

Funding Assignment Brief

General Guidance

Where a question is in several parts and a words total is indicated, that is the total for the whole question, not for each part of it. Where a word limit is per part of a question, this will be clearly stated. You will not incur penalty for exceeding the word limit by up to 10% but excessively lengthy and prolix scripts will be penalised.

Whilst it is acceptable to use the internet for legal research, this means proper legal research on sites such as Westlaw, Lexis, Bailii, legislation.gov.uk etc; citing Google or Wikipedia and such as authority for any legal proposition is unacceptable.

Paper-based resources will include the materials given to you for this module but you are expected to read more widely and to locate relevant materials beyond the course materials.

Module Guidance

Module Title:	Funding
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Module Code:	Module 3(c)
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Assignment Number:	1
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Assignment Type:	Memo
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Date Set:	12 April 2021
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Date Due:	23 May 2021
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Module Learning Outcomes

1. Describe the relationship between the Legal Aid Agency and the providers of legal aid services

2. Explain the service levels, scope and funding agreements available for family matters

Required Task

Prepare a response to the problem question in the form of a memo of 1500 words. You must ensure you meet all requirements to achieve at least a pass on the assessment.

Please Note: All submissions must be made no later than midnight on 23 May 2021. Work MUST be submitted via the online learning environment.

Please also note: All submissions MUST be made in word.

Please Note: When submitting assignments please name your file using the following format Surname_First Name_Student Number_Module Title.

Brief

You work in house for Lampleigh & Brown, a firm of solicitors that has a large family law department. The firm is based at 142 Temple East Street, Manchester, M13 7BJ. The family law department includes members of the Law Society's Children Panel, the Family Law Panel, the Greater Manchester Family Courts Forum, the Greater Manchester Family Justice Board and Child Concern. The LAA account number is 0F237G.

You have recently been instructed by Mrs Gemma Shelton, a Senior Solicitor in the firm. Mrs Shelton has a number of costs queries that have arisen on old files that she inherited from a former fee earner who left the firm unexpectedly.

Mrs Shelton would like you to calculate the fees that can be claimed for the hearings showing clearly how those fees have been calculated and detailing the applicable rules and regulations. On the XXXX file, you have also been asked to consider the applicable outcome codes, whether this was an escape case and what fee(s) can be claimed.

The Harry Norris File

Counsel was instructed in care proceedings. This was an Interim hearing lasting for 6.5 hours (excluding breaks) on 10 August 2020 before a County Court Judge. Counsel claimed a bolt-on payment for client lack of understanding and bundle payment (CB1).

The Mary Miller File

Again, counsel was instructed in care proceedings. Counsel was to represent the client at a final hearing, for 2 days on 5 and 6 July 2017 before a Circuit Judge. Counsel claimed a bolt-on payment for client allegation of harm because Mary Miller faced allegations that she had caused significant harm to a child. The allegations were made by the Local Authority and remained a live issue at the Final Hearing. Counsel also claimed bundle payment (CB2) for the final hearing in July.

The Louise Spencer File

This is the oldest file you have been asked to consider and concerns an application for a care order which was allocated for case management and listed for an interim care hearing at Birmingham County Court on 30 July 2016. The fee earner, a solicitor, at your firm received instructions to represent Louise Spencer on 29 July 2016 who is the Respondent Mother. The application concerned her children, Helen Spencer (d.o.b. 18/03/13) Oliver Spencer (d.o.b. 29/10/15) and Terry Spencer (d.o.b. 25/07/16). Legal aid was granted on the day of instruction (Certificate Number: FAMILYCOURT009891/A/Y/1).

The solicitor represented the client at the interim care hearing before a circuit judge and travelled 60 miles at a rate of 45p per mile and incurred a car parking charge of £10.00. The application was opposed by both parents. The hearing lasted from 10am until 5.00pm (1 hour lunch break).

Later, an Advocates Meeting was arranged for 4 September 2016 and the same solicitor attended that meeting. The meeting lasted 60 minutes.

