e.g. a PT) or report (e.g. a school visit by an EP) is needed we charge extra separately.
- For the first type of appeals (i.e. refusals to assess etc.), where only 1 expert is usually needed (i.e. usually an EP) clients pay us a deposit of **£2,500** followed by 4 monthly payments (their Standing Order form will outline relevant amounts).
- For the second/third type of appeals (i.e. against the contents of an EHCP/a Statement etc.), 3 experts are usually needed (an EP, SaLT & OT), but clients again pay us a deposit of **£2,500** followed by 4 monthly payments (their Standing Order form will outline relevant amounts).
- We again pay clients' monies into our client account and bill a client monthly/quarterly as normal for any fees incurred.

'LUMP-SUM' PAYMENTS

- We accept one-off 'lump-sum' payments for appeals at the outset and, if a client wishes to do this, we will offer a further **£250** discount. We again pay the monies into our client account and bill a client monthly/quarterly as normal for any fees incurred.

'PHASE TRANSFER'/EXPEDITED/POST-16 APPEALS

- 'Phase Transfer' appeals (against the contents of a EHCP/Statement) lodged after 15th February (e.g. primary to secondary school) are usually expedited (i.e. heard quicker) by the Tribunal and only take about 4 months.
- Post-16 transfers are also expedited but sometimes only take about 3 months.
- Understandably, we ask clients to pay off their fees before a case is complete. Therefore, in 'Phase Transfer'/Expedited cases, with a monthly Standing Order, clients pay a deposit of **£2,500** followed by 3 monthly payments (their Standing Order form will outline relevant amounts).
- For Post-16 Appeals, clients pay a deposit of **£2,500** followed by 2 monthly payments (their Standing Order form will outline relevant amounts).
- In addition, we ask for an additional one-off payment of **£2,500** as part of the deposit at the start of the case, to reflect extra work needed.

CASES WHICH SETTLE EARLY/NO LONGER HAVE 'REASONABLE PROSPECTS OF SUCCESS'

- Where we act under a 'Capped Fee', if a case settles at least a week before a hearing, we charge a 10% uplift on work done (i.e. we charge the full 'Capped Fee' where a case settles less than a week before hearing). This reflects the risk that we carry if fees go over a 'Capped Fee'.
- For example, if £2,000 work has been incurred, we charge £2,200, but if £5,000 work has been incurred, we charge £5,500.
- This also provides an incentive to us to settle a case before hearing; however, clients are never charged an uplift if an appeal goes to hearing.
- Whenever we take a case on, we also believe that there are 'reasonable prospects of success' in bringing an appeal (i.e. there is at least a 51% chance of success), even if the appeal is a difficult one or even if others may have said that the case cannot be won.
- However, if new evidence comes to light or things change during an appeal, we may advise a client that they no longer, in our opinion, have 'reasonable prospects of success' (i.e. less than 51%). If this happens, we may advise them to withdraw their appeal and the client will then only be charged for the work that we have incurred up until that point - we do not charge them an uplift, as we do for cases that succeed.
- If, despite our advice, a client still wishes us to pursue their appeal and asks us to continue acting on their behalf (e.g. they may wish to pursue the appeal for other reasons), we charge them from that point onwards at our normal hourly rates.

CHARGING A SUPPLEMENT WHERE THE NATURE OF THE APPEAL CHANGES (please also see our client care letter for more examples)

- Sometimes, a lot of additional, unforeseen and unanticipated work is caused because, for example (and this is not an exhaustive list):
 - The client changes the nature of their appeal, including changing the school or type of school that they are appealing for;
 - The client wishes to seek alternative 'expert' reports or further opinions from existing 'experts' than would normally be required;
 - The LA or Tribunal (or others) require further work to be undertaken by us on a case than is normally required.
- In these cases we will need to make an additional charge to the client for the fees incurred that are more than any agreed 'Capped Fee'.
- This will always take into account any discount that we have already agreed to (i.e. the discount will still stand).

AMENDMENTS

- 'Capped Fee' work includes one set of amendments/comments from a client to draft documents (e.g. expert reports/grounds of appeal/further evidence etc. - please note that this is not an exhaustive list); additional amendments requested will be charged at normal hourly rates.

RECOVERY OF COSTS

- In Tribunal appeals, even where a client is ultimately successful, they are only very rarely able to recover any costs. Whilst the Tribunal does retain a discretion to award costs, it is only in cases where the LA has behaved in an 'unreasonable' manner and the Tribunal is often very reluctant to find this, so we normally advise that there is little prospect of successfully recovering costs.