

ACTING PRO BONO?

APPLY FOR A PRO BONO COSTS ORDER AND MAXIMISE YOUR IMPACT.

THE
ACCESS
TO JUSTICE
FOUNDATION

This document provides guidance for advocates seeking to obtain a pro bono costs order.

Pro bono costs are like ordinary costs, but where a party had free legal representation. If your client wins, you can seek pro bono costs against the losing party under ss 194-194B Legal Services Act 2007 and CPR 46.7.

The costs cover any free representation, whether provided for part or all the case, and even if only one of the lawyers acted for free (i.e. you can still claim normal costs for the fee paid work). The amount is based on what a fee-paying client would recover.

In England & Wales pro bono costs are available in the County Court, Family Court,

High Court and the Court of Appeal civil division, and in civil appeals before the Supreme Court.

In England & Wales they are also available in Tribunals which have the power to award ordinary costs e.g. for unreasonable conduct (i.e. First Tier Tribunal, Upper Tribunal, Employment Tribunal, EAT and CAT).

Pro bono costs must be paid to the Access to Justice Foundation, the prescribed charity under the 2007 Act.

Contact us at costs@atjf.org.uk for more information.

Guidance for Advocates

1. In **correspondence and negotiation** with the other side, consider highlighting your ability to obtain pro bono costs if you win. This may help settle the case, as they also have an adverse costs risk.
2. A **settlement agreement or consent order** can include the other side paying pro bono costs to the Access to Justice Foundation. Also, claimants accepting a Part 36 offer can apply for a pro bono costs order.
3. **Before a hearing**, file and serve a **statement of costs**, showing how much free work you did and its equivalent cost at your normal hourly rate or brief fee. Use the template on our website, create your own schedule, or adapt Form N260 (on page 4 cross out the paragraph that starts “*The costs stated above...*”). VAT should not be included.
4. If you **win your hearing**, at the usual time when costs would normally be considered, seek pro bono costs. Ask the court to summarily assess how much it would have awarded in ordinary costs had you not been acting for free, and to order the same amount in pro bono costs (as for example the CA did in *Grand v Gill* [2011] EWCA Civ 554 at [29]). The suggested order wording is:
The [party] must pay costs for pro bono representation on or before [date] to the Access to Justice Foundation (The Access to Justice Foundation, 7 Bell Yard, London, WC2A 2JR), [summarily assessed at £_____] [or] [to be assessed on the standard/indemnity basis if not agreed].
5. **Notify the Access to Justice Foundation** if you secure pro bono costs by emailing costs@atjf.org.uk. Please provide a copy of the sealed costs order and contact details for the payor.