Within the proceedings, the Local Authority's parenting assessments were negative. Unfortunately, assessment of friends and family carers were also negative. The Local Authority's final care plans provided for full care orders in respect of all three children. The application was twin-tracked for Adoption, with a plan for Helen and Oliver to be placed together and Terry to be placed separately. The care plans were supported by both the Children's Guardian and the Respondent father, Derek Spencer, who accepted that he was not in a position to care for the children. However, the plans were opposed by Mrs. Louise Spencer who sought the return of the children to her care. Mrs Spencer did make

an application for the children to live with her but that application was dismissed. Final orders were made in accordance with the Local Authority final care plans. There was no order for costs save assessment of legal aid costs. There were no significant wider public benefits achieved.

At the conclusion of the case, Profit Costs (excluding advocacy and enhancements) were £3255.47 and the VAT was 651.09.

Write a memo of advice to your solicitor client answering her queries and providing an explanation as to how you have arrived at your advice.

Requirements
You MUST complete all of the following requirements:
Requirement 1: Presentation (10% of the mark awarded)
<ul style="list-style-type: none"><input checked="" type="checkbox"/> Produce a memo of 1500 words. The word count must be included on your submission.<input checked="" type="checkbox"/> Your memo must be headed "memo" and include the completed "Reference", "Date", "Salutations", matter details and "Signature" fields.<input checked="" type="checkbox"/> Your memo must have at least 2 sub-headings (excluded from the prescribed word count).<input checked="" type="checkbox"/> Your memo should include references to specific sections of relevant legislation, delegated legislation and other authorities.<input checked="" type="checkbox"/> Your memo must include citations and a bibliography (both excluded from the prescribed word count).<input checked="" type="checkbox"/> You must include your student number on your submission.<input checked="" type="checkbox"/> You must not include your name anywhere on your submission.
Failure to comply with the general presentation requirements will impact upon the presentation mark.
Requirement 2: The <u>Harry Norris and Mary Miller Files</u>
<ul style="list-style-type: none"><input checked="" type="checkbox"/> consideration of the fees that may be claimed;<input checked="" type="checkbox"/> details of how the fees have been calculated; and<input checked="" type="checkbox"/> an explanation of the relevant rules and regulations,
Requirement 3: <u>Louise Spencer File</u>
<ul style="list-style-type: none"><input checked="" type="checkbox"/> consideration of the applicable outcome codes;<input checked="" type="checkbox"/> whether this was an escape case; and<input checked="" type="checkbox"/> consideration of the fee(s) that may be claimed.
Requirement 4: Your memo must include:
<ul style="list-style-type: none"><input checked="" type="checkbox"/> Your response must include a clear introduction.<input checked="" type="checkbox"/> Your response must include a description of the relevant fee schemes.<input checked="" type="checkbox"/> Your response must include the consideration of the difference between Counsel and a Solicitor attending hearings.

- Your response must include consideration of what it means for a case to be exceptional.

Guidance notes and considerations

You will be introduced to a range of resources available and will be given the opportunity to practice researching case authority.

Your work will be marked against the following criteria:

Depth of Knowledge (30%): How well do you show that you know the subject and in what depth and detail.

Application of Theory (30%): How well you can apply the content you have learnt during the course to the brief given.

Critical Analysis (30%): How well you show you have weighed up options, why you have come to the conclusions you have.

Presentation (10%): Your grammar, spelling, punctuation, referencing and following of academic writing criteria at undergraduate level (level 6) and professional level to reflect the standard that is expected by the court, government agencies and your client / office.

