

Legally rated

Yelena McCafferty investigated the complicated issue of what approved legal rates translators and interpreters can charge. She explains her findings

‘Our client is legally aided. Do you work at Legal Aid Agency (LAA) rates?’ If you work in legal translation or interpreting, this is a question you will no doubt be very used to hearing. And if you’re a member of translator and/or interpreter online groups, you will be aware how frequently colleagues ask about what approved legal aid rates one is indeed entitled to charge.

First and foremost, what is LAA? It’s an executive agency of the UK Ministry of Justice (MOJ), providing both civil and criminal legal aid in England and Wales. The trouble is that the LAA rates are different, depending on whether it’s a criminal or civil law case, which causes much confusion.

I have therefore decided to analyse all the information I have been given in direct interactions with LAA, and to put everyone out of their misery by setting out my findings here. Do note, though, that if a job offer comes from a translation agency, not a direct client, you need to be prepared to see the rate proposed reduced, as the agency won’t be able to charge more than the rates set by LAA but will also be taking its margin from this total. For the avoidance of doubt, all charges listed in this article are exclusive of VAT.

Rates for criminal cases

The current rates LAA pays to interpreters working in *criminal* cases are set at £32 an hour, applicable to interpreters based outside London, and at £29 an hour for interpreters based in London. If you ever need to refer to these when providing a quote to your client, you can find them by googling ‘Schedule 5 to the Criminal Legal Aid (Remuneration) Regulations 2013’.

These fees are paid by LAA to solicitors at the billing stage after they have already been incurred. There are instances when LAA may pay higher rates than £32 and £29, but for higher rates solicitors must apply for ‘prior authority’, which will provide a guarantee that the fees are paid in full by the government. This is at the discretion of the assessor, who should allow reasonable remuneration, having taken into account all the relevant circumstances of the case.

In a small number of cases, LAA recognises that interpreting fees can vary depending on the language spoken. In general, the fees charged for interpreting in more obscure languages are higher than for more common languages. In a legal aid case, just as in a privately funded one, the expectation is that a solicitor should aim

to secure value for money when instructing any third party. This may involve obtaining competitive quotes where it is possible to do so. LAA admits that prior authority should not be refused solely on the basis that it would be less expensive to engage a non-registered interpreter, although additional evidence would be required to justify a higher fee.

Mileage and travel time: crime

The *2022 Standard Crime Contract Specification* mentions the mileage rate and travel time acceptable for experts hired by a legal firm.

Paragraph 5.49: ‘Where you instruct an expert, we will not pay in excess of: (a) 45p per mile travelling costs; or (b) £40 per hour travelling time.’ Obviously, if an hourly interpreting rate is £32, charging £40 an hour travelling time would be excessive, so common sense should be exercised when claiming for any time you’ve spent on the road.

It should be borne in mind that another document, the *Criminal Bills Assessment Manual* (applicable to non-Crown Court cases), stipulates that when travelling to a conference with a client, a detailed breakdown of any travel – including dates, full destinations (such as HMP Walton) and miles travelled – should be provided so that reasonable time and expenses can be determined.

Where travel has been authorised, LAA will use the following guide rates when assessing travel and accommodation expense claims:

- Standard (motor vehicle) mileage rate: 45p per mile
- Overnight hotel (London, Birmingham, Manchester, Leeds, Liverpool or Newcastle-upon-Tyne city centres): £100
- Overnight hotel elsewhere: £65
- Night subsistence: £21.

Translating documents: crime

The *Criminal Bills Assessment Manual* also gives the rate for the transcriptions that translators and interpreters are sometimes tasked with producing: ‘£2.20 per minute for straight transcription and £4 for transcribing and translating.’

In addition, the same document explains the position in relation to translating prosecution documents: if a defendant before the court does not have an adequate command of English, it may be necessary for the prosecution case papers to be translated into their native language. Following discussions with the MOJ and the Crown Prosecution Service (CPS), LAA has

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Rates for travel time are just one area where civil and crime cases differ

been advised that there is European Convention on Human Rights case law to the effect that the defendant has no automatic right to receive written translations of all the documents in the proceedings. The CPS takes the view that the onus is on the defence to identify and facilitate the translation of the necessary documents.

It goes on to say that ‘as a matter of good practice, the defence will generally wish to have a copy of advanced information/committal papers in the client’s own language. In such circumstances, assessors should assume that the prosecuting authorities will not bear the cost of translating such documents. The onus is therefore on the defence to justify whether, and to what extent, prosecution documents require translation. Where a significant amount of translation work is required, the defence may seek a prior authority to cover the expenses.’

As for the translation rate for criminal cases, it doesn’t seem to be mentioned anywhere in the documents available, so I contacted the Crown Court billing team directly. Its most recent advice (as of February 2024) is that the current maximum rate payable for translation services is £109 per 1,000 words.

Civil and family cases: a different framework

Civil/family court cases are a different story. Interpreting rates are set by the *Civil Legal Aid (Remuneration) Regulations 2013*, and they are also lower compared with criminal cases: £28 per hour for interpreters based outside London and £25 for interpreters from London. It’s important to note that these hourly rates are not pro rata so they are not paid per minute, per quarter of an hour or anything other than per hour.

When it comes to translation, the *Guidance on the Remuneration of Expert Witnesses* confirms that a rate of £100 per 1,000 words would be accepted and therefore this would not require a formal prior authority.

Other rates: civil and family


Mileage charges are the same as for criminal cases, but travel time is different. It is considered that a rate of two-thirds of the hourly

interpreting rate is reasonable for all travel. In addition, the time taken for an interpreter to travel to attend has to be the actual time they took, as opposed to the default travelling time from the interpreter’s base to the client. This is because an interpreter will sometimes travel directly from one client to another on the same day and will not return to the office in between assignments. The invoice from the interpreter must therefore clearly specify the details of the journey undertaken on a specific date, including the start and destination points.

It is also possible to find some guidance about cancellations and waiting times for civil and family cases. The *Civil Legal Aid (Remuneration) Regulations* has a clause about cancellations: these are payable where the notice of cancellation was given to the expert less than 72 hours before the relevant hearing or appointment. In relation to the waiting time – which is sometimes disputed by clients reluctant to pay the full interpreter rate – the *Civil Finance Electronic Handbook* (you can google and download it) clearly states that attendance and waiting at a hearing can be claimed at the codified rate for interpreters.

Minimum charges are another thorny issue, with most of us insisting that a booking should be honoured with at least two interpreting hours of guaranteed pay. The handbook advises that where an interpreter is claiming a minimum charge, the assessor expects it to be justified, and the legal firm has to demonstrate that there was a scarcity of resource and that as a result it was necessary for the firm to instruct an interpreter who claimed for that minimum charge. This can be done by providing written quotes from at least three local interpreting providers.

Finally, can LAA-funded civil cases allow higher fees? In theory, there’s a provision for this in the *Handbook* for those cases where an interpreter is instructed at above the codified rates. To demonstrate that it was reasonable to do so, the provider will need to include with their claim the interpreter’s invoice with a breakdown of costs, justification for not applying for prior authority (for instance, because the instruction was urgent), and confirmation that there is a scarcity of local interpreters available to undertake work at the codified rate. This is considered on a case-by-case basis.

Needless to say, this information is current at the time of writing, although considering how slow the governments have been in updating fees for legal professionals, we shouldn’t expect them to be amended any time soon. 

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Of course, if you work on legal cases funded privately, you are at liberty to charge your own rates as you see fit. ITI now has the pricing and rate setting page in the ITI members area, but it can’t advise on how much to charge because of competition regulations.



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