Full Marking Scheme: Funding Assignment 2021

	Requirement 2: Depth Of Knowledge (30 marks or 30% of overall grade)	Requirement 1: Application Of Theory (30 marks or 30% of overall grade)	Requirement 2: Critical Analysis (30 marks or 30% of overall grade)	Requirement 3: Presentation (10 marks or 10% of overall grade)
Fail	Very superficial knowledge of subject matter shown. Fails to adequately demonstrate knowledge of the Learning Outcomes.	Very little evidence of application of theory to the question e.g. unable to explain relevance of case law or other authority.	Little real analysis of any value.	Some sense but difficult to follow.
Borderline Fail 12+ Marks	Largely superficial but with some areas of depth. Able to differentiate between the fee schemes. Attempts to adequately demonstrate knowledge of the implications of providing inaccurate estimates.	Small amount of evidence of application. Attempts to apply knowledge of the regulations to the scenarios.	Some analysis with reasonable depth of understanding. Tries to identify potential areas of weakness in assertions made.	Poor use of grammar and English leads to poor coherence. There will be spelling and grammatical mistakes and/or inappropriate use of verbs. Some attempt at structure of memo writing.
Pass 15+ Marks	Good knowledge demonstrated of most of the main areas. Knowledge demonstrated of appropriate outcome codes. Was able to identify the correct fees applicable for each type of work.	Several good examples of evidence of application provided. Was able to identify the authorities relating to the matters. Awareness demonstrated of the fees claimable. Correct fees and codes used with knowledge demonstrated about how the fee schemes interact.	Some solid and well-founded analysis e.g. offered some sound advice on the relevant fee provisions and the appropriate codes with reference to some authority in support.	Good grammar and memo structure. Some good paragraphs and sentence structure. There will be spelling and grammatical mistakes without detracting from overall meaning. Must have introduction, advice and conclusion.
Merit 18+ Marks	Good analysis of knowledge gained to date. Able to advise on applicable authority that impacts upon	Some evidence that the student has read beyond the course materials. Produced a memo that is wholly fit for purpose.	+ synthesis of ideas and either learning or critical evaluation Some solid and well-founded analysis e.g.	Good grammar and memo writing skills. Good use of paragraphs, good sentence structure, grammar and spelling but some mistakes

	<p>the way costs should be claimed.</p> <p>Very good discussion on the fees recoverable in these scenarios. Range of opinions /authority appropriately included.</p>	<p>Appropriate applicable fees calculated throughout. Good analysis of knowledge gained to date and the relevant schemes in family legal aid proceedings. Able to demonstrate sound knowledge of fixed fees.</p> <p>Able to identify the relevant outcome codes. Able to calculate VAT where relevant.</p>	<p>offered good advice on the relevant fee provisions, and the appropriate codes with consistent reference to authority in support.</p> <p>Identified all areas where further information should be requested. Evidence that the student is aware of any missing information or information that may affect advice.</p>	<p>without detracting from overall understanding.</p> <p>Good memo writing skills and good use of language.</p>
<p>Distinction 21+ Marks</p>	<p>++ Awareness of areas of deep knowledge and weaker areas that require clarity or further instruction are clearly identified. Very good range of authority included.</p> <p>Any queries arising from the instructions are communicated in the memo to ensure the accuracy of the fees claimed. Strong evidence that the student has read beyond the course materials.</p>	<p>++ Strong evidence that the student has applied the regulations on family legal aid.</p> <p>Very good knowledge of the form and content of fixed fees applicable in family proceedings. Very good advice drafted.</p>	<p>+ relevant reflections showing synthesis, learning AND critical evaluation.</p> <p>Able to communicate effectively to the fee earner what further information is required to ensure all applicable fees are claimable. Very good synthesis of authority throughout correspondence.</p>	<p>Coherent and fluent memo writing throughout but may have few very minor grammatical or spelling mistakes which does not detract from flow of the answer at all. Excellent memo writing structure, some area of weakness in one area only.</p>
<p>Distinction (Higher) 24+ Marks</p>	<p>++ Excellent range of sources and authority considered.</p> <p>Knowledge gained is critically evaluated. Sources cited are considered.</p>	<p>Excellent memo produced with very little or no room for improvement. Excellent knowledge of the fees and how to calculate them.</p> <p>Very little or no room for improvement in the way the</p>	<p>++ Inspired development of highly original idea(s) and/or suggestions for maximising profit.</p>	<p>Coherent throughout and excellent memo writing skills. No spelling or grammatical mistakes. Excellent use of paragraphs and sentence structure. Excellent structure for answer.</p>

		regulations have been explained and applied.		
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